HOW TO SURVIVE A DUI CHARGE IN ARIZONA

Call a former DUI judge with over 50 years of experience to discuss your case.

Mark N. Weingart, Esq.

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FOREWORD

I wrote this book to impart some of my 50 years of experience to those in need of quick and accurate answers to the complex experience we call DUI. Arizona DUI convictions can carry mandatory incarceration, substantial financial obligations, and consequences for your driving privileges. This book is by no means a complete guide to DUI defense and consequences. Although Arizona statutes establish statewide requirements, available sentencing programs and local procedures can differ among courts. My hope is that readers can get accurate information in a nutshell before seeking to hire an attorney.

As a former judge, I can tell you that people who face a DUI without representation may be unaware of the separate consequences involving Arizona's Motor Vehicle Division, or MVD, and other compliance requirements. A lawyer should review both the criminal case and the licensing issues, explain available options, and help you understand what must be done and when. No attorney can guarantee a particular outcome.

DISCLAIMER

This publication is intended for educational purposes only. No legal advice is being given, and reading this material does not create an attorney-client relationship. The information is general and may not apply to the specific facts of your case. Laws, court decisions, administrative requirements, and local programs can change. The law in effect when an alleged offense occurred may differ from the law described in this revision.

This book is not a substitute for advice from an experienced attorney who knows the facts of your case and the applicable law. Do not rely on it to calculate a hearing deadline, determine whether you may legally drive, or decide whether to submit to testing. Obtain prompt advice about those issues. No result described in this publication or in a testimonial guarantees a similar result in another case.

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TESTIMONIALS

These testimonials describe individual clients' experiences. They are not statements of current law, and past results do not guarantee future outcomes. Statements within a testimonial about penalties, licensing, or court practices should not be treated as legal guidance.

"Mine was a DUI matter and I learned that there are basically three types of DUI attorneys in general: 1) Bait and Switch; 2) Dishonest and greedy and 3) Honest and ethical. Mark is the latter. The clients who give him a bad rating probably think that they can just pay their way out of trouble. It doesn't work that way. The reality hurts and is scary. Don't expect to pay Mark to hold your hand and promise you that everything will go the way you want. Also, do not expect Mark to create a solid stance if you are dishonest to him about the facts to gain sympathy or advantage. He knows which clients are honest and upfront. He will put his best foot forward regardless, but if you feed him garbage, you can't expect him to fix the problem you are facing with the best possible outcome just because you paid him.

His prices are slightly above average for a reason. You get what you pay for. Actually, he is inexpensive compared to the type 1 and 2 attorneys I mentioned above because he does not have to spend tons of money on cute commercials and full page flashy yellow page ads in this stage in his career. That means more money spent on your case. The startup attorney and the ones that are looking for sheer volume will lure and hook at any price to keep the lights on. Mark has a network of attorneys that work with him and with less experience than himself that may show up at some hearings that are not critical to your case at the time. He does this so he can be present for the hearings for his clients where knows his presence is critical. And, because of his excellent reputation with the courts, judges and prosecutors, they are much much more likely than not to reschedule critical visits when Mark is available when requested.

This is difficult to grasp, but that's how it works. But he will always be there when it is critical for him to be there. I used Mark and he did what he said he would do - that is to get my case the best possible outcome which he knows from experience. Once you sign contract, you got to trust him. It is scary because, say like a passenger in a plane, you got to trust the pilot over a situation you have absolutely no control over and most likely also do not how the system works. There were plenty of opportunities that Mark could have taken advantage of my situation and I'm a

bright guy. He never charged me more than the original agreed contract even though I knew he put in more effort when needed. He also wouldn't accept extra compensation when I thought it would somehow make him work harder to get better results or give me a promise. That my unfortunate friend's is extremely rare trait even for other AV rated attorneys.

Mark is not out to be the richest lawyer in Arizona. He could easily retire. But he likes his practice and truly wants to make sure his clients are not taken advantage of from the prosecution. During my case proceedings and interactions with Mark, I saw a man who is truly like a white knight in a gloomy and dark place. The penalties are too high and ridiculous for first time non-dangerous offenders. Mark, like many others knows this and wants to fight the good fight. I highly recommend Mark. And when I tell others what he has done for me that were in a similar situation, they always say they wish they would have hired Mark. It gives me pride that I made a wise decision to hire him. Mark also has many reputable and discounted connections for other requirements like separate MVD issues (i.e. IID and SR-22) and court ordered DUI treatment screenings. It seems a lot of professionals in the valley respect and like being a help to Mark's clients. Do you own due diligence first before you hire any attorney and preferably by a face-to-face interview? Get a feel

for the attorney that will affect your future. Mark, like most attorneys will not charge a consult fee. If they do run."

