

CHARGING UNDER THE NEW DWI LAW (Effective August 1, 2002)

Q.: What's the biggest change for officers writing citations?

A.: *Renumbering.* First-, second-, and third-degree DWI violations will become second-, third-, and fourth-degree DWI violations, respectively. Here's how this works:

Statute	Description	Until 7/31/02
169A.27	No aggravating factors	Third-degree DWI
169A.26	1 aggravating factor	Second-degree DWI
169A.25	2+ aggravating factors	First-degree DWI
169A.24	Felony DWI (see below)	—

Q.: What is required for the new felony first-degree DWI?

A.: There are two ways of getting a felony DWI (new first-degree DWI):

1. ***Fourth in ten.*** If the driver has three prior DWI convictions or license revocations (based on separate incidents) within ten years, the fourth DWI is a felony.
2. ***Prior felony DWI in lifetime.*** Once a driver is convicted under the new felony DWI law, every subsequent DWI in the driver's lifetime will also be a felony.

NOTE: The new felony depends only on *priors*, not "aggravating factors." *Example:* On 8/1/02, a driver is 0.28, has a baby in his car, and has 2 priors within 10 years. Although he has four aggravating factors, he is guilty only of the new second-degree DWI (formerly known as first-degree DWI), because this is not his fourth DWI in ten years.

These changes govern each DWI or test refusal that happens on or after August 1, 2002.

The County Attorney will prosecute all felony DWI offenses.