

Spring Break Survival Guide



Brought To You By

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Gainesville, FL 32611
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Funded by Student Government

Florida Spring Break Survival Guide

The following information may be helpful in planning your break activities. By avoiding common mistakes, your spring break memories can be free of costly tickets and criminal arrests.

We hope you have a safe and enjoyable Florida Spring Break

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<http://sg.ufl.edu/sls>

For More Information

This publication is for educational purposes only and is not a substitute for legal advice from an attorney. Additional information on these topics is available at the University of Florida Student Legal Services home page: <http://sg.ufl.edu/sls>

The Florida Legislature's home page, Online Sunshine, has the full text of all Florida statutes: <http://www.leg.state.fl.us/> City and County ordinances are available through the Municipal Code Corporation: <http://www.municode.com>

I. Florida Traffic Law

Many students who are stopped for routine traffic violations are arrested for more serious charges because evidence of illegal drugs, weapons, or alcohol violations is in the so-called “plain view” of the police officer. A search warrant is not required when such evidence is in plain view.

Buckle up for Safety—or else!

Florida requires drivers and passengers to buckle up. Drivers may be issued a ticket costing \$73.00 to \$96.00. Passengers may be issued a ticket costing \$43.00 to \$66.00.

Make sure your vehicle is ready for a long trip. Be certain that all your lights and turn signals are operating.

Bicycles.

Florida law classifies bicycles as vehicles. When you ride a bicycle on a street you must obey all traffic control signs and signals. You must stop at stop signs and red lights. You must travel in the right-hand lane. You must travel in the correct direction on one-way streets. To ride at night, you must have a headlight and a tail light or rear reflector.

You will be stopped and ticketed for any such violations. The prices of such tickets are \$73.00 to \$96.00 depending on the county. Failure to pay the fine will result in a suspension of your driver’s license until the fine and all applicable late fees, clearance fees, and reinstatement fees are paid.

Thinking of not paying your ticket?

The majority of states in the U.S. agree to suspend drivers’ licenses when tickets are not paid in other states. Florida routinely suspends Florida driver’s licenses upon notification of convictions in other states.

Rollerblading.

It is illegal to skate on roadways under Florida law. Cities and counties may also prohibit rollerblading, skating, and skate boarding in certain additional areas such as parking lots and shopping centers. Signs are usually posted.

Mopeds and Motorcycles.

To operate a moped legally in Florida, you need a valid driver's license. If the engine displacement is more than 50 cubic centimeters, a special motorcycle endorsement is required. Driving without the required endorsement is a crime punishable by 60 days in jail and a fine of \$500.00.

If the "moped" cannot be pedaled like a bicycle, the "moped" is a motorcycle and helmets are necessary. Helmets are legally optional for moped riders 16 years of age or older. For your personal safety, helmets are always recommended even for bicyclists.

Neither motorcycles nor mopeds may be driven on sidewalks. Mopeds may be pedaled solely by human power on sidewalks.

Maximum Speed limits unless otherwise posted:

30 mph in business or residence districts;
55 mph all other locations;
70 mph on limited-access highways; and
65 mph outside urban areas of 5,000 or more population.

Cost of Speeding Tickets.

Other than speeding, moving violations carry a fine of \$73.00 to \$96.00, depending on the county. If you contest any ticket, the price may be increased to \$500.00! If you contest a ticket in a school zone or construction zone, the price may be increased to \$1,000.00.

The cost of a speeding ticket is determined by the miles per hour over the limit. Prices are doubled in school zones or designated construction areas. The following chart summarizes the price of speeding tickets.

MILEAGE OVER LIMIT	STANDARD CHARGE	WITH DRIVER SCHOOL	TICKET IN SCHOOL ZONE	TICKET IN CONSTRUCTION ZONE	WITH DRIVER SCHOOL IN ZONES
MOVING	\$ 96.00	\$ 85.20	N/A	N/A	N/A
1-5	Warning	N/A	\$ 86.00	Warning	\$ 77.00 (School Zone)

6-9	\$ 61.00	\$ 56.50	\$ 86.00	\$ 86.00	\$ 77.00
10-14	\$136.00	\$118.00	\$236.00	\$236.00	\$200.00
15-19	\$161.00	\$138.50	\$286.00	\$286.00	\$241.00
20-29	\$186.00	\$159.00	\$336.00	\$336.00	\$282.00
30-UP	\$286.00	\$241.00	\$536.00	\$536.00	\$446.00

Speed Traps.

