



Facing OUI Charges in Massachusetts

What You Need to Know Before Your Next Court Date

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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. If the number was at or above that line, the law treats you as having committed the offense 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.

If you are under 21, the rules are stricter. A BAC of .02 or higher triggers an automatic license suspension by the RMV, even though the criminal charge itself still requires .08 or actual impairment. More on that in the license section below.

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 — your first court appearance, described in the next section
- A future court date, usually giving you time to hire an attorney before the next step

How the Court Case Unfolds

Most people have never been inside a criminal courtroom before this. Here is the general path an OUI case follows in the district court, so none of it comes as a surprise.

Arraignment. This is your first court date, usually within a day or two of the arrest if you were held, or on a date set at the station if you were released. The charge is read, a not-guilty plea is entered on your behalf, and the judge decides conditions of release — for most first-offense OUI cases that means release on personal recognizance, sometimes with conditions such as no driving or no alcohol. It is a short appearance. You do not testify and nothing about the facts of your case is decided.

Pretrial conference. This is where the Commonwealth turns over its evidence — the police report, booking video, breath test records, cruiser or body-camera footage — and where the first real conversation between your attorney and the prosecutor about how the case might resolve takes place. In an OUI case we usually schedule it three to four weeks after arraignment, sometimes sooner. The timing is largely up to the defense, and there is a judgment call in it: scheduling the conference before the police department has actually delivered everything to the prosecutor makes the date pointless — you show up, nothing is ready, and you come back another day. Picking the right date is part of the work.

Motions. In many OUI cases, the most important work happens here. Your attorney may file a motion to suppress — asking the court to exclude evidence because the stop, the arrest, or the testing violated your rights — or a motion to dismiss. These motions are decided at a hearing where the officer typically testifies and is cross-examined. A successful motion can end the case, or change the prosecutor's willingness to negotiate.

Resolution or trial. At any point along the way the case may resolve — through a 24D disposition, a dismissal, or a plea. If it does not, you choose between a bench trial before a judge and a jury trial. In district court, an OUI jury is six people.

How long it takes. Most district court OUI cases take somewhere between six and eighteen months from arraignment to resolution. A case that goes to trial usually lands in the year-to-eighteen-month range, though in the right case a trial can happen much sooner. That feels like a long time to live with an open case, and it is. But speed is a trade-off: going to trial before you have all the discovery and all the investigation you need is just another way of pleading guilty. The pace is what gives your attorney time to obtain and study the evidence — and it is one reason the license question, how much you can drive while the case is open, matters so much.

The Breath Test Decision: Refusal vs. Failure

Whether you took the breath test — and what happened if you did — shapes almost everything that follows. Here is what each path means.

If you refused the test

Massachusetts has an "implied consent" law. By driving in the state, you are considered to have agreed to a chemical test of your breath or blood if an officer has reasonable grounds 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
- **Under 21, or one prior OUI:** 3-year suspension
- **Two prior OUIs:** 5-year suspension
- **Three or more prior OUIs:** lifetime suspension

A few things about a refusal suspension that people don't expect:

- **Your car gets impounded for 12 hours**, and you pay the towing and storage.
- **The refusal suspension runs on its own.** It is served consecutively with — not at the same time as — any other suspension arising from the same incident. A court-ordered suspension later does not shorten it or replace it.
- **No hardship license is available during a refusal suspension.** The statute says so directly. The one exception is if you enter the 24D first-offender program, discussed below.
- **You have 15 days to request an RMV hearing** on the refusal. The hearing is limited to three questions: whether the officer had reasonable grounds to believe you were impaired, whether you were actually placed under arrest, and whether you actually refused. If the RMV rules against you, you have 30 days to seek review in district court.
- **Your refusal cannot be used against you at trial.** The Commonwealth is not allowed to tell the jury you refused. This is one of the reasons the decision to refuse is not as one-sided as people sometimes assume.

If you win your case, you can get the refusal suspension lifted. On a not-guilty finding or a dismissal of all charges, you can immediately ask the court that decided your case to restore your license, as long as you have no other alcohol-related charges pending. There is a legal presumption that the license should be restored — the Commonwealth has to prove that giving your license back would likely endanger public safety.

