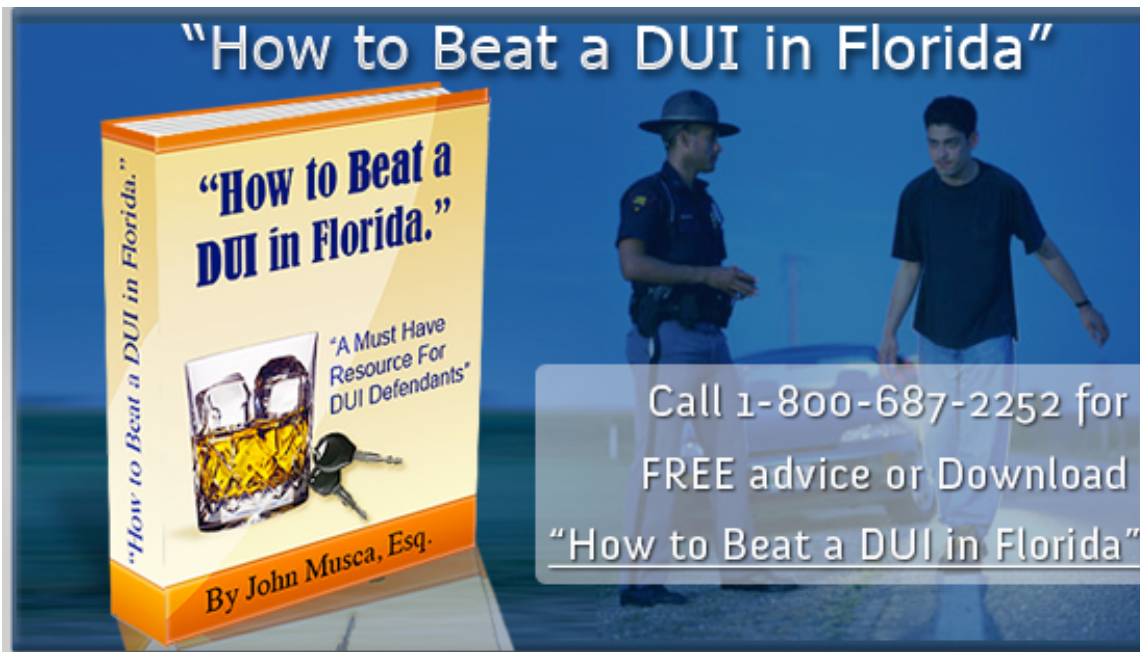


# MuscaLaw.com

## How to Beat a DUI in Florida

By John Musca, Esq.



**"How to Beat a DUI in Florida"**

**"How to Beat a DUI in Florida."**

**"A Must Have Resource For DUI Defendants"**

By John Musca, Esq.

Call 1-800-687-2252 for FREE advice or Download "How to Beat a DUI in Florida"

The advertisement features a 3D rendering of a book titled "How to Beat a DUI in Florida" by John Musca, Esq. The book cover is yellow and orange, with a glass of whiskey and keys. The background shows a police officer in a uniform and hat talking to a man in a dark shirt and light pants next to a car at night.

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## **INTRODUCTION**

If you or a loved one has been arrested for driving under the influence ("DUI") in the state of Florida, you should never assume that you are without options. You should never plead guilty without legal advice and representation from an experienced DUI attorney. All DUI charges are serious criminal allegations that carry harsh penalties, fines, and other consequences that can negatively impact your life for many years.

This Florida E-book provides a comprehensive legal resource to help you better educate yourself if you are charged with a DUI offense in the State of Florida. These Florida DUI resources will help to prepare you for the difficult legal decision you will need to make concerning your case.

Alternatively, you may call our 24/7 Florida DUI helpline toll free at (800) 687- 2252 to speak with a lawyer in your area to discuss the facts of your DUI case. You may also search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

It is vital that you fully understand and weigh the legal options available to you in order to protect your legal rights at both your DUI administrative hearing and criminal proceeding.