Be very careful if your travel plans include passing through the City of Waldo, located 14 miles northeast of Gainesville on State Road 24 and Highway 301. The American Automobile Association has designated Waldo as a “traffic trap.” Waldo has a school zone with a 15-mph speed limit. Look for signs with flashing yellow lights typical of all school zones. The prices of speeding tickets are doubled in school zones.

Lawtey, Chiefland, and Sumter County are also areas where speed limits are strictly enforced. When driving on a beach is permitted, speed limits are strictly enforced.

Consent Searches.

You do not have to consent to a search of your vehicle during a routine traffic stop. If you do consent to a search, you waive your constitutional protection against unreasonable search and seizures.

Drug-Sniffing Dogs.

Florida law permits the search of a vehicle without a warrant following an alert by specially trained dogs. In some communities, a dog unit may arrive shortly after you are stopped for a traffic violation. The police are not legally able to detain you longer than the time necessary to issue a traffic ticket.

Alcohol-Related Florida Laws.

Open Containers.

Florida prohibits open containers of alcoholic beverages in motor vehicles. Drivers receive a moving violation of \$73.00 to \$96.00. Passengers receive a non-moving violation of \$43.00 to \$66.00 (Fla. Stat. 316.1936).

If the open container is in the physical control of a passenger, the passenger is cited. If the open container is not in the physical control of a passenger, the driver gets cited.

Many cities and counties regulate public consumption of alcohol by prohibiting consumption or possession of open containers of alcohol on streets, sidewalks, parking lots, or beaches. Gainesville has an open-container ordinance. An open container is any bottle or can which has been opened or any flask, cup, or glass that contains any amount of alcohol.

If the police see you holding such an open container on any street, sidewalk, parking lot, or beach, you will be arrested for violation of the open-container ordinance even if you are 21 years of age or older.

If you are not 21 years of age, that is an additional charge. If you have a fake ID, that is still another charge. Under Florida's recently revised fake ID statutes, many fake ID charges are felonies punishable by five (5) years in prison and a \$5,000.00 fine!

Under Florida law, open-container violations and underage possession of alcohol are punishable by a maximum of 60 days in jail and a fine of \$500.00.

Key West, Clearwater, Ft. Lauderdale, Anastasia State Park, Crescent Beach, Daytona Beach, and Hollywood prohibit open containers on their beaches. Panama City allows drinking on the beach, but not on roadways or in public parking lots. Panama City may prohibit glass containers of any kind on the beach.

“Signs, Signs, everywhere are signs . . .”

Cities and counties generally post signs at entrances to beaches and parks listing prohibited activities. By Florida law, alcohol is prohibited in most state parks. Please look for signs to avoid problems.

Underage Drinking.

You must be 21 years of age to purchase, consume, or possess alcohol. Underage possession of alcohol is a crime punishable by 60 days in jail and a fine of \$500.00.

Underage Drinking and Driving.

Florida automatically suspends the driver's license of any driver under 21 years of age with a blood alcohol level of .02 or higher. If you weigh less than 240 pounds, one 12-ounce beer, 5 ounces of

wine, or one ounce of liquor will put you over the limit. The suspension is for 6 months and is effective 10 days after the stop. If your blood-alcohol level is .05 or higher, you must complete a substance-abuse course and evaluation before your license can be reinstated. (Fla. Stat. 322.2616)

If you refuse to take a Breathalyzer, your license is automatically suspended for one year for a first refusal or 18 months for the second refusal. Also, if you refuse to submit to a breath, urine, or blood test, it is a first-degree misdemeanor, up to 1 year in prison and a fine up to \$1,000. If you are under 21, be prepared to take a Breathalyzer if the police smell alcohol on your breath during a routine traffic stop or at a roadblock.

