

Your Guide to Illinois Traffic Courts

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Traffic courts hear more cases than any other court. Hundreds of thousands of traffic cases are heard each year in courts throughout Illinois.

Some traffic violations are settled before they reach the court, if the driver pays the fine and simultaneously admits his or her guilt. Choosing to proceed in this manner, however, will usually result in a conviction on the driver's record for the citation.

Frequently, however, the driver will appear in traffic court. Some drivers may desire a court hearing in order to work out a more acceptable negotiated plea. Furthermore, court appearances are mandatory for certain traffic offenses, including driving under the influence (DUI), reckless driving, and operating a vehicle without a valid driver's license.

Among the most common traffic violations are speeding, running a red light, and failure to provide proof of insurance. Other violations drivers may commit include disobeying the Child Passenger Safety Act; DUI; drag racing; reckless driving; leaving the scene of an accident where property damage, injury or death is involved; fleeing to elude police; and failing to wear a seatbelt while driving. Illinois also recently passed a law prohibiting texting or using a cell phone in any way while driving.

RECEIVING A TRAFFIC TICKET

If you are stopped by a police officer for violating a traffic law and are issued a ticket, it must include the nature of the charge; the date, time and location of the alleged violation; and the statute or ordinance you are accused of violating. You will be asked to sign the ticket, agreeing to appear in court on a set date and time or comply with the terms of the ticket if no court appearance is required. If you fail to sign the ticket, you could face an additional penalty. Your signature is not an admission of guilt; it simply indicates your willingness to appear in court or otherwise pay the required fine. A police officer has the discretion to arrest you for a traffic offense even if it is petty, but arrests usually

only occur in cases of more serious offenses such as DUI.

TRAFFIC PENALTIES

Traffic violations carry penalties that can range from a maximum fine of \$100 for a parking violation to a prison sentence of ten years or more for serious offenses that result in death. Certain offenses also may result in the suspension or revocation of your driver's license, such as a conviction for not stopping for a school bus that is loading or unloading children or a conviction for speeding through a construction zone.

At the municipal or county level, traffic violations are indicated in ordinances and are usually punishable only by a fine. At the state level, violations are classified as either petty offenses, business offenses, misdemeanors, or felony offenses and may carry more serious penalties. Felony offenses such as traffic violations where death resulted are usually heard in criminal court, not traffic court.

In Illinois, most traffic charges are categorized as either "petty" or "misdemeanor" offenses.

Petty offenses are those punishable by fine only. They include stop sign and red light violations, most speeding tickets, and lane change violations. Fines range from \$1 to \$1,000 and are either payable on the day assessed or on such later date as the court may direct.

In the case of most petty traffic offenses, a court may issue an order of supervision where the defendant has a good driving record. Under an order of supervision, the defendant is usually required to pay a fine and/or attend traffic school and is placed on a supervision for a specified period of time. If the defendant complies with the conditions imposed by the court by the conclusion of the supervision period, his or her case will be dismissed and thus will not result in a conviction on his or her driving record.

Misdemeanors are divided into three (3) classes, referred to as Class A, B, and C.

Class A is the most serious and includes violations such as a DUI, driving 35 mph or

more over the posted speed limit, driving on a suspended or revoked license, and reckless driving. Possible penalties for Class A misdemeanors include up to one year in prison and/or a maximum fine of \$2,500.

Class B misdemeanors, such as driving on a license that has been expired for over a year and driving between 26 and 35 mph over the posted speed limit, carry possible penalties of up to six months in prison and/or a maximum fine of \$1,500.

Class C misdemeanors, such as intentionally damaging or removing an official traffic sign, are punishable by up to thirty days in prison and/or a maximum fine of \$1,000.

If a driver has been convicted within a twelve month period of three moving violations, which include both petty and serious offenses committed while the driver is operating the vehicle, the Illinois Secretary of State has the power to suspend his or her driving privileges for up to six months.

It has been said that driving is considered a privilege, not a right. There are many factors that can lead to losing your privilege to drive, such as not paying fines or being convicted of repeated traffic violations.

