

DUI SURVIVAL GUIDE

UNDERSTANDING THE DUI DEFENSE PROCESS

HOW TO REGAIN AND KEEP YOUR DRIVER'S LICENSE AFTER A DUI ARREST



FOR CLIENTS AND POTENTIAL CLIENTS OF THE:

LAW OFFICE OF

BRIAN H. MALLONEE



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Criminal defense lawyer Brian Mallonee has dedicated his legal career to defending people accused of crimes. His success in representing the criminally accused -- **particularly in winning the "unwinnable" case** -- is well documented.

Brian Mallonee's certifications, awards and accomplishments speak for themselves. They include a combination that is unmatched by any criminal attorney on the treasure coast:

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Brian Mallonee is a take-charge advocate and a well disciplined trial lawyer. He has defended thousands of cases and has extensive experience in all phases of the criminal justice system. This includes pre and post-arrest investigations, negotiating charging decisions with the prosecutor's office, creative motion practice, plea bargaining, bench trials, jury trials, appeals, and post-conviction matters.

Mr. Mallonee is licensed to practice in all Florida state courts and the Southern District of Florida's Federal courts.

Mr. Mallonee has built a reputation for **winning cases that others wouldn't dare attempt**. By working tirelessly for his clients, he has won dozens of outright acquittals in serious felony cases where the odds seemed stacked against the defense. Mr. Mallonee has also gotten Judges to throw out key evidence in countless criminal cases by creatively arguing search and seizure violations by the police. Whether it's a DUI, a drug case, child pornography, or Murder, Brian Mallonee knows how to handle it.

Mr. Mallonee is **AV rated by the Martindale-Hubbell Peer Review Ratings service**, which evaluates lawyers and law firms in the United States and Canada. Ratings are based on the confidential opinions of members of the Bar and the Judiciary, including both those who are rated and those who are not.



Brian Mallonee is **Board Certified in Criminal Trial Law**. Certification is the highest level of evaluation by The Florida Bar of the competency and experience of attorneys in the 24 areas of law approved for certification by the Supreme Court of Florida. Established in 1982 by the Florida Supreme Court, board certification helps consumers identify specialists in various areas of law.

Brian Mallonee maintains a 10.0 Avvo Rating and is listed as a **Top Attorney in Criminal Defense** on Avvo. The Avvo Rating is an independent third-party evaluation of a lawyer's background based on the information available in an attorney's Avvo profile and public information from state bar associations.



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DUI Survival Guide

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Understanding the Arrest Process

When you are stopped by the police and subsequently charged with a DUI, it can be a life-changing event. Understanding the DUI defense process is vital to preparing yourself for what is to come.

Chances are, if you are reading this book, you are past the most traumatic part of having a law enforcement officer handcuff you and place you in the back of the squad car. But, keep in mind that an arrest does not prove guilt. An arrest is merely the legal process that police officer must perform to bring you in front of a judge. It is in the courtroom where your guilt or innocence will be argued before the judge in your case.

After you have successfully made bail, the legal defense process begins.

Understanding Your First Appearance in Court

Appearing in court before the judge can be an unsettling experience. This first appearance is where the reality sets in, and many people feel lost and afraid. This first opportunity to speak with the judge is called a first appearance or arraignment hearing. At this point in the process, the judge is only asking you if you contest the charges. You have three choices at this juncture. You can choose to plead **1. Guilty, 2. Not Guilty, or 3. No Contest.**

THIS INITIAL HEARING IS THE PART OF THE PROCESS WHERE HIRING AN ATTORNEY MAY BE A VIABLE OPTION FOR YOU. THE HIRING OF A LAWYER IS A DECISION THAT SHOULD NOT BE TAKEN LIGHTLY.

An attorney can help you to defend your case and possibly help to get charges reduced or dropped. However, an attorney cannot successfully defend against a conviction without your cooperation. That is why it is so important to be as truthful as possible with your lawyer.

Florida DUI laws are strict, but laws apply to the arresting officer as much as they apply to you. Everything that happened both before and after you were arrested could be critical to a successful defense of your DUI charge. If you do not believe that you should have been stopped by the police in the first place, then this is something vital to discuss with your attorney.



It is possible that without the police officer having a legal reason to stop your vehicle, the arrest, and subsequent conviction can be thrown out of court. It is also possible that the breathalyzer used to perform a field test was somehow faulty. Maybe you have a medical reason for failing a field sobriety test, and this may be explored as a defense as well. When speaking with your attorney, it is important to go over everything that happened leading up to the arrest and any events that followed.

While it is possible to defend against a DUI conviction successfully, also keep in mind that you must be realistic in your expectations. If there was nothing wrong with the police officer's arrest and you were legally intoxicated while operating a motor vehicle in the state of Florida, then there is a fair chance you will be convicted in court. An attorney can be helpful in these situations to mitigate the consequences; however, there will be consequences, and you may have to be prepared to face them at some point.

Understanding Florida DUI Law

The exact text of Florida statute 316.193 is as follows:

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection (2) if a person is driving, or in actual physical control of a vehicle within this state and: (a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under Chapter 893, when affected to the full extent that the person's normal faculties are impaired; (B) the person has a blood alcohol level of 0.08 or more grams of alcohol per 100 mL of blood; or (C) the person has a breath alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

Keep in mind that if you are under 21 years of age, Florida has a zero-tolerance law for those not of legal age to drink alcohol. The legal limit for those under the age of 21 is .02 or more grams of alcohol per 100 mL of blood or .02 or more grams of alcohol per 210 L of breath. This law means that if you're under 21 years of age and stopped by law enforcement, a single drink can mean a DUI arrest.

THERE ARE ALSO MANY PRESCRIPTION DRUGS THAT FALL UNDER THE CATEGORY OF CONTROLLED SUBSTANCES FOR FLORIDA DUI LAW. IF YOUR PRESCRIPTION DRUG CARRIES A WARNING REGARDING DRIVING UNDER THE IMPAIRMENT OF THE DRUG, THEN YOU MAY BE SUBJECT TO FLORIDA LAW FOR DUI. IT IS IMPORTANT TO SPEAK WITH A PHYSICIAN OR PHARMACIST TO DETERMINE WHETHER YOUR PRESCRIPTION WILL CAUSE A DRIVING IMPAIRMENT BEFORE YOU GET BEHIND THE WHEEL.



Getting Released from Jail and Facing Costs

Once arrested, those charged with a first time DUI will be released only when the person is no longer under the influence, the person's normal faculties are no longer impaired, or the person's blood/breath alcohol level is lower than 0.05; or eight hours have elapsed from the time that the individual was arrested.

This means that your first cost of being charged with a DUI is your time. It is possible that you have already spent the entire night in jail or have spent many hours waiting for booking and for the jail to release you.

If your vehicle was impounded or towed, you would also spend time tracking down and retrieving your vehicle. This, however, is just the beginning.

Penalties and Costs for a First Time DUI Florida

Unless you are a commercial driver, you face penalties only under Florida state law. If you are a commercial driver, then you will also face penalties by federal law. Commercial drivers will be discussed later in this booklet.

DUI (Driving Under the Influence of Alcoholic Beverages, Chemical Substances or Controlled Substances). s. 316.193, F.S.

Under Florida DUI law is one offense, that is proven by impairment of normal faculties or by the unlawful blood alcohol or breath alcohol level of .08 or above. Once convicted, a person faces penalties that are the same, regardless of how the charges are proven.

Fines s. 316.193(2)(a)-(b), F.S.

First Offense

Those convicted for the first time will pay fines of not less than \$500, or more than \$1,000. If you are found guilty of DUI with a blood/breath alcohol level (BAL) of .15 or higher OR if you had a minor present in the vehicle, you would pay not less than \$1,000, or more than \$2,000.

Second Offense

If you are found guilty a second time in the state of Florida, you'll pay fees of not less than \$1000 or more than \$2000. If this is your second conviction and you are proven to have a BAL of .15 or higher, or you had a minor present in the vehicle at the time of your arrest, and you will pay not less than \$2000 or more than \$4000.

Third Offense

If you are facing a third conviction within ten years, then you are facing mandatory imprisonment which is discussed below. However, a third conviction that is more than a decade after your second conviction carries penalties of not less than \$2000 or more than \$5000. If you are convicted of having a BAL of .15 or higher or a minor in the vehicle, you will pay not less than \$4000.



