

FREQUENTLY ASKED QUESTIONS (FAQ) ABOUT DUI CASES IN WYOMING

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UNDER WHAT CIRCUMSTANCES CAN I BE CONVICTED OF A DUI IN WYOMING?

In the state of Wyoming, a person can be found guilty of DUI if they have a blood alcohol concentration (BAC) of .08% or more. A chemical test is used to determine a person's BAC. This requires a blood, breath or urine sample. A suspect may request a blood test at his/her own expense. Most of the time, DUI suspects provide a chemical sample by utilizing a breathalyzer. If a breathalyzer is used, law enforcement officers are to observe the suspect for a period of time (15 minutes), before administering a breath test. This is to make sure the suspect hasn't vomited or put anything in their mouth that may possibly affect the results of the test.

A person can also be convicted of DUI if, "as measured within two (2) hours after the time of driving or being in actual physical control of the vehicle following a lawful arrest resulting from a valid traffic stop," they have an alcohol concentration of .08% or more.

The final way in which a person can be convicted of DUI involves a person being under the influence of alcohol "to a degree which renders him incapable of safely driving." A DUI charge is sometimes filed under these circumstances when there is no test to determine a person's blood alcohol concentration. In these types of cases, a prosecutor must show

a jury that a DUI suspect was intoxicated to the point where it wasn't safe for that individual to be driving. A DUI may also be filed under these circumstances even if a suspect's blood alcohol concentration is less than .08%. See W.S. 31-5-233 (b)(i), W.S. 31-5-233 (b)(ii), and W.S. 31-5-233(b)(iii).

CAN I REFUSE A BREATHALYZER OR OTHER CHEMICAL TEST?

Prior to 2011, a person had the option of refusing to submit to a test of his blood, breath, or urine. There were only administrative consequences for refusing to submit to a chemical test (driver's license suspension). Under current Wyoming law, if a police officer has probable cause that a DUI suspect is impaired, and the suspect refuses to cooperate with a chemical test, law enforcement may request a search warrant which allows the proper authorities to force a chemical test, which may include a blood draw. Wyoming law also allows a police officer to request a "remotely communicated search warrant" which means the police can send search warrant documents to the court by "voice, image, text or any combination thereof." See W.S. 31-6-102(d).

HOW DO FIELD SOBRIETY TESTS WORK?

When a police officer makes a vehicle stop and suspects that the driver may be impaired, the officer generally will conduct a series of "field sobriety tests" on the suspect. Field sobriety tests usually involve a police officer asking a suspect to perform several tasks that evaluate any impairment of the person's physical or cognitive ability. This includes tests designed to evaluate a suspect's ability to perform divided attention tasks. Examples of field sobriety tests include having the suspect walk a straight line, heel to toe; having the suspect stand on one foot with the other foot slightly elevated; and the officer's use

of the "horizontal gaze nystagmus," an eye test. There are no laws in Wyoming which require a suspect to cooperate with field sobriety tests.

WHAT ARE THE POSSIBLE FINES AND JAIL IF I AM CONVICTED?

In the state of Wyoming, a DUI conviction carries with it the possibility of six (6) months in jail and a fine of up to \$750.00. If convicted a second time of DUI within a ten (10) year period, it is statutorily mandated that a convicted party serve at least seven (7) days in jail and the convicted party must pay a fine of at least \$200.00. On a third DUI conviction within ten (10) years, a convicted party must serve a minimum of thirty (30) days in jail and the convicted party must pay a fine of at least \$750.00. On a fourth DUI conviction, the court can also order a fine of up to \$3000.000. If convicted of a fourth DUI within ten (10) years, it is a felony which could result in up to seven (7) years in prison and a fine of up to \$7000.00. See W.S. 31-5-233(e).

IF I AM CONVICTED OF A DUI, DO I NEED TO DO A SUBSTANCE ABUSE ASSESSMENT?

Every person convicted of DUI in the state of Wyoming must receive a substance abuse assessment conducted by a substance abuse provider certified by the department of health. The convicted party has to pay for this assessment. After completing the assessment, a convicted party will typically be required to follow the recommendations of the substance abuse assessment which may include therapy, intensive outpatient treatment, or even residential inpatient treatment. The treatment required will depend on several factors including the frequency in which the convicted party consumes alcohol or controlled substances. See W.S. 31-5-233(e).

IF CONVICTED WILL I NEED TO INSTALL AN IGNITION INTERLOCK DEVICE?

If convicted of DUI, you may also be required to install an ignition interlock device on your vehicle. The Ignition interlock device requires that a person exhale into the device prior to the vehicle starting. The machine will then measure the resultant breath-alcohol concentration and will only allow the vehicle to operate upon receiving an alcohol free sample. At random times after the engine has been started, the device will require additional breath samples to determine breath-alcohol concentration. A convicted party will be required to install an ignition interlock device on his/her vehicle for six (6) months if he/she is convicted of a DUI and the convicted party had a blood alcohol concentration of .15 or above. On a second DUI conviction within ten (10) years, a convicted party will be required to have an ignition interlock device installed for a period of one (1) year. On a third DUI conviction, the time increases to two (2) years and on a fourth offense DUI, a convicted party may be required to carry an ignition interlock device in their vehicle for life. See W.S. 31-5-233(f)(ii), W.S. 31-5-233(f)(iii), W.S. 31-5-233(f) (iv), and W.S. 31-5-233(f)(v).

WILL MY DRIVER'S LICENSE BE SUSPENDED?

If convicted of DUI, the convicted party's driver's license will be suspended. On a first DUI conviction, a convicted party's driving privileges will be suspended for a period of ninety (90) days. On a second or subsequent DUI conviction within ten years, a convicted party's driving privileges will be suspended for a period of one (1) year. In addition, if the convicted party's subsequent offense is within two (2) years of the prior DUI conviction, the convicted party's vehicle registration will be suspended "for the period of the driver's

license revocation or suspension.” See W.S. 31-7-128(b)(i), W.S. 31-7-128(b)(ii), and W.S. 31-7-128(c).

WHAT IF I AM ARRESTED WITH CHILDREN IN THE VEHICLE?

There are also additional penalties which will result if a suspect has a child passenger in the vehicle at the time of driving under the influence. A child passenger is defined as any person sixteen (16) years or younger and these additional penalties only apply when the suspect (driver) is eighteen (18) years or older. These additional penalties include imprisonment for up to one (1) year and a fine of up to \$750.00. On a second offense within five (5) years, a convicted party can be imprisoned to up to five (5) years. See W.S. 31-5-233(m), W.S. 31-5-233(m)(i), and W.S. 31-5-233(m)(ii).

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