COURT PROCEDURES

A police officer issuing a citation must mark one of two boxes that are printed on every traffic ticket: “Court Appearance Required” or “No Court Appearance Required.” If your traffic ticket indicates that you are not required to appear in court, you have three options: (1) plead guilty and pay the fine without going to court, but receive a conviction on your record; (2) plead guilty and request an order for supervision, which will avoid a conviction on your record if you pay the required fine and attend traffic safety school; or (3) plead not guilty and request a trial. If you choose to plead not guilty, your ticket should include detailed information about how to notify the appropriate court of your intention to do so if it is required.

Whether you are required to appear in court for your traffic offense or choose to do so to contest the violation, you should

always follow certain decorum, which includes arriving to court on time and dressing in a manner that shows respect for the court.

The judge who hears your case will begin by explaining your individual rights in a traffic case and will also outline how the court call will proceed. Although your case may proceed to trial at your first court appearance in some circumstances, typically the only thing that will occur at this initial hearing is your official plea of guilty or not guilty. You may choose to resolve your case by having your attorney speak with the prosecutor about a potential plea bargain. If you then decide to enter a negotiated plea of guilty before your case is called at your first appearance, you should inform the judge of your negotiated plea when your case is called. If you decide to contest the violation(s) by pleading not guilty, your case will then proceed to a trial.

Most traffic cases are conducted as a “bench trial” where a judge alone hears and decides the case based on the facts presented. However, you have the right to a trial by jury when accused of any traffic offense regardless of its severity, and thus you may assert this right if you so choose.

Each person testifying—including you, the arresting officer, and any witnesses—will be asked to take an oath and tell the truth about what occurred. After the arresting officer and any other prosecution witnesses testify, you and any of your witnesses will be asked to testify. The prosecution has the burden of proving its case against you. In the case of a violation of a municipal ordinance such as speeding on local roads, that burden is “by a preponderance of the evidence,” which means that it is more likely than not that you committed the offense. For all other traffic violations of state law, the prosecution’s burden is the heavier one of “beyond a reasonable doubt.” After the close of all the evidence, the judge (or jury) will decide whether the prosecution has proven its case.

If you are found guilty of committing a petty traffic offense, the judge will issue a sentence that may include a fine and court

costs, attendance at an approved Traffic Safety School under an order of supervision, or a conviction on your driving record.

If you are found guilty of committing a more serious traffic violation, the judge will issue a sentence that may include a fine and court costs, attendance at an approved Traffic Safety School under an order of supervision, conditional discharge or probation if eligible, a specified number of hours of community service, jail time, or any combination thereof. At the time of sentencing the court will set a date for the payment of all fines, costs, and administrative fees.

YOUR RIGHTS UNDER ILLINOIS LAW

1. You have a right to an attorney. If you are charged with a traffic violation that carries potential imprisonment as a possible penalty, you have the right to be represented by an attorney. It is prudent to hire an attorney for offenses punishable by jail time if possible. However, if you are charged with such an offense and cannot afford to hire an attorney, the court may appoint you one. You must show proof of financial hardship by providing the court with documents that include a current pay stub, W-2 forms, proof of disability or Social Security income, proof of public assistance, and possibly other documents. Many courts will also require you to prepare and submit to the judge a financial affidavit describing the defendant's resources and debts.

For traffic violations punishable by fine only, you have the right to hire an attorney, but one will not be appointed if you fail to do so. A list of attorneys in your area, who are experienced in traffic law, is available through various referral programs, including the one offered by the Illinois State Bar Association at www.illinoislawyerfinder.com, or by calling the Association's lawyer referral service at (800)922-8757. Attorneys participating in the phone referral service will provide an initial consultation for a fee of not more than \$25.

If you are to appear in court and have hired an attorney to represent you, your attorney should be present on the first court date. Most courts will not grant a continuance if you do not have an attorney. You can ask for a continuance by contacting the court and requesting a new court date up to the day prior to your scheduled hearing.

2. You have a right of confrontation. As a defendant in court, you have the right to confront and cross-examine the arresting officer and the prosecution's other witnesses. You also have the right to bring witnesses to testify on your behalf during the proceedings. If the witnesses in your defense fail to come voluntarily, you can have them subpoenaed.