### **Why Does Experience Matter in Florida DUI Cases?**

Attorneys who focus their practice exclusively on defending clients charged with a DUI tend to be better informed regarding new developments and novel legal issues and defenses that are embodied in Florida's criminal statutes and case law relevant to DUI. One of the best DUI defense strategies is to submit pretrial motions to the judge that ask for key pieces of evidence against you to be excluded and for the court to dismiss the charges. In the event that the judge rules to exclude certain pieces of evidence against you, the prosecutor is likely to reduce your charges to reckless driving or some other less serious offense. If your case does go to trial, any prejudicial evidence that is suppressed may significantly increase your chances of being found "not guilty."

### **The Consequences of a Florida DUI Conviction**

Throughout this website, you will learn about the various ways you can beat a Florida DUI charge. Even if you or a loved one was arrested, subject to a chemical test and/or performed a field sobriety test, this does not mean that the prosecutor will be able to obtain a conviction.

The penalties and costs associated with a Florida DUI conviction are life changing and expensive. These penalties could include the possibility of jail time, hefty fines, court costs, community service hours, lengthy probation, DUI school, substance abuse evaluations with follow up counseling sessions, vehicle

impoundment, and installation of an ignition interlock device on your vehicle. A Florida DUI conviction also can impact your career as well as future educational and employment opportunities.

Those individuals who require special state or federal certification including airline pilots, commercial (CDL) truck drivers, counselors, doctors, lawyers, members of law

enforcement, military personnel, nurses, and school teachers can have their career status jeopardized.

## **Every DUI Charge Results in Two Cases Being Filed Against You**

When you have been arrested for DUI in the State of Florida, there are two cases filed against you. The first case against you will be an administrative hearing that deals with your driver's license. The second case is the criminal case that will determine your punishment and sentence should you be found guilty.

## **Protecting Your Driver's License**

In the State of Florida, when you are arrested for drunk while intoxicated, you have 10 days to request a formal review hearing to contest the administrative suspension of your driver's license. An experienced Florida DUI lawyer will represent you in the formal review hearing to help you obtain a temporary driving permit pending the outcome of your criminal case.

This formal review hearing is an important stage in your case because your attorney has the right to cross-examine key prosecution witnesses such as the arresting police officer, the breath test machine technician, and anyone involved with the calibration and testing of the breath test machine. Another advantage of having an attorney represent you at your formal review hearing is that your lawyer may subpoena legal documents that will be used in your pending criminal trial.

## **The Criminal DUI Process Made Easier**

When you retain a Florida DUI lawyer, your legal counsel may be able save you the emotional stress and inconvenience of having to appear in many of the pretrial court hearings.

## **Free Consultation With a Florida DUI Lawyer In Your Area:**

Hiring a Florida DUI attorney to aggressively defend you can help you obtain the best possible result in your case. Call our toll-free, Florida DUI Helpline at 1 (800) 687-2252 or search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

## Why Hire a Florida DUI Attorney

If you or a loved one has been arrested for driving under the influence ("DUI") in the state of Florida, you face very grave penalties such as jail time and/or severe financial fines and expenses that can total as much as \$8,000 in the first few years following a Florida DUI conviction. Pleading guilty to Driving While Intoxicated means that you forgo your chances of beating your DUI charge altogether. Do not expect leniency for pleading guilty to a DUI charge. The best way to obtain a positive result is to develop a strong defense that may result in the dismissal of your charges altogether.

All DUI charges are serious criminal offenses that carry harsh penalties, fines, and may negatively impact your life for many years. The fact that you or a loved one was arrested, subject to a chemical test and/or performed a field sobriety test does not mean that prosecutor will be able to obtain a conviction.

### The Consequences of a Florida DUI Conviction

The penalties and costs associated with a Florida DUI conviction are life changing, inconvenient and expensive. These penalties may include one or more of the following punishments regardless of whether or not you have been arrested for DUI or this is your 1<sup>st</sup> offense.

