

I Just Got Arrested for DUI

By Keith J. Staten

A DUI charge can significantly change your world. It can and, in most cases, will affect every aspect of your life. You have to realize from the very beginning that a battle has begun on two fronts: the criminal justice system, and the Department of Motor Vehicles (DMV). Although both avenues will take you on a ride with an uncertain outcome, how the journey ends may depend on how well you can navigate each course. There are rights to protect, arguments to be made, and strategic decisions to consider!

Your arrest triggered two actions: one by the court and one by the DMV. The DMV action is special and unique because of its time sensitivity. You only have 10 Days from the service of the order of suspension to request a hearing. Think of this as 10 Days from the date of the arrest. If you fail to request the hearing in 10 days, you WILL lose your license. The suspension will begin 30 days after the date of the arrest. Getting proper advice before and representation at the hearing is extremely important to preserve your driving privilege!

The District Attorney charges you with two different statutes: CA Vehicle Code sections 23152(a) and 23152(b). The first one focuses on whether a driver was “under the influence of alcohol and/or drugs” to the extent that they are “unable to drive their car with the same caution characteristic of a sober person, of ordinary prudence, under the same or similar circumstances.” This is the legal standard for being considered under the influence of alcohol in California.

The second involves California’s Administrative Per Se Law, which focuses on whether a driver’s Blood Alcohol Content (BAC) was .08 percent or greater, at the time of the driving. This legal standard is based on the driver’s ability to absorb and eliminate alcohol.

If you suffered a prior DUI conviction or DMV action, the penalties and punishment will increase in both the court and DMV actions. Suffering a prior conviction in another state can result in increased penalties.

PROTECT YOUR RIGHTS. Do your homework and educate yourself, but above all, ask questions and contact any attorney immediately.

FIVE TOP TIPS:

1. DO NOT GIVE STATEMENTS ABOUT DRINKING PATTERN OR AMOUNT
2. DO NOT DO THE FIELD SOBRIETY TESTS (They are Optional)
3. DO NOT BLOW IN THE PRELIMINARY BREATH TEST DEVICE (it is Optional for age 21 and over)
4. DO ASK FOR A BLOOD TEST, REPEATEDLY
5. DO SEEK LEGAL REPRESENTATION