



# Pennsylvania DUI Handbook



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Although DUI – drunk driving or drugged driving - is a serious criminal offense under Pennsylvania law, individuals who have been arrested for DUI in PA are often good people who have failed to exercise good judgment. The penalties for a DUI conviction in Pennsylvania are harsh, and the impact on your future can be devastating and long-lasting. The experienced Pennsylvania DUI attorneys from The Martin Law Firm have prepared this DUI Handbook to provide relevant and useful information to those facing DUI charges in PA.



# Pennsylvania DUI Handbook

An overview of DUI legal procedures and defenses in Pennsylvania.



## Legal Disclaimer

This document is intended as a public resource of general information and may not apply to particular factual or legal circumstances. It is intended, but not promised or guaranteed, to be correct, complete, and up-to-date. The information contained herein is not intended to be a source of solicitation, legal advice, or opinions and should not be relied upon as such. The Martin Law Firm only provides legal advice after having entered into an attorney-client relationship, which this document specifically does not create. An attorney-client relationship will only be created with a written, signed agreement with The Martin Law Firm. It is extremely important and imperative that any action taken be done on advice of counsel.

## Pennsylvania's DUI Law

### Driving under the influence of alcohol or controlled substance - 75 Pa. C.S.A. § 3802

The Pennsylvania DUI law is set forth in the Pennsylvania Motor Vehicle Code at 75 Pa. C.S.A. § 3801, et seq. In Pennsylvania, an individual can be charged with driving under the influence of alcohol or controlled substances (drugs) when the individual drives, operates, or is in actual physical control of the movement of a vehicle such that:

1. The individual is rendered incapable of safe driving, operating, or being in actual physical control of the movement of the vehicle, or
2. The alcohol concentration (BAC) in the person's blood or breath is at least 0.08%.



## Impairment (BAC)

There are three (3) types of impairment set forth under Pennsylvania law that determine the penalties that will be imposed upon conviction for DUI:

- General Impairment BAC: 0.08 – 0.099%
- High BAC: 0.10 – 0.159%
- Highest BAC: 0.16% and higher\*

*\*A conviction for driving under the influence of controlled substances in Pennsylvania will be treated as a highest BAC level of DUI for sentencing purposes, regardless of actual BAC.*



## DUI Penalties in Pennsylvania

The criminal penalties for DUI conviction in Pennsylvania are severe and can impact your life for many years following your arrest. The Pennsylvania DUI law sets forth penalties for conviction at 75 Pa. C.S.A. § 3804. Penalties for a Pennsylvania DUI conviction may include, but are not limited to, the following:

- Jail time
- Fines and costs
- Mandatory drug and alcohol counseling
- Community service
- Driver’s license suspension
- Probation
- House arrest
- Criminal record

Pennsylvania courts use a tiered matrix to determine criminal sentences for DUI. Sentencing is based on both your blood alcohol content (BAC) level and the number of your previous offenses, if any. If you are represented by an experienced and skilled [Pennsylvania DUI lawyer](#), your lawyer can fight for you to ensure that you serve the absolute minimum sentence possible under PA law.

### General Impairment DUI Penalties

|                             |  |
|-----------------------------|--|
| First Offense               | <ul style="list-style-type: none"> <li>▪ Misdemeanor - ungraded</li> <li>▪ Probation: 6 months maximum</li> <li>▪ \$300 fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> </ul>  |
| Second Offense              | <ul style="list-style-type: none"> <li>▪ Misdemeanor - ungraded</li> <li>▪ 12-month license suspension</li> <li>▪ 5 days minimum prison sentence</li> <li>▪ \$300 - \$2,500 fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ 1 year ignition interlock</li> </ul> |
| Third or Subsequent Offense | <ul style="list-style-type: none"> <li>▪ Misdemeanor – 2<sup>nd</sup> degree</li> <li>▪ 12-month license suspension</li> <li>▪ 10 days minimum prison sentence</li> <li>▪ \$500 - \$5,000 fine</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ 1 year ignition interlock</li> </ul>                            |



