

WHAT THE PROSECUTOR DOESN'T WANT YOU TO KNOW ABOUT YOUR TENNESSEE DUI CASE

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Over the last several decades there has been a combined effort by public agencies and private advocacy groups to bring awareness to the public about the dangers of drinking and driving. As part of those efforts, many states, including the State of Tennessee, has strengthened their alcohol related driving laws as well as increased penalties for a violation of those laws. Consequently, most people arrested and charged with driving under the influence, or DUI, believe they have no defense and jump at the first plea bargain they are offered. If you have been charged with DUI you might be surprised to find out that most DUI prosecutions are not as open and shut as the prosecutor would like you to believe. As a defendant, there are actually a number of things you should know about your DUI case that the prosecutor would likely prefer you didn't know.

The officer that pulled you over must have had a valid reason.

The officer that pulled you over in the first place must have had a valid reason. This requires probable cause or some “articulable and reasonable suspicion” that a traffic violation or some other criminal activity has occurred. If there was no valid reason, everything that happened from that point on may be inadmissible at trial.

1. You can challenge the field sobriety test results.

Field sobriety tests are extremely subjective in nature, meaning the officer decides if you passed or not. There are, however, very specific procedures most police officers are supposed to use when conducting FSTs. When asked though, the majority of officers are unable to explain those procedures, providing an excellent basis for challenging the results of the tests.

2. You can refuse a chemical test.

Tennessee’s implied consent law effectively says that you agreed to take a chemical test when you decided to operate a motor vehicle in the state. Despite this law, you *can* refuse a chemical test. Refusal, however, does come with a separate penalty of a year’s license suspension for a first refusal.

3. Breath test results are not as accurate as you think.

We have all been indoctrinated to believe that breath test machines are infallible when, in fact, they are far from it. Some of the more common causes of an inaccurate breath test result include:

- a. The machine was not properly calibrated at the time of the test.
- b. The officer who administered the test was not properly trained and, therefore, administered the test incorrectly.
- c. You consumed alcohol right before driving (Rising Alcohol Defense)
- d. The machine registered "mouth alcohol."
- e. You have some other physical or physiological characteristic that caused the machine to produce a skewed result.

4. You have a right to a jury trial.

Even if you ultimately decide to enter into a plea agreement with the State it is important that you understand you have the right to a trial by jury. In fact, sometimes simply indicating you might want to go to trial will put you in a better position to negotiate a plea bargain.

5. Time is often the best defense.

No one wants criminal charges hanging over their head. Unfortunately, this often makes people jump at the first plea bargain they are offered. Holding out, however, can be beneficial for several reasons, such as:

1. The arresting officer will forget you given how many motorists he/she likely pulls over in a given week.
2. Witnesses, both civilian and departmental, become unavailable.
3. Other cases take the spotlight, increasing the likelihood the prosecutor will give you a better deal just to close your case and move on to others.

6. The prosecutor doesn't want to go to trial.

Prosecutors are notoriously overworked and underpaid. Preparing for trial and trying a case takes considerable time – time that could be spent on other, bigger cases.



7. Plea bargains are almost *always* negotiable.

Every DUI arrest and prosecution is unique which is why it is imperative that you consult with an experienced Tennessee criminal defense lawyer for answers to specific questions or concerns you may have about your case as well as to discuss strategy and potential defenses.

Governor's Highway Safety Office, [Implied Consent](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional, trustworthy, and effective services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.

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