

DRIVING IN FLORIDA, WITH AN EMPHASIS ON DRINKING AND DRIVING LAWS AND INSURANCE COVERAGE

What Happens If I Drive After I Have Been Drinking?

Driving while under the influence of alcoholic beverages or a controlled substance is one of the most serious traffic violations you can commit. In fact, it is classified as a crime and in some circumstances a felony. If you are found guilty of driving while under the influence (DUI), you are subject to heavy penalties for the first offense. These include possible imprisonment of up to six months, a loss of your driver license for up to one year, a fine up to \$2,000 in addition to court costs, completion of a substance abuse course and driving course and 50 hours of community service (16 hours with the sheriff's work detail), along with an electronic alcohol monitor worn at all times (§ 316.193, Fla. Stat.). The vehicle you were driving must be impounded. The penalties are even more serious if your blood alcohol level is .20 or higher or if there are passengers in the vehicle under the age of 18 years old (§ 316.1934, Fla. Stat.).

If you are intoxicated and in a vehicle with the keys, the vehicle does NOT have to be running for you to be charged with D.U.I. Actual Physical Control can be established where a person is in a vehicle with the means to drive, regardless of whether the vehicle is in motion or even running.

If you operate a motor vehicle in the State of Florida, you are subject to the "implied consent" law. This means because you are operating a motor vehicle in the State of Florida, you have agreed to take a chemical test if the officer has a reasonable suspicion that you are under the influence of an alcoholic beverage or controlled substance. A urine test can be requested if drugs are suspected. A blood test can be requested under some circumstances (traffic accident). If you have a Florida driver's license, the statement, "I hereby consent to any chemical test for sobriety as required by law" appears directly above your signature.

These tests are to determine your blood alcohol or drug level to find out how much alcohol or drugs are in your bloodstream. If you refuse to take the test, you are subject to a suspension of your driver license for a period of one year for a first refusal and a period of 18 months if your driving privilege has been previously suspended for refusing to submit to such a test (§ 316.1939, Fla. Stat.). You do not have the right to have your own doctor give you the test at the time of the arrest, and you do not have the right to have an attorney present when you take such a test. You do have the right to have a second test administered by a physician or a laboratory technician of your choice. However, the second test must be paid for by you.

Police officers now have the power to suspend your driver license on the spot for a DUI arrest. When police officers seize a license, they will issue a traffic citation, a suspension order and issue a temporary license that is good for seven days. To earn reinstatement, drivers cited under this law must pay costs and fines. Hardship licenses are available under certain limited circumstances upon request, but not for at least 30 days after being charged.

If you refuse to take the test, your license will be suspended by the Department of Highway Safety and Motor Vehicles. Upon receipt of the law enforcement officer's sworn statement that you refused, the department will notify you in writing by certified mail to your last known address that your license has

been suspended unless a notice of suspension has already been served by a police officer. Therefore, it is very important that your correct address appears on your driver license. If it does not, you should immediately correct it with the Department of Highway Safety and Motor Vehicles. Failing to timely change your address on your driver license can be the basis for another charge. You then have the right to a hearing before a hearing officer concerning the refusal, but only if you or your attorney files for the hearing within a strict deadline (10 days). At this hearing, the hearing officer is concerned with four major issues:

- Was there reasonable suspicion to stop you for driving while under the influence of alcoholic beverages or a controlled substance? Unusual or hazardous driving might be the reason for stopping you. The arresting officer must have cause to believe you were driving or in actual physical control of the vehicle, while under the influence in order to detain you.
- Were you placed under lawful arrest?
- Did you refuse to submit to the test after being requested to do so by a law enforcement officer?
- Did the law enforcement officer tell you that your right to drive would be suspended for one year if you refuse to submit to the test?

Your license can be suspended even though you are later found not guilty of the driving while under the influence charge. The suspension is civil in nature, based on an administrative hearing, and is entirely separate from the criminal charge of D.U.I. Therefore, you may want to consult an attorney for advice about such a hearing.

See Chapter 316, Fla. Stat.

What Is The Open Container Law?

