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# DUI DEFENSE AND PLEAS

## Utah DUI Defense and Pleas - Critical Information

If you've been charged with a DUI in Utah, understanding your legal options is essential. A DUI conviction can result in jail time, heavy fines, loss of driving privileges, and a lasting mark on your record. Here's what you need to know:

### Your Defense Options

Every DUI case is unique. A skilled DUI attorney may raise one or more of the following defenses:

- Unlawful Traffic Stop - No probable cause to stop you.
- Improper Field Sobriety Testing - Tests not administered correctly.
- Faulty Breath or Blood Test - Issues with calibration, timing, or contamination.
- Medical Conditions or Medications - That may mimic signs of intoxication.
- Violation of Rights - Failure to read Miranda rights or unlawful search and seizure.

### Understanding Plea Options

Most DUI cases are resolved without going to trial. Possible plea options include:

- Guilty - Accepting the charge; sentencing proceeds.
- Not Guilty - Denies the charges; proceeds to trial.
- No Contest (Nolo Contendere) - Doesn't admit guilt but accepts penalty.
- Alford Plea - Asserts innocence while acknowledging sufficient evidence to convict.

### Plea Bargains & Alternative Resolutions

An experienced attorney can often negotiate:

- Reduced Charges - Such as "Impaired Driving" instead of DUI.
- Diversion or Probation Programs - Especially for first-time offenders.
- Deferred Sentencing - Avoiding conviction upon successful compliance.

## Act Quickly

In Utah, you have only 10 days to request a hearing to challenge your driver's license suspension. The sooner you speak with a defense attorney, the more options you'll have.

# UTAH DRIVER'S LICENSE HEARING (DLD HEARING)

PROTECTING YOUR RIGHT TO DRIVE



## WHAT IS A DLD HEARING?

A DLD Hearing is an administrative review conducted by the Utah Driver License Division after certain traffic-related arrests—most commonly for DUI or refusing a chemical test. This hearing decides whether your license should be suspended or revoked, separate from any court proceedings.



## KEY FACTS YOU SHOULD KNOW

- **Act Quickly:** You only have 10 calendar days from your arrest to request a hearing.
- **Not a Court Trial:** This is an administrative process — not a criminal trial — but it can still take away your license.
- **No Hearing, No License:** If you don't request the hearing, your license is automatically suspended.

## WHAT'S AT STAKE?

- **First DUI offense:** 120-day suspension
- **Refusal to test:** Up to 18 months suspension
- **Commercial drivers:** Stricter penalties apply

## WHAT TO EXPECT AT THE HEARING

- Review of the arrest, test results, and police conduct
- You (or your lawyer) can question officers and present evidence
- No jury, no prosecutor—just a DLD officer deciding your case
- Written decision typically arrives within a few weeks

## LEGAL RIGHTS & PREPARATION

- You have the right to be represented by an attorney
- Gather documentation: arrest reports, video footage, witnesses
- Review Utah Code § 41-6a-520 and related statutes for your defense

## WHY LEGAL HELP MATTERS

Winning a DLD hearing often depends on procedural details. A knowledgeable defense attorney can challenge evidence, raise legal objections, and potentially stop your suspension before it starts.

## TAKE ACTION NOW

- Request your hearing within 10 days
- Contact a DUI defense attorney immediately
- Keep copies of all paperwork related to your arrest



# DUI DEFENSE FOR MINORS

## A Vital Guide for Young Drivers and Their Families - Utah Law

### WHAT MAKES UNDERAGE DUL DIFFERENT?

In Utah, drivers under 21 face stricter standards and harsher consequences. Even a tiny amount of alcohol can lead to a DUI charge due to the "Not-a-Drop" law (Utah Code § 53-3-231).

#### KEY LEGAL STANDARDS

- Zero Tolerance: Any detectable alcohol = automatic license suspension
- BAC of 0.01% or more can trigger arrest
- No legal limit for underage drivers—it's zero

#### IMMEDIATE CONSEQUENCES

- License suspension (minimum 6 months for first offense)
- Possible detention in juvenile court
- Fines, probation, and mandatory education courses
- May affect college admissions, scholarships, jobs



#### THE LEGAL PROCESS

1. Arrest and Citation
2. Administrative DLD Hearing - Must be requested within 10 days
3. Juvenile or District Court Proceedings

Minors can face **both administrative and criminal penalties**.

#### WHY LEGAL REPRESENTATION IS CRUCIAL

- Judges and DLD officers rarely show leniency because of the law
- A strong defense may challenge:
  - The stop's legality
  - Accuracy of testing
  - Officer's procedure
- An attorney can work to **minimize penalties** or seek **diversion programs**

#### POTENTIAL DEFENSE STRATEGIES

- **Improper stop or arrest**
- **Testing errors** or procedural mistakes
- **Lack of probable cause**
- **Violation of minor's rights** during questioning

#### KNOW YOUR RIGHTS

- You have the right to remain silent
- You have the right to an attorney
- You must request your DLD hearing within 10 days

#### ADVICE FOR FAMILIES

- Act fast—delays can hurt your case
- Consult a lawyer experienced in juvenile DUI defense
- Prioritize treatment and education options if available





# BUI DEFENSE (BOATING UNDER THE INFLUENCE)

Essential Information for Utah Boaters  
– Know Your Rights This Summer

## WHAT IS A BUI?

Boating Under the Influence (BUI) in Utah is similar to a DUI, but it applies to operating watercraft (e.g., boats, jet skis, sailboats) while impaired by alcohol or drugs.

