

**Appendix A: NYS Alcoholic Beverage Control (ABC) Law: Article 5 – Special Provisions Relating to Liquor and NYS Vehicle and Traffic (VAT) Law: Article 31 – Alcohol & Drug-related Offenses & Procedures**

(from New York State Legislature web site: <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>)

<p><b><u>NYS ABC Law</u></b>  <b>Special Provisions</b>  <b>Relating to Liquor</b></p>	<p align="center"><b>Specifics</b></p>	<p align="center"><b>Sentence</b></p>
<p>§ 65-a. Procuring alcoholic beverages for persons under the age of 21 years</p>	<p>Any person who misrepresents the age of a person under the age of 21 years for inducing the sale of any alcoholic beverage, as defined in the <a href="#">alcoholic beverage control law</a>, to such person.</p>	<p>A fine of not more than \$200, or imprisonment up to five days, or both.</p>
<p>§ 65-b. Offense for one under age of 21 years to purchase or attempt to purchase an alcoholic beverage through fraudulent means.</p>	<p>No person under the age of 21 years shall present or offer to any licensee, or to the agent or employee of such licensee, any written evidence of age, which is false, fraudulent, or not actually his own, for the purpose of purchasing or attempting to purchase any alcoholic beverage.</p>	<p>1<sup>st</sup> violation: a fine of not more than \$100 and/or up to 30 hours of community service. Also may order completion of an alcohol awareness program.</p> <p>2<sup>nd</sup> violation: a fine of \$50 to \$350 and/or up to 60 hours of community service. Also shall order completion of an alcohol awareness program if not previously completed.</p> <p>3<sup>rd</sup> and subsequent violations: a fine of \$50 to \$750 and/or up to 90 hours of community service, shall order evaluation by an appropriate agency to determine whether the person suffers from the disease of alcoholism or alcohol abuse. Payment for such evaluation shall be made by such person. If person elects to participate in recommended treatment, the court shall order that payment of such fine and community service be suspended pending the completion of such treatment.</p> <p>In addition to these penalties, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license: 1<sup>st</sup> violation: a three month suspension; 2<sup>nd</sup> violation: a six month suspension; 3<sup>rd</sup> or subsequent violation: a one year suspension or until the holder reaches the age of 21, whichever is the greater period.</p>
<p>§ 65-c. Unlawful possession of an alcoholic beverage with the intent to consume by persons under the age of 21 years.</p>	<p>No person under the age of 21 years shall possess any alcoholic beverage with the intent to consume such beverage.</p>	<p>A fine up to \$50 and/or completion of an alcohol awareness program and/or up to 30 hours of community service.</p>

<u>NYS VAT Law</u> <b>Alcohol &amp; Drug-related Offenses</b>	<b>Specifics</b>	<b>Sentence</b>		
§ 1192. Operating a motor vehicle while under the influence of alcohol or drugs.	1. Driving while ability impaired: No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the consumption of alcohol.	<p>A fine of \$300 to \$500 or imprisonment in a penitentiary or county jail for up to 15 days, or both.</p> <p>If convicted of a violation of §1192 within the preceding 5 years: a fine of \$500 to \$750 or imprisonment up to 30 days, or both.</p> <p>If convicted 2 or more times of a violation of §1192 within the preceding 10 years, misdemeanor: a fine of \$750 to \$1,500 or imprisonment of up to 180 days, or both.</p> <p>See also additional penalties and license sanctions.</p>		
	2. Driving while intoxicated; per se: No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.	Misdemeanor: a fine of \$500 to \$1,000 imprisonment in a penitentiary or county jail for up to one year, or both.	<p>Installation of an ignition interlock device in any motor vehicle owned or operated by such person during the term of probation or conditional discharge, for a period of no less than 12 months.</p> <p>Class E Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide within the preceding 10 years: a fine of \$1,000 to \$5,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	3. Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition.		<p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	2-a. (a) Aggravated driving while intoxicated; per se: No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva.	Misdemeanor: a fine of \$1,000 to \$2,500 or imprisonment in a penitentiary or county jail for up to one year, or both.	<p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p>	
	2-a. (b) Aggravated driving while intoxicated; with a child: No person shall operate a motor vehicle in violation of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle.	Class E Felony: a fine of \$1,000 to \$5,000 or a period of imprisonment as provided in the penal law, or both.	<p>See also additional penalties and license sanctions.</p>	

