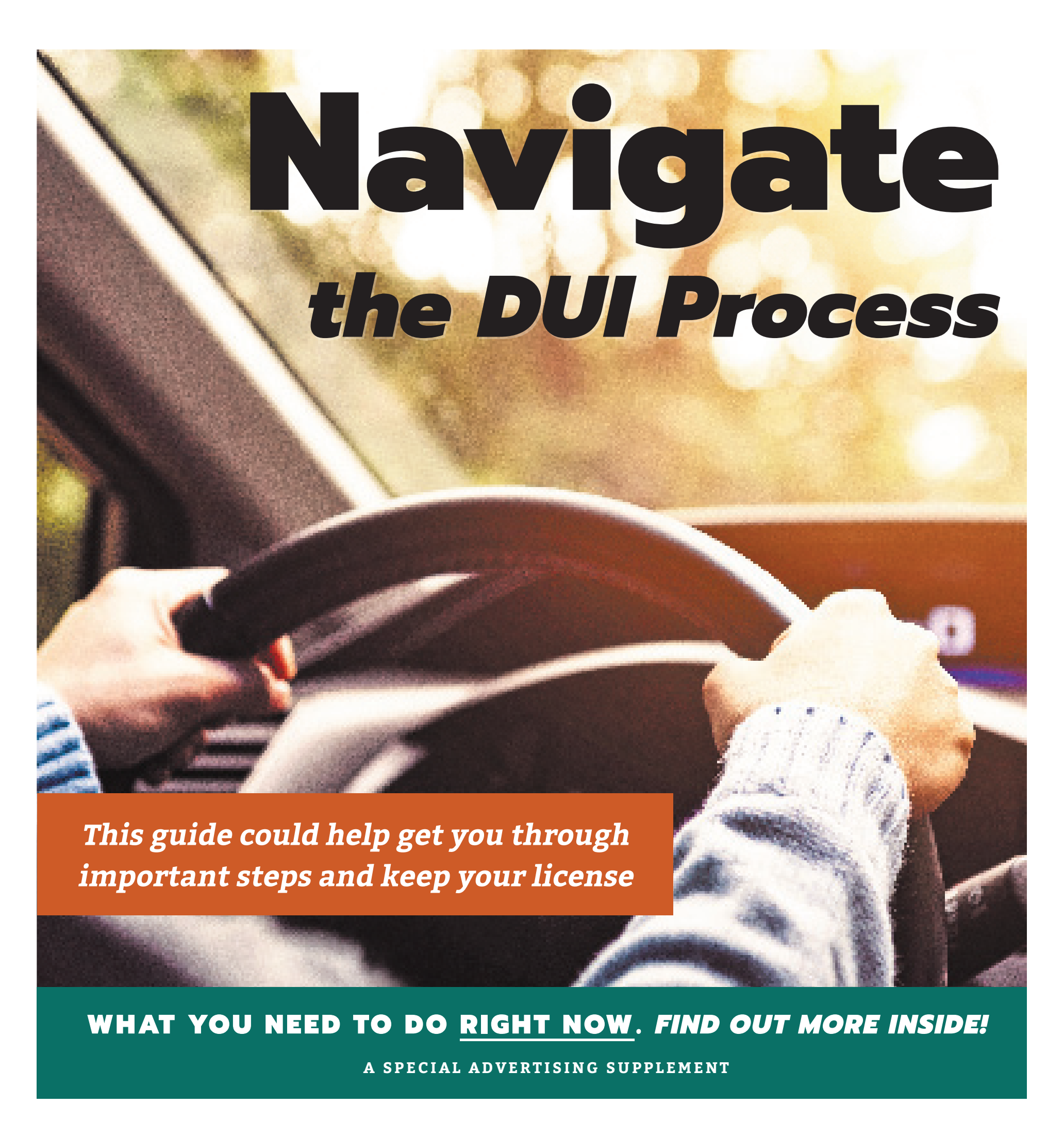




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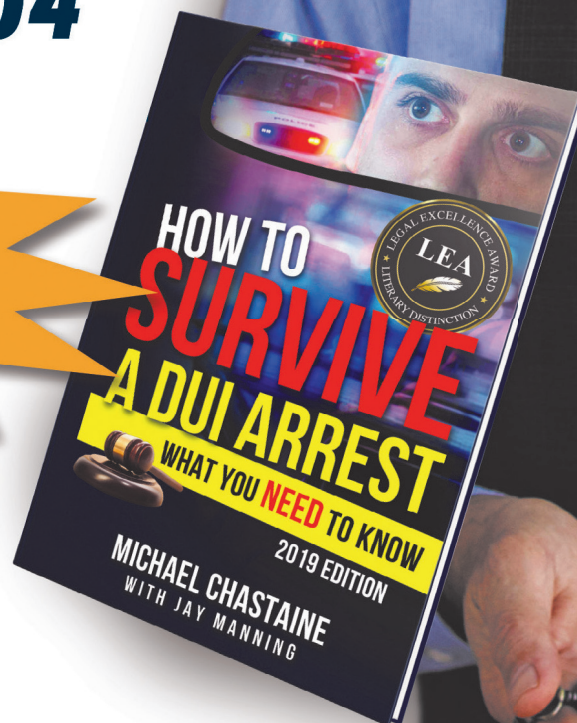
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After one hard lesson, get ready to learn a lot more

First-time offenders still have options

BY JACK SHINAR

Sure, you will admit you made a big mistake.

You got behind the wheel while feeling a little tipsy after a few drinks following work. It was bound to happen; moments later you were stopped by a police officer, maybe for neglecting to use a turn signal, or at one of those infuriating drunk driving checkpoints. The officer noticed the smell of alcohol on your breath and, sure enough, you tested a little over the legal limit on the Breathalyzer. You didn't do so well on the field sobriety test, either, and you soon found yourself in the city drunk tank, your car impounded. Maybe it wasn't fair, but it happened.

Join the crowd. Nearly 123,000 Californians were busted for driving under the influence in 2017, according to the FBI Uniform Crime Report, and very few of them are typical criminal types. As David Nico, president of LifeSafer of Northern California

Inc., a company that installs ignition interlock devices on vehicles, often says, "I believe that 95% of all DUI offenders are good people who made poor choices."

"I believe that 95% of all DUI offenders are good people who made poor choices."

DAVID NICO
President, LifeSafer



You'll know next time to call Uber rather than take a chance. But now what?