Under Utah Code § 73-18-12, a person commits a BUI if they operate a vessel with:

- BAC of 0.08% or higher, or
- While under the influence of alcohol, drugs, or both

## WHY IT MATTERS

- BUI is a criminal offense—not just a ticket
- Summer enforcement is highly active on popular lakes and reservoirs
- Charges can include jail time, fines, and boating restrictions

## COMMON PENALTIES

- First offense: Class B misdemeanor, up to 6 months in jail, \$1,000 fine
- Aggravated BUI: If someone is injured, penalties increase
- Repeat offenses: Enhanced penalties including potential felony charges
- Mandatory boating safety course
- Loss of boating privileges

## THE STOP AND ARREST

- Officers from state parks or wildlife agencies can stop any vessel for inspection
- Field sobriety tests on water may be less reliable than roadside tests
- Chemical tests (breath, blood, or urine) are required by implied consent laws

## LEGAL DEFENSE OPTIONS

- Challenge probable cause for the stop
- Question the accuracy of field or chemical testing on water
- Highlight environmental factors (sun, motion, dehydration) that mimic intoxication
- Defend constitutional rights if improper search or detention occurred

## WHY YOU NEED A LAWYER

- BUI laws are complex and unique to watercraft
- A skilled attorney can seek charge reduction, dismissal, or alternative sentencing
- Legal representation is key to protecting your record and boating freedom

## TIPS FOR BOATERS

Have a designated boat operator

- Store alcohol securely—open containers raise suspicion
- Know your rights during water-based stops
- Always wear life jackets and follow safety rules to avoid added charges

# FAQS: BREATHALYZER TESTING IN UTAH

Everything You Need to Know – Fast

## Q. IS BREATHALYZER TESTING MANDATORY IN UTAH?

**A.** Yes. Utah has an Implied Consent Law (Utah Code § 41-6a-520), meaning that by driving a vehicle, you automatically consent to chemical testing (breath, blood, or urine) if lawfully arrested for DUI.

## Q. CAN I REFUSE A BREATHALYZER TEST?

**A.** You can, but refusing comes with automatic penalties, including:

- 18-month license suspension for first refusal
- 3-year suspension for second refusal
- Potential use of the refusal against you in court

## Q. IS THE PORTABLE BREATH TEST (PBT) THE SAME AS THE OFFICIAL BREATHALYZER?

**A.** No. A PBT (used roadside) is different from the evidentiary breath test at the station.

- PBTS help establish probable cause but are not always admissible in court.
- Refusing a PBT does not carry the same penalties as refusing the evidentiary test.

## Q. WHAT IS UTAH'S LEGAL BLOOD ALCOHOL CONTENT (BAC) LIMIT?

**A.**

- 0.05% for drivers 21 and over (lowest in the U.S.)
- 0.00% for drivers under 21 ("Not-a-Drop" law)
- 0.04% for commercial drivers

## Q. CAN I CHALLENGE THE RESULTS OF A BREATH TEST?

**A.** Yes. Common defenses include:

- Improper calibration or maintenance of the device
- Health conditions (like acid reflux or diabetes)
- Improper test procedure by law enforcement
- Violation of your rights

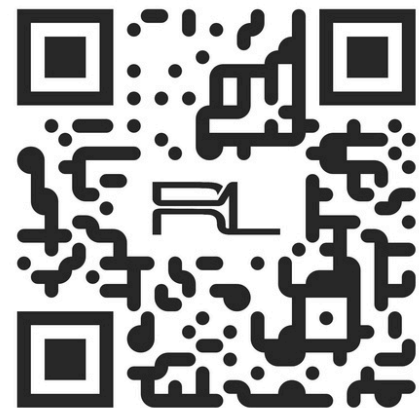
## Q. WILL A FAILED BREATH TEST GUARANTEE A DUI CONVICTION?

**A.** No. A failed breath test is one piece of evidence, but it can be challenged in court. A skilled DUI defense attorney may still get charges reduced or dismissed

## Q. DO I NEED A LAWYER IF I BLEW OVER THE LIMIT?

**A. Absolutely.** A qualified attorney can analyze the case for errors, advocate for reduced penalties, and potentially save your license or record.

SCAN QR CODE:  
DUI SHARKS



SCHEDULING 24/7



# WHAT TO DO IMMEDIATELY AFTER A DUI ARREST IN UTAH

Step-by-step actions within the first 48 hours.

Explains deadlines like the 10-day window for a DLD hearing.

Understanding DUI Penalties in Utah

Covers fines, jail time, ignition interlock, treatment, etc.

Differentiate by 1st, 2nd, and felony DUI offenses.



## WHAT TO DO IMMEDIATELY AFTER A DUI ARREST IN UTAH

### Your 48-Hour Action Plan

A DUI arrest triggers multiple legal processes, and missing a deadline—like your DLD hearing request—can result in automatic license suspension.