– JJ

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"Mark and his staff did a wonderful job of not only ensuring me of an amicable outcome to my case should the worst-case scenario arise... but eventually they were able to present me with the best possible outcome I could have hoped for - dismissal. I was up against a super-extreme DUI and looking at some jail time together with a whole lot of my personal freedom and a whole lot of my money gone; I had prepared to pay for my mistakes. Mark and his staff, although distant at times, were obviously just busy working hard for their clients. I spoke to them only when necessary which made me feel nervous and in the dark at times but now I see that's to be expected with your future in limbo and at the mercy of persons, mostly unknown. It took time to convince myself the case was no longer in my hands and that I had to put my trust in Mark and let everything unfold.

Mark and his staff worked diligently to provide me with the best possible defense and at the end of the day I walked away from the whole situation without my license for three months - that's my punishment. I also paid a lawyer fee which I would have

paid twice over had I known what I know now. I would highly recommend Mark and his staff. I would highly recommend this firm to anyone in the area facing a DUI or in need of other criminal defense. Put your trust in Mark - he's an expert and a professional. Thanks again for all your help, Mark."

– Jesse

****

"Mark and his amazing dynamic team did an incredible job on my case. Given the unfortunate and stressful predicament, I found myself in, it was both mentally and emotionally reassuring to know that I was being taken care of by the very best. The process was seamless and professional from the beginning. I was given a few directions on what I needed to take care of on my own, then after that I was able to resume my daily schedule and await notice of next steps. I did not have very many questions throughout the whole process because all the instructions were always so clear, but when I did someone from the team was ready to help. Overall, Mark is the preeminent authority on these matters, and has the knowledge, experience, and creativity to seek out the best resolution to your situation."

– James

****

"Mark and his team got me out of a really serious bind in Gilbert. As we all know, Gilbert is a great city with the toughest laws known to a man! If he wins in Gilbert, he can win anywhere. If you need a great lawyer, call Mark!!!!"

– Anonymous

****

"I was charged with a super extreme DUI. With AZ having one of the harshest penalties in the US and considering I was facing jail time and a very large fine, I contacted Mark regarding my situation. He handled my case ethically and professionally. I appreciate he never once sugarcoated anything and was very upfront about all aspects of my case. A real straight shooter. My situation was unique, but the bottom line is he represented me very well and my case was ultimately dismissed."

– Adam

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"I was facing assault and disorderly conduct charges and could not face having these charges on my record. I found Mark while searching online for reputable lawyers in Tempe. I was

very happy to have Mark Weingart as my attorney. I felt better the minute I sat down with him. After a few months of interviews, he fought to have my assault charged dropped completely and negotiated to have my disorderly conduct charge dropped after a diversion course. I was very happy with the outcome and would recommend Mark to anyone. Hopefully, I never have to be in this situation again, but now I know who to call."

– Anthony

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About The Author

Founding member Mark N. Weingart is a board-certified specialist in criminal law under standards established by the Arizona Board of Legal Specialization.

Mark has been practicing law for 50 years. He is a former assistant county prosecuting attorney in the State of Ohio, where he prosecuted more than 100 D.U.I. cases early in his career. When he came to Arizona in 1979, he was appointed as a city court judge in the City of Tempe, where he presided over D.U.I. cases. At the time Mark was the youngest appointed city judge in Arizona. He worked full

and part-time in that capacity as a judge from 1979 until 1986. Also, for a six-year period, he served as an Assistant Attorney General for the State of Arizona.

Respectfully referred to as the "Godfather" of DUI defense because of his vast experience and tens of thousands of former clients, he takes pride in his representation of the accused. He graduated from the University of Akron School of Law in 1976. He is Martindale-Hubbell AV rated and peer review rated. He is a founding member of the National College for DUI Defense. He has represented over 35,000 clients and handled more than 400 jury trials.

At a no-pressure, free initial consultation, a prospective client speaks with Mark or one of his veteran associate attorneys. The consultation is an opportunity to discuss the case, potential consequences, representation, fees, and available financing options. No particular result can be promised.

CHAPTER 1
HOW ARE DUI CHARGES DEFINED IN ARIZONA?

Arizona has specific DUI statutes covering alcohol, drugs, and combinations of the two. DUI charges can be misdemeanors or felonies. A misdemeanor DUI can result in jail, fines and assessments, screening and other court-ordered services, and consequences for your driving privileges. Aggravated DUI is a felony and can result in prison, probation where permitted, and additional consequences.

You do not necessarily have to be moving to face a DUI charge. Arizona law also prohibits being in actual physical control of a vehicle under the circumstances covered by the DUI statutes. Whether someone was in actual physical control depends on the facts; simply assuming that parking the vehicle or turning off the engine eliminates all risk of a DUI charge is unsafe.