**High BAC DUI Penalties**

|                                     |   |
|-------------------------------------|---|
| <p>First Offense</p>                | <ul style="list-style-type: none"> <li>▪ Misdemeanor - ungraded</li> <li>▪ 12-month license suspension</li> <li>▪ 48 hours minimum prison sentence</li> <li>▪ \$500 - \$5,000 fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> </ul>   |
| <p>Second Offense</p>               | <ul style="list-style-type: none"> <li>▪ Misdemeanor - ungraded</li> <li>▪ 12-month suspension</li> <li>▪ 30 days minimum prison sentence</li> <li>▪ \$750 - \$5,000 fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ Mandatory ignition interlock for 1 year</li> </ul> |
| <p>Third Offense</p>                | <ul style="list-style-type: none"> <li>▪ Misdemeanor – 1<sup>st</sup> degree</li> <li>▪ 12-month license suspension</li> <li>▪ 90 days minimum prison sentence</li> <li>▪ \$1,500 - \$10,000 fine</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ Mandatory ignition interlock for 1 year</li> </ul>                  |
| <p>Fourth or Subsequent Offense</p> | <ul style="list-style-type: none"> <li>▪ Misdemeanor – 1<sup>st</sup> degree</li> <li>▪ 18-month license suspension</li> <li>▪ 1 year minimum prison sentence</li> <li>▪ \$1,500 - \$10,000 fine</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ Mandatory ignition interlock for 1 year</li> </ul>                   |





### Highest BAC / Controlled Substance DUI Penalties

|                                    |  |
|------------------------------------|--|
| <p>First Offense</p>               | <ul style="list-style-type: none"> <li>▪ Misdemeanor - ungraded</li> <li>▪ 12-month license suspension</li> <li>▪ 72 hours minimum prison sentence</li> <li>▪ \$1,000 - \$5,000 fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> </ul>  |
| <p>Second Offense</p>              | <ul style="list-style-type: none"> <li>▪ Misdemeanor – 1<sup>st</sup> degree</li> <li>▪ 18-month license suspension</li> <li>▪ 90 days minimum prison sentence</li> <li>▪ \$1,500 minimum fine</li> <li>▪ Alcohol Highway Safety School</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ Mandatory ignition interlock for 1 year</li> </ul> |
| <p>Third or Subsequent Offense</p> | <ul style="list-style-type: none"> <li>▪ Misdemeanor – 1<sup>st</sup> degree</li> <li>▪ 18-month license suspension</li> <li>▪ 1 year minimum prison sentence</li> <li>▪ \$2,500 minimum fine</li> <li>▪ CRN Evaluation</li> <li>▪ Drug and alcohol treatment as ordered</li> <li>▪ Mandatory ignition interlock for 1 year</li> </ul>   |

## Accelerated Rehabilitative Disposition (ARD)

### What is ARD?

Accelerated Rehabilitative Disposition, commonly abbreviated as ARD, is a pre-trial intervention program established by the Pennsylvania Rules of Criminal Procedure. ARD is an alternative to a criminal conviction that is available under certain conditions. The ARD program aims to divert first-time offenders from the criminal justice system. Essentially, the ARD program is intended to encourage first-time DUI offenders to make a fresh start upon successful completion of a rehabilitative program by offering the possibility of expungement of the candidate’s criminal record.

### ARD Requirements

Pennsylvania ARD is generally available for first-time DUI offenders. There are a few exceptions under the law such as cases involving serious bodily injury. The appropriate Pennsylvania County District Attorney must move before the judge for your case to be considered for ARD. It is highly advisable that you consult an experienced Pennsylvania DUI lawyer for assistance with application and completion of the ARD program.



## Conditions of ARD

All judicial districts in Pennsylvania have different administrative requirements for processing and disposing of ARD cases. Generally, conditions of ARD include successful completion of probation, fulfillment of community service, full and timely payment of fines and costs, completion of a drug and alcohol evaluation conducted by an authorized official, and attendance and completion of mandatory alcohol awareness classes. A violation of any of the above conditions can result in immediate judicial termination of the ARD program. The District Attorney will then proceed with the original charges against the defendant.

