

Immigration & DUIs

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Whether you are undocumented, in the process of applying for your permanent residence, or are already a permanent resident, avoid convictions for alcohol-related driving offenses! Even if you receive a suspended sentence or a sentence which is deferred and later dismissed, a DUI **will** have an effect on your current immigration case, or your immigration options in the future. Here are some of the most common effects of a DUI:



Legal Permanent Residents:

- Applying for citizenship. US Citizen and Immigration Service will usually deny applications for those with any criminal convictions within the five year period preceding the application, or three years in the case of an applicant married to a US citizen. Three to five years after the date of the DUI, applicants are usually deemed eligible for citizenship, but most often will be required to show rehabilitation from alcohol as well as other evidence of their good character.
- Traveling outside of the US. Those with deferred sentences for convictions that are not yet closed by the court may be placed in secondary inspection for further review of their criminal records before being allowed to enter the US. Even if the case is closed, Customs and Border Protection (CBP) officers may place permanent residents in secondary inspection while they check their criminal records. In addition, U.S. citizens and U.S. permanent residents with prior alcohol-related convictions can be barred from entering Canada, even if the conviction is several years old.
- If placed in deportation proceedings for other criminal convictions or upon an allegation of having abandoned permanent residence, an alcohol-related driving offense will be considered by the immigration judge as he or she determines if the permanent resident merits keeping immigration status.

Deferred Action for Childhood Arrivals (DACA) Applicants and Recipients:

- If you are convicted of a DUI, you will not be eligible to apply for DACA. If you already have DACA, you will not be eligible to apply for renewal, and you could lose your current status.
- If you are charged with a DUI, but your charge is reduced by a judge, it may still be risky to apply for DACA.

Visitors to the US and other Temporary Visa Holders:

- A conviction of any kind may constitute a violation of the terms of your visa. You may be determined to be out of status, and ineligible for any legal status, after a conviction.
- If you are arrested by ICE after a conviction or even picked up from jail after an arrest, you may be placed in deportation proceedings.

Undocumented Persons:

- Alcohol offences in general will not prevent eligibility for immigration relief under current law. However, US Customs and Immigration Services (USCIS) or an immigration judge may use the fact of having an alcohol-related driving offense to determine, in his or her discretion, that an applicant for immigrant relief lacks “good moral character,” and deny the application.
- A DUI conviction is very risky for immigrants who must apply for their residence through consular process in their home countries. If an intending immigrant has a consular interview within five years of a DUI conviction, he or she will be referred to a panel of physicians for an alcoholism review. These reviews can take many months, and the immigrant cannot return to the U.S. until the panel gives their approval.

If you have a prior DUI conviction, it is very important that you reveal this information when you consult with an immigration attorney, so the attorney can give you accurate advice about your options and any potential risks involved. If you are arrested for a DUI while you have an immigration application pending, inform your attorney immediately. Getting a DUI does not mean you’re out of options, but it certainly makes those options much more complicated. For your future and for your safety, avoid drinking and driving at all costs!

For appointments call 206-774-8758 or email
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