

# MICHIGAN DRUNK DRIVING AND DRIVER'S LICENSE HANDBOOK

Tips From A Board-Certified Criminal Attorney  
On How To Protect/Restore Your License



**Daniel T. Geherin, Esq.**

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On How To Protect/Restore Your License

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# FOREWORD

From the minute a person is pulled over for suspected drunk driving, his or her life begins to change *dramatically*. Even at arrest, a driver's rights and freedoms start to erode: confiscation of license; impound of car and license plate; placement in a jail/holding cell; judicial arraignment. Once charged, the driver faces even harsher penalties, including long-term incarceration, extensive probation, significant fines/costs, immigration consequences and/or inability to travel to many countries, including Canada. This says nothing of the *collateral* consequences to a person's reputation and self-esteem.

All that said, the one consequence that weighs heavily on every arrestee's mind is his or her driver's license: Will my license be suspended or revoked? How do I get to work, or support my family? When will I be eligible to drive again? This Handbook is designed to explain Michigan's various drunk/drug driving statutes and the consequences of an arrest or conviction on a person's Michigan Operator's License. It provides tips on how to avoid suspension, revocation or other license sanctions — and if unavoidable — how to restore those privileges.

# **DEDICATION**

To Lisa, Gino, and Maxine.

And to the thousands of DUI and License Restoration clients I've represented over the last 20 years who remind me every day why I chose this profession in the first place: To never stop fighting for good people who make bad mistakes.

# **DISCLAIMER**

This publication is intended to be used for educational purposes only. No legal advice is being given, and no attorney-client relationship is intended to be created by reading this material. The author assumes no liability for any errors or omissions or for how this book or its contents are used or interpreted or for any consequences resulting directly or indirectly from the use of this book. For legal or any other advice, please consult an experienced attorney or the appropriate expert who is aware of the specific facts of your case and is knowledgeable of the law in your jurisdiction.

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# TESTIMONIALS

*“I really cannot say about Dan and his knowledge and professional demeanor. My nephew recommended him for this same reason. Dan met me at the worst and most scary time in my life, with no judgment. He made the process of getting my restricted license and years later (actually today), I won my decision for full reinstatement. He fought for me over some questionable readings in my final appeal and I always felt confident in his presence. His staff is also pleasant and very helpful. Please don't hesitate to have Dan in your corner, you won't regret it!”*

**- Nikki**

\*\*\*\*\*

*“Dan was great to work with. Dan was extremely responsive and professional. His rate was fair and I believe his knowledge of the local Ann Arbor system gave me the best possible outcome in my case. Dan knows everyone in court (judge, prosecutor, probation officers, etc.), which I believe is a huge help.”*

**- Matthew**

\*\*\*\*\*

*“I had a run in with the police in June of 2014 for an OWI as a minor, but never heard anything about it until 4 years later when I was 24. We decided to hire Dan and were extremely happy with his work. He stayed in close contact with the prosecutors allowing for us to know exactly what our options were. We decided to take the matter to trial. With the lateness of the charge Dan was able to provide enough reason against the prosecutors arguments which led to my case being dismissed. Dan is professional and is very understanding of the circumstances you may find yourself in helping to put you more at ease with the way you decide to approach your problem.”*

**- Anonymous**

\*\*\*\*\*

*“Dan will exceed your expectations. I guarantee it. I wholeheartedly recommend Dan Geherin and his law firm; choosing Dan to represent me will forever be one of the best decisions that I have made. Getting an OWI charge dropped down to mere civil infraction fines and points, was nothing short of a miracle. Having met with several lawyers prior to choosing Dan, I doubt that I would have achieved such a favorable outcome with any other lawyer.”*

**- Anonymous**

\*\*\*\*\*



*“In 2006 I was charged with OWI Causing Death. In 2012, I attempted to get my license on my own and was unsuccessful. Mr. Geherin represented me and did a fantastic job. Just in the past couple of weeks he represented me at my final hearing to get my restrictions removed and we were successful. He is very thorough, knowledgeable and easy to work with. The entire staff at this firm is extremely friendly and responsive. I would highly recommend them.”*

**- Anonymous**

\*\*\*\*\*

*“The license restoration process in Michigan is extremely cumbersome to navigate. Researching on your own can lead you down hundreds of different story lines with few consistent outcomes. Mr. Geherin stepped up to the plate and gave me the specific guidance and direction I needed to get to my license restored. He was direct but kind, in understanding my situation and all of the obstacles I was facing. Being able to work with him and his staff remotely was hugely beneficial and greatly helped reduce much of the stress that comes along with dealing with the intricacies of the process. His team kept me notified every step of the way. I would highly recommend his services to anyone looking to correct their past mistakes.”*

**- Anonymous**

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# TABLE OF CONTENTS

i.	<b>Foreword</b>	<b>3</b>
<hr/>		
ii.	<b>Dedication</b>	<b>4</b>
<hr/>		
iii.	<b>Disclaimer</b>	<b>5</b>
<hr/>		
iv.	<b>Testimonials</b>	<b>6</b>
<hr/>		
v.	<b>About The Author</b>	<b>11</b>
<hr/>		
1.	<b>Michigan Drunk Driving &amp; License Consequences</b>	<b>13</b>
<hr/>		
2.	<b>Repeat Offense Drunk Driving</b>	<b>19</b>
<hr/>		
3.	<b>OWI Special Circumstances</b>	<b>26</b>
<hr/>		
4.	<b>Drunk Driving Injury Or Death</b>	<b>30</b>
<hr/>		
5.	<b>Refusal Of Chemical Tests</b>	<b>34</b>
<hr/>		
6.	<b>How Arrests/Convictions Are Abstracted To The Secretary Of State</b>	<b>39</b>

7. **Protecting The License** **43**

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---

8. **Restoring The License** **51**

vi. **Index** **60**

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vii. **Notes** **61**

## ABOUT THE AUTHOR



Daniel T. Geherin is an NBTA® Board-Certified Criminal Trial Attorney and Former Prosecutor with over 22 years' experience practicing law. His trial-based practice exclusively focuses on representing individuals in cases ranging from criminal/drunk driving defense, to driver's license appeals, to civil litigation, to juvenile delinquency. He has completed over 250 trials, argued before the Michigan Court of Appeals, and conducted thousands of Secretary of State driver's license appeals hearings throughout Michigan.

