

DUI / OVI

So, You've Been Pulled Over

So it's 1:30 or 2:00 a.m. and the police pull you over, allegedly for bad driving, or you had a light out. Let's face it, police think that anyone out at that time of night is either drunk or doing something illegal. So the cop comes up to your window, gets your license and insurance from you, then says, "I smell alcohol, have you been drinking." The worst thing you can say is yes, or "just a couple of beers, officer." Based on his first question, if you admit drinking, you are already headed down the slippery slope of getting a DUI. Our advice is say nothing, admit nothing. Just tell the officer that you would like to speak to an attorney before you say anything that could possibly incriminate you.

Based upon an officer smelling alcohol, the next question will be whether you will submit to standard field sobriety tests. These tests involve walking an imaginary line and turning, toe to toe; standing on one leg and balancing for 30 seconds; watching your eyes track a stimulus such as a pen; and reciting the alphabet backwards. These tests can be very hard to perform for a young person who is in shape and stone cold sober, much less someone who may be out of shape and may not be completely sober. Just because an officer asks you to perform tests doesn't mean that you have to do them. If you perform the tests and are falling down on the videotape that the officer is likely using from his car camcorder, you may ruin your attorney's ability to win or get the charges reduced.

Next, once you get back to the police station, the officer will ask you to take either a blood or breath alcohol test. This test will determine how much alcohol per unit liter of breath you have in your system. If you are over .08, the Ohio statute says that you are per se, or legally impaired. If such a breath test gets in at trial, you are virtually guaranteed of being convicted of DUI. If the breath test is .17 or higher, you face increased penalties, usually twice the number of days in jail, etc. that you would for a lesser breath or blood test. If you have previously been convicted of DUI in the last 6 years, the penalties are even worse for a "high tier" test. So, if you have a previous DUI and

chances are you have a high blood alcohol content, a good rule is don't take the breath test.

The police will read you the informed consent law, which states that by driving in Ohio, you consent to a breath or blood alcohol test if the police believe you have been drinking. The penalty for not complying with taking the test can be a 1-year driver's suspension. However, if you have previously been convicted of a DUI in the last 6 years, there is a good chance you will lose your license for 1 year or more anyway. The only thing that taking the test does is give the prosecution a better chance of a) convicting you and b) getting increased penalties against you for having a blood alcohol content of .17 or higher. If you don't have a previous DUI and you refuse the test, the 1-year license suspension can still be reduced if a plea is worked out prior to trial.

Another thing that can happen when the police pull you over is that they may ask to search your vehicle. There really is never a good reason to let an officer search your vehicle. If you have illegal drugs or an unregistered weapon in the vehicle, you should always refuse a voluntary search of the car. If you allow the search, any drugs or weapons will be admissible at trial, and could result in a felony conviction, or worse prison time. The police can get a warrant or a drug dog, but if they make mistakes in their procedures, a good attorney can get the evidence thrown out through a motion to suppress. Remember; do not voluntarily let an officer search your vehicle. I wouldn't, neither should you.

Call Hackett Law today at 513-333-0050 for a free consultation.