



## Driving While Intoxicated (DWI)

A single arrest and accusation of Driving While Intoxicated may initiate three different cases.

1. a criminal case that may result in jail and/or fines;
  - Range of Punishment for DWI Conviction
  - DWI Conviction Surcharges for Driver's License
2. an Administrative License Revocation (ALR); and
3. a petition for an Occupational Driver's License

DWI and other Intoxication related offenses are the least discriminatory criminal allegations -- every person, regardless of gender, race, or economic status, may find themselves accused of this crime.

These laws are extremely complicated, with each outcome resulting in additional consequences. The best action for a person accused of this crime is to seek and retain an experienced attorney. A person accused should seek an attorney with substantial trial experience and one who understands law enforcement investigation techniques and training, and the scientific evidence of intoxication crimes.

There are only two practical ways to resolve a DWI. A person can plead guilty, in which case they will have a final conviction and will face a multitude of penalties to retain their driving privilege. **OR** a person can exercise their constitutional right to a trial and force the State to meet its burden of proving the offense beyond a reasonable doubt. Although there are times and circumstances that dictate the State to dismiss a DWI charge, the overwhelming majority of DWI arrests result in formal criminal charges and prosecution. It is only through the trial process that a person accused may be found not guilty. With a conviction resulting in jail time or probation, fines, loss of driving privileges, or assessed surcharges, a person accused of DWI has little else to lose by trying their case.

### Range of Punishment for DWI Conviction

1<sup>st</sup> Offense: a Class B Misdemeanor, punishable by not less than 72 hours or more than 180 days in the county jail, and/or a fine not to exceed \$2,000.

2<sup>nd</sup> Offense: a Class A Misdemeanor, punishable by not less than 30 days or more than 365 days in the county jail, and/or a fine not to exceed \$4,000.

3<sup>rd</sup> (or more) Offense: a Third Degree Felony, punishable by not less than 2 years or more than 10 years in prison, and/or a fine not to exceed \$10,000.

Community Supervision (probation): In most cases, a person convicted of DWI is eligible and will receive Community Supervision, allowing that person to carry on with the significant activities of their life and avoiding incarceration. However, the conditions of Community Supervision can be time-consuming, expensive, and will require some changes in personal lifestyle.

### DWI Conviction Surcharges for Driver's License

DPS will assess a surcharge on the license of each person who during the preceding 36-months has been convicted of an offense relating to the operating of a motor vehicle while intoxicated.

1<sup>st</sup> DWI Conviction: \$1,000 per year for 3 years (total \$3,000)

2<sup>nd</sup> DWI Conviction: \$1,500 per year for 3 years (total \$4,500)

Breath/Blood Alcohol Concentration 0.16 or greater: \$2,000 per year for 3 years (total \$6,000).

## Driver's License Suspension/ALR/ODL

### Administrative License Revocation (ALR)

An arrest for DWI usually leads to a [criminal case](#). In most instances, the police officer also issues a "Notice of Suspension/Temporary Driving Permit." This is generally because the person arrested refused to submit to a breath or blood test, or did consent to a breath or blood test and the result was an alcohol concentration greater than 0.08. This begins a civil action by DPS to attempt to suspend a person's license.

DPS will automatically suspend a license on the forty-first day after arrest, unless, within fifteen days of the arrest, you request a hearing challenging the attempted suspension. DPS will not suspend your license until after the hearing concludes.

There are two important reasons to request an ALR hearing. First, you may win (or the State may fail to prove its case), in which case you keep your license until resolution of the criminal case. Second, we get a preview of the State's criminal case, including discovery of the police officer's reasons for the arrest (usually in the form of a police report) and an opportunity to cross-examine the police officer (usually before the prosecutor is even aware of the pending criminal case).

Exercising your right to an ALR hearing is time-sensitive – please [contact us](#) immediately so that we may preserve your license rights.

### Occupational Driver's License (ODL)

If your license is suspended, either due to a DWI arrest or conviction, or for any other reason, you may petition the Court for an ODL (either in the Court with jurisdiction of your criminal case, or the Court in your county of residence).

An ODL is a restricted license that allows you to meet your "essential needs" such as work, school, or necessary household responsibilities. The Court may limit your driving to scheduled times; or the Court may require you to keep a log book, documenting your driving times, subject to an inspection that you do not exceed your authorized hours.

If you drive while your license is suspended, you may be charged with a [misdemeanor offense](#) of Driving While License Suspended. If you are on Community Supervision, the State may file a Motion to Revoke your Community Supervision. If you violate the conditions of your ODL, you may be charged with a [misdemeanor offense](#) of Violation of Occupational Driver's License. The Court will likely revoke your ODL.

Misdemeanor Punishment Ranges:

Class A	Punishable by up to one year in the county jail and a \$4,000 fine
Class B	Punishable by up to 180 days in the county jail and up to a \$2,000 fine
Class C	Punishable by a fine up to \$500