



Facing OUI Charges in Massachusetts

What You Need to Know Before Your Next Court Date

We get you through the storm, safely.

Greater Boston • Eastern Massachusetts

Introduction

An OUI arrest happens fast. One minute you're driving home. The next, you're standing on the side of the road answering questions, and then you're in the back of a police car.

Most people who go through this are not criminals. They are good people who had a really bad day — sometimes the worst day of their lives. A parent driving home from a work dinner. A college student leaving a friend's apartment. Someone celebrating a birthday who thought they were fine to drive.

Whatever happened, you are probably scared right now. You may be worried about your license, your job, your family, or what people will think. Those worries are normal. This guide will walk you through what an OUI charge actually means in Massachusetts, what happens next, and what is at stake — so you can make clear decisions instead of panicked ones.

We wrote this guide because we believe people deserve to understand what they are facing before they make choices that could affect the rest of their lives.

What "OUI" Actually Means in Massachusetts

Massachusetts calls this charge "OUI," which stands for Operating Under the Influence. Other states call it DUI or DWI. It is the same basic idea: driving while your ability to drive safely is impaired by alcohol or drugs.

You can be charged with OUI in a few different ways:

- **Per se OUI** — Your blood alcohol content (BAC) was .08 or higher (or .02 or higher if you are under 21). If the number was at or above that line, the law treats you as impaired, regardless of how you were actually driving.
- **Impairment-based OUI** — Even if your BAC was below .08, you can still be charged if the officer believed alcohol affected your ability to drive safely. This is based on things like the officer's observations, your driving pattern, and field sobriety tests.
- **OUI drugs** — Massachusetts law also covers impairment from marijuana, prescription medication, or other drugs. This includes drugs that are legal to possess but still impair your driving.

A word about "operating." You do not have to be driving down the road to be charged. To convict you, the Commonwealth has to prove three things: that you operated a vehicle, that you did so somewhere the public can access — a road, or even a parking lot — and that you were impaired, or had a BAC of .08% or higher. Courts have found that a person

can be "operating" a vehicle even while parked, if there's evidence they meant to drive it and could — for example, sitting in the driver's seat with the keys in the ignition. Many people are surprised to learn this.

What Happens Right After the Arrest

Once you are arrested, two separate processes start moving at the same time. This surprises a lot of people, so it's worth understanding clearly.

Track one: the Registry of Motor Vehicles (RMV).

This is an administrative process, separate from your criminal case. It deals only with your license. Depending on whether you took a breath test, refused it, or failed it, the RMV can suspend your license right away — before you ever see a judge for your criminal case.

Track two: the criminal court case.

This is the process that determines whether you are found guilty of the OUI charge itself, and what criminal penalties you may face. It moves separately from the RMV process, on its own schedule.

What this means for you: it is possible to have your license suspended by the RMV even before your court case is resolved, and it is possible to resolve your court case in a way that does not undo an RMV suspension. These are two different fights with two different sets of rules, and both matter.

The first few days will typically include:

- Booking at the police station
- Arraignment in district court, where a judge enters a not-guilty plea on your behalf and sets any conditions of release
- A future court date, usually giving you time to hire an attorney before the next step

The License Question

For most people, the license is the first and biggest worry. Here is the general shape of it.

If you refused the breath or chemical test:

Massachusetts has an "implied consent" law. By driving in the state, you are considered to have agreed to a chemical test if an officer has reason to believe you were impaired. Refusing that test triggers its own suspension from the RMV, separate from anything that happens with the OUI charge itself:

- First offense (age 21 or older): 180-day suspension
- Second offense: 3-year suspension
- Third offense: 5-year suspension
- Fourth offense or more: lifetime suspension

This refusal suspension runs on its own — a court-ordered suspension later does not shorten it or replace it.

If you took the test and the result was at or above the legal limit:

A failed test (.08% BAC or higher) triggers a 30-day suspension from the RMV. Unlike a refusal, this suspension is generally credited toward whatever suspension follows from the court case.

Hardship licenses.

A hardship license lets you drive during one 12-hour window each day, for work, school, or medical needs. The RMV decides these case by case — it is not automatic. Here is a detail that surprises a lot of people:

- If you refuse the test, you'd expect to sit out the full 180 days with no driving at all. But if you enter the 24D first-offender program, Massachusetts law lets you apply for a hardship license right away — even while that refusal suspension is still running. The RMV still has to approve it, but you don't have to wait out the whole 180 days first.
- If you took the test and failed it, your 30-day suspension is generally credited toward whatever comes next, rather than added on top of it.
- If you're convicted of a straight first-offense OUI without going through 24D, you face a full 1-year suspension. You can seek a work or school hardship license after 3 months, and a general hardship license after 6 months.

Why this matters: *whether you take or refuse the breath test, and whether you pursue the 24D program, both change how much driving you can do while your case is open. This is exactly the kind of decision where fast, specific advice makes a real difference.*

First Offense: What's Really at Stake

If this is your first OUI charge, Massachusetts law provides an alternative path that many first-time defendants are eligible for, called a "24D disposition." It is not guaranteed, and eligibility depends on the facts of your case, but it is designed to give first offenders a way to resolve the case that avoids some of the harsher consequences of a straight conviction.

