

Montana Supreme Court, Office of the Court Administrator
Draft Summary Report on DUI Fines, Fees and Costs

Introduction & Methodology

This report provides summary information on court¹ fines, fees and costs assessed, allocated and paid by defendants convicted of a driving under the influence (DUI) offense in Montana.

The information in this report is based on an analysis of 13,340 court cases and corresponding financial records where a DUI conviction occurred and fines, fees and/or costs were ordered by the sentencing court between January 1, 2008 and December 31, 2009. The information was extracted from the court central data repository maintained by the Office of Administrator. This report was prepared at the request of Pat Gervais, Legislative Fiscal Analyst.

In this report a DUI charge is any final charge under 61-8-401, MCA – **Driving Under the Influence of Alcohol or Drugs**, 61-8-406, MCA – **Operating with Alcohol Concentration of 0.08% or Greater**, and 61-8-410, MCA – **Operating with Alcohol Concentration of 0.02% BAC under 21 years of age**. DUI charges may be further categorized in this report by offense count, i.e., 1st, 2nd, 3rd, 4th or subsequent offense.

Court fines, fees and costs imposed on DUI offenders.

Table 1 provides in the broadest terms a summary by court jurisdiction of cases, court ordered fines, fees and costs, adjustments, payments to date and outstanding balances for the 13,340 DUI cases reviewed for this report. Court ordered fines represent the largest percentage (85%) of the court ordered fines, surcharges and costs. However, prioritization for the payment of fines is a low priority and, therefore, statutorily mandated surcharges and court costs are typically paid before fines. **Table 2** on page two provides a breakdown of court ordered fines, surcharges and costs and notes the current prioritization for disbursements of funds when payments are made based on the allocation parameters set forth in 46-18-251, MCA.

Table 1: Status Summary of Court Ordered Fines, Surcharges and Costs (CY2008 and CY2009)

Court Jurisdiction	DUI Cases CY2008-CY2009	Total Court Ordered Fines/Surcharges/Costs	Adjustments (credit for time served, suspended sentences, etc.)	Defendant Paid to date 3/15/2010	Outstanding
City	2,170	\$2,482,698.29	-\$882,700.99	-\$782,314.76	\$817,682.54
District	742	\$884,155.88	-\$208,096.05	-\$112,626.27	\$563,433.56
Justice	5,815	\$4,611,214.10	-\$720,705.95	-\$2,540,996.05	\$1,349,512.10
Municipal	4,613	\$4,679,336.49	-\$1,064,413.07	-\$1,924,200.58	\$1,690,722.84
Total	13,340	\$12,657,404.76	-\$2,875,916.06	-\$5,360,137.66	\$4,421,351.04

¹ Cases for Teton County Justice Court are not included in this report.

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As noted, fines, fees and costs are assessed by the sentencing Judge in accordance with current statute. Table 2 provides an itemization of the current priority settings of DUI court ordered fines, surcharges and costs.

Table 2: Prioritized DUI Court Ordered Fines/Surcharges/Costs by Fund Description (CY2008-CY2009)

Description	Statute Reference	Amount	Total Court Ordered	Payment Priority
Restitution² (50% initial payment)	46-18-251	Variable	\$314,151.15	1
Misdemeanor Surcharge	46-18-236	\$15	\$194,235.00	2
Felony Surcharge	46-18-236	\$20+	\$18,091.00	2
State - Court Technology	3-1-317	\$10	\$133,415.00	3
Victim/Witness Surcharge	46-18-236	\$49	\$623,605.00	4
Victim/Witness Administration Fee	46-18-236	\$1	\$10,837.00	5
State - MT Law Enforcement Academy	3-1-318	\$10 (Limited Courts only)	\$125,320.00	6
State - Public Defender³	46-8-113	\$150 for each misd, \$500 for each felony	\$12,510.00	7
Local - Costs (prosecution, community service, supervision, DUI treatment courts) assessed	46-18-232	Variable	\$427,216.08	8
Fines	46-18-231 and 46-18-233	See Fines Table 3	\$10,798,024.53	9
Total DUI Fines/Surcharges/Costs Ordered (CY2008-CY2009)			\$12,657,404.76	

Fines

Minimum and maximum fines and jail time for DUI convictions are set in statute. However, the sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine. In determining the amount and method of payment, the sentencing judge takes into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine will impose.

It's also important to note that many defendants establish time pay agreements with the court and the final reconciliation of sentence may take many years.

² This figure is for misdemeanor restitution only. Restitution in felony actions is managed by the Department of Corrections.

³ In 2009 SB 263 was passed requiring a mandatory public defender cost (if applicable) to be assessed against a convicted defendant of \$150 for each misdemeanor case and \$500 for each felony case. These costs are typically assessed in a judgment or separate sentencing order and forwarded to the OPD for collection. These costs are not typically tracked through the general ledger accounting program of the court.

Montana Supreme Court, Office of the Court Administrator
Draft Summary Report on DUI Fines, Fees and Costs

Table 3 provides the median fine assessed by DUI category and provides the minimum and maximum fine and jail time allowed in statute for the offense.

Table 3: Median Fine Assessed by DUI Offense Category (CY2008-CY2009)

DUI Offense Category	# Cases	Median Fine Assessed	Min Fine	Max Fine	Min Jail	Max Jail	Penalty Section
DUI/BAC - 1 st	10,069	\$450	\$300	\$1,000	24 Hrs.	6 Mo	61-8-714 & 61-8-722
DUI/BAC - 1st Commercial	20	\$600	\$300	\$1,000	24 Hrs.	6 Mo	61-8-722
DUI/BAC - 1st Under 21	690	\$210	\$100	\$500	0	0	61-8-410(2)
DUI/BAC - 2 nd	1,727	\$600	\$600	\$1,000	7 Days	6 Mo	61-8-714 & 61-8-722
DUI/BAC - 2nd Commercial	1	\$1,000	\$600	\$1,000	7 Days	6 Mo	61-8-722
DUI/BAC - 2nd Under 21	18	\$325	\$200	\$500	0	10 Days (over 18)	61-8-410(3)
DUI/BAC - 3 rd	355	\$1,000	\$1,000	\$5,000	30 Days	1 Yr	61-8-714 & 61-8-722
DUI/BAC - 3rd+ Under 21	2	\$255	\$300	\$500	24 Hrs. (over 18)	60 Days (over 18)	61-8-410(4)
DUI/BAC - 4th+	458	\$1,000	\$1,000	\$10,000	13 Mo	5 Yrs	61-8-731

Allocation of Money Collected in DUI Actions

Table 4 provides a chart of how money collected in DUI actions is distributed based on the jurisdiction of the court.

Table 4: Allocation of Money Collected in DUI Actions by Jurisdiction

Fine/Fee/Cost Category	City	Municipal	Justice	District	Reference
Fines	City	City	1/2 County - 1/2 State	State	46-18-231 or 46-18-233
Misdemeanor/Felony Surcharge	City	City	County	County	46-18-236
Victim/Witness Administration Fee	City	City	County	County	46-18-236
Victim/Witness Surcharge	City/State	City/State	County/State	County/State	46-18-236
Court Technology Surcharge	State	State	State	State	3-1-317
MLEA Surcharge	State	State	State	State	3-1-318
Costs	City	City	County	State	46-18-232 or 46-18-233