

September 18, 2013 /**24-7PressRelease**/ -- Criminal evidence: Customary tests that evaluate a motorist's sobriety

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You do not have to be drunk to be arrested and convicted of what is generally called "drunk driving." The issue is whether your physical or mental abilities are impaired by alcohol and/or drugs so that you no longer have the ability to drive with the same care and caution as a sober person of ordinary prudence under similar circumstances. When a person is arrested for drunk driving or driving under the influence, an officer may be initiating the arrest on the basis of a field sobriety test (FST). Moreover, the prosecution may also be based on such field evaluations in addition to any other evidence like objective symptoms and blood alcohol level.

Field sobriety tests are attention-based tests, which are intended to check for physical or mental impairment. The officers watch closely and take notes on how well you follow instructions in order to form an opinion on whether there is mental impairment and how well you perform the tests to see if there is physical impairment. In prosecuting a suspected "drunk driver," the district attorney wants to show you are impaired mentally because you did not follow the instructions and physically because of your poor performance.

The following tests are often used by authorities to detect whether a motorist is driving under the influence (DUI).

California DUI Charges: Impairment or .08 BA or more

Drunk driving is generally prosecuted using two different theories in most cases. In California, there are two DUI code sections: VC 23152(a) -- abbreviated as "driving under the influence," and a second code section, VC 23152(b) -- abbreviated as "driving with .08 blood-alcohol level or more" (regardless whether you are impaired). Even though you are presumed to be under the influence for the VC 23152(a) section if you are .08 B.A. or more, if a jury feels you are not impaired you could be found "not guilty" of the this DUI section. FSTs are important to show impairment. VC 23152(b) requires only a showing of driving with a .08 or more blood-alcohol level at the time of driving, even without a finding of impairment. This section relies on the blood alcohol testing, time of driving, alcohol absorption rate and other driving and test related issues.

Impairment evaluations

An officer begins making a DUI evaluation at the initial stop by observing objective symptoms, blood shot eyes, slurred speech, odor of alcohol, balance problems, fumbling for a license, etc. While these are important, field sobriety tests are designed to show impairment. You can decline the field tests, but most people want to show the officer how sober they are and take them. They think they did great, but do not realize the subtle things that the officers are noting. FSTs can be effected by terrain, clothing, age, health, and many other factors. The officer does not have a base line of performance for the individual to compare.

The National Highway Traffic Safety Administration backs a few impairment tests. These evaluations include a walking and turning test, a leg-stand exam and the horizontal gaze nystagmus evaluation.

When conducting such evaluations, an officer will provide very specific instructions which must be followed in the administration of the test. An arresting officer will evaluate and score the performance of a detained suspect.

Officers use field sobriety tests which are aimed to demonstrate mental or physical impairment. These tests can include the following:-The finger-nose test.-The finger-tap test.-The Romberg balance test.-The hand-pat examination.-Reciting the alphabet.-The line walk and turn test.

These are a just a few tests, which authorities may use when evaluating whether a motorist is driving under the influence.

If you have been accused of DUI, there are a number of things that need to be looked at closely. When a defense attorneys work with clients, it is their job to examine the evidence and try to show there is no physical or mental impairment in the demonstrated in the field tests. Other areas that require close review include the chemical testing, absorption rate, driving, objective symptoms and probable cause for the initial contact. Weakness of the prosecution in any of these areas could result in possible dismissal, lesser charges or lesser penalties. To learn more, speak with a local criminal law and DUI professional in your area.