Well, you are about to embark on a confusing, disagreeable and costly journey. How can I keep my my driver's license and avoid suspension? Will I lose my insurance coverage and, if not, what's this going to do to my premiums? Should I hire an attorney and how much will it cost? Can I fight it? And if I do, how long will the court process take? Can I get my record expunged if I am convicted?

Those are the sort of questions this publication will attempt to answer for you, the first-time offender. You're lucky; there are still some options the first time around. But this is a wake-up call. You don't want to repeat this mistake. You'll soon learn why.

3

things you must know

To keep your driving privileges

Under California Department of Motor Vehicles' authority, a person accused of driving under the influence will have his or her license suspended for 30 days following arrest. That's extended to 90 days for a second arrest and 120 days for a third or more arrests.

But a law that became effective on Jan. 1, 2019, makes it possible for a first-time DUI defendant to retain their driving privileges while awaiting a court appearance.

Under the change, a DUI defendant can avoid full driving suspension by taking these actions within 30 days of arrest:

- 1** Install an ignition interlock device, a breath analyzer connected to the car's ignition system that detects alcohol and will prevent the car from being started unless the driver passes the test.
- 2** Enroll, and maintain enrollment, in a state-licensed DUI treatment and safety program.
- 3** Provide proof of vehicle insurance, known as an SR-22.

Don't delay filing proof of those actions with the DMV. With those forms completed, you not only restore your driving privileges, but you earn day-for-day credit before going to court.

