

Do you know your rights when you are pulled over for a DUI in Michigan? What you do or don't do could have ramifications on your case. Read this article and know your rights.

The police must have a reason to pull you over. Just because they saw you coming out of a bar at 1:30 am is not enough (ironically, if you have the fuzzy dice on your mirror, that is enough to pull you over). Once they pull you over, this is where you must know your rights.

1) Always have your drivers license, proof of insurance and registration in an accessible place. The officer is looking to see if you are "fumbling" about the car, and this will give him or her reasonable suspicion that you have been drinking.

2) Next the officer will ask, is if you know why you were pulled over. Always answer no to this because anything you say can be used as an admission. Let them tell you why you were pulled over.

3) The officer will probably ask if you have been drinking. Remember, it is not against the law to drink, then drive. It is against the law to drive while drunk. So if you answer yes, this will give the officer more reasonable suspicion that you were drinking. Politely refuse to answer this question. Don't make the job easier for the officer.

4) Next the officer will ask you to submit to the Field Sobriety Tests (FST). These tests were developed by the National Highway Transportation Safety Administration (NHTSA). The three standardized tests that are recognized in court are:

1-The Walk and turn

2- The one leg stand

3- The Horizontal Gaze Nystagmus (HGN). Otherwise known as the "pen test".

All other tests are not standardized and cannot be used in court. You do not have to submit to these tests and should refuse them. Most of the time, they are done incorrectly by the officer and are always subjective. Politely refuse the FST's.

5) Next the officer will ask you to submit to the preliminary breath test (PBT). This test is to detect if there is any alcohol on your breath. They are wildly inaccurate in detecting your blood alcohol content (BAC). The officer is using this test to determine if there is probable cause to arrest. Whether you refuse or accept, chances are you will be arrested. But without the PBT, we have a better chance to argue an illegal arrest. If you take the PBT, and it is positive for alcohol, then the ability to argue an illegal arrest diminishes.

6) The officer must advise you of your rights in regards to the PBT test. If they do not, then your rights have been violated. There is no automatic suspension of your license by refusing the PBT. It is only a civil infraction, with no points on your record. If the officer tells you you already consented because you signed your drivers license, still refuse the test. Your license will not be suspended for refusing the PBT. The

Datamaster test will have sanctions, as will be discussed later. One caveat: if you are a commercial driver, refusal of the PBT will result in a misdemeanor charge and license sanctions.

6) If you have refused the tests, then the officer may place you under arrest (remember, if you take the tests you may still be arrested anyway, but you have in fact helped prove the State's case against you. They will take you to the station to be booked. If they have not read you your Miranda rights, then they cannot ask you any questions, other than standard booking questions. **DON'T VOLUNTEER ANY INFORMATION AND IMMEDIATELY REQUEST AN ATTORNEY!!**

7) The officer will next conduct the Datamaster test. This test is more accurate than the PBT, but less accurate than blood draw. Before they conduct this test, they must read you your Chemical Rights Test. If they do not, then the Datamaster test cannot be used in court. You have the right to refuse to submit to the Datamaster test. However, if you do, your driver's license will be suspended for one year and you will have cost and fines to get your license back. So think long and hard about refusing this test. If you can do without your license for a year, then refuse to take this test.

8) If you refuse to take the data master test, then the officer will request a warrant to do a blood draw to determine your BAC. In order to do the blood draw, they must have a warrant. They will take you to a hospital (of their choice) to do the draw.

9) If the police do a blood draw, then you have a right to an independent test and should use this right. Always request an independent test. If the police refuse, we can use this refusal in front of the jury to show your rights were not respected.

10) Call an experienced DUI lawyer right away after you are released. This is important as your lawyer needs to start working on the case and gathering evidence. One of the most important pieces of evidence is the in-car video from the police. This shows how the FST were conducted, the PBT administered and what transpired. Everything on video and audio. Most police departments recycle the video's after a certain time, so it is imperative that you contact an attorney right away so this evidence can be preserved. Keep in mind, many times you will not receive a court date for a DUI until months after you are arrested. By this time the video may be gone. Don't wait until you get a court date before hiring an attorney.

If you need more information or would like a free consultation to discuss your case with me, call your Metro-Detroit Criminal Defense Lawyer at (586) 439-4297 (Macomb County) or (248) 581-0598 (Oakland County). I will review your case and move quickly to protect your defense.