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CRIMINAL, DWI & TRAFFIC TICKET DEFENSE ATTORNEYS



Hello, everyone, and thank you so much for all of the positive feedback about my last newsletter! I hope you will enjoy today's new issue, which is just in time for the New Year's holiday.

POPULAR NEW YEAR'S DAY HANGOVER REMEDIES



With New Year's Eve approaching, I thought I'd share a few popular hangover remedies. Here are links to some helpful articles:

<http://www.health.com/health/gallery/0,,20452426,00.html>

<https://www.everydayhealth.com/columns/white-seeber-grogan-the-remedy-chicks/natural-hangover-remedies/>

On a more serious note, New Year's Eve and New Year's Day bring the highest number of DWI arrests of any days of the year. It's not unusual to encounter a driver's license checkpoint or roadblock at some point over the weekend. One of the most common questions I get from clients is whether they should blow in the breathalyzer machine or submit to a blood test if arrested for DWI.

I will write a more comprehensive article in the future about what to expect and what to do if you are ever pulled over for DWI, but for now I simply want to address the issue of whether you should submit to a breathalyzer or blood test if asked to do so. In case you or someone you know is ever pulled over for suspicion of DWI, please read the following. This is a bit complicated, so please call or email me if you have any questions.

SHOULD I SUBMIT TO A BREATH OR BLOOD TEST IF REQUESTED?

My answer about whether to blow in the breathalyzer machine at the jail or to take a blood test if arrested for DWI used to be pretty complicated and my advice would depend on several factors. Now, after some recent changes in the law, my advice is simple:



In almost all cases, and 100% of the time if this is your first DWI arrest, you SHOULD blow in the breathalyzer machine or submit to a blood test if asked to!

This is probably **not** the answer you expected from a criminal defense lawyer and is also probably the opposite of what you've read online or have been told by other lawyers. Let me explain why I advise you to take the test:

I speak to many unfortunate clients each year who followed bad advice they read online or received from an inexperienced lawyer telling them that they should refuse the breath or blood test. Refusing

the test is a really big mistake for the following reasons:

1. If you refuse to take the blood or breath test, the officer can now apply for a search warrant to **forcibly** draw your blood. This means you will be taken from the jail to an EMS station and get your blood drawn with a needle. Tough luck if you are afraid of needles; you cannot then change your mind and ask for a breath test.

Please note that this means the officer can and will draw your blood **against your will** if necessary. There was a case where a local police officer sat on and held down an uncooperative client to get them to submit to the blood draw. I'm by no means speaking poorly of EMS personnel who draw blood at these sites, but I've had many clients describe traumatic experiences with the blood draw or show me bruises or other marks left after submitting to the test. I recommend that you avoid that trauma and take the test when you are asked to. Your arm will thank me afterward!

2. The more important reason to take the breath or blood test is that you will most likely lose your driver's license for one year if you refuse. If you take the test, you will almost always qualify for a limited driving privilege that will allow you to drive to work, school, and other necessary places. You will **NOT** qualify for such a privilege for at least 6 months and up to **one year** if you refuse the test. Could you go without driving privileges for that long if you needed to?

The end result of following the bad online or inexperienced lawyer's advice and refusing to take the test is that the unlucky person usually ends up with **BOTH** a DWI conviction **AND** no driving privileges for 6 months to a year. I call that a double whammy and it is completely

unnecessary and avoidable.

To complicate things a bit, there are 2 types of breathalyzer machines. One is offered to you on the road when you have been pulled over. This is called a Preliminary Breath Testing (“PBT”) machine, more commonly known as an Alcosensor. I am not talking about a roadside Alcosensor machine in this article. The results of a PBT or Alcosensor test are NOT admissible in court. Just be aware that if you refuse the Alcosensor test on the side of the road, your driver’s license will **NOT** be suspended for a year, **BUT** you will almost certainly be arrested for DWI.

If you refuse the second breathalyzer test (the big machine at the jail that is the subject of this article), then you will almost always lose your driver’s license as described above.

By the way, sometimes an officer will ask you to take a blood test instead of a breath test. If you refuse the blood test, then the officer will almost always obtain a search warrant, draw your blood against your will anyway, and notify the DMV of your refusal, which usually results in the 6 month to one year suspension listed above.

WHY HIRE ME FOR A DWI OFFENSE?

So if all of this sounds complicated, it is. This article doesn’t begin to explain all of the possible nuances and situations that arise in a DWI case. DWI’s are really serious offenses and can have a negative impact on your life for several years. How do you find the right lawyer to represent you for such complex and important cases?

What people discover is that there are many lawyers who handle DWI offenses. These lawyers have varying levels of experience and charge wildly different fees. Even inexperienced lawyers or lawyers

who don't handle a lot of DWI cases often have professional looking websites and it's hard for someone who has never been in trouble to know which lawyer to hire.

The biggest mistake I see people make after being arrested for DWI is trying to save money by either representing themselves in court or going to an inexpensive (ie, inexperienced) lawyer. Many people ask me for help after they represent themselves or hire an inexperienced lawyer, but it is usually too late for me to help them in meaningful ways. The old adage about getting what you pay for also applies to legal representation in DWI cases. I also see people assume that they will automatically be found guilty in court without first seeking the advice of an experienced lawyer.

I have been representing people charged with DWI offenses for 25 years. Other than speeding tickets, I handle more DWI cases each year than any other type of case. My trained staff and I know how to handle every aspect of a DWI case and related DMV hearings. We are able to spot all relevant issues and potential problems. We carefully analyze each client's case, advise them of their case's strengths and weaknesses, and develop a detailed strategy about how to proceed in court. My staff and I thoroughly prepare our clients for court and make the entire experience as pleasant as possible. We understand the anxiety and shame our clients may experience after being charged with DWI and we never judge them for the situation they find themselves in. Yes, my fees are usually more expensive than those of inexperienced lawyers, but you can rest assured that my staff and I know what we are doing and that we will handle your DWI case competently and effectively.

I also worked at a substance abuse education and treatment center before I became a lawyer, and am able to spot addiction issues that other lawyers may miss. My goal is to help my clients get the help they

need so they don't get in trouble again.

I hope you will never need the information in this newsletter. Of course, my experienced staff and I are always here to help if you or anyone you know ever needs it.

I am happy to answer any legal questions you might have about this newsletter or any of the other areas of law I practice and I welcome suggestions for future newsletter topics.

My office phone number is 336-777-1090 and my firm's email address is help@FitzLawNC.com. My websites are www.FitzLawNC.com and www.ForsythDWILawyer.com. Please forward this message to anyone you think would benefit from it. Have a safe and happy New Year!