DUI can be really expensive

Conviction can cost first-time offender \$15,000 to \$20,000 – or more

BY JACK SHINAR

That first drunk driving conviction is likely going to cost you in the neighborhood of \$15,000.

That’s according to estimates by the California Highway Patrol and Sacramento-based private attorney Michael Chastaine, who has been representing drunk driving defendants for more than 30 years.

Attorney costs, insurance premium hikes and court fines and penalties account for a major portion of the price tag, but there’s more, Chastaine notes. Then comes a host of other assessments if one hopes to avoid a hard driver’s license suspension, plus several smaller charges associated with the arrest and conviction.

To take advantage of the newly-enacted law allowing a DUI defendant to maintain

driving privileges, an individual would need to have an ignition interlock device installed and maintained for an average of six months at an approximate cost of \$75 monthly plus installation charge; enroll in a DUI counseling program (\$675

“All those years of being a good driver are over once you’ve been arrested for DUI.”

MICHAEL CHASTAINE
Attorney

for a three-month class to \$1,140 for nine months, determined by the level of blood alcohol concentration at the time of arrest); and maintain an SR22 proof of auto insurance certificate on file with the Department of Motor Vehicles for a minimum of three years.

While the SR22 insurance isn’t terribly expensive, during that period one can expect insurance premiums as a high-risk driver to soar dramatically. The CHP estimates the average assessment for vehicle coverage to increase by \$8,652.

“All those years of being a good driver are over once you’ve been arrested for DUI,” says Chastaine, who puts the financial impact on a driver’s insurance rate for a first-time DUI offense at closer to \$20,000 over a three-year span. “You are a high-risk person now.”



A first time offender may be able to reduce attorney cost by making use of a public defender or a lawyer that doesn’t specialize in DUI defense, but that could mean paying more in the long run, Chastaine believes.

“There are a handful of really good DUI lawyers in Sacramento County,” Chastaine says, and to get one to handle your case is likely to fall within the \$3,500 to \$4,500 range. Such an attorney “understands the rules” of the game and can save their clients money by working around the margins of the law.

The court fine for a DUI conviction is about \$2,400, depending on whether there are additional counts. According to attorney Denis H. White Jr., a DUI

specialist, a defendant can get that knocked down to \$400 by doing four extra days of jail time.

White notes that those wishing to avoid jail, if that is part of the judge’s sentence, can apply for a work project instead (\$80 application fee and \$40 per day for actual time), or work furlough (\$130 application fee and \$7.40 per day for an ankle bracelet).

There are additional charges for vehicle towing and storage (\$200-plus depending on how long the vehicle is stored), DMV fees of \$125 for Admin Per Se hearing license suspension reinstatement and \$165 for the court conviction license suspension reinstatement.

By the numbers

\$75	\$675- \$1,140	\$8,652	\$2,400	\$3,500- \$4,500
approximate monthly cost for an ignition interlock device plus installation charge	for three to nine months of classes at a DUI counseling program (determined by the level of blood alcohol concentration at the time of arrest)	average insurance increase for vehicle coverage	average court fine for a DUI conviction (depending on whether there are additional counts)	price range for a good lawyer to handle a DUI case

Sources: California Highway Patrol, DUI attorneys

Interlock device is an important tool

This piece of equipment really does cut down on drunk driving

BY JACK SHINAR

Without a doubt, one of the most cumbersome aspects of being saddled with a DUI conviction in Sacramento County is dealing with an ignition interlock device. They have been in regular use here since 2010, when Sacramento County became one of four counties taking part in a state legislative pilot program to reduce recidivism in drunk driving convictions.

With SB 1046, which took effect Jan. 1, 2019, the device – a breath alcohol analyzer hooked up to a vehicle’s ignition – is becoming even more prevalent. The law, authored by state senator Jerry Hill (D-San Mateo) and endorsed by Mothers Against Drunk Driving, promotes the installation of ignition interlock devices following a DUI arrest as part of a three-pronged procedure to help a first-time offender retain full driving privileges.