## STEP-BY-STEP ACTIONS:

### 1. Request a DLD Hearing Within 10 Days

- **Deadline:** You only have 10 calendar days from your arrest
- **Why it matters:** This hearing determines if you'll keep your driving privileges
- Request online or by mail through the Utah Driver License Division (DLD)

### 2. Contact a DUI Defense Attorney Immediately

- An experienced attorney can help preserve evidence, represent you at the DLD hearing, and begin preparing a defense
- Early action can lead to reduced charges or dismissal

### 3. Write Down Everything You Remember

- Note time, place, officers' names, what was said, and if tests were given
- Details fade fast—your memory can help your attorney build your case

### 4. Request a Copy of Your Police Report

- Essential for reviewing arrest details, breath test results, and officer notes
- Your lawyer will help you obtain this from the arresting agency or court

### 5. Start Gathering Evidence

- Dashcam footage, witness contact info, GPS data, and medical records may all be relevant
- Preserve anything that could help explain your side of the story

### 6. Know the Penalties You're Facing (see next section)



# UNDERSTANDING DUI PENALTIES IN UTAH

Penalties vary based on how many prior DUI offenses you have, whether you refused a test, and if there were aggravating factors (e.g., injuries, minors in the car).



## 1ST OFFENSE DUI (CLASS B MISDEMEANOR)

- Jail: 48 hours minimum OR 48 hours community service
- Fines: ~\$1,400 total with surcharges
- License suspension: 120 days
- Ignition Interlock: Required if BAC was  $\geq 0.16$  or under age 21
- Treatment: Mandatory DUI education + assessment



## 2ND OFFENSE DUI (WITHIN 10 YEARS — CLASS B MISDEMEANOR)

- Jail: Minimum 10 days OR 5 days + electronic monitoring
- Fines: ~\$1,500+
- License suspension: 2 years
- Ignition Interlock: Mandatory
- Treatment: Substance abuse treatment ordered by court



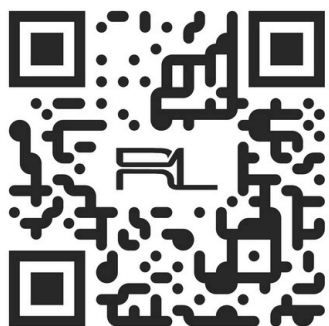
## FELONY DUI (3RD IN 10 YEARS OR INJURY-RELATED)

- Classification: 3rd Degree Felony
- Prison: Up to 5 years (minimum 62.5 days in jail)
- Fines: Up to \$5,000 (plus surcharges)
- License suspension: 2+ years
- Ignition Interlock: Mandatory for at least 3 years
- Felony record: Long-term consequences for employment, housing, etc.



## AGGRAVATING FACTORS THAT INCREASE PENALTIES

- Refusing a chemical test
- BAC of 0.16 or higher
- DUI with a child under 16 in the vehicle
- Causing injury or property damage



SCHEDULING 24/7



## DON'T WAIT

Every hour after a DUI arrest matters. The sooner you act, the more options you have

# IGNITION INTERLOCK DEVICE (IID): WHAT YOU NEED TO KNOW

Who is required to install it, how it works, costs, duration, and violations.



## UTAH LAW — REQUIREMENTS, COSTS & COMPLIANCE

- An IID is a breathalyzer installed in your vehicle. Before the car will start, you must blow into the device. If alcohol is detected, the car won't start. Utah uses IIDs to monitor and prevent repeat DUI offenses.

## WHO IS REQUIRED TO INSTALL AN IID IN UTAH?

Under Utah Code § 41-6a-518, IID installation is required for:

1. All drivers convicted of DUI with BAC  $\geq$  0.16%
2. All second-time DUI offenders
3. All felony DUI convictions
4. Drivers under 21 convicted of DUI (zero-tolerance policy)
5. Refusal to submit to chemical testing (in some cases)
6. Court-ordered IID (even for some first-time DUIs)

## HOW LONG DO YOU HAVE TO USE IT?

Offense	Minimum IID Duration
First DUI (Court-Ordered)	18 months
Second DUI	3 years
Felony DUI	Up to 6 years
Under 21	Until age 21 or longer
Refusal cases (if ordered)	18 months to 3 years

## HOW MUCH DOES IT COST?

Item	Estimated Cost
Installation	\$100 – \$200
Monthly rental	\$60 – \$90/month
Maintenance/calibration	~\$20–\$50/month
Removal	\$50 – \$100

Over 18 months, expect to pay \$1,200–\$1,800+ in total.

Some individuals may qualify for financial assistance or reduced rates.



# HOW IT WORKS

- Must blow into the device each time you start your car
- May require random retests while driving
- Data is recorded and reported to the court or DLD
- Tampering or failing a test triggers a violation report

## WHAT COUNTS AS A VIOLATION?

- License suspension extension
- Additional fines or jail time
- Restarting the IID time period

## VIOLATIONS CAN LEAD TO:

- Failing a breath test (even small BAC levels)
- Missing calibration appointments
- Disconnecting or tampering with the device
- Letting someone else blow into the device for you
- Driving a vehicle without an IID if restricted

## HOW TO STAY COMPLIANT

- Follow all maintenance and reporting rules
- Never attempt to bypass the system
- Keep up with calibration and monitoring schedule
- Do not drink and drive—even a small BAC can reset your timeline

## SUMMARY CHECKLIST

- ✓ Know if you're required to install an IID
- ✓ Install only through state-approved providers
- ✓ Budget for costs and maintenance
- ✓ Comply fully to avoid penalties
- ✓ Work with your attorney to track court/DLD requirements

# UNDERAGE DUI VS. ADULT DUI IN UTAH

Zero-tolerance policies and how they differ from regular DUI.