The basic impairment offense applies when alcohol, drugs, or a combination impairs a person to the slightest degree. A person can be convicted of that offense even with an alcohol concentration below .08. Separately, Arizona prohibits having an alcohol concentration of .08 or more within two hours of driving or being in actual physical control when the concentration results from alcohol consumed before or while driving or being in control. The extreme-DUI thresholds use the same two-hour framework.

Special rules apply to certain drivers. The alcohol-concentration threshold is .04 for operating a commercial motor vehicle requiring a commercial driver license and for specified vehicle-for-hire or transportation-network driving. Drivers under 21 also face separate restrictions on

driving with alcohol in their bodies. Do not assume that being below .08 means driving is lawful.

For a first non-extreme misdemeanor DUI, the statutory minimum jail sentence is ten consecutive days. The judge may suspend nine days if the person completes the required court-ordered alcohol or drug screening, education, treatment, or evidence-based psychotherapy. That leaves at least one day to serve. The reduction is conditional, not automatic, and the court can impose more than the minimum.

The minimum base fine is $250, and the statute separately requires two $500 assessments. Surcharges, other applicable assessments, and costs can increase the amount owed. Screening, treatment, interlock, incarceration, and monitoring expenses are separate potential costs. There is no single all-inclusive statewide total that accurately describes every case.

If the offense involved alcohol, the usual interlock requirement for a first non-extreme misdemeanor DUI is twelve months. Certain first offenders may qualify to have the remaining period deferred after at least six months if

every statutory condition is satisfied. Eligibility includes education and compliance requirements and excludes an offense involving a collision that caused physical injury or property damage. Do not remove an interlock based only on the passage of six months; obtain confirmation of MVD authorization. A court may also order an interlock for a drug-only DUI.

The next category is extreme DUI: an alcohol concentration of .15 or more but less than .20. This is a statutory alcohol-concentration category, not a requirement that the State prove a special degree of visible impairment. The first-offense minimum is thirty consecutive days in jail. The judge may suspend all but nine days if the person equips every vehicle operated with a certified ignition interlock device for twelve months and complies with the applicable requirements.

For a first extreme DUI, the minimum base fine is $250. The statute also requires a $250 assessment and two $1,000 assessments, before applicable surcharges and other costs. The usual mandatory interlock period is twelve months, and the court can impose a longer period as authorized by law. Eligible defendants may serve part of

an incarceration term through a locally authorized home-detention or continuous-alcohol-monitoring program, but availability and admission are not guaranteed.

The highest alcohol-concentration category is .20 or more, often called super-extreme DUI. The first-offense minimum jail sentence is forty-five consecutive days. The judge may suspend all but fourteen days on the statutory twelve-month interlock condition. That sentencing condition does not shorten the separate MVD interlock requirement, which is ordinarily eighteen months for a first super-extreme DUI.

For a first super-extreme DUI, the minimum base fine is $500. The statute additionally requires a $250 assessment and two $1,000 assessments, plus applicable surcharges and other costs. Screening, any additional services ordered by the court, and traffic survival school are also part of the consequences addressed by the DUI statutes. Home detention or continuous alcohol monitoring may be available for part of the incarceration term if the governing program and eligibility requirements allow it.

Second-offense sentencing generally applies when there is a qualifying prior DUI within eighty-four months, or seven years. The offense dates—not simply the conviction dates—determine the applicable interval. For example, if the first violation occurred in 2020 but the conviction was entered in 2022, the 2020 violation date is used when measuring the interval to a later offense. Out-of-state convictions may qualify if the offense would constitute an Arizona DUI. Counsel must review the actual records, not merely the description on a driving history.

For a second non-extreme misdemeanor DUI within the applicable period, the statutory minimum is ninety days in jail, with thirty days consecutive. The judge may suspend all but thirty days if the person completes the required court-ordered services. The minimum base fine is $500, and the statute requires two additional $1,250 assessments, plus applicable surcharges and other costs. The statute also requires at least thirty hours of community restitution, subject to authorized alternative sanctions, and a one-year license revocation.

A second extreme DUI carries a minimum of 120 days in jail, with sixty days consecutive. The minimum

base fine is $500, with a $250 assessment and two $1,250 assessments, plus applicable surcharges and other costs. There is also a requirement for at least thirty hours of community restitution, subject to authorized alternative sanctions, and revocation for at least one year. The usual interlock requirement is twelve months, although a longer requirement may be imposed as authorized by law.

