

Drink Driving Offences

It is an offence to drive or attempt to drive a motor vehicle on a road or public place with alcohol above the "prescribed limit".

The "prescribed limit" is measured in breath, blood, or urine;-

- In breath it is 35 microgrammes of alcohol in 100 millilitres of breath.
- In blood it is 80 milligrams of alcohol in 100 millilitres of blood,
- In urine it is 107 milligrams of alcohol in 100 millilitres of urine.

If you are convicted of a drink-driving offence you will lose your licence for a minimum of 12 months. However, the court can impose a prison sentence of up to 6 months and impose fines of up to £5000. If the alcohol level is very high, the period of disqualification may be longer. If you are convicted of drink-driving offences twice within 10 years you will be disqualified for a minimum of three years.

Death by careless driving whilst under the influence of drink or drugs

If you are convicted of causing death by careless driving whilst under the influence of

drink or drugs you will face: -

- Up to 14 years in prison, and
- An unlimited fine, and
- A minimum-driving ban of two years

There are two other offences, which come within this category of offence: -

1. Failing to provide a specimen at a police station

A conviction for this offence leads to a mandatory disqualification of at least one year, unless you can show you have a reasonable excuse for having failed to provide the sample. Courts have considered reasons such as:

- Becoming short of breath as a result of a panic attack whilst providing breath sample. This was found to be a special reason on the facts of the particular case
- Having a phobia of needles and medical conditions such as asthma. Some such cases have been refused as special rea-



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sons and the Courts will require medical evidence to support such arguments.

2. Being in charge of the vehicle having consumed alcohol over the prescribed limit

This offence is committed when you are “in charge” of your vehicle, even though you are not actually driving. The concept of being “in charge” of the vehicle is very wide. You can be “in charge” simply by being in it.

For this reason I recommend you **do not sleep** in your vehicle whilst recovering from a night out (even though this may be de-



fendable on the ground that you would not actually have driven whilst over the limit). It is very risky. If you are in your vehicle and a breath test proves positive, it will be for you to show that you would not have actually driven whilst over the limit. People greatly underestimate how long it takes for alcohol levels to drop below the legal limit.

How to argue against a disqualification for drink driving

In certain circumstances it is possible to argue what are called special reasons either not to endorse a licence with penalty points, or not to disqualify. Special reasons are circumstances connected with the commission of the offence, such as driving in an emergency, driving to escape a threat, driving a very short distance, or driving after consuming laced drinks. This is a very technical area of law but if argued correctly can have a significant impact on sentence.

- Driving in an unforeseen emergency where there is no reasonable alternative and no one else can drive.
- Where you did not know you had been consuming alcohol (for instance laced

drinks). However, there is a duty to check and ask what you are drinking and if the level in your breath sample is high the Court may well say you ought to have known.

- Where you had consumed the alcohol after you had stopped driving and left the vehicle. This involves detailed evidence of what was consumed and when and you will need help from an expert to calculate alcohol levels

Hardship for the driver or family or others affected is not a “special reason”.

The courts operate a drink driver rehabilitation scheme and participation in such a scheme can reduce the period of disqualification by up to 25% provided that the course is completed satisfactorily.

I like to help

If you think you may have a special reason why you should not be disqualified for drink driving please contact me since I can help you.