**What is A DUI Charge?**

If you have a DUI charge, it means you were arrested for driving under the influence of drugs or alcohol. Some states have slightly different terms for the crime, but they’re all generally the same. For example, some states use driving while intoxicated (DWI), operating while under the influence (OUI), or operating while intoxicated (OWI).

The exact elements that a prosecutor has to prove will vary state by state. The sentences will be different as well, depending on the **location**. Overall, though, all states in the United States prohibit driving or operating a vehicle while you’re under the influence of drugs or alcohol in certain contexts.

**You are prohibited from driving a motor vehicle anywhere in The United States**if your blood alcohol content (BAC) is .08% or above. It’s also illegal to drive **if** you’re under the influence of **drugs**. It’s important to know that even if you weren’t driving dangerously, you would still be convicted of a DUI if your BAC is .08% or above.

Some other states have DUI statutes that deal with impairment rather than how much of a substance the person has consumed. Therefore, even if the driver has a BAC below .08%, they can still be convicted of a DUI if the prosecutor can prove that they were impaired.

**Possible Defenses**

One possible defense to DUI charges is a motion to suppress the car stop and/or the evidence. If the police stopped, arrested you, or breathalyzed you improperly, you may be able to get that evidence thrown out. If that happens, the prosecutor won’t be allowed to use that evidence in court. If all of the evidence is permitted and it shows that you were under the influence, it becomes significantly more challenging to defend a DUI charge.

Another defense **might be that you** weren’t intoxicated. This will likely be your defense if the police did not breathalyze you and/or draw your blood. **I**f a judge determines that the evidence will not be permitted, then the case will depend solely on the police officer’s testimony. The prosecutor will have a weaker case than they would if they had breath or blood evidence showing intoxication.

**Can Someone Be Convicted of a DUI if There’s No Breathalyzer or Blood Drawn?**

In many states, even if the police do not perform a breathalyzer or draw your blood, you can still be charged with and convicted of a DUI. In most DUI cases, the police will either **draw blood** or have you take a breathalyzer to see what substances the driver has in their body. If this isn’t done, or if for some reason this evidence is thrown out at a motion to suppress **hearing**, the police will then testify as to their observations.

They almost always say the same things. They will say that the defendant was driving erratically and was swerving. Then they will likely testify that when they stopped the driver, the driver’s eyes were bloodshot, their speech was slurred, and they smelled alcohol or marijuana coming from the driver and the car. They may or may not do standard field sobriety tests. Unfortunately, this can be enough for a conviction. If you have witnesses who were in the car with you and can refute the testimony from the police officers, that can be **extremely** helpful.

**Possible Penalties**

The penalties for a DUI depend on several things. In many states, the penalties are different depending on whether you were driving under the influence of alcohol or narcotics. It also changes if it’s your first DUI or if you’ve been convicted of others in the past.

For example, in Pennsylvania, if it’s your first DUI and your **blood alcohol content** is barely above the legal limit, there is a mandatory sentence of 6 months of probation, a $300 fine, **and**a drug and alcohol assessment **is required** to determine if you need treatment**.** You will **also**be required to participate in an alcohol highway safety class.

In contrast, if you are convicted of a DUI because you were under the influence of narcotics, there is a mandatory sentence of 72 hours in jail with a maximum **sentence**of 6 months. You will also be fined between $1,000 and $5,000**,** **and your** license **will be suspended** for 12 months**. On top of that**, a drug and alcohol assessment will be required, and you will have to take an alcohol highway safety class.

If you’re convicted of a 2nd DUI within ten years of the first conviction, that’s when you start to see some harsher sentences. If your 2nd DUI is due to narcotics, there’s a mandatory jail sentence of 30 days. The judge **would not** be able to sentence you to less time even if they wanted to.

Many states have what they call diversionary programs. If you have no criminal history or a very minor one, the prosecutor will often allow you to participate in one of these programs. In this type of program, there is usually 6-12 months of probation, and you have to take an alcohol highway safety class. There may also be a license suspension. However, once you successfully complete this program, the DUI charge will be expunged from your record and should not count as a conviction. It can be a time-consuming program to participate in, but it’s definitely worth it to keep your record clean. Being convicted of a DUI can have serious consequences, so if you’re ever offered a diversionary program in exchange for the charge to be expunged, that’s almost always the best option.

**Can Someone Be Convicted of a DUI If They Were on a Bicycle or Electric Scooter?**

Yes! In some states, the law prohibits people from operating any vehicles while intoxicated. The definition of **a** vehicle is quite comprehensive. It’s certainly not as common to get arrested for a DUI when you’re riding a **bicycle**, but it’s important to know that it is possible.

**It Isn’t Worth It**

In many states, DUIs carry incredibly harsh penalties. No matter what state you’re in, if you’re convicted of a DUI, it can make it really difficult to get a **good** job or find housing. It’s never worth it to drink and drive.