Before becoming a private attorney, Mr. Geherin was a prosecutor in Los Angeles, California, where he prosecuted gang offenses, sexual assaults, narcotics violations, juvenile delinquency, and complex white-collar criminal offenses. He is a member of the Criminal Defense Attorneys of Michigan, the Federal Bar Association, the State Bar of California, and the Washtenaw County Bar Association, where he is a past chairperson of the Criminal Law Section. Mr. Geherin is rated *AV-Preeminent®* by Martindale-Hubbell; is named in the *Best Lawyers in America*; has been listed both by *SuperLawyers* and *Leading Lawyers* Magazines in the field of criminal defense; was named a Top Lawyer in Michigan DUI Law by *Detroit Business Magazine*; and received a "10 out of 10" rating by Avvo.com. Mr. Geherin is a frequent contributor to ICLE seminars and publications, and is currently on the ICLE Advisory Board for the Criminal Law Section. Mr. Geherin has authored several books on criminal defense, drunk driving, license restoration and trial skills, including Defending College Students Charged with a Sex Crime in Michigan and Collateral Effects of a Juvenile Conviction.

# CHAPTER 1

## MICHIGAN DRUNK DRIVING & LICENSE CONSEQUENCES



In Michigan, a drunk driving conviction can have life-altering effects on a person's freedom, job, and future. There are many direct and indirect consequences following an arrest for alcohol or drug-related driving offenses – including the potential loss of driving privileges. It is imperative for a citizen (or an attorney) who is facing DUI charges to anticipate all of these consequences, protect against them, and if necessary, learn how to restore a suspended or revoked Michigan driver's license.

## ***What Is “OWI” Under Michigan State Law?***

Many states use the acronym “DUI” when referring to drunk driving offenses. In contrast, Michigan uses the acronym “OWI”, which stands for “Operating While Intoxicated.” The term “operating” is more wide-reaching than simply “driving,” and includes any “actual or physical control of a vehicle.” As such, even persons not “driving” a vehicle in the classic sense can be prosecuted for OWI in Michigan, including people who might be sitting or sleeping in a stationary vehicle. The term “Intoxicated” has various meanings under Michigan law, from having an unlawful blood alcohol level to being under the influence of alcohol and/or a controlled substance, to having an unlawful controlled substance in the body.

For purpose of this Handbook, OWI is the main “umbrella” acronym that includes most drug, alcohol or combination offenses found in the Michigan Vehicle Code, Section **257.625** *et al.* In some parlance, these offenses are therefore considered “**625** Offenses.”

OWVI is the acronym for Operating While Visibly Impaired, a “lesser” offense of OWI that punishes a driver

for operating a vehicle while visibly impaired by alcohol, controlled substances, or a combination of both. Like its more serious counterpart, OWVI is a misdemeanor and has serious consequences for a person's criminal record, potential freedom, and driving rights. Most alarmingly, under Michigan law, neither OWI nor OWVI may be expunged or diverted off a person's record, as these offenses fall in the Motor Vehicle Code and are thus exempt from such programs. Therefore, unfortunately, convictions for OWI or OWVI generally remain on a person's criminal and driving records for the rest of his/her lifetime.

### ***Difference Between OWI and OWVI***

OWI and OWVI differ in two primary respects: One, in the method or elements of proof; and Two, in the ultimate driver's license consequences. OWI requires a higher standard in which the prosecutor must show actual intoxication or a driver being under the influence of alcohol, controlled substances, or a combination. In contrast, for an OWVI, the prosecutor must only show that a person's ability to drive has been lessened to the point it has been noticed by another driver or person.



In terms of licensing consequences, a conviction for OWI has more severe consequences than OWVI. Generally stated, a first-offense OWI conviction carries a 30-day license suspension and 150-day restriction along with 6 points, while an OWVI carries a 90-day restriction (no suspension) along with 4 points. Both carry fines/costs, although OWVI is approximately \$300 less in totality.

### *Michigan's Super Drunk Law*

Like many states, Michigan enacted a law carrying aggravated consequences/penalties for a person who operates a motor vehicle while greater than two times the legal blood alcohol limit. So, if a person operates at a 0.17 or greater blood alcohol level (measured by breath, blood or urine), this is considered operating with a high blood alcohol content (BAC), truncated to OWI/High BAC, and commonly referred to as "SuperDrunk" driving.

Persons convicted of OWI/High BAC face up to 180 days in jail (contrasted with OWI/OWVI first offense, which carry maximum sentences of 93 days in jail). The license consequences are severe: 1-year suspension, with no driving for the first 45 days and restricted driving for

320 days if and only if the person installs a Breath Alcohol Ignition Interlock Device in any vehicle he/she operates, along with 6 points.

### ***Laws For Persons Under Age 21 Operating Vehicles With Any Level Of Alcohol Or Drug In Their System***

Michigan has a “zero tolerance” statute for minors who drink and drive. If a person under the age of 21 has *any* measurable amount of alcohol or controlled substance in his system while operating a motor vehicle, he is in violation of MCL 257.625a(6). While the statute uses the term “any” amount, the jury instruction elements require the prosecutor to prove BAC of .02 or greater.

This offense, commonly referred to as, “Minor with a BAC” or “Zero Tolerance OWI,” is still a misdemeanor, but does not carry the threat of incarceration. A person convicted of this offense for the first time faces 30-days license restriction (no suspension) and 4 points.

Regrettably, like OWI and OWVI and all other motor vehicle offenses, Zero Tolerance/OWI cannot be expunged or diverted, and technically remains on an offender’s record

for life. So, a 17-year-old who makes the mistake of having a couple beers and operating a car may find that her future is greatly impacted by a misdemeanor conviction (consider school/employment denials, insurance hikes, license suspensions etc.).

Accordingly, finding an attorney who specializes in defense of OWI cases in general—and license appeals specifically---is of paramount importance to minors and their parents who face this life-changing situation. Because the blood alcohol thresholds are so low, and because minors are often treated more aggressively by police, there are often fertile pre-trial litigation opportunities in these cases. Specialized attorneys might seek to challenge the arrest, the detention and the chemical test rights, thus weakening the government's case and giving a minor a chance at charge reduction or even dismissal/acquittal.

## CHAPTER 2

# REPEAT OFFENSE DRUNK DRIVING



### *When It Comes To Multiple OWI Convictions, Does Michigan Have A “Look-Back Period?”*

The most crucial “look-back period” in Michigan is a **seven-year** period of time between offenses. Drivers who suffer an arrest for an OWI (drugs or alcohol) within seven years of a prior OWI *conviction* face elevated charges and consequences. Note that the OWI 2<sup>nd</sup> Offense statute measures from prior conviction to new arrest, not arrest date to arrest date. So, attorneys must carefully scrutinize a client’s driving record to ascertain prior offense dates, and not simply rely on

the prosecutor's charging documents. In contrast, license sanctions are typically measured from prior conviction to subsequent conviction (not arrest). As such, sometimes it is important to delay a second case as far as possible to get beyond the seven-year license measuring period.

