

OUI In Maine

Maine's laws regarding operating a motor vehicle under the influence of drugs or alcohol are among the toughest in the nation, including Zero Tolerance for drivers under 21.

PENALTIES INCLUDE:

- ✓ fines
- ✓ jail time
- ✓ license restriction
- ✓ fees and surcharges
- ✓ license suspension
- ✓ drug/alcohol programs
- ✓ loss of all driver's licenses
- ✓ a record that can affect a driver's license for 10 years
- ✓ probation with mandatory
 - in-house counseling
 - random searches
 - alcohol use restriction

Penalties increase for drivers who have a record of past motor vehicle offenses, suspensions, or prior OUI offenses, or if an incident involves a passenger under the age of 21 years.

In addition to the court penalties, an OUI conviction can result in job loss and higher insurance premiums. It can also affect driver's licenses held in other states, as well as the legal ability to cross the border into Canada. OUI may become a felony if people are

seriously injured or die. Conviction for causing serious injury may result in a sentence of up to 5 years in jail with a minimum 6 year license suspension. If a death occurs, the prison sentence may be up to 40 years with license suspension for 6 years.

OUI IS NOT ABOUT BEING DRUNK...

In Maine it is a crime to operate or attempt to operate a motor vehicle while having a blood alcohol level of .08% or more. A driver does not have to feel drunk, look drunk, or be unable to function. The State need only prove that the ability to drive safely was affected due to the use of intoxicants or that blood alcohol level was .08% or greater.

... OR CARS, DRIVING, OR ROADS.

OUI laws are about "operating a motor vehicle," not just "driving a car." Under Maine law, a motor vehicle is "any self-propelled vehicle not operated exclusively on tracks." This includes ATVs registered for highway use, tractors, and self-propelled lawn mowers. Similar laws apply specifically to operating snowmobiles, motorboats, and off-road ATVs while under the influence.

The vehicle doesn't even have to move. Any action which can be interpreted as "attempting to operate" the vehicle – like starting the engine – is enough.

OUI IS OFF-LIMITS EVERYWHERE

A person can be convicted of OUI behind the wheel in a parking lot, on a woods road, a private road, or in their own driveway. The State need only show that the driver's ability to operate was impaired or that the driver's blood alcohol level was over .08%.

POLICE STOPS

A police officer has the right to stop a motor vehicle if the officer suspects that any crime or motor vehicle law violation has occurred. Police may also legally stop motor vehicles for infractions and legitimate safety concerns, such as possible driver impairment or not wearing seat belts. Drivers are frequently stopped for such things as expired inspection stickers and registrations; defective head-, tail-, or plate lights; u-turn; speeding and erratic driving such as crossing the center line or grazing a curb. Police may also conduct "road blocks" and have the right to make OUI arrests at these times.

A police stop may be improper if there is not a safety issue, traffic law, or suspicion of criminal activity that prompted the stop. If you think the officer had no reason to stop your vehicle, you should consult an attorney.

Police may ask for your driver's license, registration and proof of insurance. If you are not in the driver's seat at the time but you state that you were the driver, this statement may be used against you in court even if no one witnessed you actually operating the vehicle.

Most officers are trained to recognize the odor of liquor or certain drugs and to notice blood shot eyes, slurred speech and poor hand/eye coordination. They may ask if you have been drinking, and your answer may be used against you in court.

SOBRIETY AND DRUG TESTS

Field Sobriety Tests

Field sobriety tests are used to detect a motorist's verbal, mental and physical driving impairment. The officer may ask the driver questions regarding name, address and other personal information; or require the driver to perform physical or mental tasks such as counting backwards or touching finger to nose. A motorist has no obligation to take these on-the-scene field sobriety tests and may refuse to do so without penalty.

Drug Recognition Tests

The Horizontal Gaze Nystagmus test (HGN) is most often used to test for drug impairment, which involves the officer observing any visual tracking problems the driver may exhibit when following the movements of the officer's pen or light. The motorist need not comply with drug recognition tests.

Chemical Tests

These are made on blood, breath or urine samples from the motorist. If an officer believes that you are under the influence of drugs or alcohol, the officer may arrest you and transport you to a police station or to a local hospital for a chemical sample for a breath, blood or urine test.

Maine's Implied Consent Law

It is the duty of all motorists arrested in Maine for OUI to submit to chemical testing.

* If you refuse, your license may be suspended immediately for at least 275 days. This suspension is a separate added suspension from any other suspension you may receive as the result of an OUI criminal conviction.

* Refusing chemical tests may be offered in trial as evidence against you and if you are convicted of OUI will result in a mandatory jail sentence.

* Even if you are subsequently acquitted of an OUI charge, a suspension for test refusal may remain on your record.

A police officer may make an immediate arrest without running a field test if the officer believes a driver is operating under the influence.

ADMINISTRATIVE HEARINGS

If the State of Maine suspends a motorist's license following an OUI stop, the motorist may request a hearing to have the license reinstated. A motorist is entitled to a hearing to determine whether there is evidence that the motorist operated under the influence of alcohol or drugs, or whether facts show the motorist refused to submit to a test. An administrative hearing is conducted by a hearing officer and is held at a local Department of Motor Vehicles (DMV) office.

Under a limited set of circumstances a motorist may also be able to apply to regain a license after suspension, or apply to obtain a work-restricted license, if the motorist meets conditions set by the DMV for reinstatement. It is very important that a driver's motor vehicle license shows the correct mailing address and that the motorist gives the arresting police office the correct mailing address.

All motorists are responsible for informing the Department of Motor Vehicles of address changes so that notifications of suspension or the opportunity for administrative hearings will be received. A notice of suspension mailed to an address that the DMV has listed as current will be enforced, and the license will be suspended whether or not the notice is actually received by the driver.

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Lawyer Referral & Information Service

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