I'm not a robot

Actual physical control, often referred to as APC, is a serious offense that involves being in control of a vehicle while under the influence of alcohol or other intoxicating substances. In Oklahoma, APC is defined by case law, which describes it as existing or present bodily restraint, directing influence, domination, or regulation of an automobile while under the influence. The theory behind APC charges is that a driver could start the vehicle at any time and drive away. Therefore, the easier it is for a driver to immediately drive away, the more likely they are to be found in actual physical control of the vehicle. In Oklahoma, penalties for APC are similar to those for drunk driving charges, such as DUI. If an individual is found guilty of APC, they may face fines, imprisonment, and other consequences. To be considered APC, an individual does not necessarily have to be driving but must be in control of the vehicle. This can include situations where a person is sleeping in a vehicle or sitting in the driver's seat. In Oklahoma, APC charges can result from a variety of situations. For example, if a person is found sitting in their vehicle, drunk, and the vehicle is in a public place, they may be charged with APC. The consequences of an APC charge can be severe. For a first offense, an individual may face up to one year in jail and a fine of up to $1,000. Repeat offenders may face more severe penalties, including longer jail sentences and larger fines. In addition to fines and imprisonment, an individual convicted of APC may be required to participate in an alcohol and drug substance abuse evaluation assessment program. They may also be required to attend a victims impact panel. In some cases, an individual convicted of APC may be required to install an ignition interlock device in their vehicle. This device requires the driver to blow into a mouthpiece to test for alcohol consumption before starting the vehicle. In Oklahoma, an APC charge can have serious and long-lasting consequences. Therefore, it is essential for individuals facing APC charges to seek the advice of a qualified attorney. An APC conviction can also impact an individual's driver's license. In Oklahoma, a person convicted of APC may face license revocation. In some cases, an individual may be able to avoid a conviction by completing a diversion program. However, this will depend on the specific circumstances of the case. In Oklahoma, an individual convicted of APC may also be required to complete community service. In some cases, an individual may be able to have their APC charges reduced or dismissed. However, this will depend on the specific circumstances of the case and the negotiation skills of their attorney. An APC conviction can have serious and long-lasting consequences. Therefore, it is essential for individuals facing APC charges to seek the advice of a qualified attorney. The Administrative Procedure for Conducting a Preliminary Breath Test (PBT) in Oklahoma, and What It Means for You If you're over 18 years old and convicted of APC while transporting or having any child under 18 years old in the car, then the fine will be enhanced to double the amount of the fine that would have been imposed for the underlying APC violation. Submitting to a PBT is completely voluntary in Oklahoma. The Preliminary Breath Test (PBT) is a small machine that the officer can carry in their vehicle that allows them to get a general reading of a suspect's blood alcohol content. The suspect blows into it, and it registers a number. In contrast, the model of the breathalyzer machine used in Oklahoma is standardized. Is the PBT Voluntary or Mandatory in Oklahoma? Submitting to a PBT is completely voluntary in Oklahoma. There are numerous things that can result in a false PBT result. Residual mouth alcohol and breath contaminants can cause a preliminary breath test result to be higher than actual blood alcohol content. If you Refuse to Blow Into the PBT, then the officer will have to use other observations to determine whether probable cause exists to arrest an individual for impaired driving. The officer will have to take into account things such as their observation of the suspect's driving, SFST performance, an odor of alcohol emanating from the individual, what the individual said, whether the individual was unsteady on their feet, and other indicators of intoxication. There are accuracy limitations on PBTs. They are not calibrated to the same standards as the breath test machine at the station. Is a Preliminary Breath Test Admissible in Oklahoma Courts? The administration of a PBT or its result is not currently admissible in Oklahoma courts. In Oklahoma, Driving While Impaired (DWI) is a unique offense that can be charged even with a BAC lower than 0.08, unlike other states where DUI charges are typically associated with higher BAC levels. DWI in Oklahoma carries zero license points and is not an "enhanceable" offense, meaning it cannot be used to upgrade a subsequent arrest for DUI to a felony. The penalties for DWI are generally less severe than those for DUI, with maximum punishments including six months in jail and a $500 