

Drink Driving - Know the Law



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On average 3,000 people are killed or seriously injured each year in collisions involving drink driving. The police are therefore committed to stamping down on this, which is more prevalent around the festive season (and therefore so is the police presence on the roads).

Many people do not know the laws and regulations of this offence, and so we have therefore written this article to let you know exactly what the legal limits are, and what you could potentially be facing if you are found guilty of this offence.



The Limits

The law on Drink Driving comes from the Road Traffic Act 1988. There are four main offences in relation to drink driving:

- Driving (or being in charge) whilst under the influence of drink or drugs (section 4)
- Driving (or being in charge/attempting to drive) with excess alcohol (section 5)
- Failing to provide a specimen for screening (Section 6(4))
- Failing to provide a specimen for analysis (Section 7(6))

The current legal alcohol limit in England and Wales is:

- 35 micrograms of alcohol in 100 millilitres of breath; or
- 80 milligrams of alcohol in 100 millilitres of blood; or
- 107 milligrams of alcohol in 100 millilitres of urine

If you get stopped by the police

The police have powers to stop and arrest you if they have reasonable grounds to suspect that you are driving whilst over the legal limit. The police do not have to administer a test in order to do this; a police officer may arrest you purely based on his observations. However, most police officers carry breath-analyser testing kits which will usually be used. This will be a preliminary test, and only a uniformed officer can administer this. It is an offence itself to fail to provide an adequate sample when asked without a reasonable excuse. We would, therefore, always recommend that you comply.

If you fail to provide a sample, or if the sample shows that you are over the legal limit, then it is likely you will be arrested and taken to the nearest police station. You will then be required to provide a further sample of breath or a blood or urine sample. It is, again, an offence to fail to provide a sample, and it will be at the officer's discretion as to what sample should be taken. If you give a breath test then you will provide two samples, and the lower of the samples will be used. If this is below 50 micrograms of alcohol per 100 millilitres of breath you may request that this is replaced by a laboratory test of your blood. If the samples show you are above the legal limit then it is likely that you will be held at the police station until your alcohol level is below the legal limit and then you will be bailed, pending a court hearing.



The penalties

It is impossible to say for certain what sentence you will be given if found guilty of any of the above offences, however the Crown Prosecution Service provides sentencing guidelines which can be a good indication. The table below sets out the possible penalties you may face:

Offence	Maximum fine/ prison sentence	Disqualification	Penalty Points
Driving or attempting to drive whilst unfit through drink or drugs	Six months imprisonment and/or £5,000 fine (three years if convicted twice within ten years)	At least twelve months	At least three; not more than eleven
Driving or attempting to drive with excess alcohol	Six months and/or £5,000 fine (three years if convicted twice within 10 years)	At least twelve months	At least three; not more than eleven
Being in charge when unfit through drink or drugs	Three months imprisonment and/or £2,500 fine	Discretionary	Ten
Being in charge with excess alcohol	Three months imprisonment and/or £2,500 fine	Discretionary	Ten
Failing to provide a preliminary sample	£1,000 fine	Discretionary	Four
Failing to provide a sample for analysis	six months imprisonment and/or £5,000 fine	At least twelve months	At least three; not more than eleven

There are certain mitigating circumstances which may lower your sentence. If you are arrested for any of these offences then you should seek independent legal advice. At Knights we have an experienced and dedicated team ready to assist you if you find yourself in difficulty, and we are available 24/7, even throughout the festive season.



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