

Minnesota DWI: An Overview

Driving While Intoxicated (DWI) is a very serious, yet common, crime in Minnesota. It is important that all drivers in the state familiarize themselves with the laws, consequences, and defenses of the Minnesota DWI laws.

What is a Minnesota DWI?

Many factors must be in play in order to convict a person of DWI. A person can be convicted of a Minnesota DWI when that person drives, operates, or is in physical control of a motor vehicle within the state of Minnesota or on any boundary water of Minnesota:

1. When the person is under the influence of alcohol or a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair their ability to drive or operate a motor vehicle; or
2. When the person is under the influence of a combination of any two or more of the elements named above; or
3. When the person's Blood Alcohol Concentration (BAC) at the time or as measured within two hours of the time of driving, operating, or being in physical control of the motor vehicle is .08 or more; or
4. When the person's body contains any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

In Minnesota it is illegal to drive, operate, or be in physical control of a motor vehicle while under the influence of alcohol or a controlled substance with a blood alcohol concentration of .08 or more. Minnesota DWI law also states that any driver with the mere presence of any scheduled controlled substance in their blood can be charged with a Minnesota drunk driving offense. Further, an officer may arrest a driver for suspicion of driving while impaired even if his/her blood alcohol content is under .08, provided the officer feels the drunk driver was operating the vehicle in a manner indicating that the driver was impaired.

Aggravating Factors

A Minnesota DWI is an “enhanceable” offense, meaning that certain aggravating factors make a Minnesota drunk driving offense more serious. Minnesota DWI violations have multiple levels of severity based upon the presence of these aggravating factors. The number of aggravating factors present in any Minnesota DWI offense determines the degree of that particular drunk driving violation.

The following is a list of MN DWI aggravating factors:

- A blood alcohol content of .20 or more
- When a child under the age of 16 is in the motor vehicle at the time of the offense and the child is more than 36 months younger than the offender
- A prior impaired driving incident conviction or alcohol related driver’s license revocation that occurred in the ten years directly preceding the current DWI offense

Any of these factors alone, or in combination, will result in a higher “degree” of DWI.

BAC Test

If you have been placed under arrest for violating the Minnesota DWI laws, you will be required to take a test to determine your blood alcohol concentration. An officer can only demand a test when there is probable cause to believe that you are under the influence. If an officer asks you to take a test, it will be a breath, blood, or urine test. It is the officer's decision which of the three tests will be offered, not yours.

In Minnesota, it is considered a crime for someone to refuse to take a breath test. However, it is legal for someone to refuse either a blood or urine test as long as they do not refuse both. In other words, someone can refuse to take a blood test, but then they must submit to a urine test, and vice versa.

Each of the three tests can give flawed results for numerous reasons. In order for there to be a valid sample, officers must follow specific and rigid procedures to ensure that each test gives an accurate result. Observation periods and collection procedures can be extremely important in determining if the test was given correctly. If the police do not follow the correct procedures while obtaining your blood alcohol concentration, the results of the test may be invalid.

Physical Control

People might not understand that it is possible to be charged with a MN DWI offense by being in "physical control" of a vehicle. The term "physical control" is broad, and incorporates conduct in addition to driving or operating a motor vehicle.

If an intoxicated person is found in a parked vehicle with the means to start the vehicle, he/she has physical control and can be issued a DWI.

When determining whether or not a person is in physical control of a vehicle, a court will examine all of the facts. Minnesota Courts have stressed that the law should encourage drunk drivers to relinquish control of a vehicle to an unimpaired driver. The public policy behind Minnesota's DWI laws to prevent drunk driving must be weighed against the driver's intent. Whether or not one is in physical control of a vehicle is a very fact-specific question. But, it is true that the term "physical control" in the Minnesota DWI laws makes it possible to be charged with a Minnesota DWI even without being inside of a vehicle.