OWI 2<sup>nd</sup> Offense carries with it a possibility of up to 365 days in jail (contrast that with OWI/OWVI 1<sup>st</sup> Offense, with a maximum penalty of 93 days). Generally speaking, most Michigan judges impose jail on 2<sup>nd</sup> offenses. And, there are many statutorily required sanctions as well—including mandatory vehicle immobilization. Finally, and most seriously as it relates to this Handbook, a conviction for a 2<sup>nd</sup> Offense OWI typically results in license **revocation**, with application eligibility 1 year or more.

Another period of time to keep in mind is a 10-year period for offenders with three OWI (drug or alcohol) convictions. Although a felony can be charged if a person has priors outside of that 10-year window (see discussion about *Heidi's Law*, below), three OWI convictions within a 10-year period almost always results in enhanced driver's license suspensions or revocations, and most typically results in a felony charge/conviction.

## ***What Is Considered OWI Second Offense In Michigan And What Do I Need To Know?***

As previously mentioned, two 625 arrests/convictions within a seven-year period often amounts to an OWI Second Offense charge in Michigan. That is a misdemeanor offense, although one with increased sanctions to a person's freedom and ability to retain their driver's license. The most important thing to keep in mind is that a person who has committed a second OWI offense within the seven-year period will face much graver consequences and thus needs an expert attorney to represent him. By doing so, he will ideally increase the chances of avoiding lengthy jail and mandatory license revocation.

## ***What Is Considered An OWI Third Offense In Michigan And What Is Important To Understand About These Charges?***

In Michigan, an OWI Third Offense is defined as a driver being arrested for OWI (drugs or alcohol) when he/she has *two or more* prior 625 convictions in his/her lifetime. Because this is a lifetime "look-back" statute, the dates of conviction versus arrest are largely irrelevant for charging

purposes, and only important as it relates to driver's license sanctions (which again, measure from conviction(s) to conviction(s)). OWI 3<sup>rd</sup> Offense is a Felony Offense, punishable by 1-5 years in State Prison, or by probation with up to 365 days in jail. There are many mandatory minimum collateral sanctions as well, including: vehicle immobilization; plate/registration restrictions; community service work; fines/costs/assessments, etc. And, of course, a felony conviction by itself has secondary collateral consequences (i.e., restrictions to travel, voting rights, weapon possession; immigration sanctions, including deportation and denial of access; student loan funding, etc.) that are extremely impactful for anyone, regardless of age.

As for licensing, persons convicted of OWI Third Offense typically face long-term revocation or suspension of their privileges by the Michigan Secretary of State. And, many prosecutors, judges and probation agents impose additional prohibition to driving, including the possibility of a sentence enhancement called a, "Motor Vehicle Advisory," which further restricts a person from operating a vehicle upon conviction, even if the Secretary of State grants privileges.

Clearly, a person charged with a felony OWI does not want an “amateur” attorney or one who merely “dabbles” in OWI defense. When charged with a felony OWI, clients should look for the combination of an experienced and specialized OWI defender—one ideally with a verifiable track record of success in litigating OWI 3<sup>rd</sup> Offense cases—and Driver’s License Specialist.

### ***What Is Heidi’s Law?***

While the old laws in Michigan used to allow a felony only upon three OWI convictions within a 10-year period of time, the legislature changed the law in 2007 to reflect many other states’ practices of penalizing a person for a felony offense if he or she has two priors in a *lifetime*. This shift was commonly referred to as, “Heidi’s Law,” so-named for a Michigan teenager who was killed by a drunk driver in 1991.

So, the OWI 3<sup>rd</sup> Offense Statute in Michigan now considers a third arrest for OWI (drugs or alcohol) as a felony if the operator has two or more 625 offenses in his lifetime. As a result, we often see older people who are charged with felony offenses and sent off to prison or long-term jail despite having decades of crime-free behavior.



Of note, a person convicted under the parameters of “Heidi’s Law” might not face mandatory long-term revocation or even suspension of their license. As mentioned above, license sanctions are typically calculated from conviction to conviction and are often enforced irrespective of the name of the underlying charge of which a person is convicted. Thus, a driver with old prior convictions might be convicted of OWI 3<sup>rd</sup> Offense, yet only suffer a short license suspension or restriction. Once again, consulting with a License Specialist who will carefully review a client’s driving record is of utmost importance and might be the difference between driving lawfully and long-term revocation.

### *If There Are Previous OWI Convictions, Can Those Be Challenged?*

Under Michigan law, collateral attacks to a prior conviction are largely prohibited, unless the person did not have an attorney for the prior offense and there exists some procedural irregularity that might have occurred. If a driver can show that a conviction is not proper, there can be a challenge to “strike” the prior conviction.

Defendants who have old prior 625 convictions should consult with an OWI/Licensing Specialist to see how a challenge might be mounted, perhaps to the underlying offense via a pre-trial suppression motion or trial, or perhaps to the validity of the prior convictions (i.e., collateral attacking the prior conviction, seeing if any procedural or substantive errors were made at that time; or scrutinizing whether the prior conviction indeed meets the definition of a 625 offense in another state).

Barring any litigation possibilities, an experienced, specialized OWI defense attorney might be able to pursue favorable plea negotiations (i.e., reduction to misdemeanor(s)) and/or sentence negotiations (i.e., reduction or elimination of long-term incarceration).

## CHAPTER 3

# OWI SPECIAL CIRCUMSTANCES



### *Introduction*

In Michigan, sometimes an arrest for a first-time OWI can have enhanced/aggravated consequences, even if the blood alcohol level is low and even if there was no accident or injury. For example, if the driver has children in her vehicle at the time of the arrest, she might be charged with OWI/Child Endangerment. Likewise, there are also enhanced penalties for people who have a commercial driver's license and are convicted of OWI.

## ***What Is Child Endangerment?***

If a person operates a vehicle which is occupied by a child or children (defined by statute as 16 years old and younger) while intoxicated or impaired by alcohol and/or drugs, he may be charged with OWI/Child Endangerment, an aggravated misdemeanor offense. A conviction for this offense carries with it greater risk of incarceration (up to 180 days) and more severe license sanctions. And, in rare instances, a conviction for this offense might result in a Child Protective Services referral with potential dire consequences--up to and including termination of parental rights.

## ***What Is A CDL?***

Commercial Driver's Licenses (CDL) are specialized privileges granted to drivers who seek to operate a commercial vehicle, most typically for employment. For instances, many truck drivers, bus drivers, rideshare companies, and heavy-haul operators must have a CDL before operating. Seeking a CDL requires a clean driving record, evidence of testing and compliance, and other factors. Getting one is not easy, and once a person loses his CDL, retrieving it back can be close to impossible.

