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CRIMINAL LAW CORNER

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Criminal Law Corner is a newsletter published monthly by Probst Law Office, LLC, which contains relevant information concerning criminal, traffic and DUI/OVI matters, the specialty practice areas of the firm. Michael S. Probst is a criminal defense trial lawyer with more than 10 years of experience.

FREQUENTLY ASKED OVI QUESTIONS

Q: What are field sobriety tests (FST)?

A: FST's are roadside sobriety exercises police use to determine whether a person may be under the influence of alcohol and/or drugs. There is no law requiring you to submit to FST's; however, refusal will likely result in an OVI arrest. If you do submit to FST's you may be on video and you may be providing the State with evidence that can be used against you.

Q: Do I have to take a breathalyzer test?

A: No, you do not have to take a breathalyzer test. If you submit to a test that yields a BAC of .08% or above, you will providing the State with additional evidence that you are impaired. Ohio law provides that refusing a breath test or other BAC test can result in a longer driver's license suspension and a longer jail sentence solely as a result of the refusal.

Q: What should I do if I am pulled over?

A: Always be polite. Do not lie to police, but understand that any admissions to drinking will be used against you. You have the right to remain silent. I generally discredit the reliability of FST's and breathalyzer tests, and I advise clients to strongly consider that fact. **Call me at 614.746.1935 during any roadside stop.**

ENHANCED OVI JAIL SENTENCES

The Ohio Supreme Court recently held that there is no constitutional right to refuse a breathalyzer or other BAC test following an arrest for drinking and driving. The Court found that longer mandatory jail sentences are constitutional for people who refuse a breathalyzer or other BAC test.

In certain circumstances, Ohio law requires a longer mandatory jail sentence for people with prior OVI convictions who refuse a breathalyzer or other BAC test and are subsequently found guilty. The length of the jail sentence can increase based on the number of OVI convictions an individual has prior to the instant OVI offense. By comparison, those individuals who don't refuse a breathalyzer or other BAC test receive less mandatory jail time.



Monthly Tip: Ohio law requires that you have your headlights on when you are using your windshield wipers, i.e. when it is raining. Don't give police a reason to pull you over. Turn on your headlights.