

## What is Driving Under the Influence (DUI)?

Vehicle Code Sections 23151 and 23152 are the drunk driving laws. VC 23152(a) makes it unlawful to drive a vehicle while under the influence of alcohol or drugs. VC 23152(b) makes it unlawful to drive a vehicle with a blood or breath alcohol level of 0.08% or higher.

## What is the Punishment for a DUI?

Generally, for a 1st offense for a DUI, the following are ordered:

Jail Time: 0 – 6 months. Usually a few days.

Fines: \$390 - \$1000 depending on the plea and county

Alcohol Classes: 3 to 9 Months depending on the blood alcohol level

Probation: Generally 3 years

## What if I am a Class A truck driver?

You need legal help to protect your livelihood, which requires you to drive every day. Call Mr. Singh right away at 916-939-5151.

## Can a DUI charge be reduced?

Yes, in some cases a DUI can be reduced. It may be dismissed, or reduced to a wet reckless, dry reckless, or other lesser charge. All the reductions would be more beneficial than having a DUI on your record.

## Will the DMV suspend my license?

A person who takes a breath test, which indicates a blood-alcohol concentration of 0.08% or more, will have his driver license confiscated by the arresting officer. The officer will give notice to the driver of his right to request a hearing before the DMV within 10 days. Failure to request a hearing within the time frame may result in the DMV suspending the driver license.

## Should I request a hearing before the DMV?

Requesting a hearing before the DMV may help you in fighting your case in court. It will certainly delay any suspension. Mr. Singh has over 12 years of experience participating in DMV hearings to defend a client's rights.

## If my license is suspended by the DMV, can I get a restricted license?

If the DMV suspends your license, after 30 days, you can request a restricted license for the remainder of your suspension. Mr. Singh can help you get a restricted license.

### What if I had a DUI recently and get a new one?

We can help you if you contact Mr. Singh at 916-939-5151 and provide all the details of the earlier one. The fines, jail time and alcohol programs will all be higher and longer.

I had DUI and have stopped going to classes, or paying the fine, or something else. What now? You can be violated for breaking your conditions of probation. Contact Mr. Singh right away.

### What should I do if I am stopped for Drunken Driving?

Politely decline to answer any questions. Only the incriminating or bad answers will be in the police report. Decline to take any field sobriety tests. They are not required by law and rarely help you. If you are over 21 years old, you can refuse to take any handheld breath test. You should agree to take a required evidentiary breath test, and allow the blood sample to be taken if you think you are close to the 0.08% blood alcohol level.

Call the DMV Driver Safety Office within 10 days to demand a hearing to contest your license suspension which normally starts 30 days after your arrest.

### What Happens In Court?

At the time of your drunk driving arrest, you were given a notice to appear in court. This first court appearance is called an Arraignment. We will be appearing for you at this appearance; you do not need to be present. One of the benefits of hiring a private attorney to represent you in a misdemeanor DUI case is that we are able to appear on your behalf, and you are free to go about your normal business.

At the arraignment, we will enter a "not guilty" plea and schedule your case for a pretrial conference, or we may not enter any plea at all, and simply continue the arraignment until a future date. Neither course of action is better than the other; there are simply different customs in different courts, and the action that we take initially is designed to allow us time to investigate your DUI case.

If your DUI case involved a blood test, we will get a court order for the blood sample to be split for independent testing by our lab. There, we will check for alcohol content, as well as anti-coagulant and preservative levels and bacterial growth. Integrity of the sample (or lack thereof) is a key issue for both court and the DMV.

After the arraignment is a pretrial conference. At that court date, we meet with the prosecutor, review the DUI case for possibility of settlement, and discuss a plea-bargain offer. With congested court calendars, we may have to have a several pretrial conferences for your DUI case. After each pretrial conference, we will update you of negotiations and the next court date.

During the pretrial phase, we may file a motion. Motions are simply a formal request that the judge order something. Typical motions in a DUI case are to suppress evidence, to force the prosecutor to turn over additional discovery, or to dig into the arresting officer's private personnel file for complaints of excessive force or dishonesty.

Some of these motions can be accomplished without your being present in court; others will require your presence. When we are setting your case for a motion that requires you to be there, we will do our utmost to give you as much advance notice as possible, so that you can make whatever arrangements are necessary to be present.

At the conclusion of the pretrial phase, the prosecutor will give us an offer for a plea-bargain. This offer may be an opportunity to plead to a lesser charge, such as reckless driving, or may simply be a negotiation about the consequences to be imposed if you admit to driving under the influence. Because every case is different, what is a good deal in one case may be a bad deal in another. We will, of course, review the particular circumstances of your DUI case with you to assist you in deciding whether to accept or reject the prosecutor's plea-bargain offer.

If the plea-bargain is accepted, this will end the DUI criminal case. Typical plea-bargains include being placed on probation for a period of years, depending upon the nature of the DUI case, as well as the imposition of a variety of terms and conditions of probation. Typical terms and conditions include paying a fine, taking alcohol [HYPERLINK "http://www.1800duilaws.com/dui\\_schools/ca\\_duischools.asp"](http://www.1800duilaws.com/dui_schools/ca_duischools.asp) \o "DUI Schools in California" \t "\_blank" education courses, and having a restricted driver's license. Terms and conditions of probation may vary.

