

A very 'Merry' Christmas could cost you your licence!

CHRISTMAS IS A TIME OF PARTIES AND SOCIAL ENGAGEMENTS. HOWEVER, IT'S ALSO A TIME WHICH COULD HAVE SERIOUS IMPLICATIONS FOR ROAD USERS WHO ARE CAUGHT DRIVING OVER THE LEGAL LIMIT. PHILIP HATVANY, SPECIALIST ROAD TRAFFIC SOLICITOR AT MOTORING LAW DEFENCE, ANSWERS A FEW COMMONLY ASKED QUESTIONS ASSOCIATED WITH DRINK DRIVING.

What happens if I am stopped and requested to give a roadside breath test?

The police do not need a reason to stop your vehicle. However, an officer in uniform can only request a breath test if he reasonably suspects that you have consumed alcohol, are committing a road traffic offence or have been involved in an accident. The roadside breath test must also be carried out nearby. If any of these requirements are not complied with then this may be a defence to failing to provide a roadside breath test.

You have to provide the roadside breath test if it has been lawfully requested. If you do not provide one you will have committed an offence even if you were not drink driving. In court, the penalty will be four penalty points or disqualification and a fine.

What happens if I am required to give a breath test at the police station?

If the police think that you have been drink driving they may require two specimens of breath at the police station. The police have to follow a strict procedure when taking the breath specimens. If they fail to follow this then you may well have a defence in relation to a drink drive allegation.

The limit on the breath is 35µg of alcohol in 100mls of breath. If the lower sample is no more than 50µg then you have the option to claim that the breath tests should be replaced by a sample of blood or urine. We would strongly recommend that you do request this in these circumstances. The limit in relation to the blood is 80mg of alcohol in 100mls of blood. If you are over the limit you will normally be charged and bailed to attend court.

If you are guilty of drink driving then there is a mandatory minimum ban of twelve months for a first offence and a possible fine. If you are well over the limit or have had an accident you might have to do community service or have a tagged curfew imposed. In the most serious cases there can be a sentence of up to six months in prison.

Can I be convicted of a drink related motor offence where I haven't even been driving?

It is an offence to attempt to drive when over the limit even if you do not actually drive, for example if you are seen trying the wrong key in the ignition.

If you are found to be 'in charge' of your vehicle when over the limit or unfit through drink then you could be convicted. An example of being 'in charge' would be someone found asleep in the driver's seat with the keys in the ignition. However, if you are accused of this you may have a defence if you can show that there was no likelihood of driving whilst you were drunk.

The offence of being 'in charge' carries ten penalty points or a disqualification and a possible fine. Again, in more serious cases a prison sentence could be imposed.

Can I simply refuse to give a specimen of breath or blood at the police station?

It is a serious offence to refuse to give a specimen of breath, or if required, blood or urine at the police station, unless you have a reasonable excuse. A reasonable excuse could be, for example, where someone has an asthma or panic attack and is unable to provide the breath sample. Establishing a reasonable excuse at court will normally require detailed medical evidence.

The offence of refusing to give a specimen at the police station carries a minimum twelve month disqualification for a first offence, but the ban is often much longer. However, if you were just 'in charge' of the vehicle and refused to give a specimen then you might be able to avoid a ban. In serious cases a prison sentence could be ordered.

Do I need a solicitor to represent me?

Representation from a solicitor at the police station or at court can make an enormous difference to the outcome of your case. At Motoring Law Defence we specialise in



representing clients on all motoring law matters including drink driving. At the police station we can assist you by helping you decide on important issues such as whether to answer questions or not.

If your matter proceeds to court, we can advise you on whether you have a defence or whether you should plead guilty to the charge. There might be a special reason for not imposing a disqualification or you might have good reasons for receiving a lenient sentence.

For free initial advice on any motoring law matter please telephone Philip Hatvany at Motoring Law Defence on 01225 442 925 or via e-mail at advice@motoringlawdefence.com



Philip Hatvany, motoring law solicitor at Motoring Law Defence



2-4 Henry Street, Bath BA1 1JT
Tel: 01225 442 925
www.motoringlawdefence.com