

Know your rights!

5 CRITICAL RIGHTS

That You Should Know About if You Are Pulled Over For a **DUI/OWI**

1

THE RIGHT TO AVOID SELF-INCRIMINATION

Under the 5th Amendment of the U.S. Constitution, you have the right to refuse to answer law enforcement's questions because it can incriminate you. During a traffic stop and later at the police station, you can politely decline to answer an officer's questions about whether or how much you have been drinking, what drugs you might have had, and the other questions set forth in the alcohol/drug influence report interview protocol. You can also assert your Sixth Amendment right to legal counsel and not answer questions until you are allowed to call and speak with your lawyer.

2

THE RIGHT TO REFUSE FIELD SOBRIETY TESTS

During an OWI stop, a police officer will likely ask you to step out of your vehicle and perform certain field sobriety tests (FST). These tests (walk and turn, one leg lift, and horizontal gaze nystagmus) are used to confirm an officer's suspicions and establish probable cause for the arrest of the driver. You are not required or compelled by law to undergo the FSTs, and you can politely decline to take them if you believe such is in your best interest.

3

THE RIGHT TO REFUSE BREATH TESTS*

There are two common breath tests used in OWI cases: the preliminary breath test (PBT) and the Intoximeter test. The PBT test is performed at the scene, right after the driver is stopped, and the Intoximeter test is offered at the police station. When asked to take a roadside PBT test, drivers have the right to decline to do so.

*However, Wisconsin's "implied consent" law makes it a violation for drivers to refuse to submit to chemical testing of their blood alcohol level after an arrest for OWI (at the police station or medical facility). Refusal to submit to chemical testing can result in your license being revoked.

4

THE RIGHT TO REFUSE A SEARCH OF YOUR VEHICLE

You are protected from unreasonable and warrantless searches and seizures under the 4th Amendment of the U.S. Constitution. This means that a police officer in a traffic stop cannot search your vehicle without your consent, provided the officer does not have probable cause to perform the search without your permission. A driver has the right to politely decline a search of their vehicle if an officer asks to open your glove compartment or console, the vehicle trunk, to look through and under the seats, or to perform any other type of search of the vehicle or the driver's person.

5

THE RIGHT TO CONSULT WITH AND BE REPRESENTED BY AN ATTORNEY

It is important to remember that you have the constitutional right to legal representation and to consult with an attorney. Contacting an attorney right away can help minimize consequences. Don't be afraid to assert your right to counsel—ask to call your lawyer and state that you will not make any statements, answer questions, or consent to any searches until you have spoken with your attorney.