

8 DUI QUESTIONS ANSWERED



By Driver Defense Team



INTRODUCTION

When facing a DUI charge, many clients wonder how they should respond and what their best course of action is.

You may have questions like:

- What are the DUI laws in Illinois?
- What is Blood-Alcohol Content?
- Can I refuse a breath test?
- How does the legal process work?
- What is an Aggravated DUI?
- What are the penalties?
- Will I lose my license?
- What should I look for when choosing an attorney?

These are all very valid questions – and we will address each one in this guide. Let's begin...

WHAT ARE THE DUI LAWS IN ILLINOIS?

In Illinois, **“Driving Under the Influence,”** or DUI, is defined as **“operating a motor vehicle while impaired by alcohol, other drugs, including cannabis (marijuana) prescribed for medical purposes, or intoxicating compounds and methamphetamine.”**

“Illinois drivers are legally considered to be under the influence if they have a blood-alcohol content (BAC) of .08 or more, have a tetrahydrocannabinol (cannabis) concentration (THC) of either 5 nanograms or more per milliliter of whole blood or 10 nanograms or more per milliliter of other bodily substance, have used any other controlled substance, or are impaired by medication.”

WHAT IS BLOOD-ALCOHOL CONTENT (BAC)?

This refers to the ratio of alcohol to blood or breath in a person. State officials point out though that an individual with a BAC below .08 can still be convicted of DUI ... “if additional evidence shows the driver was impaired.”

CAN I REFUSE A BREATH TEST IN ILLINOIS?

Yes, you are able to refuse a breath or blood test. Those who refuse to undergo chemical testing are subject to:

- 1. First offense** — Suspension of driving privileges for 12 months (eligible for a Monitoring Device Driving Permit).*
- 2. Second or subsequent offense within five years** — Suspension of driving privileges for three years.

HOW DOES THE LEGAL PROCESS WORK?

The court process actually begins when the arresting officer places you under arrest for DUI. After the arrest, an arrest report is completed and sent to the local district attorney's office. The arrest report will contain the charges to be brought against you, the defendant.

In most jurisdictions and most cases, the DUI complaint will be a misdemeanor, but this can vary based on the blood alcohol level of the defendant as well as any prior convictions for DUI.

You may be able to accept a plea agreement arranged by your lawyer and avoid a trial. If you plead not guilty and your case is set for trial, you will receive a trial date from the district attorney.

In some cases it is best to take the plea agreement, while in others it is better to go to trial with the case. Your attorney will do what is best for you, and will act only after consultation with you.

WHAT IS AN AGGRAVATED DUI CHARGE?

Any DUI offense that results in felony charges is classified as Aggravated DUI in Illinois. As part of the aggravated DUI charge, any mandatory term of imprisonment or community service cannot be suspended or reduced. Also, any person who is sentenced to probation or conditional discharge must also serve a minimum 480 hours of community service or imprisonment of 10 days.

The Aggravated DUI charge includes all of the following offenses as outlined in the state's "Illinois DUI Fact Book":

- Third or subsequent DUI (Class 2 felony; penalties vary according to offense).
- DUI committed while driving a school bus carrying one or more persons age 18 or younger (Class 4 felony).

- DUI committed while driving a vehicle for-hire carrying one or more passengers (Class 4 felony).
- DUI resulting in great bodily harm, permanent disability or disfigurement (Class 4 felony). Revocation of driving privileges for a minimum of two years.
- Second or subsequent DUI committed while transporting a child under age 16 (Class 2 felony; penalties vary according to offense).
- DUI committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Class 2 felony; penalties vary according to offense).
- DUI committed without a valid driver's license or permit (Class 4 felony).
- DUI committed without vehicle liability insurance (Class 4 felony).
- DUI committed after a previous conviction for reckless homicide while DUI or Aggravated DUI involving a death (Class 3 felony).
- DUI committed in a school zone while the restricted speed limit is in effect and involved in a crash that resulted in bodily harm (Class 4 felony).
- DUI committed while revoked or suspended for DUI, reckless homicide or leaving the scene of a personal injury or death (Class 4 felony). Any penalty imposed is in addition to the penalty for any subsequent DUI violation. The revocation period is determined by offense.
- DUI resulting in a death (Class 2 felony). Revocation of driving privileges for a minimum of two years from the effective date of the revocation or from the date of release from incarceration for the offense.

SO WHAT ARE THE PENALTIES FOR DUI IN ILLINOIS?

Penalties for DUI in Illinois can vary depending on arrest and conviction circumstances, such as the driver's age, the driver's BAC level, whether the driver was transporting a child under age 16, whether the driver was driving the wrong way on a one-way road and whether the driver has previous DUI convictions.

In general, any person convicted of a DUI in Illinois faces up to one year in prison and a fine up to \$2,500.