Fake IDs.

Effective October 1, 1997, Florida's "fake ID" laws were amended to clarify that possession of any driver's license or state identification card not produced lawfully by the appropriate governmental agency is a felony punishable by five (5) years in prison and a \$5,000.00 fine. (Fla. Stat. 322.212) Possession of a lawfully issued driver's license or state identification card with a physically altered birth date is a second-degree misdemeanor punishable by 60 days in jail and a fine of \$500.00. (Fla. Stat. 322.212)

Lending your driver's license or state identification card to a friend is a crime punishable by 60 days in jail and a \$500.00 fine. Using someone else's driver's license or state identification card is a crime punishable by 60 days in jail and a \$500.00 fine. Both parties may have their driver's license suspended for one year. (Fla. Stat. 322.051, 322.32, 322.27)

Identifying yourself to a police officer with a fake ID is a violation of the laws cited above. It may also constitute resisting arrest or obstructing an officer in violation of Florida Statute 843.02, a first-degree misdemeanor punishable by one (1) year in jail and a fine of \$1,000.00.

Effective July 1, 1999 if you give a police officer a false name or use false identification upon being arrested or legally detained, you are guilty of a first-degree misdemeanor punishable by one year in jail and a fine of \$1,000.00 for violating Florida's new statute 901.36. If your unlawful use of someone else's name or identification results in that person being adversely affected, you are guilty of a felony punishable by five (5) years in prison and a

fine of \$5,000.00. You may also be ordered to make financial restitution to the person adversely affected.

As of October 1, 2002, it is a felony, punishable by up to five (5) years in prison and a fine up to \$5,000, to sell, manufacture or deliver, or to offer to sell, manufacture or deliver a blank, forged, stolen, counterfeit or unlawfully issued driver's license or identification card.

One point should be clear: If you are stopped by the police, it is a very bad idea to give the police officer a false name or false identification. While underage possession of alcohol is a crime, giving a police officer a false name or false identification is legally much more serious.

Finally, carrying a fake ID in a wallet with a real ID can lead to arrests in two additional ways. One, if a police officer sees your "other" identification during a routine traffic stop, you may be arrested for possession of the fake ID. Two, if you lose your wallet and it is found, you may be arrested for possession of the fake ID when you reclaim the wallet.

DUI

The State of Florida is very tough on driving under the influence. Currently the mandatory minimum penalties include fines and costs of over \$1,000.00, DUI school, substance abuse screening, 50 hours of community service, and two 6 month driver's license suspensions: one effective 30 days following an arrest; the other upon conviction. You can also expect your insurance rates to skyrocket.

As stated in Florida Statute 316.193(1), you are guilty of driving under the influence and subject to the mandatory minimum penalties stated above if you are driving or in actual physical control of the vehicle and:

- (a) You are under the influence of alcoholic beverages or chemical substances to the extent that "your normal faculties are impaired."

OR

- (b) You have a blood-alcohol or breath-alcohol level of .08 or higher.

If you take a blood or breath test and score above .08, you will probably be convicted if the test results are admitted into evidence. If you refuse to take a blood or breath test, your driver's license will be suspended for one year.

The arresting police officer will prepare a written report of your appearance, demeanor, and behavior, including the results of the field sobriety tests. You may be convicted without blood or breath test if this evidence convinces the jury that you were under the influence to the extent your normal faculties were impaired.

If you are obviously intoxicated, the refusal may simply increase the length of your suspension. The only airtight defense to DUI is simple. If you drink, don't drive!

If you do get a DUI and intend to fight it, please read the front and back of your ticket and request a Formal Review Hearing of your license suspension. This procedure is completely independent of the criminal charge of DUI, but it is very important not to waive this hearing, as it is an opportunity for your lawyer to question the arresting officer under oath before that officer has an opportunity to talk to the prosecutor.

If you are convicted of a DUI, the court may require any vehicle you operate be equipped with an ignition interlock device. Starting July 1, 2003 the installation of such a device is mandatory for a second DUI conviction.

