

## Stopped for DWI? Know your rights

Editorial,  
Bennington Banner

Thursday, May 25

You've been out to a holiday party and consumed several beers. Perhaps you've just had dinner at your favorite restaurant and had a few glasses of wine. During your drive home, you cross the center line or go too fast, or maybe your tail light is out. Suddenly you see blue flashing lights in your rear view mirror. Nervously, you pull over and wait as the police officer slowly walks up to your window. You're asked if you've been drinking. What should (and shouldn't) you do?

- 1) You must get out of your car if ordered to do so.
- 2) You are not required to perform any of the roadside balance tests. How you perform on these exercises is used, in part, to decide whether you should be arrested for D.W.I. You're probably being videotaped during this time also.
- 3) You are not required to undergo a roadside breath test, also known as a P.B.T. There is no penalty for refusing. If you do "blow" and your result is .08 percent or higher, you can be arrested for D.W.I. If your result is below .08 percent, you can still be arrested, but you will not be subject to an automatic license suspension. Regardless of whether you undergo the test, the officer still has the right to later ask you to provide a breath sample in the police station, the results of which can be used to prosecute you for D.W.I.
- 4) If you are arrested and brought to the police station, realize that anything you say can (and will) be used against you. Above all, ask to speak to an attorney, who must be made available to you for a private telephone conversation before you are asked to decide whether to give a breath sample.
- 5) There is no hard and fast rule whether you must take the breath test at the police station. You must decide within 30 minutes after being asked whether to give a breath (or blood) sample. Vermont law imposes a minimum 90-day suspension of your license if your breath or blood test result is .08 percent or higher, as well as stiff fines and other penalties. Should you refuse the test, you face a six-month license suspension, and your refusal can be used against you to prove that you knew you were under the influence of alcohol.
- 6) If the officer gives you a notice of intention to suspend your license, you must fill out the back of the notice and mail it to Vermont Department of Motor Vehicles within seven days. Be sure to keep a copy, as it is your temporary license. Sending in the request for a hearing will allow you to continue to drive until the court holds a civil hearing and decides the state's request to suspend your license. This is a separate proceeding from the criminal offense of D.W.I., even though both the civil and criminal actions carry identical license suspension periods and reinstatement requirements, including financial responsibility auto insurance, completing Project CRASH, screening by an approved alcohol counselor and paying all fees and surcharges.
- 7) If you don't send in your request for a civil suspension hearing within seven days of receiving the notice, you lose your right to a hearing, and you'll go under suspension 11 days from the date of the notice. Also, if this is your second D.W.I., you'll automatically be suspended within 11 days even if you request a hearing, and the state could also seek to have your vehicle immobilized, or even taken away if it is your third offense. However, sending in the hearing request will at least give you a chance to try to get your license back.

The best advice? Don't drink alcohol and then get behind the wheel.

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