## Expungement

If you complete the ARD program successfully, you will then be eligible for expungement of the DUI charge from your permanent criminal record. A Petition for Expungement must be properly filed with specific county, state, and local authorities. The requirements for expungement in Pennsylvania are rather tedious and vary from county to county. For these reasons, it is generally recommended that an experienced attorney assist in the expungement process. Once confirmation of the expungement is received from all of the necessary agencies, the DUI charge will no longer show up on a criminal background check, freeing you from the stigma of a criminal conviction.

## DUI Defense Strategies in PA

If you have been charged with drunk driving or drugged driving in Pennsylvania, it is very important that you contact an experienced [Pennsylvania DUI lawyer](#) as soon as possible following your arrest. Insight and advice from competent legal counsel during this time can be invaluable. In response to growing public opinion on the subject, Pennsylvania state and county authorities have been trained to take even first-time DUI charges very seriously. As a result, the consequences that can be imposed upon conviction are severe and long-lasting. The advice and expertise of a knowledgeable DUI attorney can be critical during this process. An experienced Pennsylvania DUI attorney can analyze the following areas to explore defense strategies for your DUI case:

### Traffic stop

There are strict standards that Pennsylvania police must follow in order for a traffic stop for suspected DUI to be legal. A qualified DUI lawyer can review the facts of your case and any available video surveillance tapes to determine whether there was a legal basis for your initial traffic stop. If the traffic stop did not meet the legal standard necessary to properly pull you over, a skilled DUI lawyer will have any evidence of intoxication obtained from the traffic stop suppressed, meaning that the prosecution will be prohibited from using that evidence against you in court.

### Field sobriety tests

The decision to conduct field sobriety testing must be based on specific facts that lead the police to believe that you may be intoxicated. Although you are not required to submit to



field testing under PA law, refusal to take the tests can be used by police as evidence of a guilty state of mind. Standardized field sobriety tests in Pennsylvania include the one-leg stand, walk and turn, and the horizontal gaze nystagmus test. An experienced DUI attorney will review the police report to look for inconsistencies in testing procedures, instructions given to you before each test, whether you have any medical conditions that could have prevented you from accurately completing the tests, and whether there were any weather conditions present that could have prevented accurate completion. Calling these issues into question can play a significant role in whether evidence obtained from field sobriety tests is admissible in a Pennsylvania DUI case.

### **Preliminary Breath Test (PBT)**

Many people confuse the "informal" roadside preliminary breath test (PBT) with the "formal" chemical testing that is administered back at the police station or DUI processing center. This is an important distinction. The sole purpose of the PBT is to assist the police officer in determining whether or not you should be placed under arrest for DUI. Under Pennsylvania law, you are not obligated to submit to the PBT. Recent Pennsylvania case law has significantly called into question the accuracy of the portable breath test devices customarily used by police in PA.

### **Probable cause to arrest**

The police will attempt to collect enough evidence that you are intoxicated to meet the standard necessary to make an arrest, called probable cause. Probable cause can be a difficult standard to reach. The police will attempt to use your performance on field sobriety tests as well as your driving behavior, speech characteristics, the smell of alcohol, and your overall behavior as reasons to arrest you for suspected DUI. This is why it is extremely important to exercise your right to remain silent if you are pulled over for DUI. An experienced DUI lawyer will comb through the evidence relied upon by police in reaching the legal standard. If the evidence falls short, the charges against you may be completely dropped.

### **Chemical testing**

You have the right to refuse chemical testing that is requested of you during a DUI stop; however, Pennsylvania's Implied Consent Law provides that if you refuse, you will automatically lose your license for 12 months. DUI proceedings can still occur even if you refuse chemical testing. Although this license suspension will be considered completely separate from your DUI proceedings, evidence of your refusal may be used against you in court. If you submit to chemical testing, a skilled DUI attorney may be able to challenge the validity of the tests. Chemical testing for DUI purposes must be performed under a very strict set of guidelines and regulations. Any deviation can create doubt as to the accuracy of the test results. An experienced DUI lawyer may be able to show flaws in the testing methods.