Following are more specific penalties for types of convictions and other varying circumstances.

FIRST CONVICTION CLASS A MISDEMEANOR –

Minimum fine of \$500 up to a maximum fine of \$2,500. Plus, minimum revocation of driving privileges for one year (two years if driver is under age 21) and suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any penalties or fines, mandatory minimum fine of \$500 and mandatory minimum 100 hours of community service.

- If committed while transporting a child under age 16 — in addition to any penalties or fines, possible imprisonment of up to six months, mandatory minimum fine of \$1,000 and 25 days of community service in a program benefiting children.
- If committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Aggravated DUI); Class 4 felony — in addition to any other criminal or administrative sanctions, mandatory fine of \$2,500 and 25 days of community service in a program benefiting children.

SECOND CONVICTION CLASS A MISDEMEANOR –

Maximum fine of up to \$2,500. Plus, mandatory minimum imprisonment of five days or 240 hours of community service; revocation of driving privileges for a minimum of five years for a second conviction within 20 years; suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any penalties or fines, mandatory imprisonment of two days and mandatory minimum fine of \$1,250.
- If committed while transporting a child under age 16 (Aggravated DUI); Class 4 felony.
- If committed while transporting a child under age 16 and involved in a crash that resulted in bodily harm to the child (Aggravated DUI); Class 2 felony — in addition to any other criminal or administrative sanctions, mandatory fine of \$5,000 and 25 days of community service in a program benefiting children.

THIRD CONVICTION (AGGRAVATED DUI) CLASS 2 FELONY –

Maximum fine of up to \$2,500. Plus, revocation of driving privileges for a minimum of 10 years; suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any other criminal or administrative sanctions, mandatory imprisonment of 90 days and mandatory minimum fine of \$2,500.
- If committed while transporting a child under age 16 — in addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

FOURTH CONVICTION (AGGRAVATED DUI) CLASS 2 FELONY –

Fine of up to \$25,000. Plus, revocation of driving privileges for life; suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — in addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

FIFTH CONVICTION (AGGRAVATED DUI) CLASS 1 FELONY –

Maximum fine up to \$25,000. Plus, revocation of driving privileges for life; suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — in addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

SIXTH OR SUBSEQUENT CONVICTION (AGGRAVATED DUI) CLASS X FELONY –

Maximum fine up to \$25,000. Plus, revocation of driving privileges for life; suspension of vehicle registration.

- If committed with a BAC of .16 or more — in addition to any other criminal or administrative sanctions, mandatory minimum fine of \$5,000.
- If committed while transporting a child under age 16 — in addition to any other criminal or administrative sanctions, mandatory fine of \$25,000 and 25 days of community service in a program benefiting children.

WHAT IS A BREATH ALCOHOL IGNITION INTERLOCK DEVICE (BAIID)?

Illinois enables first-time DUI offenders to have a Breath Alcohol Ignition Interlock Device (BAIID) installed on their vehicles if they want to continue their driving privileges. In addition, the state of Illinois also requires a camera unit on the BAIID to capture the driver as he or she performs the breath test.

Illinois officials say that currently approximately 9,600 people are driving with BAIID's installed on their vehicles. These devices are breathalyzers that check a driver's breath alcohol concentration before a vehicle can start. If the device detects a BAC that is above legal limits, the car will not start.

To be eligible for driving relief, offenders must obtain a Monitoring Device Driving Permit (MDDP), and a BAIID is then installed on their vehicle through the Secretary of State's office. An MDDP and installation of a BAIID allow offenders to drive anywhere at any time as long as they are driving a vehicle installed with a BAIID.

WILL I LOSE MY LICENSE? WHAT EXACTLY IS A SUMMARY SUSPENSION?

Do you remember the phrase “driving is a privilege and not a right?” Well, that privilege is taken away from you if you are over the legal limit or refuse breath, blood, or urine testing.

The suspension of your license often goes into effect automatically on the 46th day after you receive a notice of the summary suspension. Notice is often (but not always) given to you on the day of the arrest.

However, you may be able to fight a summary suspension of your driving privileges. After reviewing the police reports and watching the arrest videos, one of our experienced DUI lawyers may be able to identify ways to challenge the summary suspension.



DRIVING UNDER THE INFLUENCE DEFENSE TIPS

TIP 1

KNOW YOUR RIGHTS WHEN IT COMES TO DUI CHARGES

The truth is law enforcement personnel working in the various departments across Cook, DuPage and Lake Counties in Illinois are always on the look-out for intoxicated drivers. In their enthusiasm to keep the roads safe from impaired drivers, some police officers overstep their boundaries. While the intentions of the law and those who enforce it may be good, being



arrested and convicted of driving under the influence can have a devastating impact.