## *What Are The Consequences On A CDL For OWI?*

OWI and CDL simply do not mix. If a person is arrested for OWI while driving a commercial vehicle, he faces aggravated penalties and license sanctions. Further, the BAC cut-off for operating a commercial vehicle is .04, meaning a person conceivably could be convicted of a misdemeanor offense after drinking two beers! In addition, CDL holders who are driving a commercial vehicle face immediate suspension and long-term revocation if they refuse a preliminary breath test (PBT) or are driving hazardous materials at the time of arrest.

Lastly, even if a person is **not** driving a commercial vehicle at the time of OWI arrest, his/her separate CDL privileges will be subject to a one-year suspension if convicted, and could face a revocation and denial of that CDL privilege upon a second offense. And, this is in addition to the affect on the driver's "standard" license sanctions.

Accordingly, CDL holders who are arrested or charged with OWI---whether operating a commercial vehicle or not---should definitely consult with an experienced and successful OWI/License Specialist

immediately. Protecting that CDL privilege (and often with it, the ability to keep working) should be priority number one, and retaining an attorney with a track record of success on these types of cases might make all the difference in the world.

## CHAPTER 4

# DRUNK DRIVING INJURY OR DEATH



### *OWI Causing Serious Injury*

On rare occasions, drivers who are intoxicated or impaired by alcohol/controlled substances are involved in accidents in which other drivers or pedestrians are seriously injured. In Michigan, OWI Causing Serious Bodily Injury means that a person is driving with an unlawful blood alcohol level or while intoxicated or impaired from alcohol or controlled substances, and causes a “substantial bodily injury” to another person.

OWI Causing Serious Bodily Injury is a felony punishable by up to 5 years in State Prison. And, it carries with it a mandatory revocation of a person's license.

These charges are often defended on three fronts: One, challenging whether the underlying injury is "severe" enough to meet the statutory definition; two, litigating the causation aspect of the case (i.e., did the injured party contribute to or even cause his own injury by contributory negligence); and three, defending the underlying OWI.

To state the obvious, a person charged with OWI Causing Serious Bodily Injury is in grave danger of long-term incarceration and license deprivation, so seeking an experienced attorney who has fought and won these types of battles is highly advisable.

### ***OWI Causing Death***

In Michigan, if death results from an OWI, the end result typically is a 15-year maximum felony offense called "OWI Resulting in Death." This means that a person who is driving with an unlawful blood alcohol level, or while impaired by alcohol/controlled substance, or with the presence of certain controlled substances, and hits and kills



a pedestrian, a passenger, or another driver will face certain imprisonment upon a conviction for this offense. And, obviously, the person will face lengthy license revocation.

In some instances, prosecutors charge OWI drivers who kill with 2<sup>nd</sup> Degree Murder or Manslaughter. In these instances, drivers face upwards of life in prison. In either instance (OWI Resulting in Death or Murder/Manslaughter), similar defenses exist as do for OWI Serious Injury: Trial; Pretrial litigation/suppression motions; and Challenges to the “causation” element when the victim(s) might have contributed to the accident.

### ***How Does Protocol And How Do These Serious Types Of OWI Cases Differ From “Regular OWI” Cases In Michigan?***

Aside from the gravely serious consequences both in the courtroom and to a driver’s license, OWI Causing Serious Injury and OWI Resulting in Death have one major procedural difference from their misdemeanor counterparts. When prosecuting attorneys charge these two felony offenses, they generally do so by a *warrant*. This means that a person will be subject to an arrest and

detention before Arraignment. And, often bonds are denied or set a very high level for these offenses. In misdemeanor OWI cases, personal recognizance bonds are common, and typically a person is sent a letter to come to court, in lieu of an actual arrest warrant.

As such, clients facing the most serious of OWI charges – Injury, Death, Murder – need the most experienced and dedicated OWI defense attorneys. Prosecutors, police and judges do not take lightly the serious allegation of death/serious injury, regardless of a driver’s blood alcohol level or lack of criminal history. Put bluntly, they are often hellbent on convicting these drivers and sending them to prison for a very long time. Finding a defense attorney willing to stand and fight against that backdrop is perhaps the only way to level the playing field.

And, for those clients who have suffered a conviction of one of these felony offenses and have paid their debt to society, they will still need an accomplished and specialized license restoration attorney to help navigate a very difficult and unforgiving path towards ever driving again.

## CHAPTER 5

# REFUSAL OF CHEMICAL TESTS



### *What Is The “Implied Consent Law” In Michigan?*

When a Michigan resident applies for a driver’s license, he or she has “impliedly consented” to take a chemical test at the reasonable request of a police officer. If a police officer has reasonable suspicion to believe a Michigan driver is under the influence or impaired by drugs/ alcohol, the officer can require the driver to submit to a test of his breath, blood or urine, which will be used in criminal and administrative hearings against the driver.

## ***Does An Officer Have The Right To Choose Which Test He Or She Is Requesting?***

If the driver has diabetes or other enumerated physical ailments related to his or her blood, that driver is presumed not to have given consent to a blood test. Otherwise, the officer has the right to choose the type of chemical test. In the grand majority of cases, this will be a breath or blood test, as urine tests are not commonly administered by Michigan police agencies.

## ***I Have Been Arrested And Charged With OWI In Michigan. What Happens To My Physical Driver's License At The Initial Stages?***

After an arrest for OWI, if a person's blood alcohol level is over Michigan's legal limit (.08 for adults, lower for Minors and CDL holders), their license will be destroyed at the police station. Also, if a person is deemed to have refused a chemical test, his or her license will be confiscated and destroyed by the police agency.

Conversely, if the level is under Michigan's limit, or if blood results are unknown, the peace officer will typically return the physical license to the driver.

## ***Am I Given A Temporary License And Does This License Have Any Restriction?***

A driver who has his physical license confiscated/destroyed is then given a paper permit, referred to as a DI-177, which acts as a driving permit while the OWI case is pending. There are no restrictions to this permit and the permit lasts until the criminal case is disposed via dismissal, conviction/plea, or acquittal. Likewise, a driver who has refused a test is given a similar permit, referred to as a DI-93, which also acts as a temporary permit to operate while the refusal allegation is pending.

## ***How Long Is This License Valid For?***

The DI-177 permit is indefinite. Unfortunately, because it is not a picture identification, drivers are often forced to get a passport or other valid picture identification to use in conjunction with the driving permit.

## ***If I Have Refused A Breathalyzer Or Blood Test, How Many Days Do I Have To Request A Hearing and what does the Hearing Entail?***

A driver must request a hearing at the Secretary of State to challenge the Implied Consent violation within **14**

**days** of his alleged refusal or he will face an **automatic** suspension of his operator’s license for at least one year. Requesting the hearing does not automatically stop a license suspension, it simply enables the driver an opportunity to challenge the refusal allegation at the Michigan Secretary of State in what is called an “Implied Consent Hearing.” At this hearing, testimony is taken by the arresting officer(s) – who have the burden of proof – as to the circumstances of the refusal. There are 4 elements the police officer must prove by preponderance of evidence, including whether the refusal was “reasonable.”