IF YOU'RE FACING A FOURTH OR FIFTH CONVICTION, YOU MAY FACE CONSEQUENCES OF FLORIDA STATUTE 775.084 AS A HABITUAL OR VIOLENT OFFENDER. YOU WILL PAY NO LESS THAN \$2000 AND FACE ADDITIONAL CONSEQUENCES.

Community Service - s. 316.193 (6)(a), F.S.

For those convicted of first time DUI there is a mandatory 50 hours of community service or an additional penalty of \$10 for each hour of community service required.

Probation - s. 316.193 (5)(6), F.S.

For a first conviction, your total period of probation and incarceration may not exceed one year under the Florida statutes.

Imprisonment- s. 316.193 (2)(a) 2, 4(b), (6)(j), F.S.

First Conviction

If you're facing your first conviction, you will serve not more than six months. If you are confronted with a first conviction with a BAL of .15 or higher or if you had a minor in the vehicle, then you will serve not more than nine months.

Second Conviction

A second conviction may result in jail time of not more than nine months. If you are facing a second conviction of a BAL of .15 or higher or if you had a minor in the vehicle, then you will serve not more than 12 months.

IF YOUR SECOND CONVICTION WAS WITHIN FIVE YEARS OF YOUR FIRST CONVICTION, THEN THERE IS MANDATORY IMPRISONMENT OF AT LEAST TEN DAYS AND AT LEAST 48 HOURS OF THAT CONFINEMENT MUST BE CONSECUTIVE.

Third Conviction

If you're facing a third conviction within ten years of your previous second conviction, then you face a mandatory 30 days' imprisonment. At least 48 hours of that confinement must be consecutive.

IF YOUR THIRD CONVICTION IS MORE THAN TEN YEARS AFTER YOUR SECOND CONVICTION, THEN YOU FACE IMPRISONMENT OF NOT MORE THAN 12 MONTHS.

Four or More Convictions

A fourth or subsequent conviction may result in not more than five years or as provided in subsection 775.084 of the Florida statutes as a habitual/violent offender.

It is at the court's discretion as to where someone serves their imprisonment. While some are facing jail time, others may serve their time in a residential alcoholism or drug abuse treatment program. The court will decide if this period will be credited towards the term of imprisonment.

Impoundment or Immobilization of Vehicle - s. 316.193 (6), F.S.

Unless your family has no other form of transportation, your first conviction will result in impoundment of your vehicle for ten days.

A SECOND CONVICTION WITHIN FIVE YEARS OF YOUR FIRST CONVICTION WILL RESULT IN YOUR VEHICLE BEING IMPOUNDED FOR 30 DAYS.

A third conviction within ten years of your second conviction leads to 90 days of vehicle impoundment. The impoundment or immobilization of your vehicle must not occur concurrently with your incarceration. The court may dismiss the order of impoundment for any vehicles that are owned by you if they are operated only by your employees or any business you own.

Driver License Revocation Periods for DUI-s. 322.271, F.S. and s. 322.28, F.S.

After a first conviction, you may face a minimum 180-day revocation of your driver's license up to a maximum of one year.

A second conviction within five years of your first conviction is a minimum of five years' revocation of driving privileges. You may be eligible for hardship reinstatement after one year.

SECOND OFFENDERS THAT ARE CONVICTED AFTER FIVE YEARS OF THEIR FIRST CONVICTION WILL FACE A MINIMUM 180-DAY REVOCATION TO A MAXIMUM OF ONE YEAR.

A third conviction within ten years of the second conviction will result in a minimum ten years' driver's license revocation. It is possible to petition for hardship reinstatement after two years.



With a fourth conviction, regardless of when the prior convictions occurred or if you are convicted of murder with a motor vehicle, then you face mandatory permanent revocation of your driving privileges. Hardship Reinstatement is possible; however, it is a very complicated process.

IN CASES WHERE DUI MANSLAUGHTER IS INVOLVED, THOSE CONVICTED FACE MANDATORY PERMANENT REVOCATION. HOWEVER, IF THERE IS NO PRIOR DUI RELATED CONVICTION, THEN ONE MAY BE ELIGIBLE FOR HARSHIP REINSTATEMENT AFTER FIVE YEARS.

In cases with manslaughter, DUI serious bodily injury, or vehicular homicide, those convicted face a minimum three-year revocation of driving privileges.

Those with prior DUI convictions face additional consequences as outlined above.

DUI Misdemeanor Conviction: (Accident Involving Property Damage or Personal Injury)-s. 316.193 (3), F.S.

Any person who causes property damage or personal injury to another person while driving under the influence is also guilty of a first-degree misdemeanor. In these cases, you will face consequences of not more than \$1000 in fines or one-year imprisonment.

DUI Felony Conviction: (Repeat Offenders or Accidents Involving Serious Bodily Injury)-s. 316.193 (2), (3) F.S.

If you are convicted of a third DUI within ten years or a fourth or subsequent DUI, then you face the consequences of conviction of a third-degree felony. You will pay not more than \$5000 in fines and/or five years of imprisonment.

If you are convicted of causing serious bodily injury while driving under the influence, then you face the consequences of conviction of a third-degree felony. You will pay not more than \$5000 in fines and/or five years of imprisonment. You may also have consequences as provided in s. 775.184, F. S. as a habitual/violent felony offender.

Additional Information from the Official Website for Florida Department of Motor Vehicles:

Manslaughter and Vehicular Homicide - s. 316.193 (3), F.S.

- DUI/Manslaughter: Second Degree Felony (not more than \$10,000 fine and/or 15 years' imprisonment) with a minimum mandatory requirement of 4 years in prison.
- DUI Manslaughter/Leaving the Scene: A driver convicted of DUI Manslaughter who knew/should have known the accident occurred; and failed to give information or render aid is guilty of a First Degree Felony (not more than \$10,000 fine and/or 30 years' imprisonment).
- Vehicular Homicide: Second Degree Felony (not more than \$10,000 fine and/or 15 years' imprisonment).
- Vehicular Homicide/Leaving the Scene: A driver convicted of vehicular homicide who left the site of an accident is guilty of a First Degree Felony (not more than \$10,000 fine and/or 30 years' imprisonment).

DUI School Requirements - s. 316.193 F.S., s. 322.271, F.S., s. 322.291, F.S.

- First Conviction: Must complete DUI school before hardship reinstatement. Customers who wait out revocation period before reinstatement need only show proof of enrollment or completion to become re-licensed. If customer enrolls and is reinstated after revocation period expires, failure to complete the DUI school within 90 days after reinstatement will result in license cancellation; the driver cannot then be re-licensed until DUI school is completed.
- Second Conviction in 5 Years (5-Year Revocation) or Third Conviction in 10 Years (10-Year Revocation): Customer must complete DUI school following conviction. See requirements in 13C and 13D respectively.
- DUI Manslaughter with No Prior DUI Related Conviction: (Permanent Revocation): Must complete DUI school before hardship reinstatement.

- Manslaughter, DUI Serious Bodily Injury, or Vehicular Homicide: (Minimum 3-year Revocation): See 13F
- Customers Who Wait Until Revocation Period Expires: Must enroll in DUI school and pass the driver license examinations to be re-licensed. Failure to complete the school within 90 days after such reinstatement will result in cancellation of the license until the school is completed.
- Reckless Driving: If the court has reasonable cause to believe that the use of alcohol, chemical or controlled substances contributed to a violation of reckless driving, the person convicted of reckless driving must complete DUI school if ordered by the court.
- Treatment: Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychological evaluation by a court-appointed agency with access to the original assessment.

Chemical or Physical Test Provisions (Implied Consent Law) - s. 316.1932, F.S., s. 316.1933, F.S., s. 316.1934, F.S., s. 316.1939, F.S

- Refusal: Refusal to submit to breath, urine or blood test is admissible as evidence in DUI criminal proceedings. Second or subsequent refusal is a misdemeanor of the first degree.
- Driver License Suspension Periods: First refusal, suspended for one year. Second or subsequent refusals, suspended for 18 months.
- • Commercial Driver License Disqualification Periods: First refusal in a commercial motor vehicle, disqualified for one year. Second or subsequent refusals in a commercial motor vehicle: disqualified permanently. No hardship reinstatement permitted.
- Forceful Withdrawal of Blood: If necessary, blood may be withdrawn in DUI cases involving serious bodily injury or death by authorized medical personnel with the use of reasonable force by the arresting officer, even if the driver refuses.

