

# Rhame ◆ Elwood ◆ McClure

attorneys at law

## INFORMATIONAL PACKET FOR OWI ARREST

### LICENSE SUSPENSION

Your license **will** be suspended at the initial hearing for a minimum of (180) days.

**However**, the law allows for a **Specialized Driving Privileges Permit (SDP)**. A court **may** stay the suspension and grant a specialized driving privilege permit. If granted, the SDP privileges must be determined by a court and may include, but are not limited to: Requiring the use of ignition interlock devices; and restricting a person to being allowed to operate a motor vehicle: a.) during certain hours of the day; or b.) between a specific location and the person's residence.

Rhame, Elwood & McClure employs certain procedures and processes which may substantially reduce the suspension or completely avoid it. Law enforcement takes OWI arrests very seriously. It is very difficult to have an OWI charge reduced to a lesser offense. You can maximize that possibility, and the possibility of being granted a Specialized Driving Privileges Permit by hiring the right attorney.

### OWI CRIMINAL CHARGES

You've been charged with an OWI (Operating while Intoxicated) charge. This charge is likely filed under I.C. 9-30-5-1. You've likely been charged with one or all of the following:

#### **I.C. 9-30-5-1 Operation of vehicle with specified amount of alcohol or controlled substance in body – defense-**

(a) A person who operates with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath; commits a Class C misdemeanor.

(b) A person who operates a vehicle with an alcohol concentration of at least fifteen-hundredths (0.15) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the persons breath; commits a Class A misdemeanor.

(c) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the persons' body commits a Class C Misdemeanor.

(d) It is a defense to subsection (c) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

#### **I.C. 9-30-5-2. Operation of vehicle while intoxicated. –**

Except as provided in subsection (b), a person who operates a vehicle while intoxicated commits a Class C misdemeanor.

- (b) An offense described in subsection (a) is a Class A misdemeanor if the person operates a vehicle in a manner that endangers another person.

Under certain circumstances an OWI charge can be charged as a felony offense. This is either because the individual has a prior criminal conviction for operating while intoxicated or an accident was involved that resulted in injuries.

### **CRIMINAL PENALTIES**

Penalties for a Class A Misdemeanor is as follows:

**IC 35-50-3-2.** Class A Misdemeanor – A person who commits a Class A Misdemeanor shall be imprisoned for a fixed term of not more than 1 year; in addition (s)he may be fined not more than (\$5,000 dollars).

Penalties for a Class C Misdemeanor is as follows:

**IC 35-50-3-4.** Class C Misdemeanor – A person who commits a Class C Misdemeanor shall be imprisoned for a fixed term of not more than (60) days; in addition (s)he may be fined not more than (\$500 dollars).

Penalties for a Level 6 Felony is as follows:

**IC 35-50-2-7.** Level 6 Felony – A person who commits a Level 6 Felony shall be imprisoned for a fixed term of between (6) months and (2 ½) years, with the advisory sentence being (1) year. In addition the person may not be fined more than (\$10,000 dollars).

Penalties for a Level 5 Felony is as follows:

**IC-35-50-2-6.** Level 5 Felony – A person who commits a Level 5 felony shall be imprisoned for a fixed term of between (1) and (6) years with the advisory sentence being (3) years. In addition, the person may be fined not more than (\$10,000 dollars).

### **YOU HAVE RIGHTS**

#### Constitutional Rights

- 1.) Right to hire an attorney of your choice
- 2.) Right to have an attorney assigned to represent you if you do not have sufficient funds to hire an attorney;
- 3.) The right to a speedy and public trial by jury;
- 4.) The right to confront in person and cross-examine witnesses who would testify against you;
- 5.) The right to have the court subpoena witnesses to testify in your favor;
- 6.) The right to have the state prove your guilt beyond a reasonable doubt at trial where you cannot be compelled to testify against yourself;
- 7.) The right to appeal the judgement of the court if you were to have a trial and be found guilty.