

Can I Refuse a Field Sobriety Test During a DUI Stop in California?



Being stopped for suspected DUI in California can be a stressful experience, and many drivers wonder whether they have the right to refuse a field sobriety test (FST). While California law provides certain protections, refusing an FST can have consequences, and understanding your rights is crucial. At [Perلمان & Cohen](#), we have extensive experience handling DUI cases in Los Angeles and can help you navigate the legal complexities surrounding field sobriety tests.

What Are Field Sobriety Tests (FSTs)?

Field sobriety tests are physical and cognitive exercises used by law enforcement officers to assess whether a driver is impaired. These tests are not scientific but are used as probable cause for a DUI arrest. The three standardized FSTs approved by the [National Highway Traffic Safety Administration \(NHTSA\)](#) are:

1. **Horizontal Gaze Nystagmus (HGN) Test** – The officer asks the driver to follow a moving object (e.g., a pen or flashlight) with their eyes. Involuntary jerking of the eyes can indicate impairment.

2. **Walk-and-Turn (WAT) Test** – The driver is instructed to take **nine heel-to-toe steps** in a straight line, turn on one foot, and return. Officers look for balance issues, incorrect steps, or inability to follow directions.
3. **One-Leg Stand (OLS) Test** – The driver must stand on one foot while counting aloud. The officer looks for **swaying, hopping, or using arms for balance**.

Other non-standardized tests may include:

- Counting backward
- Reciting the alphabet
- Finger-to-nose test

Since these tests are subjective, they can be challenged in court. Perlman & Cohen has successfully argued that FST results are unreliable due to external factors.

Do You Have the Right to Refuse a Field Sobriety Test in California?



Yes, you can legally refuse a field sobriety test if you are not under 21 and not on DUI probation. In California:

- **FSTs are voluntary** for most drivers.
- **You are not legally required** to perform them.

- **There are no penalties for refusal** unless you are a minor or on DUI probation.

However, officers may not tell you that FSTs are optional. Instead, they may pressure you into compliance. If you refuse, they may rely on other observations (e.g., slurred speech, odor of alcohol) to justify an arrest. Perlman & Cohen can help determine if your refusal was used unfairly against you.

Who Is Required to Submit to Field Sobriety Tests?

Some drivers **must** comply with FSTs under California law:

- **Drivers under 21** – California's [Zero Tolerance Law](#) prohibits anyone under 21 from driving with a **BAC of 0.01% or higher**. Refusing an FST could lead to an automatic license suspension.
- **Drivers on DUI probation** – If you have a prior DUI conviction and are on probation, refusal could result in harsher penalties.

For other drivers, **Perlman & Cohen recommends politely declining FSTs and requesting to speak with an attorney.**

Can You Refuse a Breathalyzer Test During a DUI Stop?



California has implied consent laws under [Vehicle Code §23156](#), meaning that while FSTs are voluntary, chemical tests are not under certain circumstances.

- **Pre-arrest PAS (Preliminary Alcohol Screening) Test:** Portable breath tests before an arrest **are voluntary** unless you are under 21 or on DUI probation.
- **Post-arrest Breath or Blood Test:** If arrested, you must submit to a breath or blood test. Refusing can lead to:
 - A one-year license suspension
 - Increased penalties in court

Refusing a post-arrest test can result in a "refusal enhancement", which increases DUI penalties. Perlman & Cohen can review whether the test refusal was improperly handled.

What Happens If You Refuse a Field Sobriety Test?

If you decline an FST, officers may:

1. **Still arrest you for DUI** based on other observations (e.g., erratic driving, odor of alcohol, slurred speech).
2. **Use your refusal as evidence of guilt** in court, arguing that you declined because you knew you were intoxicated.
3. **Rely more on chemical tests** (breath or blood) to determine impairment.

However, FST results can be challenged in court. Perlman & Cohen frequently questions the reliability of these tests due to external influences such as:

- Poor weather conditions
- Uneven road surfaces
- Anxiety or medical issues

Defending Against a DUI Charge After Refusing an FST



At Perlman & Cohen, we use several strategies to fight DUI charges, even if an FST refusal is used against you.

1. Challenging the Reason for the Traffic Stop

Police must have reasonable suspicion to stop you. If they lacked a valid reason, any evidence gathered after the stop may be inadmissible in court.

2. Questioning Officer Bias and Subjectivity

FSTs are based on officer opinion, making them prone to bias. Factors such as fatigue, nervousness, or medical conditions can affect performance. We challenge whether the test was fairly administered.

3. Examining Video Footage

Dashcam or bodycam footage can be crucial in showing whether:

- The officer followed proper procedures.
- Road conditions affected test performance.
- The officer exaggerated signs of impairment.

4. Disputing Chemical Test Results

If your case involves a post-arrest breath or blood test, we investigate whether:

- The breathalyzer was properly calibrated ([Title 17 Compliance](#)).
- There were errors in blood sample handling.
- Rising BAC levels influenced results.

What to Do If You're Stopped for a DUI in California

If you're pulled over for DUI in Los Angeles, you have rights. Here's what you should do:

1. **Stay calm and polite** – Arguing with law enforcement can escalate the situation.
2. **Know your rights** – You can legally refuse FSTs unless you're under 21 or on DUI probation.
3. **Decline to answer incriminating questions** – You are not required to disclose whether you've been drinking.
4. **Request an attorney** – Contact **Perlman & Cohen** as soon as possible.
5. **Request a DMV hearing** within **10 days** to contest any automatic license suspension.

How Perlman & Cohen Can Help with a DUI Charge

At Perlman & Cohen, we understand how frightening and confusing a DUI charge can be. We take a strategic, aggressive approach to defending DUI cases and challenging:

- **Unlawful traffic stops**
- **Faulty sobriety tests**
- **Improperly administered breath and blood tests**
- **Officer misconduct**

Contact Perlman & Cohen for a Free Consultation



If you're facing a DUI charge in Los Angeles, don't leave your future to chance. **Our experienced DUI attorneys at Perlman & Cohen can help protect your rights and build a strong defense. [Contact us today](#) to schedule a **FREE Case Consultation**.**