A second super-extreme DUI carries a minimum of 180 days in jail, with ninety days consecutive. The minimum base fine is $1,000, with a $250 assessment and two $1,250 assessments, plus applicable surcharges and other costs. Community restitution and at least a one-year revocation also apply. The usual interlock period for this repeat-offense category is twenty-four months. The nine-day and fourteen-day suspension provisions described for first extreme and super-extreme offenses do not apply to second-offense sentencing.

Home detention is not simply permission to stay home instead of serving a sentence. It is a regulated program that may require electronic location monitoring, daily alcohol or drug testing, participation in approved services, payment of program costs, and compliance with

other restrictions. Under the municipal and county DUI-program statutes, an eligible first non-extreme offender must first serve at least one day in jail. For the other misdemeanor sentencing categories described above, the statutes generally require service of at least twenty percent of the initial incarceration term in jail before program placement. How the sentence and any permitted suspension are structured matters; do not assume a particular number of jail days without reviewing the actual sentence and local program.

Work or school release is different from home detention. Under the DUI sentencing statute, qualifying employed defendants or students may continue work or school after the required initial consecutive jail period, ordinarily twenty-four hours for first non-extreme sentencing and forty-eight hours for repeat or extreme sentencing. Release can be for no more than twelve hours a day and six days a week, and only as needed for the actual work or schooling. The court can deny release for good cause placed on the record. Implementation must be coordinated with the court and custodial facility.

A license revocation is different from a suspension. A suspension temporarily withdraws the driving privilege, and reinstatement still requires compliance with applicable conditions. A revocation terminates the license or privilege, and a new license requires application and approval. Neither automatically ends in permission to drive merely because a stated period has passed.

Some drivers qualify for a special ignition interlock restricted driver license during a suspension or revocation. Others do not. Eligibility depends on the legal basis for the action, the offense, screening and other compliance requirements, and any separate licensing holds. Some administrative provisions allow interlock-restricted licensing even when the ordinary eligibility provision is narrower. An interlock installation alone is not a license to drive. Confirm issuance of the proper license or permit and compliance with every restriction before driving.

A drug-only DUI does not automatically trigger the same mandatory interlock rule as an alcohol DUI, but Arizona law allows the court to order an interlock in drug-only cases. Drug DUI can also result in suspension or

revocation. The criminal case, MVD action, and any interlock order must all be reviewed separately.

CHAPTER 2
WHAT HAPPENS AFTER A DUI ARREST IN ARIZONA?

After arrest and processing, some misdemeanor DUI suspects are cited and released; others are booked into jail or held for an initial appearance. The process depends on the allegations, the circumstances, and any other legal basis for detention. Release from custody does not resolve either the criminal case or the MVD licensing issues.

Chemical-test evidence can change over time. A person tested by law enforcement must be given a reasonable opportunity to arrange an additional test by a

physician, registered nurse, or other qualified person of the person's choosing. If you want an independent test, request the opportunity promptly and seek legal assistance without unnecessary delay. A hospital or qualified private service may be an option, but availability and charges must be confirmed. Failure to obtain an independent test does not automatically exclude the State's test results.

Nobody can promise a result after a five-minute phone consultation. Consult a reputable attorney who can review the facts and explain both the criminal and administrative proceedings. Important questions include whether a vehicle can be released from impound, when a suspension begins, whether a hearing should be requested, what penalties are possible, and whether local sentencing alternatives may be available.

We try to arrange prompt consultations and can discuss whether a phone or video consultation is appropriate. Bring or send every document you received from law enforcement, the jail, the court, or MVD. Keep copies and retain envelopes showing mailing information. Do not assume a court appearance date is also the deadline for challenging a licensing action.

If you are arrested, request a private opportunity to speak with an attorney as soon as feasible. Arizona recognizes a right to consult counsel before chemical testing when doing so will not unduly delay or interfere with the investigation. This is not an unlimited right to postpone testing until a particular attorney answers. A request for counsel does not automatically excuse refusal or delay in completing a test.

Arizona's implied-consent law generally imposes a twelve-month suspension for refusing or failing to complete a properly requested post-arrest chemical test after the required advisements. A second or subsequent refusal within eighty-four months can result in a two-year suspension. Officers may seek a warrant to obtain blood despite a refusal, and refusal evidence may be admissible. Field sobriety exercises and post-arrest chemical testing are not the same thing and do not carry the same consequences.

Do not assume that release gives you thirty unrestricted days to drive. Under the usual administrative DUI and refusal procedures, an order generally becomes effective thirty days after service or issuance of the

applicable notice. The actual notice, the status of your license, any existing suspension or revocation, and any temporary permit control. When blood results are pending, an order may be served at arrest or MVD may later send notice. Keep your MVD address current and review mail promptly.

