

## **FIVE COMMON PENNSYLVANIA DUI MYTHS**

### **I refused to submit to a blood or breath test so they can't prove I was guilty of DUI.**

The worst thing that you can do when you are stopped for DUI is refuse to submit to a chemical test. There are two types of chemical tests, a blood draw at a hospital or a breath test with a breathalyzer machine. In Pennsylvania, if you refuse to do either test offered, you will likely lose your license for an ADDITIONAL one year on top of the penalties for the DUI. Even if you are found not guilty of the DUI, you may still lose your driving privileges for a year if you refuse to take the blood or breath test.

If you refuse the chemical test, the police can still prove that you were DUI. They simply need to demonstrate that you were driving, that you consumed alcohol or drugs and that you were "incapable of safe driving". They can do this by articulating your driving, behavior, appearance, any admissions that you made, et cetera. They often use phrases like "bloodshot eyes", "odor of alcohol", "slurred speech" and/or "disheveled appearance".

### **I am going to jail because I was arrested for DUI and there are mandatory jail sentences for all DUI's in Pennsylvania.**

There are mandatory sentences for DUI's in Pennsylvania but that does *not* mean that you are going to jail. There are alternative programs available such as Accelerated Rehabilitative Disposition (ARD) or Intermediate Punishment Program (IPP) that allow for lesser sentences IF convicted.

Essentially, there are three tiers to DUIs in Pennsylvania and they are based primarily on what the chemical tests results show. The first or lowest tier is for with a blood alcohol content or BAC or between .08-.099%, the middle or high tier is for .10-.159% and the top or highest tier is for over .160% or if the person has drugs in their system or refuses chemical testing. The penalties are more severe if the person has more alcohol in their system and even more severe if it's NOT the first DUI in the past ten years.

**I don't need an attorney because it's my first DUI and I'll just get a slap on the wrist OR I don't need an attorney because they caught me red-handed and I have no defense.**

A DUI is a criminal offense. If convicted, it will stay on your record without the possibility of getting it erased or expunged. An attorney can help you get into a diversionary program such as ARD. Accelerated Rehabilitative Disposition is a program for first time offenders involved in non-violent offenses. It allows for diminished penalties such as no jail time, a reduced license suspension (if any at all) and the ability to have all record of the arrest expunged. However, the local District Attorney's office has total discretion in allowing an offender into the program. An attorney can help someone get into the program with least severe penalties. Often a District Attorney's Office will reject someone's ARD application for no apparent reason; an attorney can negotiate with the proper authorities to assure that the application gets proper consideration.

Additionally, an attorney can properly evaluate whether or not the police violated any constitutional rights of an alleged offender. Just because the police stopped a vehicle and the driver had been drinking does NOT mean that he/she is automatically guilty. A qualified criminal defense attorney will comb through the police reports and lab reports for deficiencies and educate the client/the accused on how to best move forward.

**If convicted, I will lose my license for a period of time but I can get a bread and butter license to get back and forth to work.**

Most DUI conviction result in a license suspension. There is no suspension if it's a first DUI in ten years and your BAC is .099 or below. Otherwise, the license suspension is at least one year. However, if the accused is accepted into the ARD program, the license suspension decreases from one year to two months if your BAC is over .16 and it decreases from one year to one month if your BAC is between .10 and .16. If someone receives an ARD license suspension, they are NOT eligible for an occupational limited license, often referred to as a bread and butter license.

The only DUI offense that is eligible for a bread and butter license is IF the violation is your first offense and given a one year license suspension. And even

then, the offender must serve 60 days of the DUI suspension before he/she is made eligible.

**If convicted, I will be able to avoid jail by getting house arrest.**

NOT true. Most counties do not allow house arrest at all. The ones that do allow house arrest will normally only allow it in rare and unusual circumstances, such as serious illness or being the sole caretaker of a young child. However, there are some counties (such as Chester) that have an Intermediate Punishment Program that has a house arrest component to it.