Understanding the Key Differences Under State Law



## WHY THE DISTINCTION MATTERS

Utah enforces stricter rules for drivers under 21, including a zero-tolerance policy for alcohol. While both underage and adult DUI charges are serious, they involve different legal standards, consequences, and court procedures.



## LEGAL ALCOHOL LIMITS (BAC)

Driver Category	Legal BAC Limit	Law
Under 21	0.00% (Zero Tolerance)	Utah Code § 53-3-231
21 and Older	0.05% (Strictest in U.S.)	Utah Code § 41-6a-502

Even a trace of alcohol in an underage driver's system can lead to automatic penalties, regardless of driving behavior.



## CHARGES YOU CAN FACE

Driver Age	Possible Charges
Under 21	DUI (if impaired or BAC ≥ 0.05%)
Markdown Copy Edit	- <b>**Not-a-Drop Violation**</b> (any BAC > 0.00%) - Possession of Alcohol (minor in possession)   21+   DUI (BAC ≥ 0.05% or evidence of impairment)



## PENALTIES: UNDERAGE VS. ADULT DUI

Penalty Type	Underage (1st Violation)	Adult (1st DUI)
License Suspension	6 months (Not-a-Drop) or 120 days (DUI)	Utah Code § 53-3-231
Fines	\$200+ (plus surcharges)	Utah Code § 41-6a-502
Jail/Detention	Possible juvenile detention (DUI only)	48 hours minimum OR community service
Ignition Interlock	Mandatory until age 21 (DUI cases)	Required if BAC ≥ 0.16 or court-ordered
Alcohol Education	Mandatory	Mandatory
Court	Juvenile Court or District Court	District Court



## KEY DIFFERENCES AT A GLANCE

**Zero Tolerance:** Underage drivers can be penalized even without signs of impairment

**Juvenile Court Involvement:** Many underage DUI cases are handled separately from adult courts

**Long-Term Impact:** Underage DUIs can affect college, scholarships, and future employment

**Parental Involvement:** Minors often require parent/legal guardian involvement in the legal process



## DEFENDING AN UNDERAGE DUI

Common defense strategies include:

- Challenging the **traffic stop** or **probable cause**
- **Improper BAC testing** or lack of impairment
- **Medical conditions** that affect results
- Seeking **diversion programs** or deferred adjudication (if eligible)



## WHAT TO DO IF YOU OR YOUR CHILD IS CHARGED

1. **Act quickly** to protect license and legal rights
2. **Request a DLD hearing** within 10 days
3. **Hire an experienced DUI or juvenile defense attorney**
4. **Gather evidence** and prepare for both DLD and court proceedings
5. **Explore treatment, education, and diversion options early**







# HOW DUI AFFECTS INSURANCE IN UTAH

SR-22 insurance, rate increases, when and how to shop for new insurance.

SR-22, Rate Hikes, and Finding Coverage After a Conviction

## IMMEDIATE CONSEQUENCES: SR-22 REQUIREMENT

After a DUI in Utah, you'll likely be required to file an SR-22 certificate with the state—a form your insurance company sends to the Utah Driver License Division (DLD) proving you carry state-mandated liability coverage



### WHO NEEDS SR-22 IN UTAH?

- Anyone convicted of DUI or DWI
- Drivers who refused a chemical test
- Drivers with license suspension or revocation
- Individuals seeking license reinstatement

You must maintain SR-22 for 3 years from the date of suspension/reinstatement.

## WHAT IS AN SR-22, EXACTLY?

An SR-22 isn't insurance itself—it's a proof-of-coverage filing submitted by your insurer. It ensures the state is notified if your policy lapses, is canceled, or expires.



Lapses in coverage during the SR-22 period restart the 3-year clock.

## HOW MUCH WILL MY INSURANCE GO UP?

A DUI conviction typically causes a major rate increase—often 40% to 100% or more depending on your insurer, driving history, age, and vehicle.

Category	Legal BAC Limit
Pre-DUI Premium	\$800 - \$1,200
Post-DUI Premium (with SR-22)	\$1,500 - \$3,000+
Duration of Higher Rates	3-5 years

Some insurers cancel policies outright, requiring you to shop for high-risk coverage.