Possible penalties for a Florida DUI conviction include:

- Possibility of jail time
- Hefty fines
- Court costs
- Community service hours
- Lengthy probation
- DUI school
- Substance abuse evaluations with follow up counseling sessions
- Vehicle impoundment
- Installation of an ignition interlock device on your vehicle.
- Negative impact on your career as well as future educational and employment opportunities

### Every DUI Charge Results in Two Cases Filed Against You

After you have been arrested by law enforcement on a charge of DUI, there are two cases that will be filed against you. The first case that will be filed against you is an administrative hearing. This hearing will determine whether or not you will get a temporary license until your criminal court hearing.

The second case involves that will be filed against you is the criminal case. The criminal case will determine whether or not you are guilty of DUI and the punishment if you are found "guilty" of DUI.

## **Protecting Your Ability to Drive**

In the State of Florida, when you are arrested for drunk while intoxicated, you have 10 days to request a formal review hearing to contest the administrative suspension of your driver's license. An experienced Florida DUI lawyer will represent you in the formal review hearing and help you obtain a temporary driving permit pending the outcome of your criminal case.

This formal review hearing is an important stage in your case because your attorney has the right to cross-examine key prosecution witnesses such as the arresting police officer, the breath test machine technician, and anyone involved with the calibration and testing of the breath test machine. Another advantage of having an attorney represent you at your formal review hearing is that your lawyer may subpoena legal documents that will be used in your pending criminal trial.

## **The Criminal DUI Process**

When you retain a Florida DUI lawyer, your legal counsel may be able save you the emotional stress and inconvenience of having to appear in many of the pretrial court hearings.

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Hiring a Florida DUI attorney to aggressively defend you can help you obtain the best possible result in your case. Call our toll-free, Florida DUI Helpline at 1 (800) 687-2252 or visit our a Florida DUI page for additional information about our firm by clicking this link: <https://www.muscalaw.com/criminal-defense/dui>.

**If you need immediate assistance**, please call our 24/7 Florida DUI helpline at (800) 687-2252 to speak with an attorney. All phone calls are answered 24 hours a day and 7 days a week.

## DUI Defenses

When faced with the possibility of a criminal conviction for Florida DUI, the goal is to defend your case aggressively so that you can persuade the prosecutor to reduce your DUI case to reckless driving or obtain a dismissal of the charges.

An experienced Florida DUI lawyer may also be able to negotiate whether or not the court will "withhold adjudication" on the reckless driving charge. An agreement to "withhold adjudication" will seal this criminal charge on your record from public access.

### The most common types of Florida DUI defenses include:

- Jurisdictional Issues
- Driving or Actual Physical Control
- Probable Cause For The Stop
- Challenging Field Sobriety Exercises
- Disputing The Chemical Results
- Using The DMV Hearing to Defeat Criminal DUI Case ○ Source Code of Breath Test Machine
- Video Evidence
- Expert Witnesses

**DUI Defense For Women** - There are a number of reasons that DUI charges against women are skewed. More women are being unfairly arrested for drunk driving. A savvy Florida DUI attorney can help you fight those charges. They will point out the discrepancies in accuracy for breath test analyzers on female subjects. They will also point out the difficulties that are sometimes encountered when women are wearing high heels or are barefoot and attempting to perform sobriety tests.

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# Consequences of a Florida DUI

## Free Consultation With a Florida DUI Lawyer In Your Area:

DUI penalties vary depending on the number of convictions you have had, if any, and the individual circumstances of the incident. Penalties include jail time, driver's license suspension, community service, vehicle impoundment, DUI school, substance abuse evaluation and possible treatment, random testing, victim impact panels and fines and court/prosecution costs.

## Florida DUI Penalties, Sanctions or Punishments

After an individual has been arrested in Florida for Driving Under The Influence ("DUI"), one of the first questions of concern is "Am I going to jail or what are the punishments I am looking at?" An initial consultation with an experienced Florida DUI lawyer can provide the best answers as each case is unique involving different factors and circumstances. The penalties also will vary depending on the criminal charges that were filed against you. However, the State of Florida does have a set standard of minimum penalties, sanctions and punishments, which increase in severity depending on whether you have prior convictions.