- Unconscious: Any person who is incapable of refusal because of unconsciousness or other mental or physical condition shall be deemed not to have withdrawn his consent to such test. A blood test may be administered whether or not such person is told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle.
- Portable Alcohol Breath Testing Devices: Authorized by s.322.2616, F.S., for persons under the age of 21. Reading is admissible as evidence in any administrative hearing conducted under s. 322.2616, F.S.

Adjudication and Sentencing - s. 316.656, F.S., s. 322.2615 F.S.

Penalty to be Imposed by Court: Judges are prohibited from deviating from the administrative suspension/revocation periods mandated by statute. The courts are prohibited from withholding adjudication in DUI cases; or from reducing a DUI charge if the defendant's blood alcohol was .15 or greater.

Driving While License Suspended or Revoked- s. 322.34, F.S.

Any person whose driver license/privilege is suspended for Driving with an Unlawful Alcohol Level, or revoked for DUI, DUI Manslaughter or Vehicular Homicide, or for any other offense ordered by the court and who causes death or serious bodily injury to another person by operating a motor vehicle in a careless or negligent manner is guilty of a 3rd degree felony, punishable by both imprisonments of not more than 5 years, a fine not to exceed \$5,000, or both.

Administrative Suspension of Persons Under the Age of 21 for Driving with an Alcohol Level .02 or Above

Section 322.2616, Florida Statutes, authorizes law enforcement officers having probable cause to believe that a motor vehicle is being driven by or is in the actual physical control of a person who is under the age of 21 while under the influence of alcoholic beverages or who has any alcohol level may lawfully detain this person and may request them to submit to a test to determine the alcohol level.

This violation is neither a traffic infraction nor a criminal offense, nor does

being detained under this statute constitute an arrest.

- First Suspension for Persons Under the Age of 21 With an Alcohol Level .02 or above: 6 months.
- Second or Subsequent Suspensions 1 year.
- First Suspension for Refusal to Submit to Breath Test: 1 year.
- Second or Subsequent Suspensions for Refusal: 18 months.
- The suspension is effective immediately. If the breath or blood alcohol level is .05 or higher, the suspension shall remain in effect until completion of a substance abuse evaluation and course. The officer will issue the driver a temporary permit valid 12 hours after issuance which is valid for ten days, provided the driver is otherwise eligible.

Administrative Suspension Law - s. 322.2615, F.S., s. 316.193, F.S., s. 316.1932, F.S.

- First Suspension for Driving with an Unlawful Alcohol Level (.08 or above): 6 months.
- Second or Subsequent Suspensions for Driving with an Unlawful Alcohol Level (.08 or above): 1 year.
- First Suspension for Refusal to Submit to Breath, Urine or Blood Test: 1 year.
- Second or Subsequent Suspensions for Refusal: 18 months.
- The suspension is effective immediately. The officer will issue the driver a temporary permit valid for ten days from the date of arrest, provided the driver is otherwise eligible.

Administrative Disqualification Law

- First Disqualification for Driving a Commercial Motor Vehicle with an Unlawful Blood Alcohol Level (.04 or above): 1-year disqualification

- Operating a motor vehicle while he or she is under the influence of alcohol or a controlled substance: 1-year disqualification
- First Disqualification for Refusal to Submit to Breath, Urine or Blood Test Arising from the Operation of a Commercial Motor Vehicle: 1-year disqualification
- Second or Subsequent Disqualification for Refusal to Submit to Breath, Urine, or Blood Test Arising from the Operation of a Commercial Motor Vehicle: permanently disqualified.
- Second or Subsequent Disqualification of driving a motor vehicle while he or she is under the influence of alcohol or a controlled substance: Permanently disqualification
- The disqualification is effective immediately upon a refusal of the breath, urine or blood test or determination that the driver has a blood alcohol level of .08 or above while operating or in actual physical control of a commercial motor vehicle. The officer will issue the driver a temporary permit which is valid for ten days from the date of arrest or disqualification, provided the driver is otherwise eligible. However, the permit does not authorize the operation of a commercial motor vehicle for the first 24 hours of disqualification.

Review Hearings for Administrative Suspensions and Disqualifications Sections s. 322.2615 and s. 322.64, F.S., authorize the Department of Highway Safety and Motor Vehicles upon the request of the driver to conduct formal and informal reviews for the purpose of sustaining, amending or invalidating administrative suspensions and disqualifications. The decisions of the department shall not be considered in any trial for a violation of s. 316.193, F.S., nor shall any written statement submitted by a person in his request for review be admissible into evidence against him in any such trial. The disposition of any related criminal proceedings shall not affect a suspension/disqualification.

Business or Employment Reinstatement:

1. Suspension for Driving with an Unlawful Alcohol Level of .08 or above

or Refusal: Must show proof of enrollment in DUI school and apply for an administrative hearing for possible hardship reinstatement. For unlawful alcohol level must serve 30 days without driver license or permit before eligibility for hardship reinstatement. For first refusal must serve 90 days without driver license or permit before eligibility for hardship reinstatement. No hardship reinstatement for two or more refusals.

2. Suspension - Persons Under Age of 21 Driving with a Breath Alcohol Level of .02 or above: Must complete a Traffic Law and Substance Abuse Education course before hardship reinstatement. .05 or higher must complete DUI program before eligibility for hardship reinstatement. Must serve 30 days without driver license or permit before eligibility for hardship reinstatement.

Hardship License Prohibited:

1. Florida law prohibits any hardship reinstatement upon 2nd or subsequent suspension for test refusal or if the driver has been convicted of (DUI) section 316.193, F.S., two or more times.
2. Persons disqualified from operating a commercial motor vehicle cannot obtain a hardship license to operate a commercial motor vehicle.

Business Purposes Only/Employment Purposes Only Reinstatements-s. 322.271, F.S. and s. 322.28, F.S.

- First Conviction: Must complete DUI school, apply to the department for hearing for possible hardship reinstatement. Mandatory ignition interlock device for up to six months for BAL of .15.
- Second Convictions (or more): No hardship license except as provided below. Mandatory ignition interlock device for one year, or for two years if BAL is greater than .20.
- Second Conviction Within 5 Years: (5-Year Revocation) May apply for hardship reinstatement hearing after one year. Must complete DUI school and remain in the DUI supervision program for the remainder of the revocation period (failure to report for counseling or treatment shall result in cancellation of the hardship license). The applicant may not have consumed any alcoholic beverage or controlled substance

or driven a motor vehicle for 12 months before reinstatement. Mandatory ignition interlock device for one year, or for two years if BAL is greater than .15.

- Third Conviction Within 10 Years: (10-Year Revocation) May apply for hardship reinstatement hearing after two years. Must complete DUI school and remain in the DUI supervision program for the remainder of the revocation period (failure to report for counseling or treatment shall result in the cancellation of the hardship license). The applicant may not have consumed any alcoholic beverage or controlled substance or driven a motor vehicle for 12 months before reinstatement. Mandatory ignition interlock device for two years.
- DUI Manslaughter with No Prior DUI Related Conviction: (Permanent Revocation): May be eligible for hardship reinstatement after five years have expired from the date of revocation or expired from the date of term of incarceration provided the following requirements have been met:
 1. Has not been arrested for a drug-related offense for at least five years before the hearing;
 2. Has not driven a motor vehicle without a license for at least five years before the hearing;
 3. Has been alcohol and drug-free for at least five years before the hearing; and
 4. Must complete a DUI school and must be supervised under the DUI program for the remainder of the revocation period (failure to report for counseling or treatment shall result in cancellation of the hardship license).
 5. Ignition interlock device required for two years.
- Manslaughter, DUI Serious Bodily Injury, or Vehicular Homicide Convictions: (3 Year Revocation): May immediately apply for hardship reinstatement hearing. Must complete DUI school or advanced driver improvement course.

Commercial Motor Vehicles (CMV) - Alcohol-Related Convictions/Disqualifications-s. 322.61, F.S.

- Persons convicted of driving a commercial motor vehicle with a blood-alcohol level of .04 or above: driving a motor vehicle while he or she is under the influence of alcohol or a controlled substance or refusing to submit to a test to determine the alcohol concentration while driving a commercial motor vehicle, driving a commercial motor vehicle while under the influence of alcohol or controlled substance, or driving a commercial motor vehicle while in possession of a controlled substance shall be disqualified from operating a commercial motor vehicle for a period of 1 year. This is in addition to any provisions of s. 316.193 for DUI convictions.
- Second or subsequent conviction of any of the above offenses arising out of separate incidents will result in a permanent disqualification from operating a commercial motor vehicle.
- There are no provisions for persons disqualified from operating a commercial motor vehicle to obtain a hardship (business or employment) license to operate a commercial motor vehicle.