fine. However, all DWI convictions require participation in an alcohol and drug assessment and evaluation program as a condition of sentencing. Service, or treatment. Second conviction – at least 240 hours of community service, interlock for at least 30 days, a fine of not less than $100, nor more than $1,000, and/or completing a treatment program. Third or subsequent conviction – at least 480 hours of community service, interlock for at least 30 days, a fine of $100 to $2,000, and/or completion of a treatment program. In addition to the above penalties, an offender will be subject to additional punishments relating to the privilege to drive such as: cancellation or denial of driving privileges as ordered by the court; mandatory revocation of driving privileges as part of the DPS rules; the continued installation of an interlock device(s) at the expense of the offender; and an assessment of the degree of alcohol abuse. Note: Just because you're under 21, that doesn't mean you'll be charged under this separate "underage DUI" statute! If you're under 21, you can still face DUI charges if alcohol is involved. A motor vehicle in Oklahoma is defined as any vehicle that is self-propelled or propelled by electric power obtained from overhead trolley wires, but not operated on rails. Any test must be conducted within two hours of your arrest. You can also be in actual physical control of a vehicle for drugs. Schedule I Substances Oklahoma is a zero-tolerance state for Schedule I substances. If you have any measurable amount of a Schedule I substance or its metabolites, you're automatically considered to have been driving under the influence. This means that even if you were driving safely, you could still be found guilty of DUI-drugs if any amount of a Schedule I drug or its metabolites is detected in your body. Marijuana DUI Although marijuana is a Schedule I substance, THC is a Schedule III substance. A positive test for THC in blood should be associated with the Schedule III classification, not the Schedule I. However, this argument has not yet been ruled on by appellate courts. Many people expected DUI-drugs charges to rise after Oklahoma's medical marijuana law took effect, but this hasn't happened. Officers typically won't arrest someone for being a medical marijuana patient unless they observe signs of impairment, such as poor driving or coordination. Other Drugs The law allows for DUI charges if prescribed medication impairs your ability to drive safely. If stopped and asked about drug use, it's best to avoid disclosing any information, as this could lead to a DUI-drugs charge. Officers may not automatically request a blood test if you admit to using drugs, so remaining polite and respectful can reduce the likelihood of further charges. License Revocation DPS only revokes licenses for alcohol in the system, not drugs. If drugs are detected without alcohol, the license won't be revoked, and an interlock device isn't required. However, drug test results will still be used in criminal prosecution. DPS treats DUI-drugs refusals the same as alcohol-related refusals, regardless of the substance involved. Punishment for Driving Under the Influence in Oklahoma The punishments listed below are the criminal penalties. A DUI in Oklahoma also affects the driver's license. That license ###Process will be handled in a civil case with the Oklahoma Department of Public Safety. Any guilty plea, nolo contendere, or finding of guilt for a violation of Oklahoma's DUI/APC law, a violation of another state's DUI/Actual Physical Control (APC) law, a violation of Oklahoma DUI/APC law involving a personal injury accident, or a violation of Oklahoma's DUI/APC law involving a personal injury accident is considered a conviction. A first DUI/APC offense is classified as a misdemeanor. If you're found guilty of DUI/APC, then you must take part in an alcohol and drug substance abuse evaluation assessment program and may be required to attend a victims impact panel. A fine in place of community service is not allowed if you're found guilty of DUI. A $100 fine must be paid to the Drug Abuse and Treatment Revolving Fund upon a DUI conviction. If you are found guilty of felony DUI, then you may be required to submit to electronic monitoring. Electric monitoring in Oklahoma consists of being confined within a specified location or locations with supervision through an electronic device approved by the Department of Corrections. The device must 1) be designed to detect whether the defendant is in the court-ordered location at the required times and 2) record violations. If you're over 18 years old and are convicted of DUI while transporting or having any child under 18 years old in the car, then the fine will be enhanced to double the amount of the fine that would have been imposed for the underlying DUI violation. You can also be prosecuted for child endangerment if you are in violation of this law or Oklahoma's DUI/APC law involving a personal injury accident. Sources: 47 O.S. § 11-902, 22 O.S. § 991a, & 47 O.S. § 1-134 Current as of 3/19/2020. Laws are subject to change at any time! Go to the sources cited above for the most up-to-date