At the Implied Consent Hearing, the Secretary of State Hearing Officer/Judge will determine whether the officer proved a violation. If so, the SOS will suspend the driver’s privileges for one year without restrictions. If it’s the driver’s second refusal within 7 years, the SOS will suspend for two years. Under the first scenario, the driver is eligible to file a Hardship/Equitable Appeal in the Circuit Court of the County of Arrest.

### ***What Is Considered A Refusal?***

While refusals are defined by Michigan law, the best way to consider them is to put them into two categories.

*Operator* refusals are those in which the police officers claim a driver either overtly refused to take a test or did something to subvert the test. *Technical* refusals are those in which the DataMaster or breath machine is not able to register a chemical test for some technical/mechanical reason. Either of these can form the basis of an Implied Consent violation.

### ***If I Have Refused A Breath Or A Blood Test, What Will Happen Next To My Driver's License?***

As mentioned above, the officer will issue a paper permit, called a DI-93, which enables a person to continue having operational privileges until or unless the license is affected by the implied consent proceeding or a criminal case. This paper permit has the heading of "Operator's Report of Refusal," and has instructions for how a driver might request an Implied Consent Hearing.

### ***Is This The Same For The Roadside Breathalyzer Test As Well?***

Refusal of the roadside test—the PBT-- is merely a civil infraction in Michigan. There are absolutely no license or criminal sanctions for a PBT refusal. Implied consent laws refer exclusively to the official chemical test (breath, blood or urine).

## CHAPTER 6

# HOW ARRESTS/CONVICTIONS ARE ABSTRACTED TO THE SECRETARY OF STATE



When someone is arrested for OWI, the officer generates a DI-177 form to provide to the driver. A copy of this form is sent directly to the Michigan Secretary of State. That notifies the Secretary of State that a person has been arrested for an OWI and might have a case forthcoming. If a person is convicted in a criminal court or is in violation of the implied consent law, the secretary of state receives an electronic *abstract of conviction* and in



turns notifies the driver of the corresponding license consequence. This abstract is what creates entries onto a person's master driving record.

### ***What Is The Difference Between A Suspension Versus A Revocation?***

A license suspension generally has a definitive starting and ending time, and merely requires a driver to pay a reinstatement fee at the end of that time period. In some suspensions, a driver can seek limited privileges to "override" the loss. In contrast, a license revocation means that a license has been revoked and denied, rendering the driver ineligible to drive *for any purpose*. Upon a revocation, a Michigan driver must appeal and petition through the Secretary of State for reinstatement of those privileges and must often wait a specific time period, most often 1 or 5 years, before applying. This process is called a License Appeal hearing, and is discussed in detail, below.

Generally, first-time OWI misdemeanor convictions (including even those for Child Endangerment and High BAC) result in suspensions. In contrast, repeat OWI

convictions and most felony OWI (including Serious Injury and Death) result in revocations.

To assist clients and attorneys learning this area of practice, we have included a chart on the next page which succinctly summarizes the various criminal and license sanctions for people facing the most common 625 offenses.

That said, the best way to ensure a driver knows all of the possible license and criminal sanctions is by hiring an experienced attorney who understands license issues and the difference in license consequences. Doing so is as important as finding the “best” OWI defense attorney. In a perfect world, finding a “combination” defense/license attorney should be the objective of a client facing any OWI charge.

**Criminal Sentencing/Administrative Consequences of HB 4247 (Alcohol Convictions)**

Effective 09/30/2003, removes references to "intoxicating liquor" and adds new definition for "alcoholic liquor" under 257.025(1), adds 257.025(8) to Alcohol Audit. Provides a one-year suspension for a first implied consent refusal, and a two-year suspension for a second or subsequent implied consent refusal within seven years.