Understanding the Implied Consent Law

In some states, you have a legal right to refuse an officer's request for blood, urine, or breath test. In the State of Florida, this is not the case.



WHEN YOU GET A DRIVER'S LICENSE IN FLORIDA, YOU ARE REQUIRED TO SIGN THAT YOU HAVE AGREED TO TAKE ANY TESTING UPON REQUEST. THIS IS CALLED THE IMPLIED CONSENT LAW.

At the bottom of your Florida driver's license, there is a sentence that states "operation of a motor vehicle constitutes consent to any sobriety test required by law." This means that, should you refuse to submit to sobriety testing when asked by a law enforcement officer, you forfeit your license immediately.

The first time you refuse to submit to breath, urine, or blood testing, you will lose your license for 12 months. The second or subsequent times that you refuse to submit to breath, urine, or blood testing, you lose your license for a minimum of 18 months. The suspension will start instantly upon your arrest, and the police officer should give you a temporary permit is valid for ten days from the date of your arrest. As long as there isn't another reason (such as in the case of driving with a suspended license) that you would be eligible for a driver's license, this temporary permit is automatic under the law.

There are some exceptions to implied consent. In particular cases of DUI where there is serious injury or death, reasonable force can be used to make you provide a blood sample even if you refuse. If you are unconscious or not capable of refusing, then consent to test is implied by law (the statement on your driver's license) and law enforcement officers can proceed with testing.

UNDERSTAND THAT BY HAVING A FLORIDA DRIVER'S LICENSE, YOU HAVE ALREADY LEGALLY CONSENTED TO COMPLY WITH AN OFFICER'S REQUEST FOR BREATH, URINE, OR BLOOD TESTING. BY SIMPLY REFUSING TO COMPLY, YOU AGREE TO THE AUTOMATIC SUSPENSION OF YOUR DRIVER'S LICENSE.

Refusing to comply with an officer's request for sobriety testing will also, more times than not, guarantee your arrest. The police will most likely take you into legal custody and let the court system sort it out.

Understanding Additional Consequences

DUI convictions have other potential consequences that you may have to face. These are different from the mandatory consequences that you may already face. Some of these may be ordered by the judge overseeing your case or maybe indirect consequences of the DUI conviction.

DUI School

If you intend to get your driver's license back, you will be required to attend DUI school. It is a requirement of the state of Florida that you attend DUI school after any DUI conviction. A DUI school provides

education on drugs, alcohol, and the dangerous nature of driving under the influence. Before you attend any DUI school, ensure it is approved by the state of Florida.

IF THIS IS YOUR FIRST DUI CONVICTION, YOU WILL NEED TO ATTEND DUI SCHOOL REGARDLESS OF YOUR CIRCUMSTANCES. SOMETIMES, THE DEPARTMENT OF MOTOR VEHICLES WILL GIVE YOU A PROVISIONAL DRIVER'S LICENSE FOR USE DURING YOUR REVOCATION.

Every case is different, but the best advice is to sign up for the DUI school as soon as possible. If you have already served your full suspension., You will only have to provide proof of enrollment or completion to have your license reinstated. If you only provide evidence of registration, you will need to return within 90 days to provide evidence of completion or your license will be automatically revoked.

IF THIS IS YOUR SECOND DUI CONVICTION WITHIN FIVE YEARS OR THIRD DUI CONVICTION WITHIN A DECADE, THEN YOU MUST COMPLETE DUI SCHOOL FOLLOWING THE CONVICTION. MORE INFORMATION IS AVAILABLE UNDER FLORIDA STATUTES 316.193, 322.271, AND 322.291.

The following is information directly from the Florida Department of Highway safety and motor vehicles website:

“The DUI programs are private and professional non-profit organizations that are required to provide education, a psychosocial evaluation, and treatment referral services to DUI offenders to satisfy judicial and driver licensing requirements. Two educational services are offered - Level I for first-time offenders and Level II for multiple offenders. The Level I course is to be a minimum of 12 hours of classroom instruction and incorporates didactic and interactive educational techniques. The Level II course is a minimum of 21 hours of classroom time using primarily interactive educational techniques in a group setting. The average class size is not to exceed 15 students for Level II. This course focuses on the problems of the repeat offender and treatment readiness as the majority of students are referred to treatment. In no case is placement in Level II used in lieu of treatment”.

Florida DUI School List

County	DUI School Name	Phone/Fax/Website
Alachua, Bradford, Dixie, Gilchrist, Levy, Union	North Central Florida Safety Council, Inc. 3710 NW 51st Street, Suite A Gainesville, FL 32606	(352) 377-2566 fax (352) 377-7544 www.ncfsc.com

County	DUI School Name	Phone/Fax/Website
Baker, Clay, Columbia, Duval, Hamilton, Lafayette, Nassau, St. Johns, Suwannee	Northeast Florida Safety Council, Inc. 1725 Art Museum Drive Jacksonville, FL 32207	(904) 399-3119 fax (904) 399-8001 www.jaxsafety.com

County	DUI School Name	Phone/Fax/Website
Bay, Calhoun, Gulf, Holmes, Jackson, Washington	14th Judicial Circuit DUI Program 2230 East Avenue Panama City, FL 32405	(850) 872-7730 fax (850) 784-0716 www.pcdui.com

County	DUI School Name	Phone/Fax/Website
Brevard	Florida Safety Council 250 N. Courtenay Parkway, Suite 201 Merritt Island, FL 32953	(321) 631-2347 fax (321) 639-2593 www.floridasafety.org
	Florida Safety Council 1515 Elizabeth Street, Suite C Melbourne, FL 32901	(321) 952-5327 fax (321) 727-7429 www.floridasafety.org

County	DUI School Name	Phone/Fax/Website
Broward	Boca Bay DUI Program Inc. 100 S. Military Trail, Suite 24 Deerfield Beach, FL 33442	(954) 449-4762 or 1-844-384-7764 fax (954) 281-5931 www.bocabaydui.org
	1451 W. Cypress Creek Road, Suite 300 Ft. Lauderdale, Florida 33301	(954) 975-2886, or 1-844-384-7764 (954) 703-5653
	2719 Hollywood Boulevard Hollywood, Florida 33020	
	Broward-Dade Safety Council 110 SE 6th Street, Suite 1402 Ft Lauderdale, FL 33301	(954) 763-4505 fax (954) 525-6070 www.browardsafety.org
	3710 W. Oakland Park Blvd Lauderdale Lakes, FL 33311	(954) 535-9629
	Metro Traffic School 2217 South University Drive Davie, FL 33324	(954) 922-3000 Fax (954) 476-0033 www.metrotrafficschool.com
	1761 W. Hillsboro Blvd, Suite 404 Deerfield Beach, FL 33442	(954) 422-5757
	3726 W. Oakland Park Blvd Lauderdale Lakes, FL 33311	(954) 922-3000
	200 SE 6th Street, Suite 502 Ft. Lauderdale, FL 33301	(954) 777-1112
	2217 S. University Dr. Davie, FL 33324	(954) 476-0055
	2416 Hollywood Blvd Hollywood, FL 33020	(954) 722-9900

County	DUI School Name	Phone/Fax/Website
Collier	Southwest Florida Safety Council, Inc. 2795 Davis Blvd, Unit M-N Naples, Florida	1-800-437-3008; (239) 793-5552 Fax: (239) 775-1882 www.safedrivingschool.com

County	DUI School Name	Phone/Fax/Website
Dade	Advocate Program, Inc.	http://advocateprogram.com/
	North Dade 18425NW 2nd Avenue, Suite 100 Lincoln Square South, Bldg. Miami Gardens, FL. 33169	305.493.9770 x301
	South Dade 10700 Caribbean Blvd, Ste 105 Cutler Bay, FL. 33189	305.255.7569 x402
	Central-East 1800 SW 1st St., Ste. 321 Miami, FL. 33135	305.704.0200
	West Dade Airport Executive Tower 1150 NW 72 Ave., Suite 100 Miami, FL. 33126	305.468.4100 x173
	Metro Traffic School Dade County 7500 N.W. 25th Street, Suite 119 Miami, FL 33122	(305) 553-5000 fax (305) 593-7077 www.metrotrafficschool.com
	180 NW 183rd Street, Suite 113 Miami, FL 33169	(305) 654-0017
	1901 SW 1st Street, Suite 225 Miami, FL 33135	(305) 871-4400
	7469 SW 8th Street Miami, FL 33144	(305) 264-1551
	13833 S. Dixie Hwy Miami, FL 33176	(305) 252-2200
	225 NE 8th Street Homestead, FL 33030	(305) 252-4002