License Suspended, Cancelled, Disqualified or Revoked?

If your license is revoked, cancelled, suspended or disqualified and you drive or are in actual physical control of a vehicle with knowledge of the suspension, cancellation, revocation or disqualification, you commit a second-degree misdemeanor (Max penalty of 60 days in jail, \$500.00 in fines) for the first offense. Each additional offense raises the degree of penalty. Therefore, second offense is a first-degree misdemeanor (Max penalty of one year in jail and \$1,000.00 in fines). Third offense can be prosecuted as a third-degree felony (Max penalty of five years in prison and \$5,000.00 in fines) It is not a defense to these charges that you were not driving. Florida law requires that a person turn in any suspended, cancelled, revoked or disqualified license upon learning of such suspension, cancellation, revocation or disqualification. ** If the officer believes you do not have knowledge of the suspension, cancellation or revocation, the officer can give you a non-criminal traffic infraction, which carries with it three (3)

points. *** Finally, if you get either the criminal or non-criminal ticket and your license was suspended for failure to pay a ticket, failure to appear in court, or failure to attend a driver-improvement course, then you have the option to clear up the ticket **prior to your court date**, go to the clerk of the court where you got the ticket, show proof of the reinstatement and clear up the charge without points and without having to go to court. This option is available only once in a 12-month period.

III. Florida Drug Laws

Driver's License Revocation

A conviction for a possession offense will result in a two (2)-year driver's license revocation, even if an automobile was not involved in the offense. If convicted in another state, Florida can suspend your license if the crime is one where Florida law allows the state to do so.

Marijuana.

Cannabis and all other illegal drugs are classified and regulated in Chapter 893, Drug Abuse Prevention and Control, Florida Statutes. Most simple possession charges are third-degree felonies punishable by five (5) years in prison and a \$5,000.00 fine.

Possession of less than 20 grams of cannabis is a first-degree misdemeanor punishable by one (1) year in jail and a \$1,000.00 fine. Use or possession of any drug paraphernalia with the intent to use is a first-degree misdemeanor punishable by one (1) year in jail and a \$1,000.00 fine.

“Roofies.”

Flunitrazepam is a very powerful tranquilizer marketed overseas under the brand name Rohypnol. Possession is enough, not just with intent to sell. Possession of flunitrazepam is a third-degree felony punishable by five (5) years in prison and a fine of \$5,000.00. Possession of more than 10 grams is a first-degree felony punishable by 30 years in prison and a \$10,000.00 fine.

Under Florida law, slipping a “roofie” into someone's drink constitutes delivery of a controlled substance punishable by 15 years in prison and a \$10,000.00 fine.

Distributing any “controlled substance” such as roofies or Ecstasy or any “controlled substance analogue” such as GHB to a person without their knowledge with the intent to commit a crime of violence, including rape, is a federal offense punishable by 20 years in prison.

Under Florida law, having sex with a person dosed without their consent constitutes sexual battery or rape punishable by 30 years in prison and a \$10,000.00 fine.

Ecstasy (MDMA), GHG, and 1,4 Butanediol.

Effective October 1, 2000, Florida law has significantly increased the penalties for possession, delivery, “bringing into this state,” sales, manufacture, and purchase of Ecstasy (MDMA) and 12 related phenethylamines, GHB, and 1,4 Butanediol. The least serious offense of simply possession is a third-degree felony punishable by five (5) years in prison and a \$5,000.00 fine. Possession of more than 10 grams of Ecstasy, roofies, or heroin is a first-degree felony punishable by 30 years in prison and a \$10,000.00 fine.

Nitrous Oxide a/k/a “Whippits”

Recent Florida law provides for increased penalties for possession and use of nitrous oxide. Inhaling or possessing with the intent to inhale nitrous oxide is a second-degree misdemeanor, punishable by 60 days in jail and a \$500.00 fine. Selling, purchasing, transferring, or possessing more than 16 grams of nitrous oxide is now a third-degree felony punishable by five (5) years in prison and a \$5,000.00 fine. Florida also closed a loophole that allowed nitrous oxide and paraphernalia to store, transfer, and inhale nitrous oxide to be sold in tobacco shops. Now the use or possession with intent to use paraphernalia to store, transfer, or inhale nitrous oxide is a first-degree misdemeanor punishable by one (1) year in jail and a \$1,000.00 fine.