A hearing request generally must be received by MVD within thirty days after the applicable notice date. A timely hearing request stays the suspension while the administrative proceeding is pending, subject to the applicable procedures. Summary review may also be available for a test-result suspension, but it is not the same as an evidentiary hearing. Applying for and receiving a special ignition interlock restricted driver license under certain administrative provisions waives the right to contest that administrative action. Discuss those choices before making an election.

A qualifying test-result suspension is generally ninety days. An eligible driver may instead serve thirty days without driving followed by sixty days of restricted driving after completing the required screening, or may qualify for an authorized special ignition interlock

restricted driver license in lieu of that suspension. The available option depends on the applicable statute and the driver's circumstances; it is not automatic.

As to counseling, seek help promptly if you believe you need it. Voluntary treatment may be relevant to mitigation, but it does not establish a defense or guarantee a particular result. Counsel can help determine whether a provider and program satisfy court and MVD requirements. Arizona law now also recognizes qualifying evidence-based psychotherapy in specified DUI screening, education, and treatment provisions. Do not assume any counseling automatically fulfills the required services.

CHAPTER 3
PENALTIES FOR AN ENHANCED OR AGGRAVATED DUI

Aggravated DUI is a felony. Arizona recognizes several grounds for aggravated DUI; it is not limited to two situations. The charge must be examined to identify the particular statutory ground and the sentencing provisions that apply.

Committing DUI while a person under fifteen is in the vehicle is a class 6 felony. The statute requires at least the incarceration minimum applicable to the underlying non-extreme or extreme DUI category. The case also carries

felony consequences, screening and other required services, financial penalties, and license revocation. In an eligible non-dangerous class 6 case, the court may enter a misdemeanor judgment or leave the offense undesignated during probation. If the offense is properly left undesignated, the statute requires misdemeanor designation when the defendant successfully fulfills the probation conditions and is discharged, subject to the statutory requirements. A court order is still necessary; not every class 6 conviction is left undesignated or qualifies for this treatment.

The class 4 aggravated-DUI grounds include committing DUI while the driver's license or privilege is suspended, canceled, revoked, or refused, or while specified DUI-related restrictions apply; committing a third or subsequent qualifying DUI within eighty-four months; committing DUI while under a court-ordered or MVD-required ignition-interlock obligation; and committing DUI while driving the wrong way on a highway. For the interlock ground, driving a vehicle that has an interlock does not itself prevent aggravated-DUI liability. The statutory ground concerns committing DUI while subject to the interlock requirement.

Prior-offense calculations require careful review. Offense dates control the eighty-four-month period, and the aggravated-DUI statute excludes certain periods of incarceration and absconder status from that calculation. Qualifying out-of-state convictions can count. Offenses arising from the same series of acts are treated differently from separate incidents. For the license-status ground, counsel must also examine the State's proof of the required knowledge or notice.

For specified class 4 aggravated-DUI grounds—including the license-status ground, a third qualifying DUI with two qualifying priors, and wrong-way DUI—the statute requires at least four months in prison before the person becomes eligible for probation or other specified release. A repeat-offense aggravated DUI involving three or more qualifying priors within the statutory period carries at least eight months under that provision. Longer prison terms may apply under the governing sentencing laws.

The ignition-interlock ground is a class 4 felony, but the aggravated-DUI statute does not impose the same automatic four-month minimum solely because that

ground applies. Do not assume that every class 4 aggravated DUI receives an identical sentence. Probation is not mandatory, and prior felony convictions or other sentencing circumstances may change the exposure substantially.

A limited statutory county-jail program can permit an otherwise mandatory prison period to be served in an authorized county jail when all statutory conditions are met. That is not ordinary misdemeanor home detention or a general entitlement to substitute jail for prison. Counsel must verify whether an implemented program applies to the offense and county.

Aggravated DUI also requires a minimum $750 fine, a $250 assessment, and two $1,500 assessments, in addition to applicable surcharges and other obligations. MVD revokes the driving privilege and generally cannot issue a new license within one year of conviction. A qualifying child-passenger aggravated-DUI case may allow a special ignition interlock restricted driver license after satisfaction of the applicable conditions. Alcohol-related aggravated-DUI interlock periods vary: the non-extreme child-passenger category generally carries twelve months, while

the specified class 4 categories and extreme child-passenger category generally carry twenty-four months. A drug-only aggravated-DUI case can also involve a court-ordered interlock.

What about DUI where someone causes serious injury or death? In Arizona, the State may file additional charges such as aggravated assault, negligent homicide, manslaughter, or second-degree murder when the evidence establishes their elements. An injury or death does not automatically prove every element of those offenses. The prosecution must establish the applicable mental state, causation, and other requirements. Sentencing depends on the offense, dangerousness allegations and findings, prior convictions, and other governing provisions. There is no single mandatory prison minimum that accurately describes every DUI-related injury or death case.