County	DUI School Name	Phone/Fax/Website
DeSoto, Manatee, Sarasota	State College of Florida Traffic Safety Institute 5840 26th Street, West Bradenton, FL 34207	(941) 362-4224 fax (941) 751-4389 www.scf.edu

County	DUI School Name	Phone/Fax/Website
Flagler	Sunshine Safety Council, Inc. 150 N. Beach Street Daytona Beach, FL 32114	(386) 258-2132 fax (386) 252-1875 www.sunshinesafety.org

County	DUI School Name	Phone/Fax/Website
Franklin, Gadsden, Jefferson, Leon, Liberty, Wakulla, Madison, Taylor	North Florida Safety Council, Inc. 2002 Old St. Augustine Road Building E, Suite E42 Tallahassee, FL 32301	(850) 877-5193 fax (850) 877-8428 www.nflasafety.com

County	DUI School Name	Phone/Fax/Website
Charlotte, Glades, Hendry Lee	Southwest Florida Safety Council, Inc. 1714 Evans Avenue Fort Myers, FL 33901	Lee: (239) 332-3008 Charlotte: (941) 629-5635 Glades: (863) 675-0544 Hendry: (863) 675-0544 fax (239) 332-3093 www.safedrivingsschool.com

County	DUI School Name	Phone/Fax/Website
Monroe	Advocate DUI Program of Monroe County, Inc 11400 Overseas Highway, Suite 210 Marathon, Florida 33050	(305) 289-5605 fax (305) 289-0268

County	DUI School Name	Phone/Fax/Website
Indian River, Martin, Okeechobee, St. Lucie	C.O.R.E. Program, Inc. 907 Johnson Avenue Stuart, FL 34994	(772) 286-7333 fax (772) 223-0903 www.coreprogram.org

County	DUI School Name	Phone/Fax/Website
Okaloosa, Walton	Bridgeway Center, Inc. 137 Hospital Dr. Ft. Walton Beach, FL 32548	(850) 833-7474 fax (850) 833-9150 www.safedriveschools.org

County	DUI School Name	Phone/Fax/Website
Hillsborough	DUI Counterattack Hillsborough, Inc. 4711 North Hubert Avenue Tampa, FL 33614	(813) 875-6201 fax (813) 876-0648 www.drivesafetampa.org

County	DUI School Name	Phone/Fax/Website
Orange, Osceola, Seminole	Florida Safety Council 1505 E. Colonial Drive Orlando, FL 32803	Orange: (407) 896-1894 Osceola: (407) 846-2555 Seminole: (407) 831-7200 fax (407) 895-2650 www.floridasafety.org

County	DUI School Name	Phone/Fax/Website
Escambia, Santa Rosa	Lakeview Center, Inc. 1900 N. Palafox Street Pensacola, Florida 32501-2143	(850) 494-5656 fax (850) 494-5664 www.ebaptistthehealthcare.org/DUI_DE

County	DUI School Name	Phone/Fax/Website
Pinellas	Suncoast Safety Council, Inc. 1145 Court Street Clearwater, FL 33756	(727) 442-0233 fax (727) 447-1677 www.safety.org

County	DUI School Name	Phone/Fax/Website
Pasco	Pride Integrated Services, Inc. of Pasco County 7619 Little Road, Suite 350 New Port Richey, FL 34654 7064 Ft. King Road Zephyrhills, Fl. 33541	(727) 847-3411 fax (727) 847-3513 www.aboutpride.org (813) 780-8282 fax (813) 788-1912

County	DUI School Name	Phone/Fax/Website
Palm Beach	Metro Traffic School Palm Beach	(561) 963-7555
	1993 S. Military Trail	fax (561) 649-8286
	West Palm Beach, FL 33415	www.metrotrafficschool.com
	1280 Old Congress Ave, Suite 100	(561) 651-7004
	West Palm Beach, FL 33409	
Palm Beach	4731 W. Atlantic Ave, Suite B3	(561) 395-8989
	Delray Beach, FL 33445	
	Pride Integrated Services, Inc. of Palm Beach County	(561) 615-0767
	1310 N. Congress Avenue, Suite 200	fax (561) 615-0878
	West Palm Beach, FL 33409	www.aboutpride.org
Palm Beach	5062 W. Atlantic Ave. Bay 62	(561) -278-4201
	Delray Beach, FL 33483	Fax (561) 381-7977

County	DUI School Name	Phone/Fax/Website
Hardee, Highlands, Polk	Tri-County Human Services, Inc.	(863) 701-1919
	1811 Crystal Lake Drive	fax (863) 293-1214
	Lakeland, FL 33801	www.tchsonline.com

County	DUI School Name	Phone/Fax/Website
Putnam, Volusia	Sunshine Safety Council, Inc.	(386) 253-6400
	150 N. Beach Street	fax (386) 254-3458
	Daytona Beach, FL 32114	www.sunshinesafety.org

County	DUI School Name	Phone/Fax/Website
Citrus, Hernando, Lake, Marion, Sumter	West Central Florida Driver Improvement, Inc.	(352) 622-6991
	225 NE 14th Street	fax (352) 622-4725
	Ocala, FL 34470	www.wcfdi.com

Substance Abuse Evaluation and Treatment

Depending on the circumstances of your case, you may be referred for substance abuse evaluation and/or treatment. Failure to comply with an order to seek substance abuse evaluation or treatment may result in permanent loss of your driver's license or a violation of probation.

THE ONLY OTHER WAY TO SATISFY AN ORDER FOR SUBSTANCE ABUSE TREATMENT IS TO HAVE A REPORT FROM A COURT-APPOINTED SUBSTANCE ABUSE AGENCY STATE THAT YOU DO NOT NEED SUBSTANCE ABUSE COUNSELING. THIS IS VERY RARE.

IN MOST CASES, YOUR PERSONAL PHYSICIAN OR FAMILY DOCTOR WILL NOT BE ABLE TO SATISFY THE REQUIREMENT FOR SUBSTANCE ABUSE EVALUATION.

In almost all cases, once a judge enters an order for substance abuse evaluation or treatment, the Florida Department of Motor Vehicles will also require that you have proof of substance abuse assessment and treatment before the re-issuance of your driver's license.

You may not feel that the circumstances of your arrest warranted the need for substance abuse treatment. However, keep in mind that it is the job of the court system to ensure that you do not re-offend. Maybe you may find this a little harsh, but the judge is just asking that you be evaluated and treated if necessary. If you are ordered to go to a substance abuse evaluation, ensure that the agency you choose is licensed by the state of Florida or you may have to repeat the process.

FR 44 Insurance

After DUI conviction, you will be required to obtain and file an FR 44 insurance certificate. This document is provided by your automobile insurance company and is a statement of the dollar amount of bodily injury liability insurance on your policy from the insurance companies to the state of Florida.



By law, was convicted of a DUI, you must carry a higher liability insurance than what is typically required. Under the new requirement, you must have a minimum of \$100,000 bodily injury coverage for each person that may be injured with a maximum payout of \$300,000 per accident. This is not insurance that protects you as a car owner; it protects anyone you might unintentionally hurt in future accidents.

If your insurance coverage already affords coverage in these amounts, then you may not be significantly affected by this new requirement. But, you will have to file the FR 44. If you had lower insurance coverage on your policy, you might find that your insurance premium increases significantly. Contact your insurance company to see exactly how much your premium will increase. You will need to carry this higher insurance coverage for at least three years after the DUI conviction.

AFTER A DUI CONVICTION, IT IS VERY LIKELY THAT INSURANCE COMPANIES WILL CONSIDER YOUR INSURANCE COVERAGE A HIGHER RISK FOR FIVE YEARS OR MORE AFTER YOUR DUI CONVICTION. THIS WILL RESULT IN A MUCH HIGHER INSURANCE PREMIUM THAN YOU MAY USUALLY BE ACCUSTOMED.