Offense	OWI 257.025(1) > .08 Unit Oct. 1, 2013 (a) OUIL/OUIC (b) UBAC - Per se	OWI 257.025(3)	Operating With Presence of Drugs (OWPD) 257.025(6)	OWI/OVI Death/Injury 257.025(4) & (5)	Zero Tolerance 257.025(6) - (.02 - .08) Unit Oct. 1, 2013	Child Endangerment In violation of 625(1), (3), (4), (5) or (6)	.04 - <CDL 257.025(1) - (.04 < .08) Unit Oct. 1, 2013
1 <sup>st</sup> Offense or 2 <sup>nd</sup> prior crime within 10 years	Misdeamnor Fine/Jail/Comm. Svc: 1 or more of following: Up to 93 days jail, \$100-\$300 fine or 300 hours comm. svc. License: 30/150 susp/reat. 6 points Court-ordered Ignition Revocation/Permissive 625(2)(4) None Immb: Permissive up to 180 days Reg. Dcty: None Eff: None	Misdeamnor Fine/Jail/Comm. Svc: 1 or more of following: Up to 93 days jail, \$100-\$300 fine or 300 hours comm. svc. License: 30/150 susp/reat. 6 points Court-ordered Ignition Revocation/Permissive 625(2)(4) None Immb: Permissive up to 180 days Reg. Dcty: None Eff: None	Misdeamnor Fine/Jail/Comm. Svc: 1 or more of following: Up to 93 days jail, \$100-\$300 fine or 300 hours comm. svc. License: 30/150 susp/reat. 6 points Court-ordered Ignition Revocation/Permissive 625(2)(4) None Immb: Permissive up to 180 days Reg. Dcty: None Eff: None	Felony Fine/Jail/Comm. Svc: Death - \$10,000 fine, or both. \$1,000-\$5,000 fine OR 1-20 years OR \$2,500 to \$10,000 fine, or both. Responder Death: prison up to 20 years OR \$2,500 to \$10,000 fine, or both. License: minimum 1 year revocation/denial 6 points Plate Conf. Required Immb: Required up to 180 days Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: Up to \$250 fine OR up to 300 hours comm. svc, or both. License: 30 days rest 4 points Plate Conf. None Immb: None Reg. Dcty: None Eff: None	Misdeamnor Fine/Jail/Comm. Svc: Up to \$200-\$1,000 fine AND following: 5 days to 1 month comm. svc. License: 90/90 susp/reat. 5 points Plate Conf. None Immb: Permissive up to 180 days Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: Up to \$300 fine OR up to 93 days jail, or both. License: 90/90 susp/reat. 6 points Plate Conf. None Immb: Permissive up to 180 days Reg. Dcty: None Eff: None
2 <sup>nd</sup> Offense or any crime within 7 years	Misdeamnor Fine/Jail/Comm. Svc: \$200-\$500 fine AND one or more of the following: 5 days to 1-year jail, 30-90 days comm. svc. License: minimum 1 year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: \$200-\$500 fine AND one or more of the following: 5 days to 1-year jail, 30-90 days comm. svc. License: minimum 1-year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: \$200-\$500 fine AND one or more of the following: 5 days to 1-year jail, 30-90 days comm. svc. License: minimum 1-year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: Death - \$10,000 fine, or both. \$1,000-\$5,000 fine OR 1-20 years OR \$2,500 to \$10,000 fine, or both. Responder Death - prison up to 20 years OR \$2,500 to \$10,000 fine, or both. License: minimum 5 yr revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: Up to \$250 fine OR up to 300 hours comm. svc, or both. License: 90 day rest 4 points Plate Conf. None Immb: None Reg. Dcty: None Eff: None	Felony Fine/Jail/Comm. Svc: \$200-\$500 fine AND 5 years prison, probation with 30 days to 1-year jail, all AND 80-180 days comm. svc. License: minimum 1 year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days Reg. Dcty: None Eff: Permissive	Misdeamnor Fine/Jail/Comm. Svc: Up to \$1,000 fine OR up to 1-year prison, or both. License: CD - minimum 10 yr rev. OPR 1 yr residential Plate Conf. Required Immb: Required 90 to 180 days Reg. Dcty: None Eff: None
3 <sup>rd</sup> Offense or 2 prior crimes within 10 years	Felony Fine/Jail/Comm. Svc: \$500-\$1,000 fine AND either of the following: 1-5 years prison, probation with 30 days to 1 yr jail AND 60-180 days comm. svc. License: minimum 1 to 5 yr revocation/denial Plate Conf. Required Immb: Required 1-3 years unless forfeited Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: Death - \$10,000 fine, or both. \$1,000-\$5,000 fine OR 1-20 years OR \$2,500 to \$10,000 fine, or both. Responder Death - prison up to 20 years OR \$2,500 to \$10,000 fine, or both. License: minimum 5 yr revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: Death - \$10,000 fine, or both. \$1,000-\$5,000 fine OR 1-20 years OR \$2,500 to \$10,000 fine, or both. Responder Death - prison up to 20 years OR \$2,500 to \$10,000 fine, or both. License: minimum 5 yr revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: Death - \$10,000 fine, or both. \$1,000-\$5,000 fine OR 1-20 years OR \$2,500 to \$10,000 fine, or both. Responder Death - prison up to 20 years OR \$2,500 to \$10,000 fine, or both. License: minimum 5 yr revocation/denial Plate Conf. Required Immb: Required 90 to 180 days unless forfeited Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: \$200-\$500 fine AND 5 years prison, probation with 30 days to 1-year jail, all AND 80-180 days comm. svc. License: minimum 1 year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: \$200-\$500 fine AND 5 years prison, probation with 30 days to 1-year jail, all AND 80-180 days comm. svc. License: minimum 1 year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days Reg. Dcty: None Eff: Permissive	Felony Fine/Jail/Comm. Svc: \$200-\$500 fine AND 5 years prison, probation with 30 days to 1-year jail, all AND 80-180 days comm. svc. License: minimum 1 year revocation/denial Plate Conf. Required Immb: Required 90 to 180 days Reg. Dcty: None Eff: Permissive

## CHAPTER 7

# PROTECTING THE LICENSE



### *What Happens At A Pretrial In An OWI Case?*

Pre-trial Conferences (also known as Status Conferences) are early-stage proceedings where the case sets off into one of two directions: Towards litigation, or towards case negotiation/resolution. Litigation includes all pre-trial motions as well as trial. Negotiation/resolution includes all pleas/sentence resolution by which a defendant will enter a guilty or *no contest* plea to some negotiated outcome.

## *How Often Do OWI Cases Go To Trial?*

Statewide (and nationwide) statistics show that the grand majority of OWI cases resolve by plea negotiations. However, a specialized and experienced OWI attorney will often recognize good pre-trial and trial litigation issues to pursue in court, and should have a long and verifiable track record of winning OWI cases at various levels.

## *What Factors Play Into How You Decide Whether To Take An OWI Case To Trial Versus Taking A Plea Offer?*

Attorneys must only advise clients on their options, leaving the ultimate choice of litigation vs. negotiation to the client. Blood alcohol level and other chemical test results will be a big factor in this decision, as will evidence collected from the scene, such as body and dash cam videos, witness statements, and police reports. All of these should be reviewed very carefully by a skilled and experienced OWI attorney before making any decisions.

Often, pre-trial litigation provides the most fertile grounds for challenging OWI cases, including suppression motions alleging improper stops, detentions and test

administration. Successful OWI trials often involve lower blood alcohol levels, operation issues, or poor/untrustworthy police investigations. That all said, some clients simply cannot “afford” a misdemeanor conviction, so they chose to try their OWI case in the hopes of winning on an any number of issues.

### ***What Is A Typical Sentence for OWI Conviction?***

Most people will receive some form of formal probation for an OWI/625 conviction. Gone are the days when a person receives merely a fine and a “slap on the wrist” for an OWI. Now, Michigan law mandates that every person convicted of OWI must obtain a Substance Abuse Evaluation/Assessment prior to sentencing. And, the majority of judges refer offenders to a probationary pre-sentence screening, too.

Probation typically lasts 6-24 months, depending upon the court and upon a person’s background. People might have to report to an agent on a regular basis; perform community service work; test regularly for alcohol and drugs; provide proof on counseling/treatment; and attend periodic reviews. In some instances, jail or community work hours are imposed in addition to probationary requirements.

## ***What Is Sobriety Court And Who Is Eligible?***

Sobriety court is a specialized treatment program in which offenders (typically OWI 2<sup>nd</sup> or subsequent offenders) are given a chance to avoid mandatory consequences, both in the courtroom and with a driver's license, if they complete a very rigorous and intensive rehabilitation program. As of 2018, Michigan has approximately 23 certified DWI Sobriety Courts. If a person charged with OWI 2<sup>nd</sup> Offense enrolls in one of these certified programs and establishes good standing, he/she can receive a restricted license after 45 days' suspension rather than suffering a mandatory 1-year revocation.

## ***Restrictions/Rules Of Sobriety Court***

Sobriety Court typically has three phases and most often lasts 18 to 24 months. These phases involve very intensive treatment, counseling, and periodic reviews in front of the presiding judge. If a person in sobriety court relapses, it is extraordinarily likely that his probation status will be revoked and jail will almost always be imposed.