DUI defendants also must enroll – and maintain enrollment – in a state-certified DUI treatment and driving program, and provide proof of auto insurance to the Department of Motor Vehicles within 30 days of arrest. If successful in fulfilling all the requirements, a driver can avoid a 30-day hard license suspension, which was previously mandatory.

It’s estimated that prior to SB 1046, approximately half of

Ignition interlock devices have reduced repeat DUI offenses by 70%.

NATIONAL CENTERS FOR DISEASE CONTROL AND PREVENTION



Ignition interlock devices will keep a car from going anywhere if a driver tests positive for alcohol. PHOTO COURTESY OF LIFESAFER

DUI defendants chose to drive illegally following arrest instead of abiding by DMV restrictions, causing repeat arrests and additional punishment as a result of getting caught.

The National Centers for Disease Control and Prevention estimate that ignition interlock devices have reduced DUI repeat offenses by 70%.

“Forced behavior modification” is how David Nico, president of LifeSafer of Northern California, an ignition interlock device company, describes it.

That’s because once installed, the devices will make sure a driver isn’t going anywhere if there is more than a trace of any concentration of alcohol in the individual’s system.

But be forewarned. Those who have used the devices complain they sometimes malfunction. They also require recalibration, meaning additional trips to the dealer.

Nico says his devices are set to shut down a vehicle’s ignition at a threshold of .03% (the legal limit being .08%). “At that level, a driver would not be impaired

while he might still have some alcohol in his system if he had been drinking the night before,” he explains.

The interlock device, including the mouthpiece, is locked inside the vehicle near the driver’s seat and is directly connected to the car’s ignition system. In the case of a failed test, it will lock the starter off until a valid breath sample is provided. An intoxicated individual may try to get around the blood alcohol concentration (BAC) limit by having a sober person blow into the mouthpiece instead. But he or she won’t get far, Nico says, because the machine requires rolling retests at random intervals. While the device won’t shut the car down immediately in such an instance because of safety concerns, it will lock the starter once the car is parked.

Attempting to tamper with the device can result in a license suspension and further penalties. The device also

maintains a log of breath tests that the courts can examine for irregularities.

Costs for the ignition interlock device vary. Nico says he charges about \$2.50 a day. A typical first-time DUI offense in which there were no injuries would carry a six-month restriction period, which would work out to about \$450 for the device rental. Nico’s company doesn’t charge for installation but many others do at an estimated cost of about \$150 to \$300, he says.



An ignition interlock device will prevent a driver from operating a vehicle after consuming alcohol. PHOTO COURTESY OF LIFESAFER

Safety schools break DUI cycle

Programs are designed to stop repeat offenses

BY JACK SHINAR

Chances are good that your drunk driving arrest is hardly the result of your first time driving drunk. You've been behind the wheel of your vehicle when you shouldn't have been on many other occasions. Only this time your luck ran out.

That's especially true in cases when an individual's blood alcohol concentration (BAC) is well over the California legal limit of .08. It may be time to admit there's a problem, but initially most refuse to acknowledge it. And that's where drunk driving schools come in.

DUI programs, featuring individual and group counseling, are an important part of the state's punitive effort to reduce recidivism. The programs are time-consuming, lasting up to 18 months for repeat offenders, mandatory for those wishing to hold onto their driver's license or who have been convicted – and expensive. But that doesn't mean they always succeed.

"I've seen people show up here with as many as 12 prior drunk driving convictions, but they are spaced out over so many years, the courts aren't always aware," notes Amanda Ridgeway, who coordinates the DUI program at

Bridges Inc., one of four schools approved by the state for operation in Sacramento County.

Bridges has been involved in substance abuse rehabilitation services for years, Ridgeway explains, but only established its DUI program two years ago.

She estimates that perhaps 75% of Bridges DUI enrollees are multiple offenders. What most don't realize is that many of those same people are showing up for the class under the influence of alcohol or drugs. Talk about a red flag.

