

IS A DUI A FELONY OR A MISDEMEANOR?

Michigan law has different classifications of drunk driving. There is Operating While Intoxicated (OWI), Operating under the Influence of Intoxicating Liquor (OUIL), and Driving with an Unlawful Blood Alcohol Content (UBAL). Of the three, OWI is the least severe and the easiest to prosecute. That leaves OUIL as the hardest one to prove with UBAL in the middle. The differences between the three are beyond the scope of this article. Collectively, we refer to them as Michigan's drunk driving laws or Michigan's DUIs.

Generally speaking, drunk driving offenses are misdemeanors which means that they carry a penalty of no more than one year in prison. However, if you have three drunk driving offenses, they are treated as a felony which means heightened punishment with possible prison time.

Let us first discuss the consequences of a first offense drunk driving infraction. For your first OWI, you can receive a maximum of 93 days in jail, \$300 in fines, and a 90-day restricted license (your driving is restricted to certain places during certain times). For your first OUIL/UBAL, you can receive a maximum of 93 days in jail, up to \$500 in fines, a 30-day suspended license (no driving at all), a 150-day restricted license, and up to 360 hours of community service. Vehicle immobilization may be ordered at the court's discretion.

Take note: effective Halloween 2010, Michigan's new "super drunk law" takes effect. Meaning if your Blood Alcohol Content is 0.17 or above, your maximum punishment increases from 93 days to 180 days as well as being ordered to enroll and complete a treatment program. The program must last for at least one year. So really beware of how much you have to drink.

Second offenses get a little more serious. For the second offense OWI, you are looking at five days up to one year in jail as well as a 90-day restricted license, and 30-90 community service days. For the second offense OUIL/UBAL, you also face five days up to one year in jail, up to \$1,000 in fines, a 30-day suspended license, a 150-day restricted license, 30-90 community service days, and mandatory vehicle immobilization.

As you can see, the punishment gets much stiffer and you are far more likely to spend at least some time behind bars, even if it's just a weekend or a few days. It's rare to spend jail time for a first offense, but second offenses not so much. The vehicle immobilization is mandatory for the second offense whereas it's within the judge's discretion for the first offense. Beware: even if you plead a second offense down to a lesser charge such as reckless driving, many judges will still count it as a second offense for purposes of sentencing and will impose vehicle immobilization.

If you have a third drunk driving offense, it's considered a felony which means you are subject to prison time on top of higher fines and more community service time. You are almost guaranteed at a minimum to be placed on probation and/or sobriety court. Drunk driving offenses also stay on your record for life because traffic offenses cannot be expunged in Michigan.

Your best bet to avoid all this? Don't drink and drive! As simple as it sounds that's the easiest solution. Especially since the BAC for being legally "drunk" is only 0.08. It's just not worth the

risk. On top of risking your life and the innocent lives around you, you subject yourself to fines, costs, probation, possible jail, losing your license and your car, spending money on a lawyer. Yeah, it adds up rather quickly. All that on top of applying to get your license back and paying the driver's responsibility fees which are hefty.

The consequences are too high to try representing yourself, especially on multiple offenses. There are motions and legal points that only an experienced DUI attorney can effectively do. So if you do happen to get pulled over after one too many, make sure you get the best representation you can.