YOUR INSURANCE COMPANY MAY ALSO CHOOSE TO CANCEL OR NOT RENEW YOUR INSURANCE COVERAGE.



Mandatory Attendance at a Victim Impact Panel

As a consequence of a DUI conviction, you may be asked to attend a victim impact panel. Here you will meet actual victims of DUI offenders. The purpose of the victim impact panel is to provide information on how human lives are affected by accidents involving driving under the influence of drugs or alcohol. If you are required to attend a victim impact panel, is always a good idea to call and register to attend as soon as possible.

Victim Impact Panel Location Information

Florida County	Organization	Phone Number
Alachua	Alachua Probation	352-338-7390

Brevard	Safety Council Merritt Island	321-631-2347
Brevard	Safety Council Melbourne	321-952-5327
Broward	Safety Council	954-763-4505
Broward	MADD West Central Florida	352-726-8862
Clay	MADD Northeast	904-388-2455
Duval	MADD Northeast	904-388-2455
Escambia/Santa Rosa	MADD Northwest	850-983-6775
Hernando Brooks-ville	MADD West Central Florida	352-540-9005
Hillsborough	MADD Hillsborough	813-273-6233
Indian River	CORE	772-286-7333
Lake	Central Florida Safety Council	352-326-2623
Lee	MADD Southeast Florida	239-936-2902
Leon	North Florida Safety Council	850-877-5193
Manatee	Manatee County Probation Downtown Library	941-749-3051
Marion	Salvation Army	352-629-2389
Martin	Core Program	772-286-7333
Miami-Dade	MADD Miami-Dade	305-273-3744
Nassau	MADD Northeast	904-388-2455
Ocala	Main Office	352-622-6991
Okaloosa-Walton	MADD Northwest	850-796-0300
Okeechobee	CORE	772-286-7333
Orange	MADD Central Florida	407-831-6233
Osceola	MADD Central Florida	407-831-6233
Palm Beach	MADD Palm Beach	561-683-5888
Pinellas	Salvation Army	727-442-8150
Polk	MADD Polk	863-665-8685
Santa Rosa	MADD Northwest Florida	850-983-6775
Seminole	MADD Central Florida	407-831-6233
St. John's	MADD Northeast Florida	904-388-2455
St. Lucie	Core Program	772-286-7333
Sumter Bushnell	MADD West Central Florida	352-568-0737
Volusia	MADD Central Florida	407-831-6233

Mandatory Ignition Interlock Device

It is possible that once you are eligible to reinstate your Florida driving privileges that you may be required to install an ignition interlock device to drive your vehicle legally.

Your driver’s license will be issued with a “P” restriction which indicates that the interlock device is required. Most courts in Florida will electronically report DUI convictions to Department of motor vehicles.

After the device is installed, you will be required to have it calibrated on a monthly basis. Calibration will require that you travel to an approved site near your home once per month.

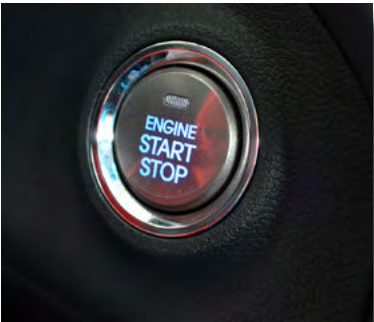
There are installation fees, monthly monitoring, and calibration fees that you will have to pay to maintain the device.

IF YOU ARE UNABLE TO PAY FOR THE INSTALLATION OF THE EQUIPMENT, YOU MAY CONTACT THE COURT AND ASK THAT THE COST IS OFFSET BY A PORTION OF THE FINES YOU PAY TO THE STATE OF FLORIDA FOR THE DUI CONVICTION ITSELF.

What is an Ignition Interlock Device?

An ignition interlock device measures your blood-alcohol level before you can start the car and then will alert you randomly after that to measure your blood alcohol level again while you are driving. When the device sounds an alert, you must pull over to perform the test safely. If your breath sample measures over 0.025, the vehicle will not start (or will be disabled) until a satisfactory breath sample of under 0.025 is obtained by the device.

ALL RESULTS ARE RECORDED BY THE UNIT AND SENT TO THE FLORIDA DEPARTMENT OF MOTOR VEHICLES. IF YOU ARE NOT SURE HOW TO USE THE DEVICE, PLEASE ASK THE FACILITY THAT INSTALLS THE UNIT IN YOUR VEHICLE.



Ignition Interlock Device Requirements

FIRST DUI

If this is your first DUI and your blood alcohol level was under .20, then the court will decide if you are required to obtain the device. However, if your blood alcohol level was over .20 then by law you must have the device installed for up to six months. If there was a minor child in your vehicle at the time you are arrested, you would be required to have the device installed for up to six months.

SECOND DUI

If you are convicted of a second DUI, you must have the device installed for a minimum of a year. If the second DUI conviction your blood alcohol level was over .20 or if there was a minor child in a car, then you will be required to have the device in your vehicle for a minimum of two years.

THIRD DUI

If you are convicted of a third DUI, you will be required to have the device installed for at least two years.

FOUR OR MORE DUIS

If you have four or more DUI convictions and can obtain a condition of hardship license, an ignition interlock will be required for at least five years.

Interlock Requirements Chart

DUI Conviction	Ignition Interlock Requirement
First Conviction	If court ordered
First Conviction if 0.15 or above, or minor in car	At least 6 months
Second Conviction	At least 1 year
Second Conviction if 0.15 or above, or minor in car	At least 2 years
Third Conviction	At least 2 years
Four or More Convictions (Condition of Hardship License)	At least 5 years

As of the writing of this booklet, there are four ignition interlock vendors in Florida. These vendors are listed below:

Interlock Vendors Contact Numbers

Company	Website	Phone#	FL Approved Device
Guardian Interlock	www.guardianinterlock.com	1-800-499-0994	Model #: AMS 2000
ALCOLOCK	www.alcolockusa.com/florida	1-866-837-8646	Model #: Alcolock LR
Smart Start	www.smartstartinc.com	1-800-880-3394	Model #: SSI 2030
Intoxalock	www.intoxalock.com/florida	1-877-777-5020	Model #: 1001A

42 Day Administrative Extension of License to Drive

Earlier in the booklet, it was mentioned that a police officer arresting you for driving under the influence would issue you a 10-day temporary permit to drive. Your regular driver's license will be confiscated at the time of your arrest. This is a process that is separate from the criminal court case of driving under the influence.

EVEN IF YOU SUCCESSFULLY DEFEND YOUR CASE IN COURT AND YOUR CRIMINAL CHARGES ARE DROPPED, YOUR DRIVER'S LICENSE WILL STILL BE ADMINISTRATIVELY SUSPENDED UNTIL YOU ADDRESS THAT SEPARATELY.

Within the first ten days after your arrest, you must file a request for a formal review with the local Bureau of Administrative Review. At that time, you will be given a temporary 42-day permit to drive any hearing date will be sent within 30 days so that you may have your matter reviewed by a judge.

NOTE: IF YOU ARE NOT COMFORTABLE REPRESENTING YOURSELF, YOU MAY WANT TO CONSIDER HIRING AN ATTORNEY TO REPRESENT YOU AT THIS HEARING.

Bureau of Administrative Reviews Offices Contact Numbers

As of the writing of this booklet, there are 16 locations throughout Florida for the Bureau of Administrative Reviews:

City	Address	Zip Code	Phone Number
Clearwater	4585 - 140th Avenue, North, Suite 1002	33762-3806	(727) 507-4405
Daytona Beach	995 Orange Avenue	32114-4663	(386) 254-3912
Ft. Myers	4048 Evans Avenue, #305	33901-0000	(239) 278-7421
Ft. Pierce	3220 South Federal Highway Suite 8	34982-8104	(772) 468-4050
Gainesville	2815 NW 13th Street, Suite 302	32609-2861	(352) 955-2030
Jacksonville	7439 Wilson Blvd.	32210-3522	(904) 777-2132
Lantana	1299 W. Lantana Road	33462-1516	(561) 540-1191
Lauderdale Lakes	3718-3 W. Oakland Park Blvd	33311-1151	(954) 677-5801
Melbourne	2325 S. Babcock Street	32901-5307	(321) 984-4910
Miami	7795 W. Flagler Street, Suite 82C	33144-2369	(305) 265-3001
Orlando	4101 Clarcona-Ocoee Road Suite #152	32810-4221	(407) 445-5581
Panama City	237-A West 15th Street - Lincoln Center	32401-2230	(850) 872-7745
Pensacola	100 Stumpfield Road	32503-7450	(850) 494-5728
Tallahassee	2900 Apalachee Parkway	32399-0500	(850) 617-2449
Tampa	4902 East 10th Avenue	33605-4739	(813) 276-5795
Winter Springs	154 Tuskawilla Road, Suite 1368	32708-2825	(407) 327-6678

Hardship License: Restricted Driving Privileges for Work and School

Depending on your circumstances, you may be able to obtain a temporary reinstatement of your driver's license. This hardship license is available for business or employment purposes only. It is a restricted version of driver's

license that allows you to go to work, school, and run certain errands. As long as you can comply with all other requirements, this type of license might give you an indefinite ability to drive within the restrictions of the license. This license can help to alleviate many hardships that may affect you until your regular license is reinstated. It is for this reason that this restricted license is commonly referred to as a “hardship license.”