	<p>4. Driving while ability impaired by drugs: No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter.</p>	<p>Misdemeanor: a fine of \$500 to \$1,000 imprisonment in a penitentiary or county jail for up to one year, or both.</p>	<p>Class E Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide within the preceding 10 years: a fine of \$1,000 to \$5,000 or a period of imprisonment as provided in the penal law, or both.</p> <p>Class D Felony: A violation after having been convicted of a violation of subdivision 2, 2-a, 3, 4 or 4-a of §1192 or of vehicular assault in the second or first degree and aggravated vehicular assault or of vehicular manslaughter in the second or first degree and aggravated vehicular homicide twice within the preceding 10 years or three or more times within the preceding 15 years: a fine of \$2,000 to \$10,000 or a period of imprisonment as provided in the penal law, or both.</p> <p>See also additional penalties and license sanctions.</p>
	<p>4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.</p>		
<p>§ 1192-a. Operating a motor vehicle after having consumed alcohol; under the age of 21; per se.</p>	<p>No person under the age of 21 shall operate a motor vehicle after having consumed alcohol (if such person has .02 to .07 of one per centum by weight of alcohol in his/her blood, as shown by chemical analysis of his/her blood, breath, urine or saliva).</p>	<p>See license sanctions.</p>	
<p>For a violation of §1192, the court may require the defendant to attend a single session conducted by a victims impact program.</p>			
<p>Additional penalties.</p>	<ol style="list-style-type: none"> <li>1. A violation of subdivision 2 or 3 after having been convicted of a violation of subdivision 2 or 3 of such §1192 within the preceding 5 years: in addition to any other penalties, imprisonment of 5 days or be required to perform 30 days of service for a public or not-for-profit corporation, association, institution or agency, except when sentenced to a term of imprisonment of 5 days or more.</li> <li>2. A violation of subdivision 2 or 3 after having been convicted of a violation of subdivision 2 or 3 of such §1192 on two or more occasions within the preceding 5 years: in addition to any other penalties, imprisonment of 10 days or be required to perform 60 days of service for a public or not-for-profit corporation, association, institution or agency, except when sentenced to a term of imprisonment of 10 days or more.</li> <li>3. A court sentencing a person pursuant to (1) or (2) above shall (a) order the installation of an ignition interlock device... during any period of license revocation and (b) order that such person receive an assessment of the degree of their alcohol or substance abuse. Where such assessment indicates the need treatment, the court is authorized to impose treatment as a condition of such sentence.</li> </ol>		

License sanctions.

***Suspensions:***

1. Driving while ability impaired: Ninety days, where the holder is convicted of a violation of subdivision one of §1192;
2. Persons under the age of 21; driving after having consumed alcohol: Six months, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of § 1192-a of an article where such person was under the age of 21 at the time of commission of such violation.

***Revocations:***

A license shall be revoked and a registration may be revoked for the following minimum periods:

1. Driving while ability impaired; prior offense: 6 months, where the holder is convicted of a violation of subdivision one of § 1192 committed within 5 years of a conviction for a violation of any subdivision of §1192.
2. Driving while ability impaired; misdemeanor offense: 6 months, where the holder is convicted of a violation of subdivision one of §1192 committed within 10 years of two previous convictions for a violation of any subdivision of §1192.
3. Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated: 6 months, where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192. One year where the holder is convicted of a violation of subdivision two-a of §1192.
4. Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense: One year, where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192 committed within 10 years of a conviction for a violation of subdivision two, three, four or four-a of §1192. 18 months, where the holder is convicted of a violation of subdivision two-a of §1192 committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of §1192; or where the holder is convicted of a violation of subdivision two, three, four or four-a of §1192 committed within ten years of a conviction for a violation of subdivision two-a of §1192.
5. Persons under the age of 21: One year, where the holder is convicted of or adjudicated a youthful offender for a violation of any subdivision of §1192, or is convicted of or receives a youthful offender or other juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, and the person was under the age of 21 at the time of commission of such violation.
6. Persons under the age of 21; prior offense or finding: One year or until the holder reaches the age of 21, whichever is the greater period of time, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of §1192-a, or is convicted of, or adjudicated a youthful offender for, a violation of any subdivision of §1192, or is convicted of or receives a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, when the person was under the age of 21 at the time of commission of such violation and has previously been found to have operated a motor vehicle after having consumed alcohol in violation of §1192-a, or has previously been convicted of, or adjudicated a youthful offender for, any violation of §1192 not arising out of the same incident, or has previously been convicted of or received a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor when the conviction, or youthful offender or other juvenile adjudication was had outside this state and not arising out of the same.

	<p>7. Out-of-state offenses: except as provided in (5) or (6) above, (1) 90 days, where the holder is convicted of an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction was had outside this state and (2) 6 months, where the holder is convicted of, or receives a youthful offender or other juvenile adjudication, which would have been a misdemeanor or felony if committed by an adult, in connection with, an offense consisting of operating a motor vehicle under the influence of or while impaired by the use of drugs where the conviction or youthful offender or other juvenile adjudication was had outside this state.</p>
<p>Notice of charges to parent or guardian.</p>	<p>Upon the first scheduled appearance of any person under eighteen years of age who resides within the household of his or her parent or guardian upon a charge of a violation of subdivision one, two and/or three of §1192, the local criminal court shall forthwith transmit written notice of such appearance or failure to make such appearance to the parent or guardian of such minor person...</p>

***Note: This information is not to be considered legal advice or guaranteed to be a comprehensive inventory of all state laws regarding alcohol and other drugs. The University will attempt to notify campuses of new or revised legislative reporting or disclosure requirements. It is the user's responsibility to check [New York State laws](#) and with [relevant SUNY offices](#) to determine whether changes, additions or substitutions have been made.***