If you took the test and the result was .08 or higher

A failed test triggers an immediate RMV suspension that lasts until your case is resolved, but **no longer than 30 days**. This is a separate suspension from anything the court later imposes. If your case resolves with a 24D disposition, for example, the 45-to-90-day suspension that comes with it is the penalty for the offense itself — the 30 days you already served for the failed test do not count toward it.

If you are under 21 and your BAC was .02 or higher, the officer takes your license on the spot under the same procedure, and a separate under-21 suspension follows even if you are never charged with OUI.

The License Question

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

Hardship licenses

A hardship license lets you drive during one fixed 12-hour window each day — the same 12 hours every day — for work, school, or other needs. The RMV decides these case by case at a hearing. It is not automatic. You have to show that the causes of the offense have been dealt with or brought under control.

The rules depend on how your case resolves:

- **If you enter the 24D first-offender program**, you can apply for a hardship license immediately upon entering the program — even while a refusal suspension from the same incident is still running. This is the exception mentioned above. The RMV still has to approve it, but you don't have to wait out the whole 180 days first.
- **If you are convicted of a straight first-offense OUI without 24D**, your license is revoked for one year. You can request a work-or-school hardship license after 3 months, and a general hardship license after 6 months.
- **If your BAC was .15 or higher**, the RMV may — and in practice does — require an ignition interlock device on any vehicle you drive for the length of the hardship license. See the interlock section below.

If the RMV says no

An RMV decision is not the last word. Any decision of the Registrar can be appealed to the **Board of Appeal on Motor Vehicle Liability Policies and Bonds**. As of July 1, 2025, you have **30 days** from the decision to file that appeal (it used to be 10), and the Board may decide the matter on written submissions rather than requiring a live hearing. The appeal does not pause the underlying suspension, so timing matters.

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: The 24D Disposition

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" after the section of the law that creates it. 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 (CWOFF)** — the case is put on hold during a probationary period, and if you complete it successfully, the charge is dismissed and no conviction enters on your record
- **Probation for up to two years**
- **A 45-to-90-day license suspension**, with hardship license eligibility available almost immediately

- **Completion of the state-approved Massachusetts Impaired Driving Program** (described below), and, if the court finds it necessary, an alcohol or drug treatment program
- **Program fees** paid directly to the program, plus a \$250 probation fee. Both can be waived or reduced if you file an affidavit of indigency within 10 days of disposition and the court finds you cannot afford them.
- The court may also require **30 hours of community service**

What the program actually involves. The Department of Public Health licenses the program, which it now calls the **Massachusetts Impaired Driving Program (MID)** — you may still hear it called by its old name, the Driver Alcohol Education Program or "DAE." It runs **16 weeks** and totals **38 hours**:

- An intake session with a clinician, who develops an individualized plan
- **Weekly two-hour group sessions** for 16 weeks (32 hours)
- A mid-point review at week 8
- Two hours of victim-impact awareness
- **Four hours of community self-help meetings** — AA or similar — outside the group, with attendance signed by the meeting facilitator
- An exit interview, after which a completion report goes to the court

Missing sessions or losing contact with the program is reported to the court and can result in termination — which puts the CWO, and any hardship license, at risk. **The program fee is \$1,535.84 as of July 1, 2025.** You may see much lower figures quoted online; those are out of date.

A related requirement: the 24Q assessment. The court may also order a substance-use evaluation by a DPH-approved clinician — known as a "24Q assessment" after the section of the law that requires it. It evaluates whether a substance use disorder is present and recommends a treatment plan, which is reported to your probation officer. This is not a punishment. Handled well, it is a chance to address whatever led to the arrest — which is exactly the kind of thing we help our clients think through.