## HOW DUI AFFECTS INSURANCE IN UTAH



### TIPS TO MINIMIZE LONG-TERM COSTS

- Take a court-approved DUI education course (may help lower premiums)
- Maintain a clean record post-DUI—no speeding, no accidents
- Re-shop your policy every 6–12 months
- Consider reducing vehicle coverage (e.g., dropping collision on older cars)
- Bundle with renters/home insurance if possible



### SUMMARY CHECKLIST

- **File SR-22 within required time**
- **Shop smart for high-risk insurance**
- **Maintain continuous coverage**
- **Ask about premium-reducing option**
- **Monitor your policy for future rate drops**

## SHOPPING FOR INSURANCE AFTER A DUI

You may need to switch to a high-risk insurer or specialty broker. Here's how:  
Step-by-Step:

1. **Request your driving record** to confirm suspension and SR-22 requirement
2. **Get quotes from high-risk insurers** (GEICO, Progressive, The General, Dairyland, etc.)
3. Confirm the insurer will **file the SR-22** for you
4. Ask about **discounts** for defensive driving or alcohol treatment completion
5. **Avoid lapses** by setting up auto-pay and reminders

Use comparison tools or work with a local agent who specializes in post-DUI coverage.

## COMMON QUESTIONS

### **Q: Can I drive without SR-22 coverage?**

**A:** No. Your license won't be reinstated without proof of SR-22 filing.

### **Q: Will my employer be notified?**

**A:** Not directly— but if you drive for work, your employer may see changes in commercial insurance coverage.

### **Q: When can I remove SR-22?**

**A:** After **3 years**, if you've had **no lapses or additional violations**, you can ask your insurer to remove the SR-22 and switch to a standard policy.



# FIELD SOBRIETY TESTS IN UTAH: KNOW YOUR RIGHTS

What to Expect, What You Can Refuse, and How It Impacts Your Case

## WHAT ARE FIELD SOBRIETY TESTS (FSTS)?

Field sobriety tests are physical and cognitive tasks police use during a DUI stop to determine if a driver is impaired. They're standardized by the National Highway Traffic Safety Administration (NHTSA).

## STANDARDIZED FIELD SOBRIETY TESTS (SFSTS)

Officers typically administer these three tests:

- Horizontal Gaze Nystagmus (HGN)
  - Following a pen/light with your eyes
- Walk-and-Turn
  - Walk heel-to-toe on a line, turn, and walk back
- One-Leg Stand
  - Stand on one leg and count aloud



These tests are subjective, and many sober individuals fail due to anxiety, injuries, or poor instructions.



## ARE YOU LEGALLY REQUIRED TO TAKE FIELD SOBRIETY TESTS IN UTAH?

NO — Utah law does not require you to take FSTs. You have the legal right to politely refuse them.

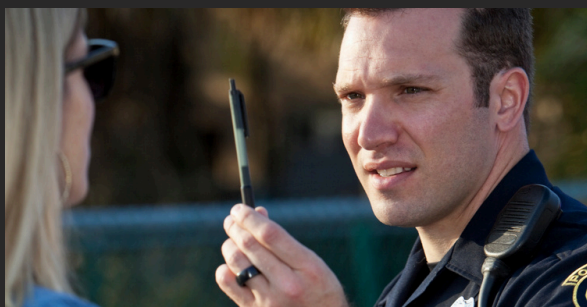
### YOU CAN REFUSE:

- Field sobriety tests
- Preliminary breath test (PBT) at the scene (handheld device)

### YOU CANNOT REFUSE:

- Chemical tests (breath, blood, urine) after arrest without facing penalties under Utah's implied consent law





## SHOULD YOU REFUSE FIELD SOBRIETY TESTS?

Many DUI attorneys recommend refusing FSTs **politely but firmly**, because:

- They are **designed to help build probable cause** for arrest
- There's **no penalty** for refusing (unlike chemical test refusal)
- Refusal can limit the evidence used against you in court

Example: "Officer, I respectfully decline to take any field sobriety tests."

## WHAT HAPPENS AFTER YOU REFUSE?

- You may still be arrested **if the officer believes there's other probable cause**
- Your refusal may be mentioned in the police report—but it's **not illegal**
- The case can still proceed based on officer observations, dashcam/bodycam, and other evidence

## HOW REFUSING AFFECTS YOUR DUI DEFENSE

Benefits of refusing FSTs:

- Less evidence to challenge in court
- Avoids flawed or biased interpretations of physical performance
- Forces the state to rely more on objective evidence (BAC, video, etc.)

Downside:

- The officer may still arrest you
- Prosecutors may argue refusal shows "consciousness of guilt" — but that's often weak in court

## CAN YOU BE PENALIZED FOR FAILING A FIELD SOBRIETY TEST?

Technically, no criminal penalty comes from failing FSTs—they're not pass/fail tests, but indicators of impairment. However:

- Failing can be used as probable cause for a DUI arrest
- Officers document performance heavily in their report
- Dash/body cam footage is often used in court



### KEY TAKEAWAYS: KNOW YOUR RIGHTS

- You are not legally required to perform field sobriety tests
- You can refuse FSTs and roadside breath tests without license suspension
- Always remain polite and calm during the stop
- Ask to speak with an attorney immediately after arrest



# WHAT OFFICERS ARE LOOKING FOR DURING FIELD SOBRIETY TESTS — AND YOUR RIGHT TO REFUSE

## WHAT POLICE LOOK FOR DURING FIELD SOBRIETY TESTS

During a DUI stop, officers use field sobriety tests (FSTs) to gather evidence of impairment. Even before the test begins, they are observing:

### Before Testing:

- Slurred speech or bloodshot eyes
- Odor of alcohol or marijuana
- Open containers in the vehicle
- Nervousness or fumbling with license/registration
- Difficulty exiting the vehicle

### During Testing:

They assess for “clues” of impairment, including:

- Inability to follow instructions
- Poor balance or coordination
- Swaying, stumbling, or using arms for balance
- Starting the test too early
- Missing steps or losing count
- Eye movement irregularities (in HGN test)



These clues are used to build “probable cause” for arrest—even if your BAC is later below the legal limit.