Consequences Associated with A DUI Conviction

Immigration consequences require individualized analysis. Do not assume that every DUI causes deportation or that a misdemeanor cannot affect immigration status. Counsel should review the precise offense, any drug

involvement or aggravating facts, the person's immigration history and status, and the proposed plea before resolving the criminal case. When immigration issues arise, coordinated advice from qualified immigration counsel is important.

International travel and admission rules are separate from Arizona DUI law. A DUI may affect admission to another country, including Canada, but this book does not state that country's current rules or a fixed exclusion period. Obtain current advice from counsel qualified in the destination country before making travel plans or relying on an anticipated date of eligibility.

Professional licensing and employment can also be affected. Doctors, nurses, lawyers, real estate professionals, and others should promptly determine whether an arrest, charge, conviction, or administrative licensing action triggers a reporting obligation or review. Not every board takes the same action, and a DUI does not automatically produce the same professional sanction in every case. The applicable board's current rules, the facts, and any reporting deadline must be checked separately.

People who drive for a living face additional concerns. A commercial driver license holder can be disqualified from commercial driving for at least one year for a first qualifying DUI, including a DUI committed in a personal vehicle, and qualifying test refusals also trigger disqualification. Certain violations while transporting placarded hazardous materials carry at least three years. Two qualifying separate incidents generally result in lifetime disqualification, although Arizona law authorizes rules under which some lifetime disqualifications may be reduced to at least ten years. That is not automatic, and some disqualifications are permanent without that reduction option. A restricted noncommercial license does not authorize commercial driving.

Pilots and other federally regulated professionals should obtain specialized advice promptly concerning any separate reporting, medical-certification, or licensing requirements. Resolving the Arizona criminal case does not necessarily resolve those obligations.

CHAPTER 4
DRUG DUI IN ARIZONA

Arizona has two important drug-DUI theories. One prohibits driving or being in actual physical control while impaired to the slightest degree by a drug or a combination of substances. Another prohibits driving or being in actual physical control with a statutorily covered drug or qualifying metabolite in the body, subject to important statutory exceptions and judicial limits. The State does not have to prove impairment for every non-marijuana drug-presence charge.

A person using a drug as prescribed by an authorized licensed medical practitioner has a statutory defense to the drug-presence offense. A prescription is not a defense to driving while actually impaired to the slightest degree. Taking medication exactly as directed can still affect safe driving, and combining medications with alcohol or other substances can create additional risks. Marijuana has its own impairment rule, discussed below.

What Happens After Someone Is Pulled Over On Suspicion of Drug DUI?

During a traffic stop, an officer may ask about drugs, prescriptions, alcohol, and when substances were taken. Statements can become evidence. You may decline to answer investigative questions about substance use and request legal advice, but you must still comply with lawful directions and applicable identification and document requirements. Do not lie, physically resist, or assume that requesting an attorney ends the investigation.

An officer may request field sobriety exercises and may arrange an evaluation by a drug recognition expert, often called a DRE. These observations and evaluations can be offered as evidence, but they are not infallible or

conclusive. Counsel can examine whether the officer was properly trained, whether the procedures were followed, and whether medical conditions, injuries, fatigue, anxiety, or other factors provide alternative explanations.

Refusing field sobriety exercises is not consequence-free. Arizona courts permit evidence of refusal when the requested tests are a lawful search supported by reasonable suspicion. The separate twelve-month or two-year implied-consent suspension concerns refusal of qualifying post-arrest chemical testing, not simply declining roadside coordination exercises. Because different parts of an investigation involve different rules, blanket advice that every requested test can be refused without consequences is misleading.

If arrested, request an opportunity to consult an attorney as soon as feasible without unduly interfering with the investigation. Officers may request a blood test under Arizona's implied-consent procedures. Refusing or failing to complete a properly requested test after the required warnings can trigger a twelve-month suspension, or two years for a second or subsequent refusal within eighty-four months. Refusal does not necessarily prevent a

blood draw: officers may seek a search warrant. The legality of any draw, the warrant, and the manner of collection remain subject to review.

Penalties Associated with Drug DUI in Arizona

The non-extreme DUI sentencing provisions generally apply to drug DUI, including incarceration, fines and assessments, screening, any additional services ordered, traffic survival school, and applicable licensing consequences. Prior convictions and aggravating circumstances can increase the penalties or make the offense a felony. The extreme and super-extreme categories are based on alcohol concentration; drug involvement alone does not create those alcohol-concentration categories.

