



Drink Driving

Some of the most commonly asked questions about Drink Driving are discussed on this page.

1. What is the offence of PCA?

There is no offence of “drink driving” so to speak in New South Wales. Offenders are charged with the offence of drive whilst presence of prescribed concentration of alcohol in person’s breath or blood pursuant to the Road Transport (Safety and Traffic Management) Act 1999.

2. What are the various ranges of the offence?

Under the relevant legislation there are three (3) main categories of the offence:

- Low Range – 0.05grams or more but less than 0.08grams per 100ml of blood;
- Mid Range – 0.08grams or more but less than 0.15grams per 100ml of blood;
- High Range – 0.15gram or more per 100ml of blood.

There is also a zero tolerance for Learner and Provisional Licence holders and it will be an offence for those drivers to attempt to operate a motor vehicle whilst there is present any alcohol in the blood. Further, for certain drivers there is the special range category of 0.02grams but less than 0.05grams per 100ml of blood.

3. Can I get a special licence if I need to drive for work?

There is no such thing as a restricted licence and this remains an urban myth in relation to sentencing. The Courts look upon a licence to drive as a privilege rather than a right and no special treatment is afforded those offenders who explain to the Court the need to have a licence for employment. The general attitude is that all individuals require their licence for employment and if that is the case, extra special attention should be given to protecting their licence.

4. What is a section 10 order?

When it can be shown to the Court that there exists exceptional circumstances the Court may apply Section 10 of the Crimes (Sentencing Procedure) Act 1999 and without proceeding to conviction, find a person guilty of an offence however order that the relevant charge be dismissed. This order may be subject upon the individual entering into a Good Behaviour Bond or participating in an intervention program. Such orders are only made in exceptional circumstances and it must be remembered that the general rule of thumb is they are not appropriate when an individual commits a PCA offence.



5. What is the “Guideline Judgement”?

You may have heard that a Guideline Judgment was handed down with regard to High Range PCA offences. A Guideline Judgment exists when the New South Wales Court of Criminal Appeal is approached to write a Judgment for reference and Application by the Court. In this case the Guideline Judgment made a Statement as to appropriate sentencing specifically for the offence of high range PCA. However, it has a flow on affect for sentencing generally. This is not to say that Magistrates no longer have discretion to reduce penalties.

6. What is the Interlock Program?

The Interlock Program exists when a driver of a vehicle has committed a serious or subsequent PCA offence and applies to the Court to reduce the period of disqualification on the basis that the offender will enter into an interlock program. This requires the offender to successfully complete a responsible driver program and fit a special electronic device into any vehicle which they drive which will make the vehicle inoperable in the event that the electronic device detects any presence of mouth alcohol. If an offender is facing a significant period of disqualification or is a subsequent offender it is sometimes appropriate to consider entering into the interlock program if the offender is prepared to cover the cost of the device.

If you would like further information, or require assistance, please contact us on (02) 4731 5899 or send us an email by clicking on the ‘Contact Us’ page on our website.