

OWIs - Ten Frequently Asked Questions

1. Do I have the right to an attorney?

In Wisconsin, a first offense is a civil matter and not a criminal case. Therefore, you do not have a constitutional right to counsel. However, we strongly advise that you retain legal counsel to review the circumstances of the traffic stop, arrest and the blood alcohol concentration level. Bucher Law Group, LLC is skilled and tested in this area with over 100 years of proven experience among our attorneys.

2. What is an "IID"?

An IID is an Ignition Interlock Device. This device is installed in your vehicle in certain cases. Prior to starting your vehicle, you must blow into the device, which is utilized to detect any alcohol in your breath. If the device registers any alcohol, your vehicle will not start. Under current Wisconsin law, all repeat OWI offenders who are convicted must have an IID installed in their vehicle for a period of at least one year. All first-time offenders with a blood alcohol concentration in excess of .15 are also required to have an IID installed in their vehicle for a period of at least one year.

3. Am I going to lose my license? If so, for how long?

In Wisconsin, if you take a blood or breath and it is in excess of the legal limits, you will receive a Notice of Intent to Suspend Operating Privilege. You have the option to request an Administrative Hearing with the Department of Transportation within 10 days (13 days if mailed to you) of receipt of the Notice. This is an **administrative suspension** and is **different** from any suspension or revocation that the Court may impose. If you do not request an administrative hearing or you requested the hearing but have lost the review, your license will be suspended for six months. However, in most cases, you are immediately eligible for an occupational license.

4. Do I need to report a drunken driving arrest to my insurance company?

The answer is generally "no." However, if there was a collision involving, injury, death or property damage that you do not wish to pay for out of your own pocket, you should notify your insurance carrier. If there were no injuries or damage, there is no requirement under Wisconsin law to report the incident to your insurance carrier (Bear in mind that the police or the property owner may contact your insurance carrier). If you wish to obtain an occupational license, you must obtain an SR-22 (insurance bond) prior to applying for the occupational license, but you can obtain this coverage through most insurance providers – you are not required to obtain this bond through your present insurance carrier. Bear in mind that your insurance provider will likely learn of the OWI charge at some point in time.

5. The officer questioned me without reading my *Miranda* rights. Do I have a case?

Miranda is a complicated issue and deals with interrogation of suspects in custody. It only applies to criminal cases and there are many exemptions. General road questioning is exempt, as is booking information. However, an interrogation at the police department in a criminal case does require the administration of the *Miranda* warning for any statements to be admissible.

6. The police asked me to take a field sobriety test, which included a PBT (Preliminary Breath Test). Am I required to submit to these tests?

Absolutely not. Remember that when the police make a traffic stop, they are gathering information and evidence every second of the stop and while questioning you. The officer's flashlight may be gathering ambient air to determine whether there is alcohol emanating from your breath, monitoring your speech, watching your eyes and balance. Every movement and statement you make is being closely monitored and likely recorded. You are not required to speak to the officers, but you must produce your driver's license, exit the vehicle and any statement you choose to make must be truthful. However, you are under no requirements to perform any physical field sobriety test. In addition, you are under no requirements to take a preliminary breath test, which is administered with a small device that is used at the scene of the traffic stop to confirm the officer's suspicions. Bucher Law Group, LLC can assist you through every stage of the process.

7. Do I need to take the breath or blood test at the police department after my arrest?

That depends. My general answer is – yes, you should. In many jurisdictions, if you do not submit to the test, you will be cited with an additional charge of “refusal” that carries a much heavier penalty in terms of driver's license revocation, installation of an IID and waiting period for an occupational driver's license. The agencies will conduct what is termed a “forced blood draw” and will obtain your blood sample. It places you in a more difficult position. There are situations where a refusal may be in your best interests, and it depends on a variety of factors. Call Bucher Law Group, LLC and we will answer all of your questions.

8. When should I consult my attorney?

You should consult Bucher Law Group, LLC as soon as possible upon your arrest. If you have the opportunity to make a telephone call while at the police station, please contact us immediately and we will assist you. If not, the minute you are released, you or a family member should contact our office and we will immediately place in motion certain actions that may reduce your liability and assist you, especially if it is a serious case involving a vehicle crash resulting in injury or death.

9. Ok, this sounds great – but how much will this cost me?

Our fees depend upon the nature of the case and whether it is civil or criminal. Every lawyer in Wisconsin charges different rates, and there are lawyers who will “low ball” their rates – which should raise a red flag. There are also lawyers who might quote exorbitant costs on a flat fee, which should also raise a red flag. You should always personally meet with your legal counsel and you should engage in a written agreement. Generally, Bucher Law Group, LLC,

charges an initial retainer for a non-criminal OWI at approximately \$1500, with an hourly rate. As to criminal OWI cases, the initial retainer would likely be in the area of \$2500 - \$3000, with an hourly rate. More serious cases – such as injuries or death – will, obviously vary, but likely be in the area of an initial retainer of approximately \$5,000, with an hourly rate.

Bucher Law Group, LLC has extremely competitive rates and, most importantly, is one of the few firms in the Lake Country area with the experience dealing with all civil and criminal OWI cases. Our legal staff has over 100 years combined experience and we have a firm grasp on the traffic and criminal laws that impact your future and your insurance rates.

You should not hesitate to contact the lawyer of your choice, but we would encourage you to contact our office to inquire as to your rights and to examine our case with a free 45 minute initial consultation.