That's why you need to be aware of your rights. For example, we have had success getting charges dismissed using defense strategies like the following:

- 1. Lack of Probable Cause** – With the exception of roadblocks and DUI checkpoints, a law enforcement officer must have probable cause to pull you over. If none existed, any other evidence they obtained after the stop could be ruled inadmissible.
- 2. Violation of Your Rights** – If you make a statement to the police, it can't be used as evidence against you if they failed to read you your Miranda rights.
- 3. Other Explanations** – There might be other explanations for your behavior or appearance, such as a medical condition.
- 4. Faulty Testing** – A police officer may not have been properly trained on the use of a breathalyzer machine, or the machine might have been poorly maintained.

TIP 2

GET A GOOD LAWYER ON YOUR SIDE

Find a good defense attorney and work closely with them. The more information you can give your attorney, the better that attorney will be able to prove your case.



**TIP
3****KEEP GOOD RECORDS**

Keeping good records is very important. With any legal matter, but especially with a DUI, you should keep detailed records of everything – from why you were arrested to dealing with the police.

One way to do this is to start a diary where you record everything that has happened related to the accident.

You should write down things like your memory of what happened. If there was an accident you should be as detailed as you can possibly be about it. That means write down what the weather was like, what time the accident occurred, where you were headed, traffic conditions, what happened during the accident, what happened immediately after the accident and so on.

If your case goes to court it could be years before it is settled in court. Having a detailed diary will allow you to go back and refresh your memory on everything that occurred.



WHAT SHOULD YOU LOOK FOR WHEN CHOOSING AN ATTORNEY TO REPRESENT YOU

If you have received a DUI charge it is critical that you obtain legal representation as quickly as possible. You should NOT try to represent yourself!

Only with the help of experienced and qualified DUI legal representation can you hope to mitigate or even beat these charges.



What should you look for? Key things include:

- 1. Experience** – Seasoned lawyers will know how to better deal with judges, other lawyers and insurance adjusters.
- 2. Expertise** – More specifically you want someone who has expertise in defending the charges you face.
- 3. Reputation** – Lawyers are judged by clients, judges and peers. Look for one that has built a reputation for excellence.
- 4. Commitment** – Good lawyers are dedicated to their clients. They are tough negotiators and aggressive advocates who have one goal to get you the best possible outcome to your case.
- 5. Communication** – Look for an attorney that will keep you in the loop and explain everything so that you always know what exactly is happening.

If you have received a DUI charge it is critical that you obtain legal representation as quickly as possible. You should NOT try to represent yourself!

Only with the help of experienced and qualified DUI legal representation can you hope to mitigate or even beat these charges. At the Driver Defense Team, we have helped hundreds of people just like you facing DUI and other driving-related charges in Illinois.

Contact us now to get the excellent representation you need to ensure the best possible outcome in your case. Call or text (312) 940-8330 or [click here](#).



THE BOTTOM LINE

A DUI charge can be emotionally and physically taxing. We hope that this guide has given you insight and direction on what to do to ensure the best possible outcome in your case. When you seek our help, you can expect straight talk and honest advice.

We take a practical, smart, common sense approach to handling DUI cases. We also explain everything you need to know to make informed decisions – and we will tell you where you stand. We work hard to protect your legal rights and pursue your objectives. Fully understanding that facing DUI charges can be an emotional time, we will treat you with the compassion and respect you deserve. We also don't rest on our considerable laurels either. We are constantly evolving and growing and you can count on us to have your best legal interest in mind.



THE NEXT STEP

The key to weathering any storm is to first get informed so that you can take the best action moving forward.

Don't risk making mistakes or enduring unnecessary, costly delays. Talk to the Driver Defense Team (DDT Law Group, LLC) – call or text (312) 940-8330 or [click here](#) to schedule a free consultation.

We are focused on providing you with a smart, reasonable and lasting legal solution. We have the skills, resources and experience to ensure your best interests are represented.

At the Driver Defense Team, we take our role as your legal counselor seriously, creating solutions that work both in the immediate months after your arrest and in the years ahead.

Whatever your situation, you need a thoughtful, zealous advocate in your corner.

We will use our vast knowledge and experience to protect your present and future welfare. The first step is to schedule a meeting with us to learn more about how we can help you.

Call or text (312) 940-8330 or [click here](#) to schedule a free consultation.

An intelligent criminal defense strategy requires both an in-depth knowledge of your rights that are protected by the law as well as the talent and experience to identify when violations to those rights have occurred. The attorney must then be able to use those instances to get a case dismissed or a charge reduced.

You can count on us to provide you with that intelligent criminal defense strategy. So don't wait, contact us now and ...

Get the legal advice you need to take the right next steps!

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SCHEDULE A CONSULTATION



(312) 940-8330



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