

DID YOU KNOW???

REFUSE CHEMICAL TEST FOR DWI, LOSE YOUR LICENSE

I am sometimes asked if it's better to refuse a chemical test if stopped for DWI than to submit to a test. My answer is to submit to the test. I also sometimes hear someone advising someone else to refuse the test, presuming, I suppose, that the person might be able to beat the DWI conviction if there is no chemical proof of intoxication.

Refusing to submit to a chemical test is indeed an option, but a very poor choice, even if you know you are intoxicated. Vehicle and Traffic Law (VTL), section 1194, Arrest and Testing, covers this subject and the consequences for refusal after having been placed under arrest for DWI or DWAI.

Although you have the legal right to refuse, any person who operates a motor vehicle in this state shall be deemed to have given consent (Implied Consent Law) to a chemical test of breath, blood, urine or saliva at the direction of a police officer having reasonable grounds to believe you are operating in violation of section 1192 of VTL (Driving under the influence of alcohol or drugs). If you do refuse to submit to a chemical test to determine your blood alcohol level, that refusal is grounds for suspension of your license by the judge at arraignment. If a DMV hearing later confirms you did refuse the test, your license will be revoked even if you are found not guilty of the alcohol or drug-related violation, and the DMV determines when your license can be returned. Its return or reinstatement is not automatic. You must reapply for your license and may have to pass a test.

Furthermore, the license revocation and civil penalty can be imposed even if the original DWI or DWAI is dismissed. Also, the fact that you refused can be introduced against you at trial.

So, you make the choice – refuse to submit to a chemical test and face losing your license regardless of whether or not you were in violation of DWI or DWAI.

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