

MANDATORY MINIMUM CRIMINAL PENALTIES

	1ST	2ND	3RD
JAIL	2 DAYS	7 DAYS	30 DAYS
FINE	\$1,250	\$1,875	\$3,125

LICENSE SUSPENSIONS

	1ST	2ND	3RD
TEST FAILURE	180 DAYS	1 YEAR	*6 YEAR
TEST REFUSAL	1 YEAR	2 YEARS	*6 YEAR

WORK PERMIT ELIGIBILITY

First Offense:

.085 to .10 = immediately eligible, no ignition interlock device required if no accident.

.10 to .150 = immediately eligible, ignition interlock device required.

.151 and higher = 30 day hard suspension, ignition interlock device required.

Refusal = 90 day hard suspension, ignition interlock device required.

Second Or Subsequence Offense:

Test Failure = No work permit for entire year. Full license back after year but another 1 year of ignition interlock device required.

Refusal = 1 year hard suspension, ignition interlock device required.

* 6 Year suspension on 3rd offenses only applies if convicted for 3rd OWI offense in past 12 years.



TREATING 'OWEES'
THROUGHOUT THE STATE OF IOWA

This information is provided by the law offices of Gourley, Rehkemper & Lindholm, PLC. Attorneys Robert Rehkemper, Matthew Lindholm, and Scott Michels, practice in the criminal defense with an emphasis on drunk driving defense. They are members of the National College of DUI Defense, National Association of Criminal Defense Lawyers and Iowa Association of Criminal Defense Lawyers. They can be contacted for a free initial consultation.

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ARRESTED FOR DRUNK DRIVING?

YOU HAVE RIGHTS!



KNOW YOUR RIGHTS,
EXERCISE YOUR RIGHTS,
PRESERVE YOUR FREEDOM

"This will be the best security for maintaining our liberties. A nation of well-informed men, who have been taught to know and prize the rights which God has given them, cannot be enslaved." -



Benjamin Franklin

Know Your Rights; Exercise Your Rights; Preserve Your Freedom!

YOUR RIGHTS

1. **The 5th Amendment** - At no time can you be required to be a witness against yourself. Simply put, you do not have to answer questions from police officers that could incriminate you.
2. **Field Sobriety Testing:** You do not have to perform these tests. Whether or not you "pass" or "fail" these tests is dependent upon the subjective determination of the officer. Your driving privileges cannot be suspended for refusing these tests.
3. **Preliminary Breath Test:** You do not have to take this test. This is an unreliable instrument, the results of which are not admissible in Court. Your driving privileges cannot be suspended for refusing this test.
4. **ATTORNEY.** The most important! You have both a constitutional and statutory right to consult with an attorney prior to taking the direct breath test at the station. Iowa law provides that once you arrive at the place of detention, you must be provided the opportunity to contact an attorney **and** a family member if you so request. However, you must exercise this right by requesting to make a phone call to an attorney or family member. The officer does not have to tell you about this right. You also have the right to consult with an attorney or family member in private and in person so long as it does not interfere with the officer's 2 hour time period in which to offer the test.
5. **DataMaster Direct Breath Test:** This is the test at the station. The results of this test are admissible in court. If you refuse this test your license will be immediately suspended by the Department of Transportation for 1 year on a first offense. If you take the test and "fail" (blow over .08 for adults) your license will be

suspended for 6 months on a first offense. By taking this test, you provide the State with evidence that can and will be used against you at trial. You do not have to take this test, however, as previously stated there are adverse repercussions with regards to your driving privileges. **It is highly advisable to consult with an attorney prior to making the decision whether or not to take this test.**

6. **Independent Test:** If you fail the direct breath test at the station, you have the right under Iowa law to request that an independent chemical test be conducted at your own expense. The officer must then take you to a local clinic or hospital of your choosing (within reason) to have this test performed. It can be either blood or urine. Again, the officer does not have to inform you of this right. You must make the request.

5 THINGS TO DO FOLLOWING ARREST FOR OPERATING WHILE INTOXICATED

1. **Contact an attorney that specializes in DUI/OWI Defense.** A qualified attorney should be able to assist you in prolonging your driving privileges and obtaining and preserving valuable evidence such as video recordings, 911 calls and dispatch reports and other items that might otherwise be destroyed if a timely request is not made.
2. **Request a hearing with the Department of Transportation to contest your license revocation.** This must be done within 10 days of the date of your arrest, and by doing so, your license will not be suspended until after you have been given an opportunity for a hearing. If you do not request a hearing within 10 days of the date of your arrest, you will lose your right to have that hearing and your license will be

suspended on the 10th day following your arrest with no opportunity to contest it.

3. **Schedule a substance abuse evaluation.** In most counties, the court will require this as a condition of your release. If it is not completed within the time required they will attempt to put you in jail until it is completed.
4. **Do not talk to anyone especially the police about the specifics of your case.** People have a tendency to try and discuss their case with others prior to talking to an attorney which has the potential to give you even more problems.
5. **Document what happened.** Write down what happened and be as specific as possible. The police have written details of what happened, so should you. Take pictures (digital if possible) of the scene and your vehicle you never know when or why you may need these. Collect any phone records, financial statements, or other documents from your activities before and following your arrest.

DISCLAIMER: The information contained in this brochure is merely a summary of some of the main points of Iowa laws regarding OWI offenses. It is not a complete statement of every applicable law nor is it intended to be legal advice. It is provided as a public service by the law offices of Gourley, Rehkemper & Lindholm PLC. Anyone with a legal issue or problem should always consult with a qualified lawyer to determine the complete consequences and remedies available. The attorneys at Gourley, Rehkemper & Lindholm PLC welcome your calls, letters and e-mail. Use of this information does not create an attorney-client relationship.

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