"I was amazed at first myself, but it happens all the time," Ridgeway says.

In the past, the schools had little choice but to terminate an individual who shows up inebriated and turn them back to the courts. But a just-instituted pilot program under the state's Strategic Highway Safety Plan (SHSP) is aimed at retaining "non-compliant high-risk DUI offenders in DUI treatment."

Each enrollee is now required to participate. Rather than being dismissed, DUI offenders who test positive or are observed to be under the influence of alcohol or drugs by staff agree to being classified as a "high risk." They will be required to undergo further treatment including

"a comprehensive substance use disorder assessment and individualized treatment plan, increased monitoring, and incentives" as designated by the county.

As long as the participant remains engaged in treatment and agrees to specific courses of action, the DUI Program will not notify the court or the Department of Motor Vehicles of the non-compliance.

"A lot of people come in here under the influence. They are in this situation because they aren't getting the help they need," explains Alina Yelets, DUI program administrator for Safety Center, Inc., another approved school. "We don't do treatment here. This (the SHSP pilot program) addresses that."

The additional treatment will not increase the cost of the program to the high-risk participant. But failure to follow the individualized treatment plan can result in immediate dismissal, Ridgeway says.

"If that happens, the violator will be returned to the courts, and we will be there," she adds.



Karla Hendrix, vice president of the Safety Center, Inc., is in charge of the school's DUI programs.
PHOTO BY ANNE STOKES

Sacramento safety schools

The four schools that offer Sacramento County-approved DUI programs are:

- 1) Breining Institute
- 2) Bridges, Inc.
- 3) Safety Center, Inc.
- 4) Terra Nova Counseling

All have multiple locations in and around the immediate Sacramento area. Most offer Saturday classes and financial assistance. Phone the individual school for more information.

The fee an individual pays for a court or DMV-ordered DUI program is established by the county based upon the level of blood alcohol concentration (BAC). Most

of the programs take from three to nine months to complete, while a multiple offender can be required to attend for as long as 18 months.

A BAC of up to .14 (the legal limit being .08 in California) requires three months of attendance for a total of 30 hours at a cost of \$675. From .15 to .19, the program lasts six months totaling 45 hours at a cost of \$860. Above .19 or a chemical test refusal case requires nine months of school for a total of 60 hours at a cost of \$1,140.

Those failing to complete the requirements face revocation of probation by the court and license suspension by the DMV.



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The mission of Safety Center is to reduce injuries and save lives by providing safety education and training.



Damon Jennings of Breathe Easy Insurance Solutions suggests getting professional help to get through the DUI process. That includes maintaining insurance.

PHOTO BY ANNE STOKES

How to expunge your record

Yes, it is possible to get your good name back, at least in part, by having your driving under the influence conviction expunged from the court record.

Once you've completed your probation and assuming you don't have any other charges or convictions against you, it's a good idea to do so, says attorney Denis H. White Jr. The change in criminal record won't completely wipe out your conviction, but it may be of benefit to your employment or future employment.

Even with an expungement, a DUI conviction can still adversely affect your employment status, especially if your job involves driving. Any professional or state licenses you hold can also be affected in many

cases, and it can stop you from joining the military or traveling to a foreign country.

"In Sacramento County, it's a fairly simple process," White says. "Although relief is discretionary with the court, in most instances, if you have no subsequent criminal history, the court will grant the motion. If the (district attorney) and court don't object, you may not even have to make a court appearance."

"Although there are benefits to having your record expunged, it can still be used as a prior if you get in trouble for another DUI. It does not change your DMV record."

White also notes there is a \$120 administrative filing fee that you must pay when you file the motion unless you qualify for a fee waiver.

The instructions and forms for an expungement can be accessed online at: <https://www.saccourt.ca.gov/criminal/docs/1203-4-dismissal-process.pdf>.

After DUI, where's your insurance headed?