Some details that matter:

- **If you were under 21 at the time of the offense**, the 24D suspension is **210 days**, not 45 to 90, and you are assigned to a youth-specific program. If you were 17 to 21 and your BAC was .20 or higher, the law routes you to the more intensive 14-day residential program normally used for second offenders.
- **24D is not available** if anyone suffered serious injury or died in the incident.
- **A "second chance" 24D exists.** If you have exactly one prior OUI and it was more than 10 years before this offense, you may receive a 24D disposition one more time in your lifetime. If you are charged again after that, every prior counts.

- **A 24D disposition counts as a prior.** If you are ever charged with OUI again, the 24D case will be treated as a first offense for the purpose of enhanced penalties, even though it ended in a dismissal.

First Offense: Straight Conviction

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

- A **fine of \$500 to \$5,000**
- **Up to 2½ years in the house of correction** (rarely imposed for a true first offense without aggravating factors)
- A **one-year license revocation**, with hardship eligibility at 3 and 6 months as described above
- A **\$250 head injury assessment** and a **\$50 victim services fee** — both required by statute and neither can be waived or reduced by the judge

A first offender who is sentenced to jail time may, at the judge's discretion, be allowed to serve it on designated weekends, evenings, or holidays.

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.

If This Isn't Your First Offense

The consequences climb steeply with each prior. Massachusetts uses a **lifetime lookback** — there is no window after which an old OUI stops counting (with the single 24D "second chance" exception described above). A prior from another state counts. So does a prior 24D disposition, even though the case was dismissed.

Second offense:

- Fine of \$600 to \$10,000
- 60 days to 2½ years in the house of correction, with a **30-day mandatory minimum** that cannot be suspended or reduced. For a defendant with only one prior, the court has discretion to order two years of probation with a **14-day residential treatment program** in place of the jail sentence. That inpatient stay is the first phase of a longer treatment model: it is followed by a **Second Offender Aftercare** program — roughly a year of outpatient counseling with random alcohol and drug screening and regular progress reports to the court.

- **Two-year license revocation.** Hardship eligibility for work or school after 1 year, general hardship after 18 months.
- **Ignition interlock is mandatory** on any hardship license, and for two years after full reinstatement.

Third offense:

- Fine of \$1,000 to \$15,000
- 180 days to 2½ years in the house of correction, or 2½ to 5 years in state prison. **150-day mandatory minimum.**
- A third offense is a **felony**.
- **Eight-year license revocation.** Hardship eligibility after 2 years (work/school) and 4 years (general). Interlock is mandatory.

Fourth offense:

- Fine of \$1,500 to \$25,000
- 2 to 2½ years in the house of correction, or 2½ to 5 years in state prison. **One-year mandatory minimum.**
- **Ten-year license revocation.** Hardship eligibility after 5 years (work/school) and 8 years (general). Interlock is mandatory.

Fifth or subsequent offense:

- Fine of \$2,000 to \$50,000, with state prison sentences that grow with each additional prior
- **Lifetime license revocation, with no hardship license available.**

Outside of the 24D program, an OUI charge cannot be continued without a finding or placed on file. That means for anyone with a prior who does not qualify for the second-chance 24D, a CWOFF is simply not available. The court also will not accept a plea or start a trial until it has received your record of prior offenses from the probation department.

If you have a prior — even one from decades ago, even one you thought was resolved with a dismissal — tell your attorney at the first meeting. It changes the strategy from the start.

The Ignition Interlock Device

An ignition interlock device (IID) is a breath tester wired into a vehicle's ignition. The car won't start unless the driver blows into it and registers below a set level, and it requires periodic "rolling retests" while the car is running.

For most first offenders, this does not come up — unless you are seeking a hardship license and your BAC was .15 or higher. In that case, the RMV may condition your hardship license on installing an interlock in every vehicle you own, lease, or operate for the duration of the

hardship license. This has been the law since July 1, 2021, and the RMV treats it as standard practice at .15 and above.

For anyone with two or more OUI dispositions, the interlock is mandatory — on any hardship license, and then for **two years after full license reinstatement**, whether or not a hardship license was ever issued.