Your defense attorney can challenge the officer’s subjective judgment far more effectively if you do not participate in field tests.

## YOUR RIGHT TO REFUSE FIELD SOBRIETY TESTS IN UTAH

Utah law does not require you to take field sobriety tests. You have the absolute legal right to refuse them.

### You Can Refuse:

- Walk-and-turn
- One-leg stand
- Eye (HGN) test
- Preliminary breath test (PBT) at the roadside (before arrest)

Refusing does not carry a penalty like license suspension or automatic guilt.

### Pro Tip:

Politely say, “Officer, I respectfully decline to perform any field tests.”

## BUT CAN REFUSING MAKE YOU LOOK GUILTY?

Officers may still choose to arrest you based on other observations, but:

- There will be less evidence against you in court
- FSTs are not reliable indicators of intoxication for everyone
- Refusal cannot be held against you as proof of guilt

## FINAL WORD

Understanding your rights in advance is your best protection. You are not required to help the state build a case against you.

# BLOOD TESTS VS. BREATH TESTS IN DUI CASES LEGAL IMPLICATIONS, ACCURACY, AND DEFENSES.

## BLOOD TESTS VS. BREATH TESTS IN UTAH DUI CASES

Legal Implications, Accuracy, and Common Defenses

WHAT'S THE DIFFERENCE?		
Test Type	Description	When Used
Breath Test	Measures blood alcohol concentration (BAC) from your breath using a machine (e.g., Intoxilyzer 8000)	At roadside (preliminary) or at station (evidentiary)
Blood Test	Directly analyzes your blood for alcohol or drugs	Typically used if breath test unavailable, refused, or when drugs are suspected

## LEGAL WEIGHT IN UTAH COURTS

### BREATH TESTS

- Widely used and accepted in court
- Governed by Utah Code § 41-6a-520 (Implied Consent Law)
- Must be administered by a certified officer using calibrated equipment
- Test results of 0.05% BAC or higher can trigger DUI charges

### BLOOD TESTS

- Considered more accurate and reliable
- Usually require a warrant or consent (unless unconscious)
- Can detect drugs (THC, opioids, etc.), not just alcohol
- Chain of custody and sample handling are critical in court



**Key Legal Note:** Refusing either test after arrest can result in license suspension and may be used against you under Utah's implied consent laws.



## ACCURACY AND RELIABILITY

### WHAT'S THE DIFFERENCE?

Factor	Breath Test	Blood Test
Accuracy	Lower; can be affected by device errors, medical issues, or residual mouth alcohol	Higher; direct measurement of BAC or drug presence
Blood Test	Higher—improper calibration, software issues	Lower—but subject to lab errors or contamination
Time Sensitivity	Instant result	Slower (lab processing takes days)



**Note:** The longer the delay between arrest and testing, the more chance BAC drops—this can benefit the defense.

## COMMON DUI DEFENSES INVOLVING TESTS

### BREATH TEST DEFENSES:

- Machine malfunction or poor calibration
- Operator error
- Medical conditions (acid reflux, diabetes, etc.)
- Residual alcohol in mouth (mouthwash, dental work)
- Rising BAC (you were under the limit while driving, but over by the time of test)

### BLOOD TEST DEFENSES:

- Lack of a valid warrant or proper consent
- Improper blood draw or contamination
- Lab errors or mislabeled samples
- Delayed testing that inflated BAC

## WHICH TEST IS HARDER TO CHALLENGE?

Blood tests carry more scientific weight but can be challenged on procedural grounds (chain of custody, warrant validity, lab integrity).

Breath tests are more common and often easier to attack, especially if equipment or protocol wasn't followed.

### QUICK SUMMARY

Category	Breath Test	Blood Test
Ease of Use	✓ Fast	✗ Requires medical personnel
Accuracy	✗ More error-prone	✓ More reliable
Detects Drugs	✗ No	✓ Yes
Legal Challenges	✓ Easier to challenge	⚠ Requires technical analysis

# DRUG DUI (PRESCRIPTION & MARIJUANA)

## WHAT IS A DRUG DUI IN UTAH?

In Utah, a DUI isn't just about alcohol. You can be charged if any substance—legal or illegal—impairs your ability to drive safely.

### Covered Substances Include:

- Marijuana (even with a medical card)
- Prescription drugs (like Xanax, Ambien, or opioids)
- Over-the-counter meds (Benadryl, cough syrup, etc.)
- Illegal drugs (meth, cocaine, etc.)

Utah Code § 41-6a-502 makes it illegal to drive with any controlled substance that impairs your ability to operate a vehicle safely.