Visit our Florida DUI lawyer directory to find an experienced Florida DUI lawyer in your area who will offer a free initial consultation to discuss the particular penalties associated with your case.

## Florida's Statutory Minimum Mandatory Requirements For DUI Convictions

The Florida statutes provide minimum mandatory punishments to be imposed by the Court in every case when an individual is convicted of a DUI. The most important thing to consider is that a negotiated plea with the prosecutor may result in less severe punishment than the mandatory minimum. An experienced Florida DUI attorney represents will often be able to build a strong enough defense to encourage the prosecutor to consider negotiating a plea deal.

In almost every case, the minimum mandatory penalties are far greater and much more costly than people charged with their first DUI in Florida would expect. These are just the minimum punishments, and the court may decide to impose more severe penalties when reviewing the facts and circumstances of your case.

## Jail Sentencing Associated With DUI Convictions

**First DUI Conviction:** Up to six (6) months in jail. The jail sentence may be increased up to nine (9) months if the blood alcohol concentration ("BAC") results were .15 or over. The jail sentence may also be increased to nine (9) months if a minor child was in the vehicle at the time of arrest.

**Second DUI Conviction (within 5 years):** Upon receiving a second DUI conviction within 5 years of a previous DUI conviction, you are facing up to nine (9) months in jail. The penalty may be increased or "enhanced" to a jail sentence of up to (12) twelve months if the blood alcohol level ("BAC") results were over .15. The jail sentence also may be increased to (12) twelve months if there was a minor was in the vehicle at the



time you were arrested for DUI. The minimum mandatory jail sentence is 10 days. An individual also must serve (48) forty-eight hours of consecutive confinement.

**Third DUI Conviction:** Any individual convicted of a third DUI in the State of Florida will serve a minimum (30) thirty days of mandatory jail time should the third conviction occur within (10) ten years of the second conviction. There also may be a jail term imposed of up to (12) months for a third DUI conviction within or after (10) ten years of a second DUI conviction.

**Fourth or Subsequent Felony DUI Conviction:** Anyone convicted of a fourth DUI or subsequent DUI in the State of Florida is facing a prison sentence of up to (5) five years or longer.

## **Florida DUI Fines**

Florida Statute Section 316.193(2)(a) through (b), provides the fines that can be imposed on an individual convicted of a DUI. These fines may be increased or “enhanced” depending on the circumstance of your case, such as, whether or not a minor child was in the vehicle at the time of arrest or whether or not this is a repeat offence or there was property damage or personal injury involved.

**First DUI Conviction:** The fine for a first time DUI conviction is between \$500 and \$1,000. The fines increase to a minimum of \$1,000 to a maximum of \$2,000 if the BAC results were .15 or higher. This increase also is added if a minor was in the vehicle at the time of your arrest.

**Second DUI Conviction:** The fine for a second DUI conviction in the State of Florida is between \$1,000 and \$2,000. This fine can be increased to between \$2,000 to \$4,000 with a BAC result of .15 or higher and/or if a minor child was in the vehicle at the time of your arrest.

**Third DUI Conviction:** A third DUI conviction (outside of 10 years) will result in a fine of a minimum \$2,000 up to \$5,000. The minimum fine is increased to \$4,000 if the result of your BAC was .15 or higher and/or if a minor child under the age of 18 was in the vehicle at the time of your arrest.

**Fourth DUI Conviction:** A fourth DUI in the State of Florida becomes a mandatory felony charge. Any fines may not be less than \$2,000.

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## **Defend Your Florida DUI Breath Test Results**

A breath test result over the legal limit of .08 *is not* necessarily meant that you will be found “guilty” in your criminal case. A knowledgeable and experienced Florida DUI attorney will tell you that the results may not be reliable. There are physical and medical causes that may raise your blood alcohol concentration and make it inaccurate. Your Florida DUI lawyer may employ a number of possible defenses revolving around your breath test and its results.

