

THE CHARGE

A petty misdemeanor is the legal designation in Minnesota for a violation in which the sentence may not exceed a fine of \$300. A petty misdemeanor is not a crime. No jail or workhouse time can be imposed and/or stayed upon a plea of guilty or a finding of guilty on a petty misdemeanor charge.

Some of the more common traffic petty misdemeanors are speeding, stop sign violations, parking tickets, improper turning and lane changes, expired drivers' license or license plates, and minor automobile equipment violations. If a driver is charged with a third moving traffic violation within a one-year period, the offense will normally be charged as a misdemeanor rather than a petty misdemeanor. If the officer feels your driving conduct endangered persons or property, you will be charged with a misdemeanor.

Most non-traffic offenses are also charged as misdemeanors rather than petty misdemeanors. A misdemeanor is a crime which carries a maximum sentence of \$1,000 and/or 90 days in jail. One exception is the first offense for possession of a small amount (1.5 ounces or less) of marijuana when not related to the operation of a motor vehicle. This offense is a petty misdemeanor.

The procedures for petty misdemeanor charges are governed by Rule 23 of the Minnesota Rules of Criminal Procedure.

The Legislature has mandated and the Courts will generally impose a surcharge on all petty misdemeanor fines.

RIGHTS OF THE ACCUSED

An individual charged with a petty misdemeanor has these procedural rights:

1. Presumption of innocence.
2. Requirement of proof beyond a reasonable doubt by the State before a person can be found guilty.
3. Right to compel the attendance of witnesses to testify in behalf of the accused through the subpoena power of the Court.
4. Right to testify in own behalf.
5. Right to remain silent including not testifying at trial.
6. Right to confront and cross-examine adverse witnesses.

7. Right to a court trial (before a Judge). There is no right to a jury trial in petty misdemeanor cases.

8. Right to legal counsel (normally at own expense in petty misdemeanors).

9. Right to an appeal if found guilty.

UNIFORM FINE SCHEDULES

Most petty misdemeanor fines are determined from pre-established fine schedules which have been instituted by Judges for purposes of uniformity in sentencing. Judges are not bound to follow the schedules in every case and may deviate upward or downward depending upon the facts involved and the defendant's prior record. Frequently, these schedules are printed on the ticket or citation, and the fine can be paid by mail to the Violations Bureau in lieu of a court appearance. Payment of a fine in this manner constitutes a plea of guilty to the designated offense.

VIOLATIONS BUREAUS AND HEARING OFFICERS

Some counties, including Hennepin and Ramsey, have established programs whereby individuals charged with petty misdemeanor traffic offenses can attempt to resolve their cases through informal discussions and negotiations with hearing officers. For example, a person charged with a parking ticket carrying a normal fine of \$25 may have it reduced to \$10 if sufficient extenuating circumstances are explained to a sympathetic hearing officer. The Violation Bureau in Minneapolis is located on the first floor of the Government Center. St. Paul's Violation Bureau is in Room 126 of the Ramsey County Courthouse. Normally, no appointment is needed to meet with a hearing officer.

EFFECT OF FINDING OF GUILTY

If an individual is found guilty of a petty misdemeanor (either by paying the fine, pleading guilty in Court, or by being found guilty by a judge after a trial), a fine of \$300 or less plus a surcharge can be imposed. Moving traffic violations can result in increased auto insurance rates. Equipment violations and parking tickets normally do not affect insurance rates. Numerous moving violations can result in a suspension of driving privileges by the Minnesota Department of Public Safety. A conviction record of a person's traffic offense(s) is sent to this Department to become part of his driving record.

It is important for individuals found guilty of only petty misdemeanors to know that they can truthfully state on employment and/or educational applications that they have

not been convicted of a crime.

COURT PROCEDURES

A. THE ARRAIGNMENT

Your first scheduled court appearance before a judge is called an arraignment. At this hearing, your identity will be confirmed orally, you will be informed of your constitutional rights by the judge, and the charge against you will be read. You will be asked how you wish to plead: "guilty" or "not guilty." If you plead guilty, you are admitting the charges against you, and the judge will impose the sentence. If you plead not guilty, the matter will be set for a court trial at a later date. This court trial is before a judge, not a jury.

B. NEGOTIATIONS BEFORE TRIAL

Sometimes, before trial, the prosecuting attorney will attempt to resolve the case with the defendant through discussions and a plea negotiation. If this occurs, the defendant should make sure that he fully understands the proposed negotiation before agreeing to it. Normally the prosecutor or the judge will willingly answer any questions which the defendant may have.

C. THE TRIAL

The normal order of events at the trial is normally as follows:

1. State's opening statement (a brief oral outline of evidence to be presented by State).
2. Defendant's opening statement (defendant may elect to wait to make his opening statement after State's case has been completed).
3. State's case (testimony of State's witnesses).
4. Defendant's case (testimony of defendant's witnesses).
5. State's closing statement (a summary of evidence against the defendant).
6. Defendant's closing statement (a summary of evidence in favor of defendant).

Sometimes, in petty misdemeanor cases, no opening or closing statements are made. The judge will

sometimes only hear testimony from all witnesses, with the State proceeding first. After each State's witness testifies, the defendant is given the opportunity to ask the person questions if the defendant so chooses (cross-examination). The defendant is not required to call any witnesses when he presents his own case. If witnesses do testify for the defendant or the defendant testifies himself, such persons are also subject to cross-examination by the prosecuting attorney. A defendant who represents himself should carefully prepare his case in advance, including preparing all questions to be asked of each witness. The questions should be asked in a formal, concise, objective, and non-argumentative manner. Diagrams of the scene prepared before trial and pictures are sometimes helpful in traffic matters. A defendant's own testimony, if the defendant chooses to testify and he is not represented by counsel, can be in a narrative form. The narrative should be clear and concise, focusing upon issues directly relating to the defendant's position why he is not guilty.

If a person is found to be "not guilty" by the Court, there is no conviction and there can be no sentence.

Sometimes, no witnesses appear at trial for the State. If this occurs, the defendant should ask the judge to dismiss the case against him "with prejudice" (forever) because of the State's "failure to prosecute." The judge will normally grant this request.

D. SENTENCING

If you are found guilty, normally the Court will consider the circumstances of the offense, your past record, and any other helpful information before passing sentence. The defendant should be prepared to present such information to the judge in an objective manner before the sentencing occurs.

If you are found guilty, you may have the right to appeal your case to an appellate court where the conviction will be reviewed. The appeal must be made within ten days. Normally, it is advisable to seek the services of an attorney when appealing any case. Rev. 10/2003

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USLS can help with the following:

- ▶ Landlord/Tenant
- ▶ Collection
- ▶ Consumer Problems
- ▶ Employment
- ▶ Immigration
- ▶ Family Law
- ▶ Misdemeanors/DUI
- ▶ Name Changes
- ▶ Power of Attorney
- ▶ Wills

To make an appointment, please call our office at 612/624-1001. The receptionist can explain our eligibility requirements, answer questions about the scope of our practice areas, and refer you to other services or agencies that might be able to help.

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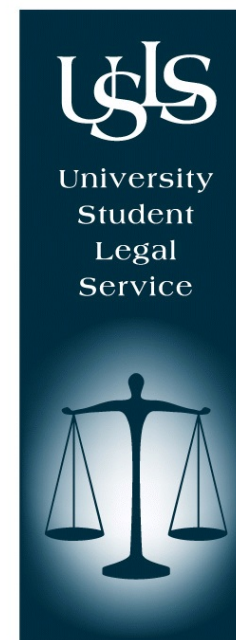
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Your Rights Concerning a Petty Misdemeanor Charge

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