

October 05, 2013 /**24-7PressRelease**/ -- Drivers who are accused of driving under the influence in San Diego County and elsewhere in California who believe they are over the legal limit or have heard about chemical tests being unreliable may be tempted to refuse to take a chemical test to determine the amount of alcohol or drugs in their system. However, it is important for drivers to understand the consequences that come with refusing to take the blood or breath test. According to the California DMV, anyone who has a license and operates a motor vehicle in California has "impliedly" given consent to submit to a blood or breath test. A person who refuses to submit will still be arrested, the refusal can be used against them in court, and they face possible additional mandatory custody and a DMV administrative [license suspension](#).

Forced Blood Draws may require a Warrant

Earlier this year, the U.S. Supreme Court in *Missouri v. McNeely* ruled that after a refusal, some forced blood tests may be an "unreasonable search and seizure" without a search warrant.

The case involved a Missouri police officer taking a driver to a hospital for a forced blood test after the driver refused to take a breath or blood test. The State's attorney made the case that circumstances were exigent because the body metabolizes alcohol therefore evidence of driving under the influence dissipates, making the process of obtaining a warrant too slow. The Supreme Court ruled that the natural dissipation of alcohol may be an exigent circumstance justifying a forced blood draw after a refusal, but it is not always and may require a search warrant. Each case has to be examined on its own merits.

People may think this means that they have the right to refuse a chemical test without any consequences, which is incorrect. It is important for California drivers to understand that refusing a blood or breath test comes with its own penalties regardless whether a warrant is obtained and the evidence is admissible or not.

Consequences of "Refusal" to take a Chemical Test

The DMV suspensions for refusing to take a chemical test depend on whether the individual has prior convictions for DUI within the last 10 years. These DMV suspensions are in addition to any enhanced sentencing by the Court which includes mandatory additional custody for a DUI with a refusal allegation.- First-time DUI Offenders who refuse have a loss of driving privilege for one

What "implied consent" means for California drivers

Written by Australian Business

year.- Second Offenders with a [prior DUI](#) or "Wet Reckless" within 10 years suffer a loss of license for two years.- Third time Offenders with two priors in the last 10 years lose their license for three years.

Drivers need to realize that refusing to consent to chemical tests may not be the best choice and has consequences which could include a significant DMV license suspension, use in Court against them, and mandatory additional custody. There is no penalty for refusing to take the physical field sobriety tests. Also, there is no penalty for refusing the unofficial field P.A.S. breath test unless you are under 21 or on DUI probation.

It is important for anyone who has been arrested for drunk driving or driving under the influence to speak with an attorney as soon as possible to review the factors of their case and how to achieve the best result with the Court and DMV.

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