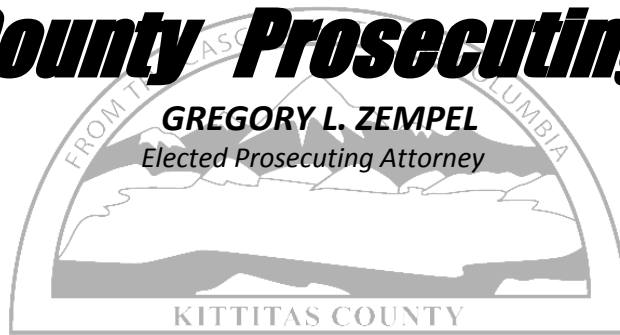


# Kittitas County Prosecuting Attorney

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## First Offense Misdemeanor Plea Guidelines (Modified 05/2013)

The following assumes no criminal history and no aggravating factors such as victims, accidents involved, and treatment of officers. All listed fines do not include additional costs and assessments except the mandatory minimums for DUI. All Stay of Proceedings contain a condition requiring no new criminal law violations. *The following guidelines are the Prosecutor's direction to his deputies as suggested minimums to keep in mind when entering into plea agreements. Prosecutorial discretion is fully retained. These guidelines create no rights or entitlements for defendants or the general public, and create no duties or liabilities upon the deputy prosecutors if offers or resolutions in specific cases vary from these guidelines.*

### Alcohol Related

#### DUI or Physical Control – 46.61.502 / 46.61.504

Mandatory minimums: <http://1.usa.gov/171CvqV>

**No Stay of Proceedings on DUIs.** Terms of probation shall always require alcohol evaluation/treatment, Victim Impact Panel, no new crimes, no refusals or BAC >.08, no driving without license or insurance.

BrAC/BAC at arrest	Offer to plead to	Jail	\$	Probation
<u>.109 and below, valid prescriptions:</u>	Negligent Driving 1 <sup>st</sup> degree	90/90	\$500	12 months active probation (\$40/month)
<u>.110 to .129:</u>	Reckless Driving	364/364	\$500	24 month active probation (\$40/month)
<u>.130 to .159:</u>	DUI below .15	364/363	\$941	24 month active probation (\$40/month)
<u>.160 and above:</u>	DUI above .15 (ignition interlock device required)	364/362	\$1196	60 months probation (first 24 are active, remaining 36 are record check - \$100/per)
<u>Refusal, drugs, meds without prescription:</u>	DUI no test	364/363	\$941	24 months active probation (\$40/month)

#### Minor Driving While Exhibiting Effects of Having Consumed Alcohol/Marijuana – 46.61.503

24 month SOP with active probation (\$40/month); upon completion, amend to Negligent Driving 2<sup>nd</sup> degree infraction. Terms of probation shall require 40 hours community service, alcohol evaluation and treatment, VIP, no new crimes, no refusals or BAC >.08, no driving without license or insurance.

#### No Ignition Interlock Device – 46.20.740

**No SOP.** 90/85 served as jail only/no alternatives. 12 months record check-only probation (\$100/record check).

#### MIP/C – 66.44.270

12 month SOP active probation; upon completion, dismissal. 24 hours of community service, obtain an alcohol/drug evaluation (PRIME for Life counts as ADIS, not eval). Can request record check after 6 months; probation's discretion.

Any misstep on the SOP, revoke and sentence to 90/90, \$250 fine, 12 months active probation requiring evaluation and treatment. If revoked because of new charge, then additional jail or other conditions.

#### Furnishing/Supplying Liquor to a Minor – 66.44.270

*Liquor Control Board sting cases (server to minor):* 12 month SOP; upon completion, dismissal. SOP terms must include LCB's [Responsible Liquor and Tobacco Sales class](#) and 24 hours community service, both completed within 90 days.

*Other cases:* plead as charged. 90/85 with 5 days work crew alternative if completed within 90 days of sentencing. 12 months RCO probation. If person furnishing was also drinking, alcohol/drug eval and active probation.

### Drugs

#### **Possession of Marijuana – 69.50.4014 (< 40g)**

**Mandatory minimums:** [RCW 69.50.425](#)

Over 21 years of age, under 28.3 grams of marijuana, not displayed in public: follow 12/6/12 effective laws.

Under 21 years of age/less than 40 grams OR over 21 years of age/28.3 grams to 40 grams: 12 month SOP to a dismissal. 24 hours of community service, alcohol/drug evaluation and any recommended treatment (PRIME for Life only counts as ADIS, not eval), and proof of \$100 to Kittitas County Drug Fund **paid to Prosecutor's Office** (or CWU Finance Department for CWU cases) **before plea**.

Any misstep, revoke SOP and sentence to statutory minimums ([RCW 69.50.425](#)): 1 day in jail (90/89), \$555.50 costs. 12 months active probation requiring alcohol/drug evaluation/treatment and \$100 to drug fund if court agrees. If under 21 years of age, one-year license suspension for conviction of either and three year if convicted of both.