What living with an interlock involves:

- Installation and monthly lease costs paid to a private vendor, plus a \$30-per-month RMV administration fee
- A **service visit every 25 to 30 days** to have the device calibrated and its data downloaded
- **Missing two service visits** over the life of the requirement results in a **10-year license suspension**. This is one of the harshest and least-known rules in the OUI system.
- Trying to start the car with alcohol in your system, or failing to keep the device installed and maintained, can cost you the license entirely
- **The restriction does not come off automatically** when the time runs. You have to apply to an RMV hearings officer to have it removed.

If you cannot afford it. Since July 1, 2021, Massachusetts has had an indigency program that waives the device, installation, removal, monitoring, and service costs for drivers who are on MassHealth, who had court-appointed counsel in the OUI case, or whose income is under 125 percent of the federal poverty line. Very few people know this program exists. If cost is the thing standing between you and a hardship license, ask about it.

Aggravating Factors

A few things can make an OUI charge significantly more serious than the baseline penalties above.

A child in the car. If a passenger **14 years of age or younger** was in the vehicle, Massachusetts adds a separate charge of child endangerment while operating under the influence. It carries a fine of \$1,000 to \$5,000 and **90 days to 2½ years in the house of correction — served after, not alongside, the OUI sentence**. It cannot be resolved with a CWO, cannot be placed on file, and carries its own one-year license suspension on top of the OUI suspension.

A high BAC. A reading of .15 or higher triggers the interlock provisions discussed above and tends to affect how prosecutors approach the case. A reading of .20 or higher for a driver aged 17 to 21 changes which 24D program applies.

An accident, injury, or death. If the incident involved a crash, expect the case to be treated more seriously. If anyone was seriously hurt, 24D is off the table entirely and separate, far more serious charges apply. Those are beyond the scope of this guide — if that is your

situation, you need to speak with an attorney immediately.

A prior record. As covered above, any prior OUI — from any state, at any time — changes everything.

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: a **misdemeanor OUI conviction — which includes a first or second offense — is eligible to be sealed three years after the case ended**, counting from the end of any jail time if there was any. To qualify, you can't have been found guilty of any other offense during those three years, other than minor traffic matters. A third or subsequent offense is a felony and carries a seven-year wait. Sealing isn't automatic; you have to petition for it, and sealing is different from having the case erased entirely. But once a record is sealed, you can lawfully answer "no record" on most job, housing, and professional license applications. It's a real option that becomes available with time, and it's worth revisiting even years after a case closes.

If your case ended in a 24D dismissal, you have two routes. You can wait the same three years and seal administratively — a form mailed to the Commissioner of Probation, no court appearance. Or, because a dismissal is not a conviction, you can petition the court right away and ask a judge to seal the record on a finding that substantial justice would be served. That route requires a hearing, and the decision is the judge's — but it means you don't have to live with the record for three years first. Which route makes sense depends on your situation, and it's something we help our clients with as part of the case, not as an afterthought.

Professional licenses

If you hold a professional license — nursing, teaching, real estate, 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 licenses

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 one year** — and this applies even if you were driving your own personal car at the time, not a commercial vehicle.
- **Refusing the breath test — even in your personal car — is itself a disqualifying event** under the CDL statute, separate from any OUI conviction. For a CDL holder, the refusal decision at the roadside has consequences the ordinary driver never faces.
- If you were transporting placarded hazardous materials, the disqualification is three years.
- **A second offense, or any combination of two convictions and/or refusals from separate incidents, results in a lifetime disqualification.** The RMV has authority to reduce a lifetime disqualification to no less than 10 years, but that is not guaranteed.

A 24D disposition does not protect a CDL. Many commercial drivers assume that because a CWOI is not a conviction under Massachusetts criminal law, it will not touch their commercial license. It will. The CDL statute has its own, much broader definition of "conviction" — one that includes any court determination that a person violated the law, and even the payment of a fine or court cost, whether or not the penalty is suspended or probated. A 24D disposition meets that definition, and the RMV applies it. The RMV also has no discretion over CDL disqualifications and does not issue hardship licenses for them; the only hearing available is to dispute whether the RMV's record is accurate.

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, how the RMV hearing process actually works, 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.