

Florida's
DUI & DRUG
Possession
Charges
are Getting
Tougher



KNOW YOUR **RIGHTS**

Florida's DUI & Drug Possession Charges

DRIVING UNDER THE INFLUENCE

In Florida to be found guilty of D.U.I., the State Attorney's Office must prove that:

1. a person was driving or in actual physical control of a motor vehicle within the State of Florida,
2. a person was under the influence of alcohol, a chemical, or a controlled substance,
3. a person to the extent that their "normal faculties" were impaired, OR with a blood alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood, OR a breath alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

Penalties

The DHSMV (Florida Department of Motor Vehicles) may suspend your driving privileges immediately after a DUI arrest. In addition, if a DUI case results in a conviction minimum mandatory penalties apply. Some of these include a vehicle impoundment, court mandated driver's license suspensions, installation of a Vehicle Interlock Device, jail or prison time.

DRUG POSSESSION

In Florida to be found guilty of a drug possession charge, the State Attorney's Office must prove that:

1. a person possessed a substance,
2. the substance was a drug (e.g. marijuana, cocaine, oxycodone, etc).
3. the person had knowledge of the presence of the substance

Penalties

Jail or prison time may be legally required upon a conviction. Further, for any type of drug possession charge a conviction shall trigger a two-year DHSMV driver's license suspension.

A conviction for DUI or a drug possession charge will impact your life permanently. The possibility of having a permanent criminal record, receiving serious driver's license suspensions/revocations, and being sentenced to jail or prison time requires that you understand the legal system and what prosecutors don't want you to know.

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1 *Did you know that the DUI breath sample you gave the police may not be usable at trial?* An experienced DUI lawyer can file motions to seek to suppress breath test results. These motions could be based on how a sample was collected, how an intoxilyzer 8000 Series instrument was maintained, or based on a theory that the FDLE administrative rules are inadequate to ensure the accuracy and reliability of your breath test results. Every case is different, but; an experienced DUI lawyer can determine which motion may apply to your case.

2 *Did you know that your DUI breath sample reading may produce a false positive?* Certain compounds produced by the body as a result of diabetes or the Adkins diet have been found to produce elevated breath alcohol readings. In addition, its possible that people may be occupationally exposed to certain compounds (paint thinners, lacquers, varnishes, and industrial cleaning solvents) that also trigger elevated breath alcohol readings.

3 *Did you know that your DUI breath sample may have risen above the legal limit from the time the police stopped you until you provided a breath sample?* An experienced DUI lawyer can seek to prove that you were driving below the legal limit by retaining expert witnesses in the field of toxicology. These witnesses can explain how your breath alcohol level was much lower at the time you were driving than when you provided a breath sample.

4 *Did you know that your refusal to provide a blood, breath, or urine sample could trigger an automatic license suspension?* In Florida the legislature created an implied consent scheme whereby anyone that has a valid Florida Driver's License consents to providing a sample of their blood, breath, or urine if they are suspected of being DUI under certain limited situations. Failure to provide such a sample will result in a 1-year driver's license suspension. A second refusal will trigger an automatic 18-month suspension. An experienced lawyer can seek to help you get your license back and/or to assist you getting a limited D.L. if you act within ten days after your arrest.



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- 5** *Did you know that your refusal to provide a breath sample could also be used against you in a criminal court as evidence that your normal faculties were impaired?* An experienced DUI lawyer can seek to have your refusal to submit a blood, breath, or urine sample suppressed. If a police officer reads your implied consent warnings incorrectly and asks you whether you agree to take the “wrong” test (blood, breath, or urine) a legal basis may exist to keep prosecutors from using that refusal in their criminal case against you.
- 6** *Did you know that an experienced lawyer may be able to file motions to keep statements you made to police (e.g. “I only had six beers”) from being used against you?*
- 7** *Did you know that an experienced lawyer may be able to file motions to keep physical evidence (e.g. drugs, blood, and urine) from being used against you?*
- 8** *Did you know that in a drug possession case you may seek to have the substance in question independently tested?*
- 9** *Did you know that you could be convicted for a drug possession charge even if you didn't have the drugs on your person when you were arrested?* An experienced drug possession lawyer can explore many legal defenses related to an issue of fact like “possession” when the police make a drug arrest based on a constructive possession theory.
- 10** *Did you know that if you have been arrested for a drug possession charge you may be able to enroll in a diversion program?* An experienced drug possession lawyer can assist you in enrolling in a diversion program that will result in your case being dismissed.

HERE IS ONE EXTRA THING TO KNOW:

- 11** *Did you know that a lawyer could appear on your behalf at many hearings and you will not have to come to court?* In addition it would be possible in some cases, to have a lawyer appear on your behalf to resolve a criminal case without you even entering the courthouse.

The outcome of your DUI or drug possession case will have a permanent impact on you and your family. It is essential that you retain aggressive, experienced, former prosecutors to protect your life, liberty, and your hopes for tomorrow.

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Hiring an attorney is an important decision that should not be based solely on advertising.