

## I HAVE BEEN ARRESTED FOR DUI, WHAT NOW?

Make sure that you know when and where your next court appearance is going to be held. **Calendar the time, date, place and name of the judge.** Make arrangements to attend any scheduled court appearance, unless you have retained private counsel and a Notice of Appearance and Waiver of Arraignment has been filed on your behalf. Just because you have talked to a lawyer, does not mean you are represented. The lawyer must be retained. **IF YOUR APPEARANCE HAS NOT BEEN WAIVED, IF YOU DO NOT APPEAR AS SCHEDULED, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.**

If you have been released before appearing in front of a judge, your court date might not be known for several days. Make sure that the address you gave when arrested is your correct mailing address because you will be notified by mail of your next court date at that address. **If** you are not living at that address, make sure that some responsible person is living there who will make sure you receive any correspondence relating to your case.

## DO I NEED TO CONSULT WITH AN ATTORNEY?

Without a doubt, yes. Once you have been arrested and have had your license suspended for either having a blood alcohol reading of .08 or above or are alleged to have refused to perform a breath, urine or blood test, you have only 10 days after your arrest, to file a request for a hearing to contest the validity of the suspension. If you do nothing, you will have no drivers license after the expiration of the same 10 day period.

There is no penalty for filing an application for a hearing before the Department of Highway Safety and Motor Vehicles, and the only out of pocket cost is a \$25.00 filing fee. The benefits of merely applying for a hearing are many. First, you will receive a Temporary Driving Permit which will allow you to continue to drive until you receive a ruling on the validity of the suspension. This will give you time to make arrangements for transportation in the event your suspension is not invalidated by the hearing officer.

If you file for a hearing within days of your arrest, you will usually receive your Temporary Driving Permit before the 10 day period expires, thereby providing you with an uninterrupted driving privilege for at least several more weeks.

If you make the filing deadline you, will receive a hearing date at the same time you receive you Temporary Driving Permit. You will be required to fill out and return to the DMV a Pre-Hearing Statement.

The second reason to apply for a hearing is that you can request to have the Department issue a subpoena for any witness, usually the arresting officer, or the officer who stopped you. It is your obligation to have any subpoena served

on the witness. The subpoenaed witnesses are required to attend the hearing and can be questioned under oath about the facts of your case.

At the hearing attended by your subpoenaed witnesses, you will have an opportunity to find out all of the facts about your case without having to ask the judge handling your DUI charge for permission to schedule a deposition before a court reporter. Like a deposition, the officer's hearing testimony is recorded and a copy of the recording is available upon request. The recording can be transcribed and used for trial preparation and to impeach an officer's testimony in any proceeding, in the event the officer's testimony changes.

At the administrative hearing, the validity of the initial stop can be tested, and if the stop is found by the hearing officer to be invalid, your full driving privileges will be restored and you will be able to receive a duplicate license without charge.

If you are supposed to have refused a breath, urine or blood test, your privilege can also be restored if you prove that the request was not pursuant to a valid arrest, that the wrong form of test was requested, that an incorrect warning about the consequences of a refusal were given, or that there actually was no refusal.

Sometimes the timing and sufficiency of the receipt by the department of required documents from the arresting officer can be raised as a defense, but as time goes on, these defenses are becoming less and less successful due to procedural and statutory changes.

In limited situations the validity of the breath test itself can be raised as a defense.

#### SHOULD I HIRE A LAWYER?

Though not required, it is highly recommended that you hire a lawyer to handle the entire application and hearing process.

A timely consultation with an experienced, local criminal lawyer will have other benefits. At the initial consultation you can be directed to enroll in the right alcohol education classes to ensure that in the event that your attempts to invalidate your driver's license suspension are unsuccessful, you will be eligible for a business purposes only license as soon as possible to allow you to maintain your livelihood.

At the initial consultation, an experienced lawyer can insure that favorable evidence is identified, preserved and timely disclosed to the State in order for it to be allowed to be used in your defense. A lawyer can interview witnesses early, to

assess the value of their testimony and timely disclose them on your witness list which must be filed with the court.

Often times it is useful to obtain recordings of radio traffic, between law enforcement officers and dispatchers, and archived dispatch documents to determine the chronological order or occurrence of events leading up to your arrest.

Diagrams, maps, and photographs can be assembled to portray aspects of your case favorably. If necessary, expert witnesses can be identified and prepared to explain and counter damaging evidence such as breath, urine and blood test results.

Even if you think that you have no chance at a successful defense or that you are guilty and ready to take your punishment, you would be surprised what a skilled criminal defense lawyer, well schooled in the peculiarities of DUI law can do to benefit you.

No matter how high your blood alcohol level was measured or how poorly you think performed the field sobriety exercises, you still might have a myriad of technical, legal defenses that can be used to win your case.

Even if, after careful review of your case it is determined that you have no defense, circumstances and just dumb luck can intercede on your behalf if you case is not resolved too early and without benefit of a lawyer. For instance the retirement, discharge, disability or foreign deployment of vital police officers, can render a DUI prosecutable regardless of the strength of the case against you.

Most of the time, an experienced lawyer can either get the charge reduced to a lessor offense, reduce the penalties, eliminate the requirement of an ignition interlock device and almost invariably get accompanying traffic citations dismissed through plea negotiations.

A DUI can have a serious impact on your driving privilege, especially if you have a commercial drivers license. Fines, impoundment of your vehicle, forced installation of an ignition interlock device and even incarceration are the other serious and expensive consequences of a DUI conviction [link to penalties](#)

DUI is an enhanced penalty crime, where any subsequent violations bring ever increasing sanctions against you. A vigorous defense, aided by your own lawyer, can increase the probability that you current DUI will be resolved to minimize the impact of any future offenses.

**CALL US NOW AT 321-269 0606 OR E-MAIL US FOR YOUR FREE CASE REVIEW AND EVALUATION.**