

What is an ALR Hearing?

Many Texas drivers who are arrested for driving while intoxicated (DWI) do not realize that a DWI arrest creates two separate cases, one civil and one criminal.

Specifically, a DWI arrest results in both a criminal charge, and usually initiates a civil proceeding against the arrested driver's driving privileges called an Administrative License Revocation, or ALR.

An ALR suspension is initiated against an arrested driver when he either refuses to submit to breath or blood testing, or alternatively, fails a breath or blood test. The legal authority to impose an ALR suspension against a driver lies in the Texas *implied consent* statute.

This law states that each person who operates a motor vehicle on Texas roadways has given his or her implied consent to provide a specimen of breath or blood if arrested for DWI and provided with the applicable consequences of refusing to submit to testing.

Notice of ALR Suspension

Many police officers, after arresting a citizen, will tell the arrested driver that if he does not agree to take a breath or blood test that his license will be *automatically* and immediately suspended.

This is incorrect. When making an arrest for DWI, peace officers are required to take possession of any Texas license issued by this state and held by the person arrested and issue the person a temporary driving permit that expires on the 41st day after the date of issuance. Further, a request for a hearing to challenge the proposed suspension will delay any ALR sanctions until a hearing takes place.

Hearing Request Provisions

ALR suspensions are automatic unless you request a hearing to challenge the suspension, in writing, **WITHIN FIFTEEN (15) DAYS** after receiving notice of suspension from the arresting agency on a Department of Public Safety approved form. This document is generally received on the day of arrest.

If a hearing is not requested in a timely manner, the suspension will automatically begin on the forty-first (41st) day after notice was received. If a hearing is requested, no action will be taken regarding suspension until after the hearing has taken place, even if the hearing takes place more than forty days after the arrest.

The ALR Hearing

The burden of proof at an ALR hearing is on the Department of Public Safety. Once a driver or his attorney has made a timely request for an ALR hearing, no suspension may

be imposed against the driver until the Department of Public Safety proves the following elements by a preponderance of the evidence at the hearing:

1. That there was reasonable suspicion to stop or probable cause to arrest the driver;
2. That probable cause existed that the driver was driving or in actual physical control of a motor vehicle in a public place while intoxicated;
3. That the driver was placed under arrest and was offered an opportunity to give a specimen of breath or blood after being notified both orally and in writing of the consequences of either refusing or failing a breath or blood test; and
4. That the driver refused to give a specimen on request of the officer, or, that the driver failed a breath or blood test by registering an alcohol concentration of .08 or greater.

Suspension Provisions for Adult Drivers

Without any prior alcohol or drug related contacts against the accused driver during the previous 10-year period, your license will be suspended for 90 days if your chemical test result is over a 0.08% or 180 days if you refuse a chemical test. If you have a prior alcohol or drug contact within ten years, your license will be suspended for one year if your chemical test is over 0.08% or 2 years if you refuse a chemical test. In certain circumstances you may be eligible for an Occupational License.