First DUI

If this is your first DUI, you may apply for a hardship license after attending DUI school. You must apply to the Department of Motor Vehicles for an administrative hearing for possible hardship reinstatement. You will still be required to have an ignition interlock device installed if your blood-alcohol level was over 0.15 at the time of your arrest.

Second DUI

If this is your second DUI within five years, you may apply for a hardship license after your first year of suspension. During the first year, you are not legally able to consume alcoholic beverages of any kind. You must have completed your DUI school attendance requirement and have enrolled for any counseling or treatment that may be required. You will also be required to be placed in a DUI supervision program for the remaining four years of your suspension. All mandatory ignition interlock device requirements will still apply.

Third DUI

If this is your third DUI within ten years, you may apply for a hardship license after the first two years. During the first year, you are not legally able to consume alcohol beverages of any kind. You will be required to complete the DUI school requirement and any counseling or treatment that may have been ordered. You will be placed in a DUI supervision program for the remaining eight years of your license revocation. All mandatory ignition interlock device requirements will still apply.

IF YOUR LICENSE WAS SUSPENDED BECAUSE YOU REFUSED TO SUBMIT TO A FIELD SOBRIETY TEST, THEN YOU MUST SERVE THE FIRST 90 DAYS OF YOUR LICENSE SUSPENSION BEFORE APPLYING FOR A HARDSHIP LICENSE.

For more information regarding additional consequences of DUI conviction, please refer to Florida Statute 322.2615, 322.64, 322.271, and 322.28.

DUI Special Supervision Services

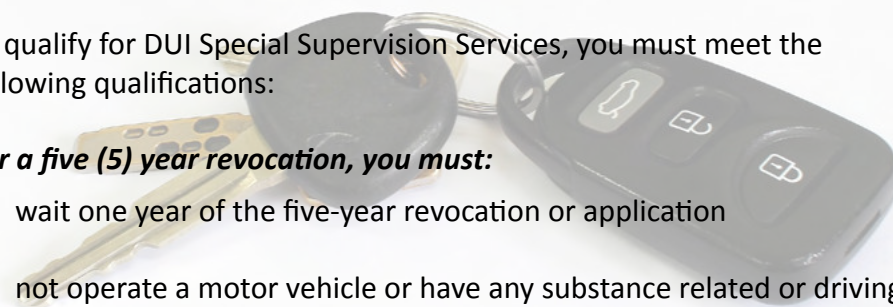
Special Supervision Services is the monitoring program that allows you access to a hardship license so that you can drive for “necessary life functions.” Voluntary participation in the program allows you to demonstrate eligibility for “business purposes only” or “employment purposes only” licenses.

The program is required by the Department of Motor Vehicles for you to drive during your revocation period legally. This program includes evaluation, drug testing, education, routine monitoring, and referrals to treatment.

To qualify for DUI Special Supervision Services, you must meet the following qualifications:

For a five (5) year revocation, you must:

- wait one year of the five-year revocation or application
- not operate a motor vehicle or have any substance related or driving arrests during one year before the application
- have completed a level II DUI program since your last DUI arrest
- have completed or be enrolled in any treatment required by the DUI program
- have one year of abstinence from all alcohol or any non-prescription drugs
- have a recent revocation/conviction review report from the Department of Motor Vehicles
- complete a statutory eligibility review hearing and provide the results letter with your application



For a ten (10) year revocation, you must:

- wait two years of your 10-year revocation before application
- not operate a motor vehicle or have any substance related or driving arrests during two years before an application
- completed a level II DUI program since the last DUI arrest
- completed any recommended treatment required by the court
- have one-year abstinence from all alcohol or any nonprescription drugs
- have a recent revocation/conviction review report from the Department of Motor Vehicles
- complete a statutory eligibility review hearing and provide the results letter with your application

For a permanent revocation, you must:

- have only one DUI arrest and conviction in your lifetime, and your permanent revocation is based on the one DUI offense
- wait five years of your permanent revocation
- not operate a motor vehicle or have any substance related or driving arrests during five years before the application
- wait five years from the date of release from incarceration

Minimum Eligibility Requirements

Eligibility Requirement	5 Yr Revocation	10 Yr Revocation	Permanent
No License	12 mos. min.	24 mos. min.	5 yrs. min.
No Driving	12 mos. min.	12 mos. min.	5 yrs. min.
Abstinence	12 mos. min.	12 mos. min.	5 yrs. min.

Participation in the program requires a recommendation by the Court and the Department of Motor Vehicles. Ignition interlock requirements may still need to be met for repeat offenders under Florida statutes 316.193 (4c); 316.1937, and 316.1938.

Understanding the Impact of a DUI Conviction on Your Commercial Driver's License (CDL)

If before your DUI arrest you held a commercial driver's license (CDL), then there are both federal and state laws that apply to your situation.



You may be charged with a DUI if you are bound to have a blood-alcohol level (BAC) of 0.04 or higher while driving a commercial vehicle. As someone who holds a commercial driver's license, you are held to a higher standard because of the potential danger to the community in driving a commercial vehicle under the influence of drugs or alcohol. You will also be ineligible for a hardship license.

If your Florida CDL was suspended after refusing or failing a BAC test, you might be able to request a hearing to contest your suspension. You will need to ask for a hearing with your local Bureau of Administrative Reviews within ten days of your arrest. (This process is separate from the criminal proceedings) A list of locations and contact information for these sites is listed in previous pages of this booklet.

Commercial Driver's License CDL Suspensions

Your commercial driver's license (CDL) will be suspended for a minimum of one year if:

- your DUI arrest involved a commercial motor vehicle with a blood-alcohol level of 0.04 or above
- you refused to submit to a field sobriety test while driving a commercial motor vehicle

- you are driving a commercial motor vehicle while in possession of an illegal or controlled substance
- you were driving your personal vehicle under the influence of alcohol or controlled substance with a BAC of .08 or higher

Your commercial driver's license (CDL) will be suspended for a minimum of three years if:

- you were transporting hazardous materials at the time of your DUI arrest

Reinstating Your Commercial Driver's License (CDL)

The process to reinstate your CDL will depend on the reason for your CDL suspension. You will have to pay a reinstatement fee to have your CDL restored after reading out any disqualification period that may apply. Reinstatement of your class E license does not reinstate your CDL. Fees to reinstate your Florida CDL will vary based on your particular situation and the reason for your license suspension. There may also be additional court-ordered fees or fines that must be paid before license reinstatement.

YOU MAY REQUEST A HEARING TO HAVE YOUR SUSPENSION OR DISQUALIFICATION REVIEWED BY THE FLORIDA DEPARTMENT OF MOTOR VEHICLES. FLORIDA STATUTES 322.261-5322.64 GIVE THE DMV AUTHORITY TO SUSTAIN, AMEND, OR EVEN INVALIDATE ADMINISTRATIVE SUSPENSIONS OR DISQUALIFICATIONS.



Understanding Underage DUI Convictions

Florida has a **zero-tolerance policy for underage DUI**. If you are under the age of 21 and a police officer even merely suspects that you are under the influence of drugs or alcohol, then that officer may contain you for a sobriety

test without placing you under arrest. You will be charged with driving under the influence if your blood-alcohol level is measured at 0.02 or higher. This limit can be exceeded by even one drink. This is a much stricter limit than the 0.08 BAC for persons over the age of 21. However, once convicted, your consequences are essentially the same. The only difference is that if your BAC is under .05 at the time of your arrest; then you attend a traffic law and substance abuse education course instead of DUI school. However, if your blood-alcohol level is over .05 at the time of your arrest, then your requirements for the attendance of DUI school is the same.