Did you know that many of these breath test cases regardless of how high the test readings were are dismissed or reduced to reckless driving during the pre-trial motion hearings?

In many cases, a DUI conviction is avoided when you hire an experienced Florida DUI lawyer to defend your DUI charges. In pre-trial motions, it is vital to your defense that you argue to exclude the breath test results. The standard breath test machine used throughout the State of Florida is the Intoxilyzer 8000.

The Intoxilyzer 8000 machines have been shown to have serious mechanical problems that undermine the test accuracy and their integrity for admission as evidence. Inaccurate or false high readings can occur do to improper machine calibration, a burp or belch during the 20-minute wait period prior to taking the breath test, alcohol trapped by dentures or dental appliances and medical conditions affecting lung function or body temperature.

An experienced Florida DUI lawyer will file a Motion for Inspection to have experts inspect the Intoxilyzer 8000’s software, source code, the machine’s interior and inner computer components. An experienced Florida DUI attorney will also file a Motion to Suppress your breath machine test results since the Intoxilyzer 8000 was not actually approved by Florida state law due to compliance issues with Florida Department of Law Enforcement Rules.

### **Mandatory 20-Minute Observation Period Prior To Test Sample**

Florida law requires that a 20-minute waiting period must be observed prior to administering a breath test. An individual who is to provide a breath sample must not have eaten, drank or taken anything by mouth for at least 20 minutes. The subject also must not have regurgitated for a minimum of 20 minutes prior to providing a breath test.

Under Florida law, this 20-minute observation rule has to be followed in order for your breath test results to be admitted as evidence against you. In order to substantiate whether or not this 20-minute observation period was properly observed, an experienced Florida DUI lawyer should obtain and view a copy of the videotape of your breath test.

### **Improper Breath Test Administration**

A common cause of a false high breath test result is the improper administration of the breath test. Should the subject be told to provide a long or overextended breath sample, for example, a false high result is likely to occur. In other words, the longer you are told to blow into the breath test machine, the higher your blood alcohol reading is likely to be especially if you have diminished lung capacity.

If you submitted a breath test and were charged with a DUI in Florida, call our 24/7 Florida DUI helpline at (800) 687-2252 to speak with an attorney. All phone calls are answered 24 hours a day and 7 days a week. You may also search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

# Defend Your Florida DUI Blood Test Results

## Free Consultation With a Florida DUI Lawyer In Your Area:

A blood test is one of the methods of measuring your blood alcohol concentration after a Florida DUI stop. Florida state law limits how they are obtained, who may take the blood sample and the circumstances in which they may be administered. If any of the prescribed procedures and requirements were followed improperly, these violations may form the basis of a persuasive defense in your Florida DUI case.

According to Florida criminal statutes, a blood test measuring the percentage of alcohol in your blood may be requested if breath or urine testing is impossible or impracticable, or if there is an accident resulting in serious personal injury or death. A blood test may also be requested in those instances where the subject's breath test results are below the legal limit, but there are sufficient indicators of impairment from drugs.

## Florida Laws Regarding Blood Testing As Evidence in a DUI Trial

Florida law grants law enforcement the right to request a sample of a subject's blood for testing. For the blood test results to be admissible in a DUI trial, however, the prosecutor is required to prove that the medical technician that drew the blood sample was qualified, that the blood test results are relevant to the case, and that the blood test results are scientifically reliable.

**Fact** - If you blew under the legal limit but were required to submit to a blood test, your license may not necessarily be suspended. A suspension will depend on the outcome of your lab results, which takes 2-4 months. An experienced Florida DUI lawyer can ensure that your license is still valid during the time it takes the results to return from the Florida Department of Motor Vehicles.

The Florida Dept of Law Enforcement (FDLE) does the lab testing and then provides the blood alcohol concentration ("BAC") results in a report to the arresting agency. If the FDLE finds any intoxicating chemicals or alcohol in the blood sample, it is up to the arresting agency to decide whether or not they will pursue the administrative hearing or driver's license suspension. You will receive notification or a copy of your citation giving you notice of your driver's license suspension in the event your license has been suspended.