To enroll in Sobriety Court, a person usually must screen with a probation agent/coordinator, show a willingness to complete the program, admit to a substance abuse problem, and not be disqualified for a variety of reasons (i.e., violent/felony convictions). If a court does not have a certified Sobriety Court program, attorneys should be well-versed and experienced in pursuing transfer opportunities to other jurisdictions.

### ***What Is The Interlock Ignition Device?***

In Michigan, a breath alcohol ignition interlock device (“BAIID”) is a breath tube technology that is installed in a vehicle and used to start and to continue operating the vehicle during semi-regular intervals. A person blows into the tube and has his picture taken at various intervals in order to continue driving. BAIID devices are required for certain offenses, and are often used discretionally by judges/probation agents to monitor a driver’s performance while on probation or while seeking a full driver’s license.



## ***Does Everyone Who Is Convicted Or Even Charged With An OWI In Michigan Have To Have This Device Installed In His Or Her Vehicle?***

No. As it stands under current Michigan law, only those drivers who have been convicted of OWI/High BAC or a second/subsequent offense are usually required to have a BAIID installed in any vehicle in which they seek to drive. However, judges and prosecutors are increasingly ordering installation of these devices as a bond or probationary monitor, even for true first offenders.

## ***How Long Does Someone Typically Have To Have This Device Installed In Their Vehicle?***

For Secretary of State purposes, BAIIDs typically must be installed for a minimum of one year before a person is able to petition to have it removed. Under certain circumstances, drivers might have the device in their car for upwards of five years before they are eligible for a hearing requesting full licensure and removal of the unit. However, when a judge/probation agent orders a driver on a BAIID, it is typically for a shorter monitoring period.

For a person convicted of OWI/High BAC, they will have the BAIID installed for 320 days, and then must submit paperwork to the Secretary of State requesting removal. This paperwork will include a certified BAIID report from the interlock company showing whether the driver fully complied with the unit, and if not, will show logs/photos of any potential violations.

### ***What Are Consequences Of Violating The Interlock Ignition Device?***

Michigan divides violations of the BAIID into two categories: Major and Minor violations. Major violations include startup failures, tamper and circumvent violations, and driving vehicles not equipped with the device. Minor violations consist of a rolling retest violation or other mechanical issues that do not rise to the level of a serious or major violation. A major violation typically results in revocation of a person's license and, in some instances, new criminal charges. Minor violations typically do not result in revocation, unless a person has three minor violations in a specified period of time.

For those drivers on BAIID following an OWI/High BAC conviction, they will face what amounts to an automatic re-suspension of one year if the certified report shows *any* violations. Similarly, for those drivers on BAIID units who are trying to prove worthiness for full privileges, even the smallest violation will likely hamper their pursuit – and possibly result in reinstatement of revocation.

Attorneys who handle OWI and License Appeals must be well-versed in the mechanics behind the BAIID devices in order to defend their clients in the face of a major or minor violation allegation. After all, often it is a mechanical issue (i.e., battery deficiency) or an innocent mistake (i.e., inadvertently missing a retest) that results in a client having his license revocation reinstated – or even facing new criminal charges.

However, as a practical tip, attorneys should also thoroughly warn their clients to scrupulously honor their BAIID requirements, and to get an immediate alcohol test (PBT or ETG test) upon notice of an alleged BAIID alcohol reading.

# CHAPTER 8

## RESTORING THE LICENSE



### *How Long Does A Person Have To Wait To Become Legally Eligible To File A Driver's License Restoration After Multiple OWIs?*

A person's eligibility depends on his/her master driving record. A defense attorney should require a potential client to get a current copy of his or her driving record to determine specific eligibility for an appeal hearing.

As a general rule, a person convicted of two 625 offenses within 7 years will be revoked and ineligible for a

license appeal hearing for one year – unless he/she enrolls in a state-certified Sobriety Court. A person convicted of three 625 offenses within 10 years will generally be revoked for a minimum of 5 years (unless they did not suffer a prior revocation). Lastly, a person convicted of most OWI felony offenses will generally be revoked for a minimum of one year.

### ***Can't I Just Get Some Kind Of Restricted License For Work?***

If *revoked*, the answer is generally no. When a person is revoked, there is no legal ability to seek a hardship or restricted driver's license, even for employment. If *suspended*, the answer is generally maybe. For example, if a driver violates the implied consent law, he or she can seek a hardship license in front of a circuit court judge, asking for work privileges only. Likewise, if a person is convicted of OWI/High BAC, he will receive an automatic restricted license after 45 days' suspension, so long as he installs a BAIID in any vehicle driven. However, a person may not receive any restricted/work privileges during a "hard" suspension (such as the 30 days imposed for a first-time OWI conviction).

## *Can I Go To Circuit Court For A License Hardship?*

In 1999, Michigan courts lost virtually all original jurisdiction over driver's license issues, with the exception of a few limited procedures. Now, the grand majority of license jurisdiction falls with the Michigan SOS, and in particular, the Administrative Hearing Section (AHS), which used to be called the Driver's Assessment and Appeal Division (DAAD), and even earlier called the Driver's License Appeals Division (DLAD).

Circuit Courts do maintain **appellate jurisdiction** over most AHS decisions, including when a person is denied relief at AHS and files a legal challenge to that ruling in front of the circuit court judge. Similarly, a person can seek hardship/equitable privileges from a Circuit Court following an implied consent suspension. For implied consent appeals, jurisdiction lies with the Circuit Court in the county of OWI arrest. For all other appellate relief, jurisdiction lies with the Circuit Court of the Petitioner's residence.

## ***Does Being Eligible To File A License Appeal Mean I Will Automatically Get My License Back?***

Absolutely not. According to the SOS's most recent published statistics, approximately two-thirds of drivers are denied relief at their first license appeal hearing. Many Petitioners are either unprepared for the rigors of the hearing, or are not committed to sobriety. And, when denied, they usually have to wait an additional year before reapplying. In some unfortunate cases, Petitioners continue to lose for years and years on end.

In contrast, a specialized, experienced license appeal attorney often has much more successful statistics, and should be able to demonstrate a long track record of success at a variety of license appeal hearings. License Appeal Specialists should only take on clients who are committed to sobriety, who have their documents in order, and are serious and dedicated to proving their case.

## ***What Is The License Restoration Process Once I Am Eligible After A Revocation?***

Put bluntly, the process is extraordinarily time-consuming and detailed. A driver must submit many

documents to AHS to even request a hearing. These documents include a substance abuse evaluation (“SAE”) screening from a trained/licensed therapist, letters of support, and documentation of counseling/treatment. All of these documents are submitted to AHS in preparation for an actual hearing, at which time testimony will be taken from the revoked driver.