There's a strategy for avoiding stratospheric premium hikes

BY ALLEN PIERLEONI

Each year, some 1.5 million Americans are arrested for driving under the influence of alcohol or drugs, says the National Highway Traffic Safety Administration.

Now it's happened to you. Among the consequences is your standing with your insurance company. What can you expect and what do you do?

One hard truth is your insurance premiums can dramatically increase by \$2,000 to \$3,600 a year if you're with a major carrier, insurance agents say, depending on individual circumstances. On the other hand, there are insurance brokerages that can guide you through the DUI labyrinth and work with DUI-forgiving insurance carriers to get you less costly rates.

For a first offender, the Department of Motor Vehicles may suspend your driver's license for six months to a year. To avoid that, the first consideration is to determine

whether you need legal representation, says Damon Jennings, vice president of business relations for Breathe Easy Insurance Solutions in Sacramento. The brokerage firm offers a driver's license support team specializing in DUI cases, and works with 40 DUI-forgiving carriers.

"You might want to contact an attorney if you have a complex situation, if there are mitigating circumstances or discrepancies — such as a delayed breathalyzer or blood alcohol-level test — or if your career or job depends on whether or not you have a DUI. Or the reason for the stop could be an issue," he says.

"Either way, you or your attorney definitely want to set up a DMV administrative hearing (admin per se hearing), and the sooner the better, because you have only 10 days to file a motion."

The goal of the hearing is to maintain your driving privileges.

At some point in the convoluted process, your insurance agent will need to file an SR-22 form with the DMV, showing you are insured.

"At that point, any major carrier will do an underwriting review because of your DUI and most likely cancel you and not accept you back for 10 years," says Greg Jung, a veteran agent with State Farm Insurance Co.

Perhaps a better route is via a brokerage firm, one that is well-versed in navigating the Department of Motor Vehicles bureaucracy.

Shopping for post-DUI insurance rates can be a process. The stricter DUI-related laws that took effect in California in January make for "a lot of different requirements for different situations," says Angelic Madrid, a license-reinstatement specialist with Breathe Easy. "There are many factors at play in rate pricing: Age, driving record and experience, where you live, marital status, what coverage you're looking for.

"We ask our customers, 'What were you paying before?' and see if we can get it about the same or cheaper for the same coverage," she says.

It's impossible to peg an "average" dollar-amount premium increase because each situation is unique. But the important thing to remember is: You can get insurance. That's a must if you intend to drive a car.

"Your premium will be increased after the DUI," Madrid says, "but because we work within the DUI market, it won't be extremely high."

Or, as Jennings puts it, "I compare (post-DUI rates) to grocery shopping, and your shopping cart is your driving record. The more items you put in the cart, the more you're going to pay when you check out. However, we do have companies that will not charge you as much for those items as other 'grocers' would."

For information on DUI-related laws and contacts for legal services, visit www.breatheeasyins.com.



Photo by Anne Stokes

Law Office of Jennifer Mouzis

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BY THEA MARIE ROOD

WHY DID YOU GO INTO LAW?

I always envisioned doing something that would have an impact in the world. During my time at U.C. Davis, I came to believe that I could have the greatest direct impact by helping people affected by the criminal justice system. I attended McGeorge School of Law and graduated with Great Distinction and in the Order of the Coif. I have worked in almost every area of the criminal justice system: Community Service Officer at the Davis Police Department, judicial clerk for Judge Jeffrey Gunther (Superior Court, Ret.), Attorney General intern, Deputy District Attorney in the Career Criminal and Adult Sexual Assault Prosecution Unit, and private criminal defense attorney working in both the Superior and Appellate courts.

DO YOU HANDLE CASES OTHER THAN DUIS?

I have been in practice for 21 years. As an experienced trial counsel, I have successfully handled, resolved and tried cases ranging from misdemeanor driving-under-the-influence, drug offenses, assault, battery, and domestic violence to vehicular manslaughter, gang allegations, and murder cases with special circumstances. I have handled death penalty cases as lead and Keenan counsel. I am experienced in appellate practice and have handled post-conviction cases in the Courts of Appeal as well as the California Supreme Court.