Underage drinking and driving under the influence are a serious problem in the United States and Florida. Car crashes involving alcohol comprise more than one-third of fatal teen car crashes. Even if an underage DUI conviction is not the direct result of an accident, that sentence will follow the young person through life. Insurance rates will likely make driving an impossibility in the early years of employment, and some jobs prospects may not be possible.

A DUI CONVICTION CAN ALSO AFFECT EDUCATION AS SOME SCHOOLS MAY SUSPEND OR EXPEL STUDENTS CONVICTED OF A DUI.

Understanding DUI Charge Classification

As a criminal offense, DUI charges are not all the same. There are different classifications for DUI convictions depending upon the circumstances and the history of the offender. A first-time offender is likely to have their DUI charge classified as a criminal traffic charge. However, depending on the circumstances the DUI conviction may also be classified as a misdemeanor or felony with prison time possible for as much as 30 years.

Criminal Traffic Charge:

Assuming there is no accident, a first-time offender will not spend more than six months in jail, and the DUI conviction may be classified as a criminal traffic charge. This is not considered a misdemeanor or felony.

First Degree Misdemeanor:

A person may be charged with a first-degree misdemeanor conviction of DUI if that person is involved in an accident which causes damage or injury. Penalties include fines of up to \$1000 or one-year incarceration.

Third-degree felony: a person may be charged with a third-degree felony conviction of DUI if that person causes serious or life-threatening injury to another person. A person may also be charged with a third-degree felony if that person is convicted of their DUI within ten years or is convicted of a subsequent DUI. Penalties include up to \$5000 or five years' incarceration. If there are other felony convictions, then more severe penalties may apply.

Second-Degree Felony:

A person may be charged with a second-degree felony conviction of DUI if that person commits DUI manslaughter. A person may also be accused of a second-degree felony if they commit DUI manslaughter and leave the scene of an accident. Penalties include fines of up to \$10,000 and up to 30 years in prison.

Understanding Costs of a DUI Conviction



There are many costs associated with a DUI conviction. Although every person's situation is different, the costs associated with a DUI conviction can become quickly insurmountable. Whether this is your first DUI or a subsequent DUI, it will be very expensive to face the consequences of a DUI conviction.

THE FOLLOWING IS A LIST OF POSSIBLE FEES AND PENALTIES THAT MAY APPLY TO YOU. NOT EVERY FEE OR PENALTY WILL APPLY TO YOUR UNIQUE SITUATION.

Bail: Estimated \$100.

The amount of bail set for your initial release after arrest can vary. This will depend on your criminal history and the facts surrounding your DUI arrest. The fee for a bond is set by Florida law at 10% of the bail amount. Regardless of the bail amount, the minimum a bail bondsman will generally accept is approximately \$100.

Fines: Estimated \$1000.

Fines range anywhere between \$500 and \$10,000 depending on circumstances and number of offenses. For a first-time DUI, the average penalty is about \$1000.

Probation: Estimated \$720.

Probation costs will vary by location. An average monthly probation fee is \$60, and if probation runs about one year (for first-time offenders), then the cost would be \$720.

Vehicle Impoundment or Immobilization: Estimated \$500.

If your vehicle is impounded at the scene of the arrest, then you will be charged fees for the towing of your vehicle as well as impounding and storage fees. Your vehicle may also be immobilized as an alternative to impounding the vehicle. These costs vary widely according to method and length of storage.

42-day permit: Estimated \$25.

Hardship license: Estimated \$325.

Community service: Estimated cost is time.

Interlock device: Estimated \$1000.

The cost of installing and maintaining an ignition interlock device vary by the vendor you choose and delete of time that you must maintain the ignition interlock device.

Victim Impact Panel: Estimated \$25.

DUI school: Estimated \$245.

Fees for DUI school vary according to the level of program that you are ordered to attend

FR 44 Insurance: Estimated \$1200 annually.

After a DUI conviction, your insurance rates will likely increase with your insurance company. Insurance rate increases vary according to your insurance company and your prior driving record. The average increase for a first-time offender is about \$100 a month or \$1200 on an annual basis.

Drug Testing: Estimated \$420.

Drug testing can cost anywhere from \$35-\$50 for each test. If you are required to have these tests as a condition of your probation, then you will most likely take these on a monthly basis.

DUI Special Supervision: Estimated \$450.

There are many fees associated with Special Supervision Services that are set by the Florida Department of Highway Safety and Motor Vehicles.

Substance Abuse Treatment: Estimated \$1000.

The costs for substance abuse treatment vary according to the recommended treatment plan and whether you are outpatient or inpatient at the time of therapy. Your fees will also vary by health insurance applicability.

Incarceration Fees: Cost varies.

Incarceration costs vary by location and length of incarceration.

Commercial driver's license (CDL) loss and reinstatement: Cost is the loss of gainful employment opportunities.

Attorney defense fees: Up to \$10,000 or more

your attorney's fees will depend on the complexity of your case and can run from as low as \$2500 to as high as \$10,000 or more.

List of Florida DUI Fees

<i>Florida DUI FEES as of October 2016</i>	
<i>FEE TYPE</i>	<i>AMOUNT</i>
<i>Driving Record Florida – TML (Optional charge for the client)</i>	\$15.00
<i>Driving Record Out-of-State - \$1 above actual cost (which varies)</i>	Cost + \$1.00
<i>Ignition Interlock Device 1st Violation – Appointment</i>	\$25.00
<i>Ignition Interlock Device 2nd Violation – Appointment + Case Management Plan Development</i>	\$55.00
<i>Ignition Interlock Device 2nd or Subsequent Violations – Monthly Appointment</i>	\$25.00
<i>Ignition Interlock Device 3rd (or subsequent) Violation – Appointment + Treatment Referral</i>	\$55.00
<i>Ignition Interlock Device Treatment Referral – Driver Risk Inventory re-test (if none in last 6 months)</i>	\$5.00
<i>Level I – Registration* (Includes \$5.00 for Driver Risk Inventory)</i>	\$260.00
<i>Level I - 1st Course Reassignment within 90 days of enrollment</i>	\$40.00
<i>Level I - 2nd Course Reassignment within 90 days of enrollment</i>	\$75.00
<i>Level I - 3rd Course Reassignment within 90 days of enrollment</i>	\$153.00
<i>Level I – Any Course Reassignment which occurs more than 90 days after enrollment</i>	\$255.00
<i>Level I – Any Reassignment for coming to DUI Services Under the Influence</i>	\$255.00
<i>Level II – Registration* (includes \$5.00 for Driver Risk Inventory)</i>	\$405.00
<i>Level II - 1st Course Reassignment within 90 days of enrollment</i>	\$60.00
<i>Level II - 2nd Course Reassignment within 90 days of enrollment</i>	\$120.00
<i>Level II - 3rd Course Reassignment within 90 days of enrollment</i>	\$238.00
<i>Level II – Any Course Reassignment which occurs more than 90 days after enrollment</i>	\$400.00
<i>Level II – Any Reassignment for coming to DUI Services Under the Influence</i>	\$400.00
<i>Level I or II - 1st Evaluation Reassignment within 90 days of enrollment</i>	\$75.00
<i>Level I or II - 2nd Evaluation Reassignment within 90 days of enrollment</i>	\$153.00
<i>Evaluation not associated with enrollment in the complete program</i>	\$75.00
<i>*Driver Risk Inventory (added to Level I and/or II registration)</i>	\$5.00
<i>Special Supervision Services – Application Fee</i>	\$300.00
<i>Special Supervision Services – Periodic Update</i>	\$55.00
<i>Special Supervision Services – Periodic Update with Ignition Interlock Device Review</i>	\$65.00
<i>Special Supervision Services – Periodic Update Reschedule Fee</i>	\$55.00
<i>Special Supervision Services – FDLE Criminal Background Check</i>	\$24.00
<i>Special Supervision Services – Annual State Assessment Fee</i>	\$15.00
<i>Transfer Fee</i>	\$25.00
<i>Bad Checks</i>	\$30.00
<i>Administrative Refund Fee</i>	\$25.00
<i>Processing a Referral to a Different Treatment Agency</i>	\$15.00
<i>Treatment Verification Form 77096</i>	\$10.00



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