### Assault

#### **Assault 4<sup>th</sup> degree – 9A.36.041**

**Always determined on a case-by-case basis**

SOP's are acceptable in cases that are truly first time offenders and little or no injury. If SOP, 12 months minimum active probation. Depending upon the factors present, evaluations for substance abuse or mental health may be appropriate. Domestic violence cases shall **always require a DV Batterer's evaluation** as probation condition.

Any misstep, revoke and sentence to 5 days jail (364/359), which can be converted to alternatives at discretion of deputy, plus \$250 fine and at least 12 months active probation (with DV evaluation and treatment for DV cases). Probation for domestic violence crimes can be ordered up to 60 months pursuant to [RCW 35.20.255](#).

### Non-Alcohol Driving

#### **Reckless Driving – 46.61.500**

On the basis of **speed** alone: 24 month SOP to a dismissal. 48 hours of community service and a driving course. If cited for other reckless actions, more than the above may be justified depending on the factors present.

RCO Probation— 4 record checks in 6 month intervals.

#### **DWLS 1<sup>st</sup> degree – 46.20.342(a)** *two major moving violations*

**Mandatory minimums:** [RCW 46.20.342\(1\)\(a\)](#)

Statutory minimums ([RCW 46.20.342\(1\)\(a\)](#)): 1<sup>st</sup> = 10 days jail; 2<sup>nd</sup> = 90 days; 3<sup>rd</sup> or more = 180 days jail

If defendant gets license back within 60 days, amend to DWLS 3 as 90/80 and 12 months RCO probation. Do not agree to continuances for the purpose of allowing the defendant to get license back.

#### **DWLS 2<sup>nd</sup> degree – 46.20.342(b)** *drove while under suspension for reasons other than DWLS 3*

*With no DWLS history*, amend to DWLS 3, 90/85 and 12 months RCO probation w/no driving while suspended condition.  
*With DWLS history*, 364/359 jail, \$250.00 fine, 24 month RCO probation with no driving while suspended condition.

If license is valid within 60 days, amend to DWLS 3 with 90/90 and 12 months RCO probation. Do not agree to continuances for the purpose of allowing the defendant to get license back.

#### **DWLS 3<sup>rd</sup> degree – 46.20.342(c)** *suspended for unpaid tickets and/or child support*

*With no DWLS history*, 90/87 with 24 hours of community service alternative if community service completed within 90 days of sentencing. 12 months RCO probation including no driving while license suspended condition.  
*With DWLS history*, 90/87 with **no alternatives**. 12 months RCO probation with no driving while suspended condition.

If license is valid within 60 days, amend to NVOL infraction with \$124 fine. Do not agree to continuances for the purpose of allowing the defendant to get license back.

**Department of Fish and Wildlife Crimes**

Any DFW-related firearm forfeiture is a civil forfeiture under [RCW 77.15.070](#). It is the general policy of the Kittitas County Prosecutor's Office to defer to the civil forfeiture process for all firearm forfeitures.

**Unlawful Hunting Big Game 2<sup>nd</sup> degree - [77.15.410](#)**

Civil wildlife penalty applies: [RCW 77.15.420\(1\)](#)

If no prior DFW violations (of any type), 12 month SOP (RCO probation with 2 \$100 record checks) with 24 hours community service within 90 days and **applicable civil wildlife penalty** per [RCW 77.15.420\(1\)](#) (depending on type of animal - \$2,000 to \$12,000) to an unclassified hunting infraction under [RCW 77.15.160\(2\)\(b\)](#).

If prior DFW violation(s), 364/361 with a reporting date 90 days out and 12 months active probation. The three days jail may be met with proof of 24 hours of community service within 90 days. Civil wildlife penalty ([RCW 77.15.420\(1\)](#)) must be ordered (depending on type of animal - \$2,000 to \$12,000). If more than one prior, additional jail.

**Unlawful Recreational Fishing 2<sup>nd</sup> degree - [77.15.380](#)**

If no prior DFW violations (of any type), 12 month SOP (RCO probation with 2 \$100 record checks) with 24 hours community service within 90 days to an unclassified fishing infraction under [RCW 77.15.160\(1\)\(f\)](#).

If prior DFW violation(s), 364/361 with a reporting date 90 days out and 12 months active probation. The three days jail may be met with proof of 24 hours of community service within 90 days. If more than one prior, additional jail.

**Loaded Rifle or Shotgun in Vehicle - [77.15.460](#)**

If no prior DFW violations (of any type), 6 month SOP (RCO probation with 1 \$100 record check) with 24 hours community service within 90 days to a dismissal.

If prior DFW violation(s), 364/361 with a reporting date 90 days out and 12 months active probation. The three days jail may be met with proof of 24 hours of community service within 90 days. If more than one prior, additional jail.

**Unlawful Transportation of Fish or Wildlife / Failure to Tag Big Game - [77.15.290](#)**

If no prior DFW violations (of any type), 12 month SOP (RCO probation with 2 \$100 record checks) with 24 hours community service within 90 days to a dismissal.

If prior DFW violation(s), 364/361 with a reporting date 90 days out and 12 months active probation. The three days jail may be met with proof of 24 hours of community service within 90 days. If more than one prior, additional jail.

Approved Monday, May 23, 2013

  
Gregory L. Zempel