An ignition interlock is not automatically required solely because a DUI involved drugs rather than alcohol. However, Arizona expressly authorizes a court to order an interlock for a drug-only DUI or drug-only aggravated DUI. A case involving both alcohol and drugs may also trigger the mandatory alcohol-related rules. Suspension, revocation, restricted-license eligibility, and any court-ordered interlock must be evaluated separately.

Role Of Science In a Drug DUI Case

Drug-DUI cases often require careful review of blood testing and interpretation. A laboratory may identify a drug and report its concentration, but the unit and method depend on the test. Many drug concentrations are reported in nanograms per milliliter. Counsel should review the actual report rather than assume a particular unit or compare values reported in different units.

A published therapeutic range does not establish that a person was safe to drive. It describes concentrations associated with therapeutic use in a particular context, not a universal boundary between impairment and non-impairment. Effects can depend on dose, time since use, tolerance, individual response, other medications, alcohol, and the relationship between the blood draw and driving.

Likewise, a concentration outside a published range does not by itself resolve every legal or scientific question. An expert's conclusions must be evaluated in light of the charge, the evidence, and the limits of the method. Counsel may examine collection, storage, chain of custody, laboratory quality controls, identification and quantitation methods, uncertainty, and the basis for any opinion about

impairment. A laboratory result can be important evidence without being a complete answer to whether the State has proved the charged offense.

Marijuana DUI Cases

Arizona's legalization of qualifying marijuana possession and use did not legalize impaired driving. For the marijuana drug-presence DUI offense, the State must also prove impairment to the slightest degree. Merely finding marijuana components or metabolites in the body is not enough to establish that offense.

Arizona does not set a numerical THC concentration that automatically establishes marijuana DUI in the way the alcohol statutes establish .08, .15, and .20 thresholds. A THC result must be considered with the other evidence and the scientific limits of interpreting that result. The State may rely on driving, observations, statements, test performance, and properly admitted expert testimony. Neither a positive result nor a low result should be treated as automatically deciding impairment.

Marijuana-related administrative licensing actions also require careful review. Arizona appellate authority

has held that lawful marijuana use cannot support a test-result suspension based solely on marijuana components or metabolites without a showing of impairment. That does not mean a marijuana case can never produce a suspension, or that a person may refuse a properly requested chemical test without separate consequences.

The defense should examine the actual substance identified, timing, the officer's observations, the laboratory work, and any claimed impairment. A medical-marijuana authorization does not permit impaired driving, and legal use does not make a case automatically defensible or guarantee dismissal.

CHAPTER 5
WHAT IS PROP 200 UNDER ARIZONA LAW?

Proposition 200 was a voter initiative that established probation-and-treatment protections for qualifying personal possession or use of controlled substances and drug paraphernalia. It concerns qualifying possession or use offenses, not DUI itself. Having a drug-DUI charge does not make the DUI conviction eligible for Proposition 200 sentencing.

For an eligible personal-possession or use conviction, the court must suspend imposition or

execution of sentence and place the person on probation with appropriate drug treatment or education. The statute contains exclusions, including specified violent-crime circumstances, methamphetamine offenses, and certain prior-conviction or treatment-refusal circumstances. Possession for sale, production, manufacturing, and transportation for sale are outside its personal-possession protection.

The first-offense protections generally prohibit imposing jail or prison as an initial condition of Proposition 200 probation. Probation violations require more careful analysis: the statute permits additional conditions and limits incarceration, but allows incarceration for specified violations involving new drug offenses or court orders relating to treatment. If the person refuses treatment after a reasonable opportunity to participate, the court may revoke the special statutory protection and impose sentencing under the otherwise applicable law.

A second qualifying conviction can permit additional probation conditions, including jail where authorized. A later conviction does not automatically mean mandatory prison merely because it is described as a third

strike. Prior-conviction counting, the timing and relationship of offenses, statutory exclusions, and applicable decisions must be examined. Even when a person is no longer entitled to mandatory Proposition 200 probation, ordinary discretionary probation may remain available if the person otherwise qualifies. Losing the special protection and being legally ineligible for all probation are different things.

Diversion is also different from Proposition 200 probation. Depending on the prosecutor, the charge, and eligibility, a possession case may qualify for a program that can avoid prosecution or result in dismissal after successful completion. Do not rely on an old program name, a fixed price, a uniform one-year testing requirement, or an assumption that failure always produces the same consequence. Current eligibility, provider, fees, testing, duration, accommodations, and completion or termination terms must be confirmed with the responsible prosecutor and provider.

