

# WHAT IS A NORTH CAROLINA DWI AGGRAVATING FACTOR?

*“According to the North Carolina Court System, 57,261 [impaired driving charges](#) were issued during the 2013/2014 fiscal year. In Duplin County, 492 drivers were charged with some form of impaired driving while in Onslow County, 1,081 drivers were charged.”*





North Carolina is very serious about preventing drivers from driving while impaired. According to the North Carolina Court System, 57,261 [impaired driving charges](#) were issued during the 2013/2014 fiscal year. In Duplin County, 492 drivers were charged with some form of impaired driving while in Onslow County, 1,081 drivers were charged. These numbers include various levels of DWI such as DWI with aggravating factors.

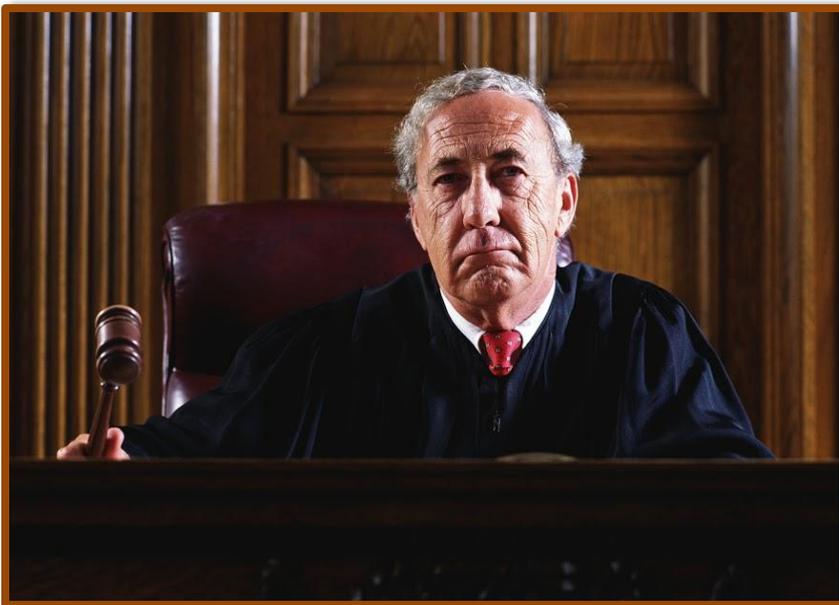
DWI convictions in North Carolina result in serious penalties that go far beyond fines, fees, and higher automobile insurance rates. If convicted, possible punishments could include jail time, community service, revocation of your driver's license, probation, mandatory attendance in an alcohol treatment program, and a requirement to wear a continuous alcohol-monitoring device. To

avoid these penalties, fight DWI charges with the help of experienced criminal defense attorneys.

The experienced DWI lawyers of Welch and Harris, LLP have years of experience fighting for the rights of people who have been charged under North Carolina's Driving While Impaired laws. We challenge the evidence claimed by the prosecution including the results of field sobriety tests and chemical tests. Through our many years of experience, we have learned the best defense strategies to use to fight for those accused of drunk driving. Call our office at **(910) 347-0161** or contact us [online](#) for a free case evaluation.

## MITIGATING FACTORS VS. AGGRAVATING FACTORS

In North Carolina, as in many other states, the punishment for driving while



impaired is divided into several categories or levels. Each level dictates the punishment that a judge may order if the defendant is found guilty of DWI under specific circumstances. North Carolina DWI laws divide punishment into six levels,

including a special level for driving while impaired with three or more grossly aggravating factors present.

The courts use aggravating factors and mitigating factors to determine the level of punishment that will apply if the defendant is convicted of DWI. [North Carolina General Statutes §20-179](#) set for the lists of aggravating factors and mitigating factors the court must consider when determining the appropriate level of punishment to assign for a DWI conviction.

### **Mitigating Factors**

Mitigating factors result in a decreased level of punishment for a DWI conviction.

For example, if the mitigating factors in a case outweigh any aggravating factors that are present, the person will be sentenced under Level 5, which is the lowest level of punishment. However, if the aggravating factors outweigh any mitigating factors, the person will be sentenced



under Level 3, which includes higher fines and a minimum jail sentence.

Mitigating factors include:

Slight Impairment of the driver's faculties, or a BAC that does not exceed .09

Driving that was otherwise safe and lawful except for the impairment

A safe driving record (no 4 point violations within the past 5 years)

Impairment caused solely by a lawfully prescribed drug taken as directed

An alcohol assessment completed after the offense date and participation in any recommended treatment

### **Aggravating Factors**

Aggravating factors are the opposite of mitigating factors as they cause the level of punishment to increase when they are present. Aggravating factors can outweigh mitigating factors resulting in more severe punishments. The number of aggravating factors can also cause the level of punishment to increase.

Aggravating factors include:

- A BAC of 0.15 or higher
- An accident caused by negligent driving
- Operating a vehicle with a revoked license
- Speeding of 30 miles per hour or more over the posted speed limit
- Eluding and fleeing from a law enforcement officer
- Passing a stopped school bus
- Having two or more serious traffic convictions
- Dangerous or reckless driving

## **Grossly Aggravating Factors**

The highest three levels of DWI punishment are tied to what the statutes refer to as “grossly aggravating factors.” Because these factors are so “grossly negligent,” the punishment for a DWI conviction with grossly aggravating factors is the most severe form of DWI punishment in North Carolina.

Grossly aggravating factors include:

- Causing an accident where another person is seriously injured
- Having a previous impaired driving conviction within seven years
- Receiving another impaired driving charge before final sentencing
- Operating a vehicle with a license that was revoked for impaired driving
- A passenger under the age of 18 years or having the mental capacity of a person who is under the age 18 years

Because proving the existence of mitigating factors and refuting the existence of aggravating factors is vital to your DWI defense, contact an experienced criminal defense lawyer immediately. We are here to help you fight for your rights to a fair and impartial DWI hearing.

***CONTACT AN EXPERIENCED JACKSONVILLE DWI ATTORNEY***

***“ATTORNEYS WHO AGGRESSIVELY PROTECT YOUR RIGHTS”***

Welch and Harris, LLP is a full service Jacksonville Criminal and Civil law firm that is committed to providing results-driven legal representation to businesses and

individuals seeking an alternative to large-firm representation. We focus on getting you the results you want while offering you a cost-effective solution to your legal needs. We understand that we work for our clients; therefore; our attorneys communicate regularly with each client to ensure that the client knows what is going on with the case.

When you have legal problems, you need an experienced legal professional in your corner. No matter the case, you should have an attorney working for you who knows the law and who has the experience to get results. We represent clients throughout Duplin County, Onslow County and the surrounding communities. Call our office at **(910) 347-0161** or contact us [online](#) today for a free case evaluation.



## About Welch and Harris, LLP

Jacksonville, North Carolina Criminal Defense, Civil Litigation, Family Law and Admiralty

At Welch and Harris, LLP, our team is committed to help you with your legal needs. This means that we thoroughly investigate your case and zealously represent your interests. We are goal-oriented and will focus on getting you the results you want, while at the same time offering a cost-effective and efficient solution to your legal needs. We also understand that an attorney works for