Florida DUI trials that involve blood test evidence are the most expensive and complicated DUI cases to prosecute due the length of time it takes for the test results to return.

An experienced Florida DUI lawyer will be able to review the facts of your DUI case and determine which of the following legal challenges should be raised in defending a Florida DUI blood test case. These challenges can lead to complete exoneration or dismissal of the DUI charges pending against you. The legal challenges also can be used to negotiate the reduction of your DUI charge down to a reckless driving charge that ultimately prevents a DUI conviction on your record.

## Legal Challenges Used To Defend Florida DUI Blood Test Results:

- Proving the blood sample was not drawn by qualified medical personnel

- Blood sample mistakes such as using an alcohol pad to “prep” the vein
- Improper contamination of the blood sample with chemicals
- Not providing a 2nd sample for independent testing by defense attorneys
- Failure to establish the procedures and time lines used by lab personnel
- Improper care, handling or storage of the sample
- Human error
- Improper equipment recalibration
- Failure to prove adherence to stringent lab procedures
- Failure to establish that the test results are scientifically reliable

An experienced Florida DUI lawyer will investigate your case and look for any discrepancies or violations of required procedures involving your blood test. Experts will also review these situations in order to provide valid testimony concerning the testing procedures or methods used to test your blood for alcohol or chemicals.

### **Florida's Implied Consent Laws In Regards To Blood Withdrawal**

In the State of Florida, law enforcement is authorized by law to withdraw blood without a person's consent and by force in limited situations. Florida Statute Section 316.1933(1) provides “a law enforcement officer has probable cause to believe that a motor vehicle driven by or in the actual physical control of a person under the influence of alcoholic beverages, any chemical substances, or any controlled substances has caused the death or serious bodily injury of a human being, a law enforcement officer shall require the person driving or in actual physical control of the motor vehicle to submit to a test of the person's blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances as set forth in s. 877.111 or any substance controlled under chapter 893.”

DUI cases that involve providing a blood sample for chemical testing are usually the most challenged cases by defense attorneys. If you have been charged with DUI and have submitted to a blood test, please call our 24/7 Florida DUI helpline at (800) 687-2252 to speak with an attorney. All phone calls are answered 24 hours a day and 7 days a week. You may also search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

# Defend Your Florida DUI Urine Test Results

## Free Consultation With a Florida DUI Lawyer In Your Area:

A Florida law enforcement officer may request a urine test when a breath test returns at .08 or less. The officer may also be looking for evidence of substances in the blood such as marijuana, cocaine or other narcotics as well as prescription or non-prescription drugs. However, these tests may be proven unreliable or inaccurate. Your Florida DUI lawyer may determine that this evidence should be challenged as inadmissible or that the urine test is a weak link in the prosecutor's case that can be used in your favor.

Most people do not realize that they are automatically providing consent to the State of Florida to submit to a chemical test when they drive on Florida roads. Florida's "Implied Consent Law" requires individuals suspected of Driving While Intoxicated by alcohol or drugs to submit to chemical testing of their urine, breath or blood.

After you have been arrested for suspicion of DUI, Florida state laws give law enforcement officers the authority to request submission to a urine test. Refusal to submit to urine or other chemical tests triggers automatic punishments and consequences for refusing to submit to testing.

In the State of Florida, a urine test is typically requested if a subject is suspected of Driving Under The Influence but blows under the legal limit. A urine test is also ordered when the subject has physical impairments or the breath test equipment is non-functional or otherwise unavailable. If you blew under the legal limit but were required to submit a urine sample, your license is not necessarily suspended since the lab (and depending on results) will take 2-4 months to test and report the results of your urine sample to the Florida DMV.

The Florida Department of Law Enforcement does the testing then submits the results in a report to the arresting agency. If FDLE finds any chemicals or alcohol in the urine sample, it is up to the arresting agency to decide whether or not they will pursue the administrative hearing or driver's license suspension. You will receive notification or a copy of your citation giving you notice of your driver's license suspension.

