



# The FindLaw Guide to DUI Charges

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Driving under the influence of alcohol or drugs is a serious offense. Here's some information about these charges so you know what to avoid.

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## Introduction

It is a crime in every state to drive while under the influence of alcohol or other intoxicating substances. Whether the offense is called a DUI, a DWI, or even an OMVI, the basics of the offense are virtually the same throughout the country. This guide, along with Findlaw and its directory of local, quality assured attorneys can help with questions about DUI charges. Keep in mind that the details of DUI laws vary from state to state, so be sure to look at the laws in [your state](#) so that you get the best information.

## What is a DUI Charge?

The offense of driving under the influence, or DUI, typically relates to alcohol intoxication. But alcohol is just one of countless substances that can impair one's ability to operate a motor vehicle. Driving under the influence of drugs -- whether obtained illegally or by prescription -- can also bring DUI charges. Doctor's orders are no defense to drugged driving charges.

Furthermore, driving under the influence is not limited to cars. Some common examples of other vehicles are ATVs, pocket bikes (minibikes), golf carts, and other vehicles that aren't designed or intended for use on public highways.

## Evidence Against the Driver

All states have "[implied consent](#)" laws that require drivers to submit to some form of chemical test, such as breath, blood, or urine testing if suspected of DUI. By assuming the privilege of driving a vehicle on state roads and highways, drivers have given their consent to DUI testing when a police officer reasonably believes the driver is under the influence of alcohol or drugs. If a driver refuses to submit to such testing, the driver may face penalties such as mandatory suspension of a driver's license.

Driving with a blood-alcohol concentration (BAC) above a certain level -- typically 0.08 percent or higher -- is illegal in all 50 states. Alcohol is flushed from the body rapidly, so blood, breath, or urine tests performed at the time of the traffic stop are good measures of how intoxicated the driver was.

That's not the case with drugs other than alcohol. Substances such as marijuana and cocaine stay in the body for much longer, so a blood or urine test showing the presence of these drugs does not necessarily mean that the driver was intoxicated at the time of the test. Consequently, law enforcement relies on other evidence to determine the level of impairment:



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- Testimony about the driver's unusual behavior in traffic
- Testimony regarding the driver's conduct or physical appearance
- Incriminating statements made by the driver
- Testimony regarding the driver's performance during a field sobriety test
- Tapes, film, and/or photographs taken at the scene where the driver was arrested
- The driver is generally disheveled
- The driver's eyes appear to be red, glassy, or bloodshot
- The driver's face appears to be flushed
- The defendant's breath smells like alcohol
- The driver's speech is thick and slurred

## Other Factors to Consider

A judge will often consider other factors when determining how serious a drunk or drugged driving violation is. These considerations include:

- Whether the driver has a history of DUI violations;
- Whether the driver was operating a commercial vehicle at the time of the DUI;
- Whether the DUI violation occurred while there was a child in the vehicle;
- Whether the DUI violation occurred simultaneously with another dangerous moving violation, such as reckless driving;
- Whether the DUI violation involved a car accident in which property damage occurred;
- Whether the DUI violation involved a car accident in which another person was injured or killed (called [Felony DUI](#)); and
- Whether the driver was under the legal drinking age at the time of the DUI violation.

## Penalties

Penalties can vary [by state](#), but do follow some common patterns. Most state laws allow a motor vehicle department to immediately suspend the driver's license of any person operating a vehicle with a BAC above the state limit for intoxication, or any driver who refuses to submit to BAC testing.

An increasingly popular DUI penalty, especially for repeat offenders, is mandatory installation of an "ignition interlock" device on the offender's vehicle. This breath-testing device measures the vehicle operator's BAC, and will prevent operation of the vehicle if more than a minimum amount of alcohol is detected, such as BAC level of .02.

Finally, a driver convicted of a DUI may have to serve time in prison, or pay heavy fines, or both.

STOP

### Should I Talk to an Attorney?

As in many criminal procedures, hiring an attorney when facing DUI charges is extremely important. A good defense attorney will ensure that the damage to your criminal and driving records is minimized. You can locate a criminal defense lawyer now by visiting [Findlaw.com](#) and choosing among several quality-assured lawyers in your area.

## For More Information

Regarding DUI charges and other issues, please visit our website at <http://dui.findlaw.com/>

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