

Drunken Driving

The fear of losing your driver's licence probably makes you limit your alcohol intake more than the fear of having an accident. But do you really know how much you can drink before you drive?

Any lawyer who appears in the District Court knows that a lot of people have an incorrect idea about the amount of alcohol they can drink before driving. It's sad to see **people lose their licences** because **they** genuinely believe **they can** safely drive after drinking four glasses of wine.

The reality is that if you drive while you have more than 400 micrograms of alcohol per litre of breath the court has to cancel your driver's licence for at least 6 months if it's your first offence. If you are under 20 or have a learner's or restricted licence **the legal limit is only 150 micrograms of alcohol per litre of breath.**

You will lose your licence if you drive with a blood alcohol level of over 80 milligrams of alcohol per 100 millilitres of blood. For people under 20 the permitted level is only 30 milligrams of alcohol per 100 millilitres of blood.

Generally women have higher breath and blood alcohol readings than men after drinking the same amount of alcohol and become affected by alcohol more quickly than men. Young women tend to have higher readings than older women.

The Alcohol Advisory Council's advice is that women over 20 should not drink more than one and a half 180 millilitre glasses of wine during their first hour of drinking (or two 330 millilitre beer stubbies or 3.75 single nips of spirits). Men over 20 can drink two and a quarter 180 millilitre glasses of wine during their first hour of drinking (or two and three-quarter 330 millilitre beer stubbies or five and a half single nips of spirits). Every hour after that you can drink only a third of a 180 millilitre glass of wine (or half a 330 millilitre beer stubby or one single nip of spirits). If you are under 20 or on a learner's or restricted licence, you should have nothing to drink at all.

If you are stopped by the police, you may be required to undergo tests to detect your breath or blood alcohol level. If you are given a "passive breath test", you will speak into the device you will probably have seen at checkpoints. It will show whether you have drunk any alcohol at all.

If the reading is positive, you may be given a evidential breath test, breathing into an electronic device which measures the level of alcohol in your breath. If your breath alcohol level is over 400 micrograms per litre of breath, the result of the test will be used in evidence in court.

You can ask for a blood test (although this would only be worthwhile if you really think the result is wrong). You can also request a blood test if the police have used a breath testing machine which is not classed as a "conclusive evidential breath testing device."

If you refuse to undergo an evidential breath test, or if no evidential breath testing device is available, you will be given a blood test. A blood sample must be taken by a doctor or, in some circumstances, by an authorised nurse. If you are in hospital because you have been involved in an accident, a blood sample may be taken even if you are unconscious.

Loss of your licence for driving with excess breath or blood alcohol is compulsory. The Judge has absolutely no discretion to allow you to keep your licence (even if you had

intended to take a taxi home and drove only to take a sick, injured or dying person to hospital).

You cannot avoid the consequences by refusing to take the tests. The offence of refusing to allow a blood sample to be taken carries a compulsory loss of licence. So the penalty will be the same, **or even greater, than it** would be if your breath or blood alcohol level was too high. Failing to remain at a specified place and refusing to accompany a policeman are offences that can incur a loss of licence (the Judge has a discretion).

If you drive with excess breath or blood alcohol and you have been convicted of the same offence within the last 5 years, the court must order you to attend an alcohol assessment centre and must cancel your licence until the Director of Land Transport Safety removes the disqualification. He or she can restore your licence only if a doctor who is attached to an alcohol assessment centre writes a report saying that you are fit to have a licence.

Don't be tempted to drive if you lose your licence. The courts take driving while disqualified very seriously and, if you are caught, you will lose your licence for an even longer period. Too many disqualified driving convictions will earn you a prison sentence.

Now that we have random breath testing, the chances of getting caught drinking and driving are much higher. The only safe course is to limit your alcohol intake or make sure that you don't **drink and** drive.

If you have any concerns in this area or would like to know more, contact your solicitor.

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