Arizona's marijuana reforms also changed which possession conduct is unlawful. Adults 21 or older may lawfully possess up to one ounce of marijuana, with no

more than five grams in concentrate form, subject to the statutory limits and exceptions. Marijuana paraphernalia and certain cultivation and transfer activities are also protected when the requirements are met. Not every marijuana-possession allegation should therefore be approached as a felony requiring diversion or Proposition 200 probation. The amount, age, conduct, and applicable exceptions must be reviewed first.

Consequences Of Methamphetamine Possession

Personal possession or use involving methamphetamine is excluded from Proposition 200's mandatory-probation protection. However, that exclusion does not mean every first methamphetamine-possession conviction requires prison. Simple possession or use is generally a class 4 felony, and the dangerous-drug statute permits probation in qualifying circumstances unless another provision makes the defendant ineligible.

Sale, possession for sale, manufacturing, possession of manufacturing equipment or chemicals, and transportation for sale involve different offenses and can carry much more severe mandatory sentencing provisions. A lawyer must distinguish those offenses from simple

possession, review the evidence and prior record, and determine which sentencing rules actually apply. Do not assume either that prison is inevitable for every possession charge or that a reduced charge can be negotiated in every case.

CHAPTER 6
WHY RETAIN AN EXPERIENCED DUI TRIAL ATTORNEY?

Each DUI case has unique facts. An experienced attorney can examine whether the vehicle stop, detention, arrest, searches, statements, and chemical testing complied with the law. A supported legal challenge may lead to exclusion of evidence, a change in the charge or disposition, or dismissal in an appropriate case. None of those outcomes is automatic merely because a procedural question exists.

Counsel should also review sentencing options. Arizona establishes mandatory minimum penalties, but permitted sentence suspensions and local home-detention, continuous-monitoring, and work-release arrangements can affect how a lawful sentence is served. Availability depends on the statute, the sentence, the jurisdiction, the program, and the individual's eligibility. A lawyer familiar with those requirements can explain the actual exposure without promising a program placement.

Licensing must be addressed alongside the criminal case. An administrative suspension, a refusal suspension, a conviction-based suspension, and a revocation are distinct actions. A conviction can trigger a suspension when the license has not already been or is not being suspended under the applicable administrative provisions. Counsel should review the MVD record, notices, and any qualifying credit or overlap rather than assume that the court case and MVD case produce identical results.

An SR-22 is a certificate used to establish required proof of financial responsibility; it is not itself an insurance policy. Arizona's reinstatement and restricted-license laws can require proof of financial responsibility for specified

suspensions or revocations. An administrative test-result suspension is not treated identically to every conviction-based or refusal action. Whether a filing is required, for how long, and at what cost depends on the controlling action, the person's record, MVD's requirements, and the insurer. Hiring counsel does not guarantee that a legally required filing can be avoided, and no fixed premium increase accurately describes every driver.

Blood and breath evidence also require close review. Counsel may examine the qualifications of relevant personnel, the procedures followed, maintenance and quality-control records, sample identification and storage, analytical data, and any known problems affecting reliability. A higher alcohol-concentration category can materially increase sentencing exposure, making careful examination of a result near a statutory threshold especially important.

Body-camera, dash-camera, dispatch, and other recordings can help evaluate what occurred. Availability, completeness, audio quality, camera angle, and retention policies differ. Video may support a challenge, support the prosecution, or leave important facts unresolved. Counsel

should seek relevant recordings promptly rather than assume every event was recorded or that a recording necessarily proves an officer was right or wrong.

Scientific measurements involve uncertainty, but a reported .080 is not automatically invalid, reduced below the threshold, or inadmissible because uncertainty exists. The significance of the measurement, its uncertainty, and any testing defect must be evaluated under the applicable evidence and DUI rules and the facts of the case. Experts may be needed. The defense should distinguish a genuine reliability issue from an assumption that every laboratory result can be defeated.

An attorney can obtain discovery, investigate alternative explanations, consult experts when appropriate, litigate supported challenges, and explain the risks of trial and proposed resolutions. The purpose of that work is to allow an informed decision—not to assume that every charge is correct or promise that every charge can be dismissed.

WHAT IS THE NEXT STEP?

If you have already set an appointment to meet with me, keep the appointment. The consultation is an opportunity to explain what happened, review the documents you received, and understand the next steps. Bring information about prior offenses, medications, the vehicle, your license status, and any employment, immigration, or professional-licensing concerns that may affect your decisions.

If you have not yet set an appointment, arrange one promptly. MVD hearing deadlines, independent-testing opportunities, evidence preservation, and court dates can require attention before the criminal case appears to be moving forward. Do not wait for a laboratory result or assume that silence from the court means there is nothing to do.

Until your status is confirmed, do not assume you may drive. Follow release conditions, preserve documents and communications, and avoid discussing case details publicly. Seek advice tailored to the particular charges, offense date, and licensing notices.

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