



Washington DUI Law Overview.

By Christopher M. Small

As the title of this article implies, this material intends to discuss the processes and procedures of a standard Washington DUI. Below you will find information regarding the department of licensing hearing, arraignment, discovery, plea negotiations, suppression motions, and jury trials. If you are charged with a DUI in Seattle, Bellevue, Tacoma, Kirkland, or any other city in Washington, this information should give you an idea of the process and an understanding of the roles of the parties.

This material is broken up into several short segments:

- Hire a DUI Attorney
- The Department of Licensing
- What You Can Do to Help
- The Criminal Justice Process

Please remember when reading this information that it is **not intended to be relied upon alone as legal advice**. If you find yourself facing a DUI charge, **contact a Seattle DUI attorney or Bellevue DUI attorney before making any decisions**.

HIRE A DUI ATTORNEY

Being charged with a Washington DUI is no laughing matter. Besides being a bit embarrassing, a DUI conviction includes mandatory jail time, mandatory license suspension, fines, probation, alcohol classes and panels, and being on your record. Don't leave your DUI defense up to the guy who drafted your will. Just as we here at CMS Law Firm LLC wouldn't be able to adequately represent your interests in a will, your probate attorney cannot adequately represent you in a DUI case. Find a **Seattle DUI attorney** or **Bellevue DUI attorney** that in the very least has a majority of his or her practice in criminal law and make sure you feel comfortable with them.

And do this sooner rather than later. What I mean is, you should be calling a DUI lawyer when you are stopped for DUI! At the moment you feel like you can't leave, stop talking and ask for an attorney. It will go a long way toward beating your DUI charge. If you haven't talked to a DUI lawyer, make that phone call today.

THE DEPARTMENT OF LICENSING

An arrest for DUI is unlike any other crime because a second element to the charge exists, a "civil" charge, which punishes you without the need for a trial. If you take a breath test and blow over .08, you have subjected yourself to a 90 day driver's license suspension (1 year if you refuse to take the test) that is separate and apart from the criminal penalties you face.

Because, however, your driver's license is seen as a property right, it may not be taken away without due process of law. This means you are entitled to a hearing to contest the loss of your driving privileges. The cost to appeal your suspension is \$200, and you have 20 days from the date of your arrest to request a hearing. Even if you have not hired a lawyer yet, you should file an appeal of your driver's license suspension – it is the only way to get out of a license suspension.

At the appeal, the hearing officer will consider several things, each of which gives you the possibility of having your driver's license suspension overturned. The issues covered include: whether you were lawfully placed under arrest; whether the officer had reasonable grounds to believe you were driving a motor vehicle under the influence of alcohol or drugs; whether you were advised of your implied consent warnings; whether you refused the breath or blood test; whether the breath or blood test was over .08; whether the breath test was administered correctly. And although, admittedly, suspensions are not often overturned, there are a lot of possibilities for something to have been done wrong, and it is an opportunity for your lawyer to get an early look at the case.

While your appeal is pending (until your hearing occurs and a decision is made) your driving privileges remain intact. So filing the appeal also pushes out the date of which your actual suspension would start.

WHAT YOU CAN DO TO HELP YOUR CASE

Although this sounds obvious, the number one thing you can do while your case is pending is to stay out of trouble, particularly any trouble involving the use of alcohol. In some cases, reducing the charge of drunk driving to reckless driving (which, although still a serious offense, carries much lighter penalties) is a viable option. But if you get in trouble soon after your original arrest, your bargaining power becomes much weaker.

Another thing you can do is sign up for an alcohol evaluation. This is a mandatory requirement of any DUI case, and helps the prosecutor justify reducing your charges, assuming your evaluation comes back satisfactory (and even if it isn't great, a reduced charge with treatment is almost always better than a DUI conviction).

And finally, make sure you don't talk to anyone about your case, particularly the police. Police officers have a sneaky way of getting you to talk to them, using kindness, aggression, fear, guilt, and general psychology all wrapped up together. Don't fall for it. You have no obligation to speak with the police – ever (except to give them ID). If you are being questioned by the cops, invoke your right to silence (say "I want to remain silent") and ask for an attorney.

THE CRIMINAL JUSTICE PROCESS

After being arrested and cited for driving under the influence, whether in Seattle, Bellevue, Kirkland, Tacoma, Everett, or anywhere else, the procedure is pretty much the same. The first court appearance is called arraignment. It can be within two days of arrest and up to two weeks or more sometimes. At arraignment, you can expect to do several things. First, you can expect to enter a plea of guilty or not guilty. Only under very extraordinary circumstances would you plead guilty. And never plead guilty without first talking to a criminal defense attorney! (this means don't ask the prosecutor or judge what to do – talk to someone that actually wants to help you out) You will also sign a sheet that says you understand all of your constitutional rights, including silence, an attorney, and a jury trial. And that is pretty much it. It usually takes about one minute to complete. At the end the judge will set a readiness hearing, and you will be done.

Between arraignment and the readiness hearing is when your DUI attorney will receive the police reports from the prosecutor, conduct any further investigation, and open up plea negotiations with the prosecutor (assuming that is in your best interest). Jury trials are very hard to predict, so often you will find that taking a plea to a lesser charge is beneficial for you and the prosecutor (you because you get off with a much lower punishment and the prosecutor because they still got you for something and didn't have to chance losing at a trial). The type of plea deal varies greatly depending on the specific facts of your case.

If no plea can be reached, a readiness hearing is held. This usually occurs about a week before the trial would begin, and it is a time for the judge to make sure everyone is ready for trial and to hear any motions by any of the parties. Often motions to suppress evidence or statements will be made by one or both parties to make sure something that should not be heard by the jury is not heard by the jury. The judge will make his rulings, which often have a profound effect on plea negotiations leading up to trial, and the next step is a jury trial.

Jury trials are not complicated matters. The prosecutor has the burden of proving their case against you beyond a reasonable doubt. This means you don't have to testify if you don't want, and you don't even have to present evidence if you don't want (and that will often be the case). After the jury is selected the prosecutor will make an opening statement, followed by your attorney. Then the state will present its case. If the defense has any witnesses to present they will. After that closing arguments occur and the jury makes its decision.

If the jury finds you guilty of any crime a sentencing date will be set. During that time your criminal history will be determined and any examinations that need to be done will be done (for example, an alcohol evaluation). When you come back a sentence will be recommended by the prosecutor, your attorney will have a chance to argue on your behalf, and the judge will issue a sentence.

If any issues for appeal arise, there is a 30 day time period to file those.

HELPFUL INFORMATION

If you are arrested for DUI and need a [Seattle DUI attorney](#) or [Bellevue DUI attorney](#), please contact CMS Law Firm LLC, at 206-452-5241 or by email at info@cmslawfirm.com.

Problem with alcohol or drugs? Please speak with someone at the Seattle area alcohol/drug help lines - (206) 722-3700 or (800) 562-1240.