

RAISING THE BAR

A DECATO LAW OFFICE NEWSLETTER

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HAPPY HOLIDAYS AND BE OF GOOD CHEER
BUT UNLESS YOU FLY A REINDEER
AVOID ALL ALCOHOL, WINE OR BEER

The holidays are a wonderful time of the year, even with snow, ice, slush, darkness and the excesses of shopping. Family and friends get together to celebrate and perhaps have a toast to the year gone by (well there is that Wall Street issue) and the upcoming year. Please consider that your toasts should be in moderation, if you intend to drive after celebrating. Moderation most probably means no more than two (2) drinks in an evening ('a' keg does not count as 'a' drink.) The best approach is to appoint a designated driver, or call your local cab company. If you take a chance and drive after drinking you risk injury to yourself, your passengers and to others on the road. I know, you have all heard this before, but, please consider the following, should you choose to drive after drinking.

In the experience of the attorneys at the firm who have defended drinking drivers, New Hampshire has a strict drinking and driving law. The penalties upon conviction are very severe and have a serious impact on the drivers finances. The penalties are found at RSA 265-A:18, should any of you care to look up the penalties.

The typical DWI case starts when a person is pulled over by the police for any number of alleged infractions. It might be for a non-operable headlight, tail light out, crossing the center line, etc. The officer will ask for license, registration and while speaking with the driver, may observe slurred speech, bloodshot eyes, the odor of alcohol, mumbling, fumbling for a license, or confusion. At some point the officer may ask "have you been drinking." The officer may ask the driver to step out and perform field sobriety tests. At some point the officer may administer a preliminary breath test to determine if there is alcohol in the driver's body. Based on the officer's observation, the driver may be placed under arrest.

The driver will get a "free" ride in the police car to the police station. If there is no one to drive the driver's car, a towing company is called. That will cost a minimum of \$75.00. At

the station, further tests are administered. If a breath test, or blood test shows a B.A.C.(Blood Alcohol Content) of .08, or higher, (for those under 21 the limit is .02),the license or operating privilege is taken and you receive a provisional license that is good for 30 days. At this point the driver will probably be charged with D.W.I. A bail bondsman will be called and a \$30.00 fee paid to the bondsman. Generally, the driver is released, but first a friend, relative, or chum is called, at oh, 1:00 am, to come to the station and pick up the driver. Nice time for a chat!

The driver will receive a court date to appear in court to enter a plea of guilty, or not guilty. There may be lost time from work. If the driver was over .08 B.A.C. he/she will be entitled to an Administrative License Hearing. The issues are very narrow and a hearings officer, not a judge, decides if he/she should lose their license for six months. This may be in addition to the sentence imposed by the court. Oh yes, if the driver refused the breath test, the license is also lost for six months.

The next step may be the trial. Many people hire an attorney and the cost may be in the thousands of dollars.

Assuming there is a finding of guilty to D.W.I., or a plea of guilty (many cases are resolved by plea), the following penalties are assessed:

1. Loss of license for 9 months to two years; it is possible to reduce this to six months;
2. Fine of not less than \$500.00, plus a penalty of 20% of the fine;
3. Successful completion of the I.D.I.P.(Impaired Drivers Intervention Program) - current cost \$460.00 to \$585.00; if not successful, further alcohol counseling, which is an additional cost;
4. Reinstatement fee to the D.M.V., before being permitted to drive;
5. Increase of car insurance for three years, which may be an extra \$1,000.00 per year.
6. Free article in the local papers about your court appearance. If you calculate all of these costs, the drinks average out to several thousand dollars per glass!

There are more severe consequences if this a second or subsequent D.W.I., even from another jurisdiction, i.e the Green Mountain State, or that southern state that is the home of the BoSox.

The law is complex and this is a quick snap-shot of some of the consequences of a D.W.I. If you face this situation, call us! But, please think before you drink and drive. Santa may have reindeer, but we mortals have to rely upon our cars and trucks. Oh yes, there is also an offense for driving a snowmobile while intoxicated.

HAPPY HOLIDAYS!