law. If you have a commercial driver's license (CDL) and you get a DUI or APC (Actual Physical Control) in Oklahoma, you're facing very harsh penalties. Oklahoma's laws on CDL holders and DUI/APC are in line with federal law and regulations. Your CDL (Class A, B, or C license) will be disqualified if you get a conviction for, enter a no contest plea to, or enter a guilty plea to: Driving, operating, or being in actual physical control of a commercial motor vehicle while having a blood or breath alcohol concentration (BAC) of 0.04 or more; Refusing to submit to a test for determination of alcohol concentration while operating a commercial motor vehicle, Refusing to submit to a test for determination of alcohol concentration while operating any vehicle if you're the holder of a commercial driver license; or Driving or being in actual physical control of any motor vehicle (commercial and non-commercial) while under the influence of alcohol or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance. Other non-DUI reasons a CDL can be disqualified Knowingly leaving the scene of a collision while operating any vehicle; Any felony during the commission of which any motor vehicle is used, except a felony involving the manufacture, distribution or dispensation of a controlled dangerous substance; Operating a commercial motor vehicle while the commercial driving privilege is revoked, suspended, canceled, denied, or disqualified; Manslaughter homicide, or negligent homicide occurring as a direct result of negligent operation of any vehicle; Fraud related to examination for or issuance of a commercial learner permit or a Class A, B or C driver license; or Failure to submit to skills or knowledge reexamination, or both, for the purpose of issuance of a commercial learner permit or a Class A, B or C driver license within 30 days of receipt of notification from DPS. Note that DWI in Oklahoma–Driving While Impaired–is not a disqualifying offense. ###DWI convictions in Oklahoma have no impact on a Commercial Driver's License (CDL) other than the license revocation period for an actual DWI conviction. It's crucial to note that there are no points associated with a DWI conviction. Think of it like receiving a bad traffic ticket; it affects your driving privileges, but not necessarily your CDL status. When it comes to penalty for committing disqualifying offenses, a CDL will be disqualified for one year after the first conviction of any qualifying offense, with some exceptions. However, if the offense is committed in connection with operating a motor vehicle required to be placarded for hazardous materials, the disqualification period increases to three years. A second conviction results in a lifetime CDL disqualification, while a felony related to controlled substances while operating a vehicle leads to a lifetime CDL disqualification. It's essential to understand that these periods cannot be modified, but if you have an interlock installed in your vehicle, you may be allowed to legally drive during this time. If your CDL is disqualified, you won't be able to drive a commercial vehicle until the disqualification is reinstated, typically by retaking all required CDL tests. A CDL disqualification is separate from a Class D driver's license (non-commercial) suspension; having one doesn't necessarily mean the other will be suspended as well. However, if your Class D license is suspended due to the same offense that disqualified your CDL, then both licenses may be affected. Non-resident CDL holders are also subject to these rules: if a conviction occurs outside of Oklahoma, DPS won't disqualify the driver but will report the conviction to the licensing jurisdiction where the nonresident's commercial vehicle license was issued. Oklahoma law allows anyone disqualified from driving a CDL to appeal that decision. A "conviction" for CDL purposes is defined as: - A nonvacated adjudication of guilt; - A determination by any court or the Department of Public Safety following an administrative determination that the driver has violated or failed to comply with this law; - A nonvacated forfeiture of bail or collateral deposited to secure the driver's appearance in court; - A plea of guilty or nolo contendere accepted by the court; - The payment of any fine or court costs; - A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. For DUI charges to have no impact on a CDL, there are only three options: 1. The charge must be dismissed without costs. 