“Bringing Into This State.”

The act of bringing drugs into Florida is more serious than simple possession. Bringing roofies, Ecstasy, heroin, opium, codeine, morphine, cocaine, GHB, methamphetamine or 1,4 Butanediol into Florida is a second-degree felony punishable by 15 years in prison and a \$10,000.00 fine, compared to five (5) years and \$5,000.00 for simple possession.

Buyer Beware.

Several students have recently died throughout the state of Florida after consuming a deadly counterfeit drug sold as Ecstasy. This drug induces an uncontrollable fever, causing victims to die in a particularly unpleasant manner.

Where are You?

Florida provides for increased penalties for most drug offenses if committed in, or within 1,000 feet of child-care facilities; public or private elementary, middle, or high schools; convenience stores; or places of worship; and in, on, or within 200 feet of public or private colleges or universities, public-housing facilities, or public parks.

IV. Florida Traffic and Criminal Law Procedures.

A. Traffic Court/Driving School/Affidavit of Defense

For most moving violations, you have 30 days to elect one of three options. You must consult an attorney to determine which choice is your best option.

1. Pay the ticket and receive points.
2. Elect to attend defensive-driving school and avoid points. You must pay "court costs." Court costs consist of the base ticket price minus 18% plus \$13.00 to \$30.00 costs. Typically, you will have 60 days to complete school. This option may not be practical or effective in your home state.
3. Contest the ticket. Contesting the ticket subjects you to a fine not to exceed \$500.00. South Florida has attorneys who specialize in traffic-ticket defense. Florida law permits nonresidents to file an Affidavit of Defense in lieu of personal appearance. You must contact the local court and post a bond to file an Affidavit of Defense. You should consult an attorney for assistance.

If you cannot afford the fine, you can request the option of doing community service in lieu of paying the fine.

B. Out-of-State Traffic Citations

If you have a Florida license and receive a ticket in another state, they will send the ticket information to the Florida Department of Motor Vehicles and it will be added to your record. You will receive points on your license if the ticket is a pointable violation according

to Florida Statute 322.27(3). Florida does not permit any school or program to remove points for a ticket received in another state.

Any unpaid ticket reported by another state will result in the suspension of your Florida license.

C. Deferred Prosecution/Pre-Trial Division/Pre-Trial Intervention

You definitely need to consult an attorney if you have been arrested. Florida has 67 counties and legal options vary widely from county to county.

Some spring break communities are experimenting with special court sessions with community service sentences to be served immediately. As long as the judge withholds adjudication of guilt, you have not been formally convicted of a crime.

Other communities may have Deferred Prosecution, Pre-Trial Diversion, or Pre-Trial Intervention programs. What these programs have in common is the dismissal of the criminal charges upon payment of a fine or community service hours.

D. Will the arrest be on my permanent record?

Yes. Even if the charges against you are dropped or dismissed, the fact that you were arrested or charged still exists in Florida public records available to anyone and everyone. While Florida law permits some arrest records to be sealed or expunged under certain circumstances, there will always be some record of the arrest.

Florida law requires the disclosure of sealed and expunged arrest records for certain applications such as applications for admission to the practice of law and applications for licensure or employment in sensitive positions having direct contact with children, the developmentally disabled, the aged, or the elderly, including, but not limited to, school teachers, foster parents, and daycare owners, operators, and employees. Failing to disclose sealed or expunged arrest records in such applications is unlawful and grounds for denial or termination of employment or licensure.

Since your state may be even stricter than Florida in requiring disclosure of arrest records, you will need an experienced attorney from your state to advise you on your legal obligation in completing employment, graduate school, or professional license applications if you have been arrested in Florida, even if the arrest records have been sealed or expunged. In many cases, denying an arrest for a

minor offense may be viewed as a far more serious indication of a lack of sound moral character than the offense itself!