It is unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle or while a passenger in or on a vehicle being operated. Any operator of a vehicle who violates this law is guilty of a noncriminal moving traffic violation and will be fined. A passenger of a vehicle who violates this law is also guilty of a noncriminal nonmoving traffic violation and will also be fined (§ 316.1936, Fla. Stat.).

Is Driving A Right Or A Privilege?

Driving is a privilege regulated by the State of Florida. It carries great responsibility. For more information, refer to Chapter 322, Fla. Stat.

Do I Lose My Driver License If I Drop Out Of School Before I Reach 18 Or Before I Earn My Diploma?

Yes. Florida law requires that students under age 18 be enrolled in an educational program and satisfactorily meet relevant attendance requirements in order to apply for or retain a driver license. Students under 18 who have unsatisfactory attendance records or drop out of school will have their

license suspended. A student under the age of 18 whose license has been suspended may have the license reinstated one time by improving attendance or returning to school (§ 232.19; § 322.09; and § 322.091, Fla. Stat.). This law does not apply to anyone above the age of 18. For more information, contact the Department of Education (the telephone number is listed on the last page of this pamphlet) or the website <https://www.fldoe.org/Family/dropout/strategies.asp#drpr> External Link.

Do I Have To Have Car Insurance?

According to Florida law, if you own a motor vehicle with four or more wheels you must carry at least \$10,000 of personal injury protection insurance (PIP) also known as no-fault insurance. A minimum of \$10,000 of property damage liability insurance is also mandatory (§ 324.021, Fla. Stat.). Failure to provide insurance may result in a suspension of your driving privilege, including your vehicle tag and registration.

What If I Drive Off Without Paying For Gasoline?

In addition to possible theft charges, you are also subject to losing your driver license (§ 812.014, Fla. Stat.).

What If I Receive A Ticket Out Of State?

If you are guilty of an out of state driving infraction, points will be assessed against your Florida driver license (§ 322.27, Fla. Stat.).

What Does PIP Insurance Cover?

Personal injury protection insurance (PIP) covers you regardless of whether you cause an accident (are “at-fault”) or not, up to the limits of the policy. PIP is designed to reduce the necessity of suing for reimbursement of injuries in auto accidents. PIP pays for 80% of reasonable and necessary medical expenses, 60% of lost wages and \$5,000 for death benefits (§ 324.021, Fla. Stat.).

Who Is Covered Under PIP Insurance?

For accidents that happen in Florida, PIP covers you and relatives who live in your home, certain passengers, and others who drive your car with your permission. Pedestrians and bicyclists are also covered if they are Florida residents.

What Happens If I Have An Accident Outside Of Florida?

You are responsible for reporting the accident to your insurance carrier wherever an accident occurs and may be subject to criminal and/or civil liability in the location of the accident. If you are found guilty or in default of the suit outside of Florida, you may still be held liable in Florida and be subject to the consequences of the judgment depending on the type of the matter. For accidents that happen outside of Florida, but inside the United States or Canada, PIP insurance covers you and relatives who live in your home. In these cases, you must be driving your own vehicle. Persons other than you or your relatives are not covered.

Who Is Covered Under Property Damage Liability Insurance?

All drivers are required to purchase \$10,000 of property damage liability insurance as well as PIP insurance. A \$30,000 combined limit of property damage and bodily injury liability is a legal option. This coverage pays for damage you or members of your family cause to other people's property while driving. The term "property" may include a fence, telephone pole or building, as well as another car. Coverage applies even if you drive someone else's car. Depending on the terms and conditions of your insurance policy, it may also include anyone else who uses your car with your permission (§ 324.021(9)(b)(1), Fla. Stat.).

Is It Unlawful To Play My Car Radio At A Loud Volume?

It is unlawful for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical sound making device or instrument from within the motor vehicle so it is audible at a distance of 25 feet or more from the motor vehicle or is louder than necessary for the convenient hearing of persons inside the vehicle, in areas adjoining churches, schools, or hospitals (§ 316.3045, Fla. Stat.).

Can My Parents Look At My Driving Records? Yes. The Department of Highway Safety is required to make the driving records of teens available for viewing by the parent or guardians of the minor via the internet, free of charge. The availability of free records to parents ceases after the minor becomes 18 years old (§ 322.201(13), Fla. Stat.).