Under a 24D disposition, a first offense generally involves:

- A Continuance Without a Finding (CWO) – the case is put on hold during a probationary period, and if you complete it successfully, no criminal conviction goes on your record
- A 45-to-90-day license suspension, with hardship license eligibility available almost immediately
- Completion of a state-approved alcohol education program
- 1 to 2 years of probation

If a case does not resolve through 24D and results in a straight conviction, a first offense can generally carry:

- A fine of \$500 to \$5,000
- Up to 2.5 years in the house of correction (rarely imposed for a true first offense without aggravating factors)
- A 1-year license suspension
- A \$250 head injury assessment and a \$50 victim services fund fee

A few things can make the charge more serious: a high BAC reading, an accident, property damage, or having a passenger under 14 in the vehicle at the time of the stop. Any of these can raise the charge and the penalties. For example, if a child under 14 was in the car, the law adds a separate 90-day jail minimum on top of the OUI penalty, not instead of it.

We want to be direct with you: these figures reflect the general framework under current Massachusetts law, but the details of your specific arrest — your BAC, whether you refused testing, your driving record, and the individual court and prosecutor handling your case — all affect the real-world outcome. That's a conversation to have with an attorney who has reviewed your specific facts.

Beyond the Courtroom

One of the things people are least prepared for is that an OUI case doesn't end when the court case ends. The ripple effects can last much longer than the case itself.

CORI (Criminal Offender Record Information).

Massachusetts keeps a record of criminal court involvement, and depending on how your case resolves, an OUI charge may appear on background checks for years. This can affect landlords, employers, and licensing boards who run a CORI check. Here's some good news that surprises people: an OUI conviction is generally eligible to be sealed — hidden from most background checks — three years after conviction (or release, if later). It isn't automatic; you have to petition for it, and sealing is different from having the case erased entirely, but it's a real option that becomes available with time, and it's worth revisiting even years after a case closes.

Professional licenses.

If you hold a professional license — nursing, teaching, real estate, commercial driving, and many others — an OUI charge can trigger a separate reporting obligation or review process with your licensing board, sometimes regardless of the outcome of your criminal case.

Commercial driver's license (CDL) holders face particular exposure. This is one of the most important — and least publicized — parts of Massachusetts OUI law. A first OUI conviction disqualifies you from operating a commercial vehicle for **at least 1 year**, and this applies even if you were driving your own personal car at the time, not a commercial vehicle. A second offense, or a combination of two OUI convictions and/or refusals from separate incidents, results in a **lifetime disqualification**. If driving is your livelihood, this deserves serious, early attention — before any decision is made about how to resolve the case.

Immigration consequences.

For non-citizens, an OUI conviction can have immigration consequences depending on individual circumstances. This is a highly specialized area, and if this applies to you, it should be raised with your attorney immediately — before any decisions are made about how to resolve the case.

Insurance.

An OUI typically affects auto insurance rates significantly, and insurers may look back several years when calculating your risk classification.

Employment.

Some employers — particularly those involving driving, security clearances, childcare, or licensed professions — may ask about pending charges or convictions directly, separate from a formal background check.

None of this is meant to overwhelm you. It's meant to help you see the whole picture, because the court case is often not the only thing that needs a plan.

Why the Right Lawyer Matters

OUI law in Massachusetts is its own specialized area. It involves specific science around breath and blood testing, specific rules about what officers can and cannot rely on for probable cause, and its own body of case law about motions to suppress evidence.

A general practice attorney may handle an OUI case competently. But an attorney who focuses specifically on OUI defense will know things a generalist may not: how to challenge the calibration and maintenance records of a breathalyzer, how to cross-examine an officer on field sobriety test administration, and how local courts and prosecutors in your specific district typically approach these cases.

We believe in comprehensive criminal defense — which means we look at the whole picture of your life, not just the charge in front of us. That includes the legal defense, but it also includes helping you think through the license issue, the collateral consequences, and what happens next, so you're not facing any of it alone.

You Don't Have to Go Through This Alone

A criminal accusation is a storm crashing through your life — your freedom, your family, your career, your future.

You don't have to navigate it alone, and you don't have to figure it out as you go. We understand that good people sometimes face great challenges, and we treat every person we represent as exactly that: a good person going through the hardest time of their life. We view each client not as a set of legal problems, but as a whole individual living a unique and valued life — that's what we call Comprehensive Criminal Defense.

We are powerful in the courthouse and supportive outside of it — here to help you right the ship and continue your voyage.

We get you through the storm, safely.

If you're facing an OUI charge, the most important thing you can do right now is talk to someone who can look at your specific case.

We offer a free consultation for people with pending charges, and our phones are answered 24/7 by a real person. We serve clients throughout Greater Boston and Eastern Massachusetts.

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About the Author



H. Ernest Stone has been defending people in Massachusetts criminal courts for 30 years. He started his career in 1996 with one goal: to stand up for regular people facing the power of the government. Ernie practices criminal defense exclusively. He has handled cases in District Court, Superior Court, the Massachusetts Appeals Court, the Supreme Judicial Court, and the Federal Courts. His practice focuses on sexual assault, domestic violence, OUI, and cases involving mental health — the kinds of cases where the stakes are highest and where people need someone truly in their corner.

The people he represents are good people who have had a really bad day — sometimes the worst day of their lives. He believes that everyone deserves the highest quality legal defense, no matter what they are accused of. And he believes that a criminal case is an opportunity to do more than just fight the charges. His goal is to help people make lasting positive changes in their lives — to address what brought them into the system in the first place, and to come out the other side in a better place than where they started.

Ernie practices in Beverly, Massachusetts, and serves clients throughout Greater Boston and Eastern Massachusetts.