

# D.U.I.

## Frequently Asked Questions

### What is a DUI?

**DUI** is an abbreviation for "driving under the influence." **DUI** means driving a vehicle when you have consumed alcohol, drugs, or both, to such a degree that you are "substantially incapable" of safely operating a vehicle. **DUI per se** means driving with a BAC of .08 or greater.

### What is a "DWAI"?

**DWAI** is a lesser included offense of DUI. It means "Driving While Ability Impaired." You can be charged with a DWAI if your BAC is .05 or more, but less than .08.

### What does BAC mean?

BAC means your blood or breath alcohol content expressed in terms of grams of alcohol per 100 milliliters of blood or 210 liters of breath.

### What is the punishment for DUI?

The maximum punishment for a DUI in Colorado is one year in jail, a \$1000 fine, 96 hours of useful public service, an alcohol evaluation, an alcohol education course, and up to 86 hours of alcohol therapy. A BAC over .20 requires 10 days jail. Second and third offenses also carry minimum jail sentences.

### What happens to my license?

The Department of Revenue, not the court, has authority over your driver's license. If you have a BAC of .08 or greater, your driver's license will be revoked for a minimum of nine months. You can drive with an ignition interlock device after one month, and can ask to have it removed after four months.

### Should I appeal the revocation?

**YES!** Run, don't walk, to the nearest DMV office and request a hearing. If you request a hearing within seven days, then you are permitted to drive with a temporary driver's license until the date of your hearing.

### If I didn't request a hearing within seven days, can I still appeal?

**No**, not unless you were in jail, hospitalized or have some other extraordinary circumstance.

### Can I get my DUI thrown out if my traffic stop was bad?

**Yes!** The police have to have probable cause that you committed a traffic offense or a "reasonable suspicion" that you are DUI in order to stop you in the first place. A surprising number of traffic stops are bad.

### What are field sobriety tests?

Standard roadside field sobriety tests are used by an arresting officer to determine whether there is probable cause to believe you are under the influence of alcohol or drugs. There are only four approved tests: (1) nystagmus, a test that requires you to follow an object with your eyes (e.g., a pen or stylus) that is used to recognize involuntary jerking of your eyes; (2) the walk and turn test; (3) the one-leg stand; and (4) the portable or handheld breath test.

### Should I take roadside tests?

**No!** There is no penalty for refusal to take a roadside field sobriety test. If you take them, the officer decides how well or how poorly you performed them. Your results will be used against you later.



## Do I have to take a chemical test?

**No, but . . .** you will have your driver's license revoked for 1 year unless you appeal the revocation and win.

## Should I take a test?

**It depends.** Contrary to popular opinion, there is no easy answer to this question. Whether you should take a test depends upon how much you have had to drink, whether you have any prior convictions in Colorado and many other factors. A rule of thumb is that you should probably take a test if you have never been convicted of DUI because the risk to your driver's privileges for refusing are likely to be more severe than the risk you face from being convicted of the offense.

## Can I talk to a lawyer before I take a blood or breath test?

**No!** You are not entitled to talk to a lawyer before taking a test. In fact, the police, the courts and the Department of Revenue, may even consider your request to talk to a lawyer as an indication of your refusal to take a test.

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you later. We recommend that drivers never take roadside field sobriety tests.

## Do I need a lawyer?

**It depends.** Sometimes a lawyer can help a lot. Other times you can handle it on your own. A good lawyer will help you answer this question by analyzing the specific facts and circumstances of your case. So, it is ALWAYS worth the cost to consult with an experienced, honest attorney following any drinking and driving arrest.

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## What can a lawyer do?

- Challenge your traffic stop and arrest.
- Plea bargain with the prosecutor for you or take your case to a jury trial.
- Represent you in your driver's license revocation hearing.
- Get the second sample of your blood tested by a certified lab.
- Help you in sentencing.
- Get you started on the road to recovery if you have an alcohol problem.

## COSTS OF A DUI CONVICTION

Fine	\$600-1500
Victim Assistance Fund	\$78-370
Victim Compensation Fund	\$33-46
Law Enforcement Assistance Fund	\$90
Brain Injury Trust Fund	\$20
Persistent Drunk Driving Fund	\$25-\$500
Alcohol Evaluation	\$200
Alcohol Education	\$175-\$350
Driver's license reinstatement	\$95
Court Costs	\$26
Community Service Fee	\$120
Vehicle tow	\$150
Vehicle storage per day (\$25/day)	\$50
Bail bondsman fee	\$300
Restitution for chemical test	\$10-50
Victim Impact Panel	\$25
Alcohol therapy (\$25/hour x 86hours)	\$2150
Driver's license retest	\$26
Auto Insurance Increase (3 years)	\$4,800

**TOTAL AVERAGE COSTS \$10,000**

**Defense attorney fees** vary from \$1500 to \$7,500 for a jury trial. Winning may save you money.

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