

Drink Driving – what are the penalties?

Regrettably some of us find ourselves facing a drink driving penalty and the uncertainties and difficulties that it brings. In this article we clarify what you can expect if charged with a drink driving offence.

Drink driving is an offence if it occurs on a road, or road related area. This includes, roads, public footpaths, bike lanes, public car parks, or any area that is not a road but is open to or used by the public for driving, riding or parking vehicles.

There are 2 types of drink driving offences. The first offence is driving with the Prescribed Concentration of Alcohol (PCA) where a breath analysis is undertaken. The second offence is driving under the influence of alcohol (DUI), which is generally proven by the observations of police or witnesses and the surrounding circumstances, such as the drivers breath smelt of alcohol, slurred speech, unsteadiness on feet or a car accident.

If you are the holder of a Learners Licence, P1 or P2 Licence (Novice Driver) or are a suspended or disqualified driver, you commit a drink driving offence if your blood alcohol concentration is above 0.000. If you are a driver of a vehicle of gross vehicle mass greater than 13.9 tonnes, a vehicle carrying dangerous goods or a public vehicle such as a taxi or bus (Special Driver) you commit a drink driving offence if your blood alcohol concentration is .002 or above. For all other Licence holders, you commit a drink driving offence if your blood alcohol concentration is 0.05 or above.

Outlined below are the maximum penalties, and the automatic periods and minimum of disqualification for first time drink driving offences in NSW.

Offence	Maximum fine	Maximum jail	Automatic disqualification	Minimum disqualification
<i>Novice range PCA</i> 0.01 – 0.019	\$1,100	Nil	6 months	3 months
<i>Special range PCA</i> 0.02 – 0.049	\$1,100	Nil	6 months	3 months
<i>Low range PCA</i> 0.05 – 0.079	\$1,100	Nil	6 months	3 months
<i>Mid range PCA</i> 0.08 – 0.149	\$2,200	9 months	12 months	6 months
<i>High range PCA</i> over 0.150	\$3,300	18 months	3 years	12 months
<i>Driving under the influence (DUI)</i>	\$2,200	9 months	12 months	6 months
<i>Refuse breath test</i>	\$1,100	Nil	6 months	Nil



<i>Refuse breath analysis (after perform breath test already)</i>	\$3,300	18 months	3 years	12 months
<i>Wilfully alter blood concentration</i>	\$3,300	18 months	3 years	12 months

In respect to disqualification periods, it is important to remember that

- each drink driving offence carries with it an automatic disqualification period. If the Court is satisfied from submissions made to it that mitigating circumstances exist, the court may reduce the disqualification period to the minimum period for that offence, or a period in between.
- there are substantially increased penalties, automatic periods and minimum periods or disqualification for second and subsequent drink driving offences within a 5 year period.
- in NSW there is no such thing as a 'work licence' or 'day time licence'.
- if special or extenuating circumstances are placed before the Court, regardless of the seriousness of a drink driving charge, it is open to the Court to dismiss the charge under Section 10 of the Crimes Sentencing Procedure Act. If an order is made under Section 10, there is no criminal conviction recovered and no disqualification imposed.

If you are convicted of a drink driving offence, this is a criminal conviction that stays on your record for 10 years. A police check which is required for things like working with children clearances or applying for some jobs will reveal the conviction. If you are traveling overseas you will likely need to disclose your criminal conviction as part of the visa process.

Conclusion

Being charged with a drink driving offence can be a very traumatic experience. For a lot of people it is their first taste of the criminal justice system and they have no idea of what is likely to occur at court after being arrested for a drink driving offence. If you or someone you know is charged with a drink driving offence and require representation at Court or would like more information please contact Oliver Hagen on 4731 5899 or email litigation@batemanbattersby.com.au.