License appeal hearings are conducted either live or via videoconference and are presided over by an Administrative Law Judge (aka, “Hearing Officer”) employed by SOS. As of 2018, there are 10 different Hearing Officers; three live hearing locations; and dozens of videoconference sites. Typically, the hearings are scheduled in proximity to the Petitioner’s residence, and the Hearing Officers are assigned at random.

### ***How Do I Prepare For The Appeal Hearing?***

For starters, if you are financially able, you should certainly consider retaining a license appeal specialist attorney to assist in this process. An experienced specialist will walk you through every step of the appeals process, and should be able to demonstrate a long track record of success in the process.



That said, with or without an attorney, the best way to adequately prepare for a hearing is to document and provide all treatment/rehabilitation efforts and be prepared to answer many questions related to sobriety and methods of achieving long-term sobriety. To be clear, a license appeal hearing is not about a Petitioner's *need* for a license; it's about a Petitioner's *sobriety* (or, in many cases, lack thereof).

### ***How Do I Prove Sobriety?***

Sobriety is a very difficult and often nebulous concept to prove. Generally, proof of sobriety comes in the form of sworn testimony by the Petitioner, as well as written/documentary evidence from therapist(s) and friends/family who can attest to the Petitioner's abstinence date and other sobriety markers. Also, Petitioners are required to submit current 10-panel drug/alcohol toxicology reports to prove current abstinence. Lastly, Petitioners must submit a current SAE which documents sobriety/abstinence and gives both a formal diagnosis and prognosis for continued sobriety.

## *What Actually Happens At The Hearing?*

First, all documents that were submitted for the hearing are marked and introduced into evidence. Second, sworn testimony is taken from the Petitioner regarding his background, criminal history, and sobriety efforts. The Hearing Officer and/or the Petitioner's attorney (if applicable) will question the Petitioner, in detail, about these areas and will review all of the documents that have been submitted. Third, the Petitioner (or his attorney) will be given an opportunity to make a closing argument and, if allowed, submit any additional documentation post-hearing. Then, the Hearing Officer will issue a written opinion, either granting or denying the petition for a restored license.

## *What Happens Post-Hearing?*

If the Hearing Officer finds in favor of the Petitioner, typically a restricted license will be granted along with a requirement of BAIID Installation. Again, typically, that restricted license will be required for a minimum of one year before the Petitioner can come back to AHS and request full privileges. At a hearing requesting full privileges, the same process repeats---accumulation of written documents,

scheduling of hearing, sworn testimony – with the chief difference being the requirement that the Petitioner submit an updated and certified BAID report showing full compliance. If the BAID report shows any major or minor violations, the Petitioner will have to address each satisfactorily or will face continued restrictions, or, in some instances, reinstatement of revocation.

If the Hearing Officer finds against the Petitioner, typically the Petitioner will have to wait one calendar year to apply again. Or, the Petitioner can file for appellate remedy in the Circuit Court of his/her County of Residence. A legal appeal challenges the propriety of the Hearing Officer's decision (with the standard of proof being an Abuse of Discretion) and can ask for either an immediate re-hearing, or full reversal.

If a Circuit Court judge reverses the AHS decision, the driver may receive full privileges once the signed order is sent to the Secretary of State. If the judge orders an immediate re-hearing (called a "remand"), that hearing will be conducted several weeks later and should be supplemented with new evidence.

The appellate process for driver's appeals – much like the underlying system itself--is quite cumbersome and confusing. Finding an attorney who's experienced in license appeals – at both the Secretary of State and Circuit Court levels – is obviously advantageous for clients who are fighting to legally drive again.

# INDEX

---

## *A*

AGGRAVATED CONSEQUENCES · 16

APPEAL HEARING · 51

---

## *C*

CHEMICAL TEST · 35

CONTROLLED SUBSTANCES · 30

CRIMINAL HISTORY · 57

---

## *F*

FELONY · 20

---

## *I*

IGNITION INTERLOCK DEVICE · 47

---

## *L*

LOOK BACK PERIOD · 19

---

## *M*

MANDATORY CONSEQUENCES · 46

---

## *O*

OPERATING WHILE INTOXICATED · 14

OWI CONVICTION · 13

---

## *S*

SOBRIETY COURT · 46

---

## *T*

TRIAL LITIGATION · 44

# NOTES



# MICHIGAN DRUNK DRIVING AND DRIVER'S LICENSE HANDBOOK

## Tips From A Board-Certified Criminal Attorney On How To Protect/Restore Your License

*"I really cannot say about Dan and his knowledge and professional demeanor. My nephew recommended him for this same reason. Dan met me at the worst and most scary time in my life, with no judgment. He made the process of getting my restricted license and years later (actually today), I won my decision for full reinstatement. He fought for me over some questionable readings in my final appeal and I always felt confident in his presence. His staff is also pleasant and very helpful. Please don't hesitate to have Dan in your corner, you won't regret it!"*

**- Nikki**

*"Dan was great to work with. Dan was extremely responsive and professional. His rate was fair and I believe his knowledge of the local Ann Arbor system gave me the best possible outcome in my case. Dan knows everyone in court (judge, prosecutor, probation officers, etc.), which I believe is a huge help."*

**- Matthew**



### Daniel T. Geherin

Daniel T. Geherin is an NBTA® Board-Certified Criminal Trial Attorney and Former Prosecutor with over 22 years' experience practicing law. His trial-based practice exclusively focuses on representing individuals in cases ranging from criminal/drunk driving defense, to driver's license appeals, to civil litigation, to juvenile delinquency. He has completed over 250 trials, argued before the Michigan Court of Appeals, and conducted thousands of Secretary of State driver's license appeals hearings throughout Michigan.

Before becoming a private attorney, Mr. Geherin was a prosecutor in Los Angeles, California, where he prosecuted gang offenses, sexual assaults, narcotics violations, juvenile delinquency, and complex white-collar criminal offenses. He is a member of the Criminal Defense Attorneys of Michigan, the Federal Bar Association, the State Bar of California, and the Washtenaw County Bar Association, where he is a past chairperson of the Criminal Law Section. Mr. Geherin is rated AV-Preeminent® by Martindale-Hubbell; is named in the *Best Lawyers in America*; has been listed both by *SuperLawyers* and *Leading Lawyers* Magazines in the field of criminal defense; was named a Top Lawyer in Michigan DUI Law by *Detroit Business Magazine*; and received a "10 out of 10" rating by Avvo.com. Mr. Geherin is a frequent contributor to ICLE seminars and publications, and is currently on the ICLE Advisory Board for the Criminal Law Section. Mr. Geherin has authored several books on criminal defense, drunk driving, license restoration and trial skills, including [Defending College Students Charged with a Sex Crime in Michigan](#) and [Collateral Effects of a Juvenile Conviction](#).



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