2. Take the case to trial and win. 3. Have the charge amended prior to plea. To avoid "masking," where the DUI charge gets masked by pleading to a lesser charge, the prosecutor must either dismiss the case and refile with a new charge or amend the original charge for reasons other than preventing the DUI from showing up on the CDL holder's driving history. Serious traffic offenses include: - Speeding 15 miles per hour or more over the limit; - Reckless driving; - Any offense resulting in a fatality or in conjunction with one; - Erratic or unsafe lane changes; - Following too closely; - Failure to obtain a commercial driver license; - Failure to have proper endorsements for the vehicle being operated; - Operating a commercial motor vehicle while using a cellular telephone or electronic communication device to write, send, or read a text-based communication; or - Operating a commercial motor vehicle while using a hand-held cellphone. For a CDL holder committing serious traffic offenses, the penalty includes disqualification for 60 days after a second conviction and 120 days after a third conviction. Disturbing the peace is now a required element in Oklahoma's public intoxication statute, making it more difficult to charge someone with this crime. Prosecutors may try to prosecute individuals under a different subsection that carries harsher penalties. The rule of lenity suggests that prosecution under 6-101(D) is mandatory. This makes sense from a policy standpoint as it discourages people from driving home after drinking. Abuse course participants can obtain the ADSAC "red stamp" once they've completed the minimum time and met specific requirements. They then submit an online request for the IDAP Completion Certificate. This certificate, along with the ADSAC completion certificate, is taken to Service Oklahoma to obtain a new license without interlock restrictions. This process may also be done online. Once cleared by SOK, the interlock can be removed. However, there are exceptions for participants who drive vehicles for their employers. The IDAP interlock requirement applies to all participant-operated vehicles. An employer can request an interlock device not be installed on their company vehicle if it is owned or leased and reflected on the vehicle registration. Rental vehicles do not qualify for this exception. Only IDAP participants enrolled in a 180-day program are eligible, and the exception only authorizes Class D driving privileges. Participants granted an employer exception are still required to install an ignition interlock device on their personal vehicle, as reflected on an Installation Verification Form. The authorization for exception only applies to IDAP participants operating under the course and scope of employment. Requests must be made in writing and notarized on official letterhead with a copy of the vehicle registration and submitted by the employer to the Board. We can assist you and your employer in preparing this request. A request won't be accepted if: * The participant is self-employed or owns part or all of the company or corporation. * The participant exercises control over some part of the business that owns or leases the vehicle. * The participant is employed by a relative within the first degree of consanguinity (spouse, parent, child) or resides in the same household. The Board will review the request and submit the approved document back to the employer. Participants must keep the approved exception on them whenever operating the employer vehicle. Participants can appeal if their request for an employer exception is denied. If you're facing a DUI charge in Oklahoma, understanding the process and potential outcomes is crucial. The revocation of your driver's license is based on the results of a breath or blood test, as well as a sworn report from a law enforcement officer. If you receive an IDAP letter within 30 days of your arrest, you can still apply for the program. We encourage you to start with alcohol and drug classes as soon as possible. During your first meeting, we will provide a list of approved counselors and schools, along with instructions. You can start IDAP on the day after your arrest if eligible. If it's beyond 30 days from your arrest, you can start on your scheduled revocation start date. However, this doesn't affect the interlock duration; instead, it increases license suspension time. To regain full driving privileges, you must complete the minimum interlock time. If you haven't received an Order of Revocation from Service Oklahoma yet, contact them at 405-522-7000 to verify your Affidavit or generated Order. We can assist with this process if you hire us. Ensure your address is up-to-date with SOK, as they may have mailed it to the wrong address. If you don't have a vehicle, participate in IDAP when you get one and want to reinstate driving privileges. Your out-of-state driver's license still applies to IDAP rules. Think of it as "permission to drive," not just your physical card. To install an interlock outside Oklahoma, the technician will provide an Installation Verification Form. IDAP requires a Board-approved device. For servicing, call your existing service center or manufacturer for local information. Any out-of-state service center must follow manufacturer policies and procedures. When working on your vehicle, have the mechanic contact your service center or manufacturer for instructions. Oklahoma law prohibits unauthorized tampering with interlock devices. Active participation is required, with a minimum of 15 tests every 30 calendar days from install. Every test counts, including start-up attempts and retests. To lower interlock costs, consider free installation offers, coupons, or affordability credits from participating manufacturers. For IDAP participants meeting affordability requirements, you may receive up to $150 for a first