The urine tests used in the State of Florida have the ability to detect trace amounts of the following substances:

- Illegal narcotics such as cocaine, heroin and marijuana
- Prescription controlled substances such as Codeine or Hydrocodone

Common over-the-counter medications like cough medicine

Urine tests are not designed to measure the level of intoxication and cannot accurately pinpoint the exact time in which the alcohol or narcotics were consumed. An experienced Florida DUI lawyer will likely retain a qualified pharmacological expert or toxicology expert to assist your DUI defense attorney in explaining the problems with the test results at pre-trial motions or during your trial.

## Problems The Prosecution Has To Address With Urine Test Evidence

1. DUI urine tests are the least scientifically reliable tests.
2. Inability to measure Blood Alcohol Concentration (BAC) levels
3. Inability to prove drug "intoxication" or impairment
4. False positives results

Urine tests are a very unreliable method for the prosecution to prove intoxication or impairment. Urine tests are susceptible to human error and contamination which will make the resulting false positive urinalysis result inadmissible in a lot of Florida DUI cases. Moreover, the use of strict procedural protocol is hard to prove. If challenged by an experienced Florida DUI lawyer, urine tests often can be successfully excluded as inadmissible at trial.

Florida DUI lawyers understand that any admission of a urine test will be prejudicial to your defense. This is because it allows the jury to become aware of a defendant's past drug use which by itself may convince a jury that the defendant is guilty regardless of whether or not the test failed to prove impaired driving.

If you have been arrested and charged with a DUI and have submitted a urinalysis, call our 24/7 Florida DUI helpline at (800) 687-2252 to speak with an attorney. All phone calls are answered 24 hours a day and 7 days a week. You may also search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

# Chemical Test Refusal

## Free Consultation With a Florida DUI Lawyer In Your Area:

When you are stopped by a police officer while driving under the influence, you may be asked to take a blood, urine or breath test. You may refuse, but you will face immediate administrative sanctions and possibly a suspension of your driving privileges. An experienced Florida DUI lawyer can help you turn this refusal into an advantage for your defense.

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Upon being placed under arrest for suspicion of driving under the influence, you will be asked to submit to a chemical test such as a breath test, blood test or urine test. Should you refuse to submit to any chemical tests, two events will occur.

#1 – The law enforcement officer will immediately seize your Florida driver's license and your driving privileges will be immediately revoked.

#2 – The prosecutor's office will proceed with a criminal case against you using your refusal to submit to a chemical test as evidence that you thought you were guilty of DUI.

If you refuse to take any form of DUI chemical testing, your chances for beating your DUI conviction are increased due to the fact it will be harder for the prosecution to prove driving under the influence without a positive chemical test result. The burden of proof that you were intoxicated or driving impaired will force the prosecutor to try and present a case based on less tangible evidence.

For a first test refusal offense, your Florida driver's license is likely to be immediately seized and suspended for 12 months and a commercial driver's license or CDL license also will be suspended for 12 months.

A second test refusal will result in an automatic 18-month suspension of a Florida driver's license and a permanent revocation of a CDL license.

For a third or subsequent DUI arrest where you refuse a breath test without prior refusals, you are facing a 12-month suspension. With a prior breath test refusal, you will face an 18 month suspension

## Will I Be Convicted of a DUI When I Refuse a Chemical Test?

Most DUI charges are dropped when a subject refuses to submit to a DUI chemical test such as a breath, urine or blood test. However, this does not mean that you should not retain an experienced Florida DUI lawyer to represent you. Without qualified legal counsel, the prosecution may press forward with the criminal prosecution of your DUI case.

## Factors that should be evaluated by an experienced Florida DUI lawyer:



Did the officer properly advise you about Florida's Implied Consent Warnings? Did the driver technically "refuse" or was the driver unable to submit?

Did the driver indicate that he or she wanted to speak with an attorney before taking the test?

Was there a valid legal basis for stopping the vehicle or arresting the driver?

