



Driving While Intoxicated: An Introduction to Essential Issues

What follows is a brief summary of the relevant and essential issues that anyone facing a DWI must understand. While the law is standard, each case is unique in its own right, and your individual case may have different results than those listed below.

FIRST OFFENSE DWI (Driving While Intoxicated)

Conviction of a first DWI is a Class B misdemeanor.

- **JAIL:** Up to a maximum of six (6) months imprisonment.
- **FINE:** Up to \$500.00. Court costs may also be between \$10.00 and \$100.00.
- **PROBATION:** The general terms of probation are no drinking, do not break the law, attend SATOP classes, etc. Probation is usually for 1 to 2 years. A conviction with probation is commonly referred to as a "*Suspended Imposition of Sentence*" or SIS.
- **SUSPENSION OF DRIVING PRIVILEGES:** A criminal conviction of a first time DUI results in a 30-day suspension of driving privileges followed by a 60-day restriction to driving only to and from work, in the course of employment, or to alcohol treatment. There are no hardships or exemptions available. This suspension goes on the person's driving record. The court may also require that a person be restricted to driving a motor vehicle which has an ignition interlock device while on probation. The device costs \$50.00-100.00 to install and \$50.00-\$75.00 per month to maintain. A conviction will result in 8 points being assessed against the driver's license.

SECOND OFFENSE DWI

Conviction of a second DWI within a five year period is a Class A misdemeanor.

- **JAIL:** Up to a maximum of one year in jail.
- **FINE:** Up to \$1,000.00, plus court costs of between \$10.00 and \$100.00.
- **PROBATION:** Only after a person has served a mandatory minimum of 48 hours of incarceration are they eligible for probation. The jail requirement may be waived

in lieu of doing 10 hours of community service. The terms of probation are standard: no breaking the law, no drinking, no going to places where alcohol is served, attend SATOP, etc. Court ordered AA meetings, outpatient treatment, or inpatient treatment programs are also a possibility. Probation will often be for a one or two year period.

- **REVOCATION OF DRIVER'S LICENSE:** A criminal conviction of a second time DWI within 5 years results in a five (5) year revocation of driving privileges. A hardship license may not be applied for until 2 of the 5 year revocation has been served. This suspension goes on the person's driving record. Twelve points are assessed against the driver's license regardless of how old the first DWI conviction was. The court must also require that a person be restricted to driving a motor vehicle which has an ignition interlock device while on probation. The device costs \$50.00-100.00 to install and \$50.00-\$75.00 per month to maintain.

THIRD OR SUBSEQUENT DWI OFFENSE

Conviction of three or more DWI's within 10 years results may mean that the driver is deemed to be a "*Persistent Offender*" and guilty of a Class D Felony. There will also be a 10 year denial of driving privileges.

- **JAIL:** Up to five (5) years in prison.
- **FINE:** Up to \$5,000.00, plus court costs of between \$10.00 to \$100.00.
- **PROBATION:** Missouri law prohibits a suspended execution of sentence for a felony DWI. The court may suspend execution of sentence after 10 days in jail or 60 days of community service. The defendant is then placed on a probation.
- **REVOCATION OF DRIVING PRIVILEGES:** Upon a third or subsequent criminal conviction for DWI, the defendant's driver's license is revoked for 10 years regardless of how old the two prior convictions are. These suspensions go on the person's driving record. If convicted of a felony DWI, no hardship license is available. If the DWI is a third, but not a felony, a hardship license may be applied for after 3 years. The court must also require that a person be restricted to driving a motor vehicle which has an ignition interlock device while on probation. The device costs \$50.00-100.00 to install and \$50.00-\$75.00 per month to maintain.

Missouri Implied Consent

Everyone who operates a motor vehicle in the state of Missouri is deemed to have given his or her consent to have his or her breath, blood, urine, or other bodily substances tested for alcohol and/or drugs. This is known as Missouri's "*Implied Consent*" law. You are presumed to know and

understand your rights and responsibilities concerning the testing your breath or bodily fluids in relation to a DWI arrest.

The arresting officer will choose what type of test to administer. Under Missouri law, however, you are allowed 20 minutes to contact an attorney about whether you should submit to a test.

You also have the right to obtain your own test of your body fluids by a physician, qualified technician, chemist, registered nurse or other qualified person after you have submitted to the officer's requested test.

Driver's License Consequences

In a Missouri DWI arrest there are two separate cases: the court case, and the driver's license case, which is filed by the Department of Revenue against the driver's license. If you are arrested for DWI, you have only **15 days** from the date of arrest to have a hearing.

Suspension Penalties

If a Sustain Order is issued after the administrative hearing:

- **FIRST TIME FAILURE OF A TEST:** For a driver with no alcohol related law enforcement contacts within the previous five years, driving privileges are suspended for 30 days followed by 60 days of Restricted Driving Privilege. The restricted license is available upon showing proof of insurance before the 30 days suspension has expired. The restriction allows a person to drive *"in connection with a person's business, occupation or employment, and to and from an alcohol education and treatment program"* only. This goes on the person's driving record and stays for five years.
- **SECOND AND SUBSEQUENT FAILURES OF A TEST:** Driving privileges are suspended for one year. You are not eligible for a hardship license. This goes on the person's driving record and stays for five years.

Test Refusal Consequences

If you refused the test, driving privileges are revoked for one (1) year. However, if it is your first, you can apply for a hardship license after 90 days. This goes on the person's driving record and stays for five years.