revocation, $300 for a second, and $450 for a third or subsequent. Manufacturers can't count coupons as credit; instead, they'll distribute it into your account every 30 days, not exceeding $25. To apply for affordability accommodations, provide required documentation after enrolling in the program. You can email proof of Temporary Assistance for Needy Families (TANF) or Supplemental Nutritional Assistance Program (SNAP) to . If you struggle blowing into an interlock, you may get a reduced breath volume from 1.5 to 1.2 liters with a medical exemption. Submit a pulmonologist's certification and complete the required program length. Sources: Oklahoma Administrative Code Title 40 Chapter 50 §§ 3-1.1–3-6; and 47 O.S. §§ 2-116, 6-204, 6-205, 6-205.1, 6-211, 6-212, 6-212.2, 6-212.5, 6-303, 11-902a, 751, 752, 753, 757, & 754 Current as of May 8, 2025. ###ARTICLEThe penalties for Driving Under the influence (DUI) in Oklahoma include fines, jail time, and license suspension. A person who is found guilty of DUI must participate in an alcohol and drug substance abuse evaluation assessment program. If you're arrested for DUI in Oklahoma, you'll likely face both criminal charges and an administrative license suspension. The state may also start proceedings to suspend your driver's license, which is separate from your court case. You have 30 days from the date notice of revocation was served on you by Service Oklahoma to request an appeal in court to contest the suspension if you don't file an appeal in court, your license could be automatically suspended. For a first offense, penalties can include up to one year in jail, but many first-time offenders receive probation, community service, fines, and alcohol education instead. A DUI conviction in Oklahoma is permanent unless it is expunged. Some DUI offenses can be partially or fully expunged after a waiting period, but not all are eligible. You must meet certain conditions and file a petition with the court to begin that process. It's best to consult a qualified attorney familiar with Oklahoma DUI laws as soon as possible. Your rights include the right to remain silent and the right to representation by an attorney. Oklahoma imposes strict deadlines for managing license suspension hearings and court appearances. You must file an appeal in district court within 30 days after the Notice of Revocation is served on you by Service Oklahoma to challenge your license revocation. Time is critical. You will be given a court date for your criminal case. Even if you have not hired an attorney by that date, you must appear in court. If you hire an attorney by that date, they may be able to appear for you—minimizing the impact to your job. Gather all details from the time of your arrest as clearly as you can remember them. Include information about police conduct, interactions, timing of breath or blood tests, and any witnesses who were present. Collateral consequences of a DUI arrest include: * Driver's License Consequences: License Suspension by Service Oklahoma under the Implied Consent Law. * Installation of an Ignition Interlock Device (IID) may be required to regain driving privileges. * Increased auto insurance premiums or cancellation of coverage. * Employment Issues: Loss of job, especially if driving is a key component of your work. Difficulty finding employment due to a criminal record or background check. Mandatory disclosure to professional licensing boards for regulated professions. * Professional Licenses: Possible disciplinary action from licensing boards. * Educational and Housing Impacts: Loss of scholarships or student aid, denial of admission to some universities or college programs, housing difficulties, particularly with landlords who conduct criminal background checks. * Family and Personal Life: Custody or visitation issues in family court if alcohol abuse is alleged. Social stigma, which can impact relationships and community standing. * Immigration Consequences: Deportation Denial of naturalization Visa revocation Financial Burden: Court costs, fines, attorney's fees Cost of treatment programs, classes, IID rental Lost wages from time off work for court dates, jail time, or license suspension. Aggravated DUI in Oklahoma is a more serious offense that carries harsher penalties. If convicted, you may face up to 20 years in prison and be required to participate in an alcohol and drug substance abuse evaluation assessment program. If you were involved in a personal injury accident while driving under the influence, you can be charged with various offenses, including misdemeanor or felony charges. Finally, Oklahoma has had several notable DUI cases in recent years. Staying informed about the latest laws and case developments is essential for those facing DUI charges. ###If you are charged with DUI in Oklahoma, be sure to visit the sources listed above for the most current laws. Charged with a DUI in Oklahoma? Contact The Urbanic Law Firm or use the form provided below for a free consultation. Relax - contact Urbanic.® 405-633-3420 405-633-3420

- https://pretread.com/multimedia/userfiles/file/96515289096.pdf
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