If the plea-bargain is not accepted, the case will be set for a [HYPERLINK "http://www.gotadui.com/articles/criminal\\_process.htm"](http://www.gotadui.com/articles/criminal_process.htm) \o "Criminal Process" jury trial. Every person charged with a crime in California has the Constitutional right to a jury trial, where 12 citizens are selected from the community to listen to the evidence, be instructed on the applicable law, and render a verdict by applying the facts to the law.

A jury trial generally lasts about a week or so, depending upon which courthouse your case is assigned to. A jury trial in a DUI case is like any other criminal case. It begins with [HYPERLINK "http://www.1800duilaws.com/article/dui\\_trial\\_jury\\_selection.asp"](http://www.1800duilaws.com/article/dui_trial_jury_selection.asp) \o "DUI Trial, Jury Selection" \t "\_blank" jury selection, and proceeds through [HYPERLINK "http://www.1800duilaws.com/article/dui\\_trial\\_opening\\_statement.asp"](http://www.1800duilaws.com/article/dui_trial_opening_statement.asp) \o "DUI Trial, Opening Statement" \t "\_blank" opening statements, [HYPERLINK "http://www.1800duilaws.com/article/dui\\_trial\\_prosecution\\_case.asp"](http://www.1800duilaws.com/article/dui_trial_prosecution_case.asp) \o "DUI Trial, Prosecution's Case" \t "\_blank" examination and [HYPERLINK "http://www.1800duilaws.com/article/dui\\_trial\\_defense\\_case.asp"](http://www.1800duilaws.com/article/dui_trial_defense_case.asp) \o "DUI Trial, Defense Case" \t "\_blank" cross-examination of each of the witnesses, [HYPERLINK "http://www.1800duilaws.com/article/dui\\_trial\\_closing\\_argument.asp"](http://www.1800duilaws.com/article/dui_trial_closing_argument.asp) \o "Closing Argument and Jury Deliberations" \t "\_blank" closing arguments, jury instructions, deliberations, and verdict.

If you are charged with a violation of Vehicle Code Section 23152 (b), driving with a [HYPERLINK "http://www.gotadui.com/bac\\_calculator/Default.htm"](http://www.gotadui.com/bac_calculator/Default.htm) \o "Blood-Alcohol Content Calculator" blood or breath alcohol level of .08% or higher, and if you are acquitted of that charge

(meaning that all 12 jurors agree you are not guilty of the charge), then the DMV case is automatically set aside. This is the only thing that can happen in court that will impact the DMV Hearing.

### What Happens at the DMV Hearing?

A DUI arrest in California also triggers a DMV case. Typically, when you retained my firm to defend your interests, we immediately contacted the DMV to request a hearing on your behalf. A DMV Hearing is an administrative action, separate and apart from the court action but arises from the same event. DMV is attempting to suspend your driver's license for a period of time and send notices of hearings, temporary driver's licenses, and other documents to you by mail. In a first-offense DUI case, if a chemical test was given, the DMV is seeking to suspend your license for 4 months. However, we can get you a restricted license after one month of the suspension has passed, assuming that you get enrolled in a first-offender alcohol program, file an SR-22 proof of insurance certificate, and pay a license reissue fee.

In a second-offense DUI case, assuming a chemical test was given, the DMV is seeking to suspend your license for one year, with no opportunity for a restricted license. In DUI cases where there was a refusal to take the test, the DMV sanctions increase: a one-year suspension on a first-offense DUI, two years on a second-offense DUI, and so on. Please be sure to talk to me if you have any questions about the nature of the suspension you are facing with the DMV. Send in a DMV Hearing Request form and let the DMV to schedule a hearing with us. This will typically take about one month, the time in which the temporary license you were given is due to expire. We will make sure that the DMV sends you a new temporary license, which will replace the pink temporary license you were given at the time of your DUI arrest. This is just another paper license. If you need a photo I.D. card, immediately go to the DMV and get one.

During the investigative phase, between the time of your DUI arrest and the time of the DMV Hearing, we work up your case for purposes of the DMV proceedings. Much of the investigative work we will be doing for purposes of the court case will serve us well here, whether it is reanalysis of the blood sample, or investigation into problems with the breath testing equipment. At the DMV Hearing, you may not need to appear personally. If your presence is required, we will endeavor to give you as much advance notice as possible. We may also need to elicit testimony from a forensic expert, but will try to ascertain this as quickly as possible and let you know. There are no uniform rules for how a DMV Hearing will proceed. Often, the DMV will seek to rely only on police reports and will not introduce evidence from live witnesses. Other times the DMV will subpoena the arresting officer to cure a defect in the paperwork. Sometimes we will want to subpoena the officer. The DMV usually relies on paperwork to try to make its case against you, usually our most effective defense is to attack the admissibility of the paperwork. If we are succeed in keeping the paperwork out, the DMV will be forced to set aside its action against you. If we subpoena the officer to be present at the time of the DMV Hearing, we have an advantage that accrues primarily to the benefit of the court case, inasmuch as we have the chance to cross-examine the officer without the prosecutor being present. However, if we do

so, the officer will be present to fix any problems with the paperwork.

Because of the variety of issues that can arise, there are no fixed rules about how the DMV Hearing will be held. In some cases, a telephonic DMV hearing is best. Call Mr. Singh at 916-939-5151 to discuss your options before the time runs to request a DMV hearing.