You or your attorney can ask questions of the witnesses and present evidence, such as photographs, to support your testimony. The officer who issued the ticket will be notified to appear in court; you have the right to see any paperwork the officer presents prior to it being submitted to the judge.

3. You have a right to remain silent. As the defendant, you have the right to remain silent. You cannot be forced to testify.

4. You have a right to an appeal. If you believe that a legal error was made when the judge rendered the decision, you have the right to appeal your case to the Illinois Appellate Court. You must file a notice to appeal within 30 days after the traffic court has made its final decision. No new evidence may be presented during the hearing conducted by the Illinois Appellate Court.

DRIVING UNDER THE INFLUENCE (DUI)

A driver convicted of a DUI will have his or her driving privileges revoked indefinitely. A person whose privileges have been revoked may be eligible to reapply for a driver's license after a certain period of time, provided that he or she pays a reinstatement fee, undergoes an alcohol and drug evaluation, completes an alcohol/drug remedial education

program, and demonstrates to a Secretary of State officer that public safety will not be endangered if the privileges are restored.

Also, a driver who is arrested for a DUI or who fails or refuses to submit to a chemical test (i.e. a breathalyzer or a urine or blood test) will automatically have his or her driving privileges suspended, even if no DUI conviction results. This is known as a statutory summary suspension and usually takes effect forty six days after the driver receives a notice informing him or her of the summary suspension. A driver may file a petition to rescind a statutory summary suspension within ninety days after receiving the notice and if, after a judicial hearing, a judge rules in the driver's favor, the summary suspension will be rescinded. If the suspension is not rescinded by a court, a person's driving privileges will be reinstated once the summary suspension period is over and a reinstatement fee has been paid. The reinstatement fee for first-time offenders is \$250, while the fee for repeat offenders is \$500.

First-time DUI offenders whose privileges have been suspended may obtain a Monitoring Device Driving Permit (MDDP) that will allow him or her to drive anywhere at any time during the summary suspension period so long as he or she is driving a car in which a Breath Alcohol Ignition Interlock Device (BAIID) has been installed. A BAIID locks the vehicle's ignition until the driver blows into a breathalyzer. If his or her breath sample registers a BAC of .025 or more, the BAIID will prevent the driver from starting the vehicle. Additionally, the Secretary of State's office can download information from the BAIID every sixty days and if a violation is detected, additional penalties may result.

Offenders who have two or three DUI convictions, two statutory summary suspensions within the last ten years, or one DUI conviction in addition to one statutory summary suspension for a separate DUI arrest within the last ten years may obtain a Restricted Driving Permit (RDP). An RDP allows an offender to drive on a restricted basis, but again only in a vehicle that has had a BAIID installed. For example, an RPD might allow an

offender to drive to and from work or to and from the doctor for treatment appointments. In order to obtain an RPD, the offender must demonstrate that a hardship exists, provide a current professional alcohol/drug evaluation and, when appropriate, provide proof of remedial education or treatment. The offender must also attend a hearing at the Secretary of State's Department during which the offender's driving record is reviewed to ensure he or she will not threaten public safety if issued an RPD.

In addition to having driving privileges revoked, penalties for a DUI conviction vary depending on particular circumstances such as the driver's age and BAC level, whether a child was in the car at the time of the violation, and whether the driver has any previous DUI convictions. Possible penalties include suspension of vehicle registration and fines for first-time offenders, a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500 for first-time offenders who had a BAC of 0.16 or more, and possible imprisonment of 3-7 years and fines up to \$25,000 for third-time offenders.

If you are charged with a DUI offense, you should hire an attorney immediately.

NOTE: This information was prepared as a public service by the Illinois Judges Association and the Illinois State Bar Association. Its purpose is to inform citizens of their legal rights and obligations. Consult your lawyer if you have questions about the application of the law in a particular case.

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This pamphlet is prepared and published by the Illinois State Bar Association as a public service.

Every effort has been made to provide accurate information at the time of publication.

For the most current information, please consult your lawyer. If you need a lawyer and do not have one, call Illinois Lawyer Finder at (800) 922-8757 or online **www.IllinoisLawyerFinder.com**

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