### How Are Drug DUIs Tested?

Since breath tests detect only alcohol, drug DUIs rely on:

- Blood tests (primary method)
- Urine tests (less common)
- Drug Recognition Expert (DRE) evaluation — a 12-step roadside protocol used by trained officers



Presence of drugs in your system alone isn't enough — the state must prove you were impaired while driving.

### Prescription Meds Can Still Lead to a DUI

A legal prescription is not a defense to impaired driving.

Common medications that trigger DUIs:

- Oxycodone or Hydrocodone
- Valium or Xanax
- Sleep aids like Ambien or Lunesta
- Muscle relaxers
- ADHD medications (if abused)



Always check for side effects like drowsiness, dizziness, or slowed reaction time.

## WHAT TO DO IF YOU'RE CHARGED

1. Do not admit to using any substance without legal counsel
2. Request a DLD hearing within 10 days to contest your license suspension
3. Hire a DUI attorney experienced in drug-related defenses
4. Gather all prescription info and medical documentation
5. Be proactive about treatment or drug education programs

## DRUG DUI IN UTAH: PRESCRIPTION & MARIJUANA

What You Need to Know About  
Non-Alcohol DUI Charges

## DEFENSES AGAINST A DRUG DUI

Common legal defenses include:

- No actual impairment while driving
- Improper DRE procedure or unqualified officer
- Invalid blood test (improper storage, chain of custody issues)
- Residual THC not linked to impairment
- You were not driving or in physical control of the vehicle

## PENALTIES FOR DRUG DUI IN UTAH

### First Offense

Class B Misdemeanor

Fines

License Suspension

Drug Evaluation & Treatment

Ignition Interlock Device

### First Offense

Up to 6 months jail

~\$1,400+ (with fees)

120 days minimum

Mandatory

Required if  
court-ordered



Penalties increase significantly for second or felony DUI charges.

## FINAL TAKEAWAYS

- Driving impaired by any substance—even legally prescribed—is a DUI in Utah
- No medical marijuana defense exists if you're visibly impaired
- Drug DUIs are complex and require scientific and legal defense strategies

# HOW DUI LAWS APPLY WHEN NO ALCOHOL IS INVOLVED.

Understanding Non-Alcohol DUIs: Drugs, Medications, and Legal Risks

## YES, YOU CAN GET A DUI WITHOUT DRINKING

Utah's DUI laws apply to any substance that impairs your ability to drive—not just alcohol. This includes:

- Illegal drugs (e.g., marijuana, cocaine, meth)
- Prescription medications (e.g., painkillers, sedatives, stimulants)
- Over-the-counter meds (e.g., antihistamines, sleep aids)

Under Utah Code § 41-6a-502, it's illegal to operate a vehicle with any measurable controlled substance in your system if you're impaired.

## KEY FACT: LEGAL DRUGS CAN STILL LEAD TO ILLEGAL DRIVING

Having a valid prescription does not protect you if:

- You drive while drowsy, disoriented, or slowed
- You combine substances (e.g., alcohol and Xanax)
- You ignore warning labels (e.g., "do not operate machinery")



Always check with your doctor or pharmacist before driving on new medications.



## WHAT EVIDENCE IS USED IN NON-ALCOHOL DUIS?

Without a breath test, officers rely on:

- Blood tests to detect drugs
- DRE (Drug Recognition Expert) evaluations
- Behavioral signs: slurred speech, delayed responses, erratic driving
- Statements made at the scene (e.g., "I took my meds before driving")

## YOU CAN BE CHARGED EVEN WITHOUT BEING "HIGH"

In Utah:

- Marijuana use — legal or not — can result in a DUI if THC is active in your system and you show signs of impairment
- THC stays in the body longer than alcohol, making legal defense more complex

### DEFENDING A NON-ALCOHOL DUI CHARGE

Strong DUI attorneys will challenge

- Validity of blood test results
- Qualifications of the DRE officer
- Proof of actual impairment vs. mere presence of a drug
- Medical necessity and proper prescription use



### FINAL THOUGHT

Even if you haven't had a drop of alcohol, Utah DUI laws still apply if any substance impairs your driving. Know your rights, understand your prescriptions, and never assume that "legal" means "safe to drive."



# DUI CHECKPOINTS IN UTAH: ARE THEY LEGAL?

What to expect and how to navigate them SAFETLY.



## ARE DUI CHECKPOINTS LEGAL IN UTAH?

### Yes.

DUI checkpoints (also called sobriety checkpoints) are legal in Utah—but only if they follow strict constitutional guidelines.

- ☒ They must be announced in advance and approved by a judge
- ☒ They must follow a neutral, predetermined pattern for stopping vehicles
- ☒ They must minimize intrusion and cannot be random or discriminatory

These checkpoints are typically set up during:

- Holiday weekends
- Nights and early mornings
- High-traffic events (concerts, sporting events, etc.)



## WHAT TO EXPECT AT A DUI CHECKPOINT

1. Marked police presence
2. Cones/lights/signs to funnel traffic
3. Officers stopping vehicles in a fixed pattern (e.g., every 3rd car)
4. You'll be asked to:
  - a. Roll down your window
  - b. Present license, registration, and insurance
  - c. Answer basic questions (e.g., "Where are you coming from?")



Most checkpoint stops last under a minute, unless there's suspicion of DUI.