WHAT ADVICE WOULD YOU GIVE SOMEONE WITH A DUI?

It is important to know your rights. If you are pulled over by the police for suspicion of driving under the influence, be polite and comply with the officer's directions, but you should not answer any questions about where you are going, what you had to drink, the time of your last drink, etc. You have the right to refuse to perform the field sobriety tests (walk on a line, touch your finger to your nose); however, you must provide a chemical test when requested by the officer.

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A private attorney can help DUI offenders save their driving privileges as well as time.

Should you hire an attorney? **Yes!**

Legal advice is important, but do your research

BY JACK SHINAR

If you've been arrested for driving under the influence, one of the first – and most important – decisions you will have to make is whether or not to hire a private attorney.

A good attorney specializing in a case like yours is going to be expensive, with estimates in the \$3,000 to \$5,000 range depending on services rendered.

So if you are short on cash and don't have another option, you will probably choose to go with a court-appointed public defender. A public defender knows courtroom procedure but won't be around to help you in the early stages of your case, so you might miss some important deadlines. Once you land in court, though, the outcome could be the same no matter who is representing you.

But if you can afford private counsel, how should you proceed?

"I think looking for experience in the area of DUI law is the most important thing to consider," says attorney Jennifer Mouzis, who co-chairs the Sacramento County Bar Association's criminal law section. "You want to avoid so-called 'rent lawyers'; that is

a lawyer who will take any case that pays the rent."

When researching an attorney, Mouzis says, a good resource to start with is the state bar association's website, www.calbar.ca.gov. There, you can easily find some pertinent data by entering the attorney's name into a search engine. It will list the attorney's contact information, law school attended, and when he or she was admitted to the state bar. The database also will tell you whether there have been any actions taken by the bar association as the result of complaints against the attorney in either non-disciplinary administrative matters or disciplinary cases.

Drunk driving cases can be complicated and changes in the law regarding DUI are common,

so it's important to retain a specialist in the field, someone who "knows the rules of the game," says attorney Michael Chastaine.

Chastaine, who spent 17 years in a public defender's office before going into private practice, says a good DUI attorney knows that "the timing and sequence" of actions can help a client avoid some of the major costs associated with a DUI. For instance, a drunk driving defendant may know

they need to provide the DMV with proof of insurance coverage (an SR-22 form) in order to maintain a driver's license, "but you don't want to call your insurance company.

"When you call your insurance company and tell them you need an SR-22 form, what you are really telling them is you've had a drunk driving arrest," Chastaine explains. "You can expect to see your insurance premiums soar and you could lose your coverage all together."

A better route to take is to contact a company that provides SR-22 insurance and buy it from that company. You fulfill the DMV requirement and it's possible your insurance company may never find out about your case. Slight edges like that, or "tricks of the trade" as Chastaine calls them, can help a person avoid some of the hits that come with a DUI.

Attorney Denis H. White says if you are going to retain a private attorney, do it as soon as possible.

"Unless your neighbor is a public defender, you won't speak with one until your first court appearance," he says. "If your driver's license is important, you really should speak with a couple of private DUI attorneys within the first week, so that you don't miss any deadlines or lose your California driver's license unnecessarily. Additionally, with a private attorney it may not be necessary for you to even appear in court."

"I think looking for experience in the area of DUI law is the most important thing to consider."

