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### **Can I Refuse a Breathalyzer Test?**

If you refuse a Breathalyzer test, you will most likely face serious consequences. For instance, if you are stopped by an officer who believes you are intoxicated, and you refuse to submit to a test to determine blood-alcohol concentration (BAC), you may risk having your license suspended or even face jail time.

While you are not under arrest at this point, refusing a Breathalyzer may not be such a great idea and prosecutors may still base a potential DUI/DWI charge on other evidence collected at the scene, including officer observations, witness testimony, or the results of a field sobriety test.

#### **Implied Consent Laws**

Since driving is considered a privilege and not a right, states may suspend or revoke your driver's license, levy fines, or even put you in jail for not submitting to a BAC test when suspected of a DUI. Under "implied consent laws," drivers have implicitly consented to a BAC test in exchange for driving privileges. Therefore, you essentially surrender your driving privileges if you refuse a Breathalyzer.

States will generally penalize drivers for refusing to take the test by suspending their license for up to 12 months, depending on the state. Those with past DUI convictions usually face even longer suspensions or jail time. However, some drivers may decide that the penalty for refusing a BAC test is less severe than a third or fourth DUI conviction.

On average, 20 percent of those suspected of driving under the influence refuse to take a BAC test, according to the National Highway Traffic Safety Administration (NHTSA). But wide variances in state-by-state refusal rates (for example, 2.4 percent in Delaware and 81 percent in New Hampshire) suggest wide variances in how implied consent laws are enforced.

See "[Implied Consent Laws](#)" for more details, including penalties for refusing a Breathalyzer test in various states.

In response to drivers who refuse a Breathalyzer test to avoid incrimination, some states have adopted "no-refusal" policies, which force suspects to submit to testing under the authority of a warrant. The ability of police officers to procure electronic warrants on their mobile devices from a judge solves the problem of the suspect sobering up before a paper warrant can be physically obtained.

More than half of all states have the legal authority to enact no-refusal DUI enforcement policies, but not all states actively put such policies in place. See "[No-Refusal DUI Enforcement](#)" for more information.

Some states may permit drivers to contact an attorney prior to deciding what chemical test to take after a traffic stop. Check with the laws in your state and local jurisdiction for more details.

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