

## A DUI & YOUR LICENSE

### El Derecho Del Pueblo

Columna de comentario [Social Justice Risk and Police](#) abogado y maestro Matthew "Mateo" Katz.

### The People's Right

A column of social comment [Destiny](#) and legal advice by attorney and teacher Matthew "Mateo" Katz.

Let's retell a story that you read in this column several weeks ago, the one about drinking beers and then imprudently deciding to jump behind the wheel and drive your car... That story is one that hurts to hear again, right?!

Of course we all know about the hazards of driving drunk, but not all of us know what is a petition to rescind a statutory summary suspension. "HUH?!" you say? Yes, this Petition, or request to the court, asks a judge to return your license once it's been suspended. "Been suspended?" you ask. "Back up a minute! When does it get suspended?!"

Whenever you are stopped by a police officer who suspects that you have had one too many to drink, s/he will write up a ticket for violating the state laws prohibiting you from driving while intoxicated. That officer will also ask you to blow into a breathalyzer machine to record the proof of your level of intoxication.

The officer is supposed to tell you that if you refuse to blow, your license will be immediately suspended starting on the 46th day after your arrest. If you blow and your BAC (Blood Alcohol Content) is above 0.08, then your license will likewise be suspended.

This puts you in a tough place! If you've had nothing to drink, you can blow and likely you'll be fine. If had a drink or more than one, you don't blow so that you don't incriminate yourself, and your license will be suspended.

So, what do you do on that 46th date after the arrest? Well, you don't drive! Okay, there is another answer, as you've already read above. You file the Petition to Rescind, which means something like a request to take back the suspension of your license. This is filed with the Clerk of the Circuit Court in the building the traffic court you're to go to is located.

This Petition must specify at least one reason the law allows for a judge to order your license returned to you. There are some half-a-dozen reasons why this can happen: (1) you were not charged with a DUI; (2) the officer did not have reason to believe you were in control of the vehicle or that you were intoxicated; (3) the officer did not warn you that you would lose your driving privileges if you refused to blow; (4) you did not refuse to blow; (5) you blew and your BAC was below 0.08.

The Court must grant you a hearing on your Petition within thirty days of your filing thereof or on the first court appearance in which you will be brought to face the DUI charge. If you win at the hearing, you get your license back. Realize that if you file this Petition there will be two cases: the first is the criminal case in which you have a right to a trial on the DUI charge, the second is a civil case in which you are petitioning (asking) for your license back and there's a hearing but no jury trial.

To sum it all up, there's only a couple more things to say... Of course, in life, we know what not to do. But if you've already done what you're not to do, then now you know what to do once its been done!