Are there witnesses to substantiate the driver of the vehicle in an accident situation?

### **Florida's Ten Day Administrative Hearing Challenge Rule**

In Florida, you have a period of 10 days to fight the administrative suspension of your driver's license. These hearings are not automatic, and an experienced Florida DUI lawyer will file a demand for your Formal Review Hearing. This process is very helpful in defending your charges because it allows your attorney to subpoena the officers involved at the scene, the breath test technician and/or any other witnesses relevant to your DUI case.

The Formal Review Hearing provides your attorney with the opportunity to fight your driver's license suspension and the ability to cross-examine any or all of the witnesses that will be used in your criminal trial.

### **DUI Refusal Defenses Raised By An Experienced Florida DUI Lawyer**

A refusal to submit to a chemical test is only admissible in court when that law enforcement officer has proven full compliance to Florida's Implied Consent Statute, Section 316.1932(1)(a). This statute states that a driver on Florida roads has automatically consented to submit to an "approved" chemical test of the subject's breath, urine or blood upon lawful arrest for driving under the influence.

Should you refuse to take the chemical tests, you will be moved to a room and video taped as the arresting officer reads you Florida's Implied Consent Warning.

Florida state law requires this.

### **Florida's Implied Consent Warning**

*"If you fail to submit to the chemical test of your breath, blood, or urine, your privilege to operate a motor vehicle will be suspended for a period of one (1) year for a first refusal, or eighteen (18) months if your privilege has been previously suspended as a result of a refusal to submit to a lawful test of your breath, urine or blood. Additionally, if you refuse to submit to the test I have requested of you and if your driving privilege has been previously suspended for a prior refusal to submit to a lawful test of your breath, urine or blood, you will be committing a misdemeanor (pursuant to Florida Statute 319.1939). Refusal to submit to the test I have requested of you is admissible into evidence in any criminal proceeding. Do you still refuse to submit to this test knowing that your driving privilege will be suspended for a period of at least one year and that you will be charged criminally for a subsequent refusal?"*

### **Should Innocent Drivers Refuse to Submit to Chemical Testing?**

As previously discussed, the prosecution will attempt to use your refusal to submit to a chemical test as evidence of your guilt. An experienced Florida DUI lawyer will carefully investigate your case to determine the appropriate defense to allegations that you refused a chemical test.

Some reasons people refuse to submit to chemical testing after a DUI arrest even if they believe they are innocent of a DUI include the following:

- Health concerns related to the maintenance or cleanliness of the instrument
- Miranda Rights confusion concerning “the right to speak with an attorney” before submitting to a chemical test
- Reliability concerns pertaining to a breath test machine and the possibility of producing a false positive
- Disbelief in the officer’s authority to request a breath, blood or urine test
- Medical problems that could affect testing

**If you need immediate assistance**, please call our 24/7 Florida DUI helpline at (800) 687-2252 to speak with an attorney. All phone calls are answered 24 hours a day and 7 days a week. You may also search our Florida DUI Lawyer Directory to locate a Florida DUI attorney in your area by visiting <https://www.muscalaw.com/criminal-defense/dui>.

## Find a Florida DUI Lawyer

If you or a loved one has been arrested for Driving Under the Influence (DUI) in Florida, our Florida DUI lawyer directory can help you select an experienced DUI attorney in your area. Each Florida DUI lawyer participating in the Florida DUI lawyer directory is very familiar with Florida criminal statutes and laws as well as applicable Florida case law. The DUI defense attorneys listed in our directory can examine the different types of questionable evidence that may be involved in your particular case.

The Florida DUI defense lawyers listed in our directory will aggressively defend your case to provide the best possible outcome in your favor. There are a number of factors that may make your case unique. Each law firm offers a free, confidential consultation to address your concerns and consider all of the circumstances and possible defenses in your Florida DUI case.

To get started searching for a Florida DUI lawyer in your area, select the Florida county below where you were arrested for DUI. You may also select the Florida county in which you would like to meet with an attorney. All office visits are by appointment only and must be scheduled in advance.

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