## YOUR RIGHTS AT A DUI CHECKPOINT



### YOU MUST:

- Provide your driver's license, registration, and insurance
- Cooperate calmly and respectfully



### YOU DO NOT HAVE TO:

- Answer questions beyond identifying yourself
- Submit to field sobriety tests or a preliminary breath test (PBT) at the scene (you can politely decline)
- Consent to a vehicle search without a warrant or probable cause



Be polite but assert your rights. Example:  
"Officer, I prefer not to answer any questions without an attorney."

## CAN YOU LEGALLY TURN AROUND TO AVOID A CHECKPOINT?

Yes—if done legally.

You're allowed to turn around before reaching a checkpoint as long as you don't break any traffic laws (e.g., illegal U-turn, crossing double lines).



Police can follow and stop you if they observe a traffic violation while turning away.

## WHAT HAPPENS IF YOU'RE SUSPECTED OF DUI?

If the officer suspects impairment, they may:

- Ask you to perform field sobriety tests (which you can refuse)
- Request a breath or blood test (mandatory after arrest under implied consent law)
- Arrest you based on probable cause from observations

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## PENALTIES IF DUI IS CONFIRMED AT A CHECKPOINT

Same as any DUI arrest:

- Jail time (even on first offense)
- Fines and court fees
- License suspension
- Ignition Interlock Device (IID)
- Mandatory DUI classes or treatment



## QUICK TIPS FOR NAVIGATING A UTAH DUI CHECKPOINT

- Stay calm, keep hands visible
- Have documents ready
- Don't volunteer information
- Politely decline roadside tests
- Ask if you are free to go if not being detained

# EXPUNGING A DUI IN UTAH WHEN AND HOW SOMEONE CAN CLEAR THEIR RECORD

## EXPUNGING A DUI IN UTAH



### CAN A DUI BE EXPUNGED IN UTAH?

Yes—in many cases, even a DUI conviction can be expunged in Utah, but strict conditions must be met.

#### You cannot expunge a DUI if:

It was charged as a felony DUI and enhanced by serious priors  
There are pending criminal charges  
You have too many prior convictions

### WHAT IS EXPUNGEMENT?

**Expungement** is the legal process of sealing or clearing a criminal record. Once expunged, the DUI **does not appear** in most background checks, and you can lawfully state that you have not been convicted of a crime (with limited exceptions).

✓ This can help with employment, housing, professional licensing, and peace of mind.

### WAITING PERIODS FOR DUI EXPUNGEMENT

The waiting period begins after all sentencing requirements are completed (jail, probation, fines, treatment).

#### DUI TYPE

#### WAITING PERIOD

First-time DUI (Class B Misdemeanor)

**10 years** from case closure

DUI reduced to Impaired Driving (Class B)

**3 years** from case closure

DUI dismissed or acquitted

No wait—can apply immediately



“Case closure” = the day probation, classes, and fines are fully completed.



## STEPS TO EXPUNGE A DUI IN UTAH

1. Get a Certificate of Eligibility from the Utah Bureau of Criminal Identification (BCI)
  - a. \$65 application fee
  - b. Takes 4–6 weeks
2. File a Petition for Expungement with the court that handled your DUI
  - a. \$150 court filing fee
  - b. Serve copies to prosecutors and law enforcement
3. Attend a Hearing (if required)
  - a. A judge may grant or deny the expungement based on your compliance, public safety, and objections (if any)
4. Final Order of Expungement
  - a. If granted, the record is sealed, not destroyed
  - b. You'll get a copy for your records



### IMPORTANT NOTES

- Expungement does not restore driving privileges if they are still suspended
- An expunged DUI still counts as a prior if you're later arrested for another DUI
- You must disclose an expunged conviction if applying for jobs in law enforcement, the military, or public office

### SHOULD YOU HIRE AN ATTORNEY?

While DIY expungement is possible, an attorney can:

- Ensure your eligibility
- Handle paperwork and deadlines
- Represent you in hearings
- Reduce risk of rejection or delays

## SUMMARY

REQUIREMENT	FIRST DUI	REDUCED CHARGE
Eligible?	<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes
Wait Time	10 years	3 years
Process	BCI → Court → Hearing (if needed)	

# SCHEDULE A CONSULTATION – ANYTIME, ANYWHERE

**At Read Law LLC, we believe that clear and timely communication is essential to successful legal representation.** That's why we make it easy for you to schedule a consultation anytime—24/7. Whether you need legal advice, case updates, or strategic guidance, we're here when you need us.

We understand that legal concerns don't follow a 9-to-5 schedule. Whether you're facing a sudden development in your case, need answers after hours, or simply prefer the flexibility of booking at your convenience, our 24/7 scheduling system ensures you have access to legal support whenever you need it.

**SCHEDULE  
A MEETING NOW**



At Read Law LLC, we prioritize clear and responsive communication so you always feel informed and supported. Let's work together to achieve the best outcome for your case.



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READ LAW LLC

Read Law LLC provides experienced legal representation in family law and other legal matters throughout the state of Utah. Whether you're facing divorce, custody disputes, or other legal challenges, our team is dedicated to protecting your rights and guiding you through every step of the process.



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