JENNIFER MOUZIS
Attorney

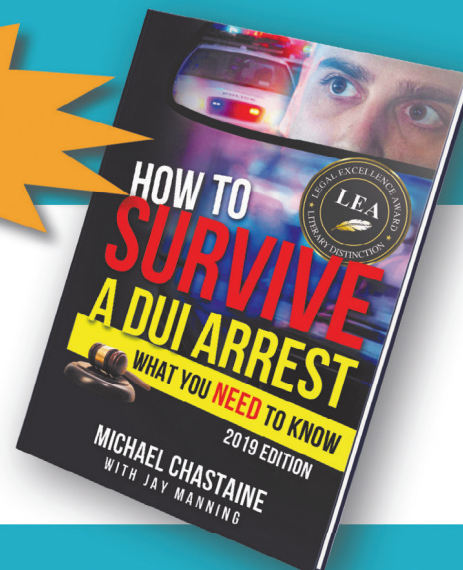
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- Robert D., Sacramento, CA



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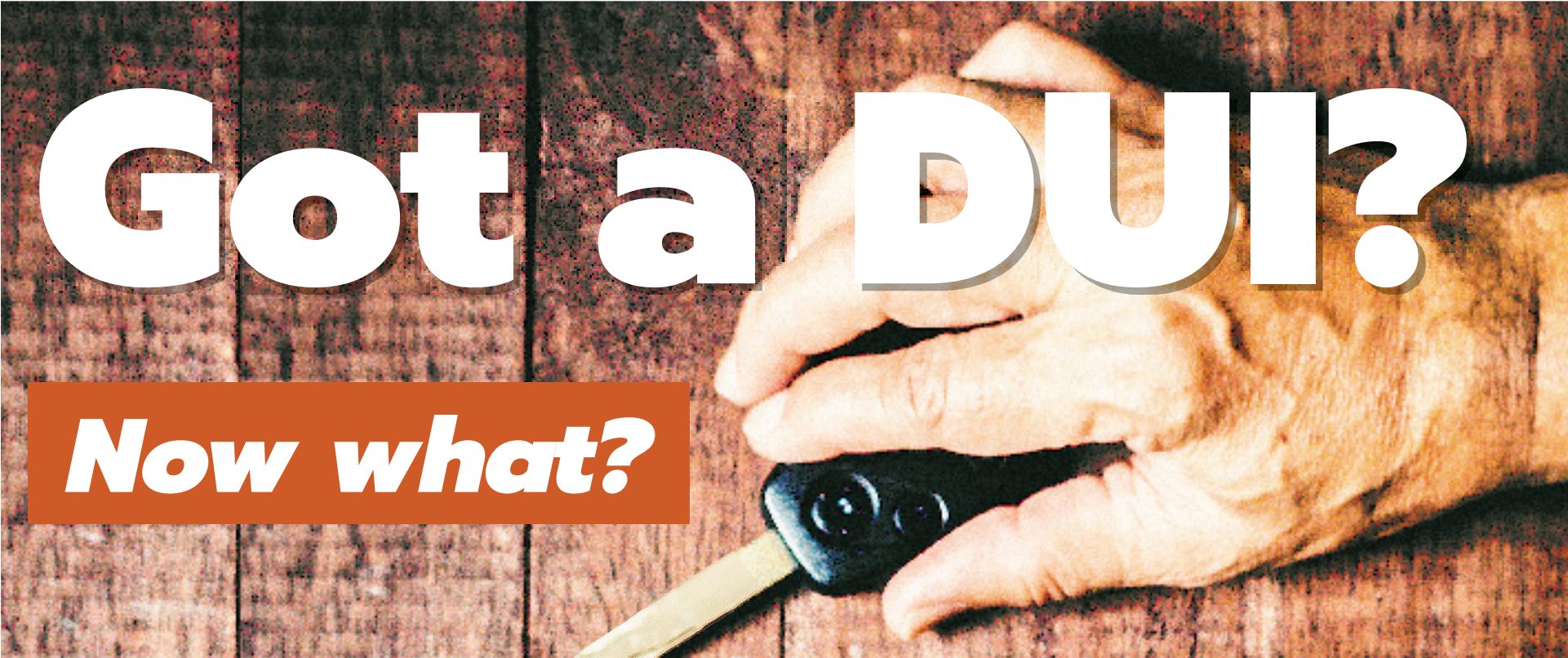
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