Implied Consent

- Implied consent or “Per se” law –
  - If a person is stopped or in physical control of a motor vehicle with
    - an alcohol concentration of 0.08% or higher
    - Higher sanctions for 0.16 or more
    - an alcohol concentration of 0.04% or more in a commercial vehicle
    - the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols.
  - This can be determined by a breath, blood or urine test.
  - Refusing to take a test is a crime per statute
  - Stays on your record for life
Administrative penalties

- Administrative requirements and sanctions-
  - Loss of license
  - Plate impound –
  - Vehicle forfeited-
  - Ignition Interlock - 90 days to six years
  - Rehabilitation – must provide proof of abstinence
Important to remember

- Even though you don’t get convicted of DWI the implied consent stays on record and is counted as an alcohol offense.
- If convicted of a DWI the conviction and implied consent counts as one offense if it’s a DWI conviction. Any other conviction, such as careless, will count as two offenses.
An ignition interlock device connected to a car’s electrical system can test a motorist’s blood-alcohol content level before driving.

**How the Device Works**

1. Driver breathes into device for two to five seconds. If the level is 0.02% or above, the car will not start.

2. The device will indicate whether driver has passed or failed.

**While on the Road**

- A driver must retake the test at random intervals. If the driver flunks the test and the device registers a “fail,” the device will ask the user to take the vehicle in for early calibration.

**Monitoring Results**

Every month, data from the device is monitored to see:

- Whether and when the driver committed violations.
- Whether the system was tampered with or disconnected.

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First Offender

- Revocation time periods
  - First-time offenders with an AC less than 0.16 = 90 days/180 days if under age 21
  - First-time offenders with an AC level 0.16 or greater = 1 year
  - Test refusal = 1 year
First Offender

- Option #1 - Full driving privileges with installation of ignition interlock
  - Last 90 days must have no failed tests for alcohol detected by the II device prior to reinstatement

- Option #2 – Hard revocation; no driving for the withdrawal period

- Option #3 – Available only for refusal or under 0.16
  - 15 day waiting period of no driving
  - Issuance of a limited license for the remainder of the withdrawal
  - Must have last 90 days alcohol free
Second Offense in 10 Years or Third on Record

- Revocation time periods
  - Second-time offenders with an AC less than 0.16 = 1 year
  - Second-time offenders with an AC level 0.16 or greater = 2 years
  - Test refusal = 2 years
Second Offense in 10 Years or Third on Record

- Option #1 - Full driving privileges with installation of ignition interlock
  - Last 90 days must have no failed tests for alcohol detected by the II device prior to reinstatement

- Option #2 – Hard revocation; no driving for the withdrawal period
Enrollment
First and Second Offense

- DWI knowledge test
- $680 reinstatement fee
- Apply for a new Class D driver’s license
- Ignition Interlock Participation Agreement
- Insurance certificate
- Special Review form (second offense only)
Eligibility

- Must be at least 18 years old
- Must drive a vehicle
- Must have no outstanding withdrawals
- Must apply for a Class D license
  - Commercial vehicles and motorcycles are not eligible
Three or More Offenses

- Revocation time periods
  - Third offense in 10 years or fourth on record = 3 years
  - Fourth offense in 10 years = 4 years
  - Fifth or subsequent offense = 6 years
  - Mandatory after July 1, 2011
  - No use during the required 3-6 years
Three or More Offenses

- Limited driving privileges for at least one year
- Full driving privileges for the remainder of the withdrawal
- Chemical health assessment
- Demonstration of abstinence with use of the device
Enrollment
Third Offense or More

- DWI knowledge test
- $680 reinstatement fee
- Apply for a new Class D driver’s license
- Chemical use assessment or enrollment in a treatment program
- Ignition Interlock Participation Agreement
- Insurance Certificate
- Last Use Statement
- Limited License Application
Additional Information

Breath Alcohol Concentrations .02 or above

- First and second time offenders
  - A .02 BAC or above within the last 90 days of the Program will extend the Program for an additional 90 days from the date of the reading

- Canceled Inimical to Public Safety
  - A .02 BAC or above will cancel the driver and require reenrollment in the Program.
Non alcohol Violations

- Tamper/Circumvent/Bypass the device
- Driving a vehicle not equipped with an ignition interlock device
- Violating conditions of the limited license
- Skipping 3 rolling retests in a 7-day period
- Fewer than 30 initial blows per month (applies to canceled-IPS only to verify abstinence)
- Missing calibration visits
Sanctions

Extension of Program

1st violation
  Additional 180 days

2nd violation
  Additional 1 year

3rd and subsequent violations
  Additional 545 days
B card Restriction

- Three or more offenses in 10 years or four or more on record
- Total abstinence
- License revoked and cancelled for 3-6 years
- Restriction on license
Criminal Vehicular Operation

- A person is guilty of criminal vehicular homicide or operation if the person causes injury to or death of another as a result of operating a motor vehicle.
Criminal Vehicular Operation

- 2014 – Law enforcement can send in verification that the person was involved in a criminal vehicular operation offense.
  - This will suspend the license
  - All CVO offenses except for fatalities
Judicial & Administrative Review

- Administrative review – conducted by the driver evaluation unit in DVS
- Judicial review- conducted in court
  - 2007 to 2013 offenses removed from record
  - Now on record but closed
happens to this information? The device records data on the breath test, as well as information about how often the vehicle is used and the number of miles driven. When you take the vehicle to the vendor for...