## Drugged Driving / Drug DUI

Law enforcement officials are aggressively targeting motorists for driving under the influence of controlled substances, also known as drugged driving, or Drug DUI. Arrests for drugged driving throughout PA have increased drastically over the past several years, due in part to special Drug Recognition Expert training undertaken by the Pennsylvania State Police. You can be pulled over for drugged driving in Pennsylvania just like any other alcohol-based DUI stop. Under Pennsylvania's Implied Consent Law, any driver in PA is deemed to have given consent to chemical testing for the purpose of determining the presence of a controlled substance. If a chemical test of your blood, breath, or urine reveals the presence of a controlled substance, including marijuana and/or prescription drugs, you may be charged with a DUI. **Conviction for drugged driving subjects you to the same criminal penalties as the highest level of DUI under Pennsylvania law.**

## Legal Representation for Pennsylvania DUI Charges

If you or a loved one is facing DUI charges in Pennsylvania, it is imperative that you contact an experienced [PA DUI lawyer](#) as soon as possible following your arrest. The importance of retaining competent and qualified legal counsel to defend you for a Pennsylvania DUI charge cannot be overstated. Your greatest opportunity for reaching the best possible result in your DUI case hinges on whether you have an experienced DUI lawyer on your side.

State, county, and local authorities in Pennsylvania have been trained to take even first-time DUI charges very seriously, and conviction for DUI will result in the imposition of harsh and long-lasting consequences that can impact your future for years following your arrest. The advice, expertise, and resources of an experienced DUI attorney will be invaluable throughout this legal process. An experienced DUI attorney will advocate for your rights and explore potential defense strategies for you. Issues to be considered include, but are not limited to, the following:

- Whether you were actually operating the vehicle
- Legality of your traffic stop
- Credibility of proof of your intoxication
- Whether the probable cause standard for arrest was met
- Whether chemical testing was performed in full compliance with standard procedures
- Accuracy of the blood, breath, or urine test results
- Refusal of chemical testing
- Out-of-state DUI charges
- Eligibility for alternative sentencing programs
- Possibility of expungement of your criminal record

## Selecting a DUI Attorney

Knowledgeable DUI attorneys can help their clients to obtain a reduced penalty as allowable by law. This can keep you out of jail, lessen your driver's license suspension, and even remove the DUI



charge from your criminal record through assistance with an application for ARD and expungement. A criminal conviction for DUI can severely hurt your future. A DUI conviction on your criminal record can bar you from employment opportunities, colleges and universities, graduate schools, financial aid opportunities, internships, and it can even impact child custody determinations.

There are a few important issues to consider when selecting a Pennsylvania DUI lawyer to represent you. A good DUI attorney is experienced and resourceful. An experienced DUI attorney has many advantages:

- Familiarity with applicable case law
- Able to recognize any defects in the prosecution's case against you
- Brings extensive trial experience to your side of the case
- Provides vital advice about your rights, options, and defenses as you move through the process

A good PA DUI attorney should advise you of the possible penalties and other consequences that you will face if convicted and should help you to realistically understand your chances of success at trial. A quality DUI lawyer will also present you with practical solutions tailored to your particular situation.

## DUI Defense at The Martin Law Firm

At [The Martin Law Firm](#), our experienced and knowledgeable DUI attorneys offer a free initial case evaluation for your pending DUI matter. The DUI lawyer assigned to your case will take the time to get to know you, learning the specific circumstances of your case. Your attorney will present you with options to proceed based on the particular circumstances of your case, and we will help you to weigh those options based on the specifics of your situation. Our DUI lawyers will not take your case unless we sincerely believe that we can improve your position. Your attorney will be available to you throughout the progression of your case for advice and guidance, and we will do everything we can to minimize the negative impact of this unfortunate situation on your life.

The Martin Law Firm provides comprehensive and skilled legal representation for those charged with DUI in Southeastern Pennsylvania, including Montgomery County, Bucks County, Chester County, Delaware County, and Philadelphia. Our attorneys are trained and experienced in all aspects of Pennsylvania DUI law, and we regularly defend clients for drunk driving, drugged driving, and other DUI-related matters in the Pennsylvania courts. [Contact an experienced DUI attorney](#) at The Martin Law Firm at 215-646-3980 today to learn how we can help you.

