

Parents & Students – Read Very Carefully - IT’S THE LAW!! ZERO TOLERANCE!!

TEXAS HAS TOUGH ALCOHOL-RELATED LAWS FOR MINORS

Driving While Intoxicated (DWI) is a problem that affects all Texans. To make Texas safer, laws have already been enacted to deter people from drinking and driving or to punish those who choose to drink and drive.

DRIVING WHILE INTOXICATED (DWI) – DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS – PENALTIES

1ST Offense DWI (Class B Misdemeanor) – punishable by fine not to exceed \$2000.00, confinement in jail for not less than 72 hours nor more than 180 days, and a driver license (or driving privilege) suspension of not less than 90 days nor more than 365 days. The court may probate the jail sentence and waive the driver’s license suspension on the first offense **ONLY**. Possession of an open container of an alcoholic beverage increases the minimum term of confinement by 3 days to 6 days for a 1st offense.

2nd DWI Offense (Class A Misdemeanor) – punishable by a fine not to exceed \$4,000.00, confinement in jail for not less than 30 days nor more than 1 yr., and a driver license (or driving privilege) suspension of not less than 180 days nor more than 2 years.

3rd (or subsequent) DWI Offense (Felony of the Third Degree) – punishable by a fine not to exceed \$10,000.00, confinement in the penitentiary for not less than 2 years nor more than 10 years, and a driver license (or driving privilege) suspension of not less than 180 days nor more than 2 years.

Intoxication Assault (Felony of the 3rd Degree) – punishable by a fine not to exceed \$10,000.00, confinement in the penitentiary for not less than 2 yrs. nor more than 10 yrs., and a driver license (or driving privilege) suspension of not less than 180 days nor more than 2 years.

Intoxication Manslaughter (Felony of the 2nd Degree) – punishable by a fine not to exceed \$10,000.00, confinement in the penitentiary for not less than 2 yrs. not more than 20 yrs., and a driver license (or driving privilege) suspension of not less than 180 days nor more than 2 yrs..

THE NUMBER ONE KILLER

The number 1 killer of teenagers is driving under the influence. More than 4000 teens are killed and another 110,000 seriously injured each year in car crashes involving alcohol. Not all have been drinking, but some are passengers or innocent targets of people who drink and drive. These statistics mean that from a high school of 475 this year, 2 students are likely to be killed or injured in drunk driving accidents. One could be your best friend. One could be you.

ZERO TOLERANCE FOR MINORS

In Texas a “minor” is someone under 21 yrs. of age. Generally speaking, a minor may not purchase, attempt to purchase, consume, or even possess an alcoholic beverage. Since a minor should not even possess an alcoholic beverage, the 1997 Texas Legislature adopted SB35, establishing ZERO TOLERANCE for minors who commit offenses under the non-driving alcohol related law as well as for minors who drive under the influence. Zero tolerance means just that: Even if a minor is not intoxicated as defined under the DWI statute, if the minor has ANY detectable amount of alcohol in his system while he is operating a motor vehicle in a public place, as far as the law is concerned, the minor driver has committed the criminal offense of Driving Under the Influence of Alcohol by a Minor (DUIA by a Minor).

DRIVING UNDER THE INFLUENCE OF ALCOHOL BY A MINOR (DUIA BY A MINOR)

1st Offense DUIA by a Minor (Class C misdemeanor) – punishable by a fine of up to \$500.00, not less than 20 nor more than 40 hours of community service, and the minor’s driver license may be suspended (or privilege denied) for up to 12 months if under 17 yrs. of age. Attendance in an Alcohol Awareness Course is required and, if the minor is under 18, the parent may be required to attend the course.

2nd Offense DUIA by a Minor (Class C misdemeanor) – punishable by a fine of up to \$500.00, nor less than 40 nor more than 60 hours of community service, and the minor’s driver license may be suspended (or privilege denied) for up to 12 months if under 17 years of age. The Alcohol Awareness Course may be required.

3rd Offense DUIA by a Minor (10 yrs. of age or older but less than 17) (“Delinquent Conduct” under the Family Code) – punishable by a fine up to \$500.00, not less than 40 nor more than 60 hours of community service, and the minor’s driver license will be suspended (or privilege denied) until the minor is 19 years of age or 365 days, whichever is longer.

3rd Offense DUIA by a Minor (17 yrs. Of age or older but less than 21 (class B misdemeanor) – punishable by a fine not less than \$500.00 or more than \$2,000.00, not less than

40 nor more than 60 hours of community service, and/or confinement in jail not to exceed 180 days. The court may not give deferred adjudication on the 3rd DUIA by a Minor offense.

IMPLIED CONSENT LAWS AS THEY APPLY TO MINORS

In Texas, if a person is arrested for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in public place, or a watercraft, while intoxicated, or the person is a minor and has ANY detectable amount of alcohol in their system, while operating a motor vehicle in a public place, the person is deemed to have consented to submit to the taking of one or more specimens of the person's breath or blood for analysis to determine the alcohol concentration of the presence in the person's body of a controlled substance, drug, dangerous drug, or other substance. REFUSAL to provide a specimen results in the suspension of the driving privilege and any driver license. The suspension for a minor who refuses is 120 days for the first refusal, 240 days for the second refusal, and one year for the third refusal. A minor who gives a specimen which confirms they have been operating a motor vehicle in a public place with Any detectable amount of alcohol in their system, (but which is below the 0.10% BAC legal limit of intoxication) will have their drivers license suspended (or their privilege will be denied if unlicensed) for 60 days for the first offense, for 120 days for the second offense, and for 180 days for the third and subsequent offenses. The minor may request a hearing before a Administrative Law Judge to contest that the officer had probable cause to stop and arrest the minor or that there was a detectable alcohol amount in the minor's blood system

HOW THE LAW WORKS

A police officer with reasonable suspicion or probability cause may stop any vehicle for a traffic offense. When stopped the officer may ask the driver to perform one or more field sobriety test. If the officer believes that in the case of a minor who has been operating a motor vehicle there is ANY detectable alcohol in the minors system:

- The minor is arrested and his/her car may be towed.
- He may be handcuffed, taken to a police department or county jail, and given the opportunity to take a breath test. He may be taken to a hospital or clinic for a blood test. The test is designated by the officer.
- If someone dies or is seriously injured in an accident, a breath or blood sample may be required.
- Refusal to submit to any or all of these tests may result in the suspension of the minor's driver license or driving privilege for a minimum of 120 days.

- If the test is refused, or if the test indicated that there is ANY detectable amount of alcohol in the minor's system, the driver may be placed in jail and held until bond is made or appearance before a magistrate of Juvenile Court Judge.
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DWI/ DUI ARRESTS ARE COSTLY...

In the terms of monetary costs, penalties, and inconveniences, it can also be a humiliating experience. It is not worth the risk of being arrested. Some fines can be up to \$10,000.00, not including the cost of a bail bondsman, attorney, or other court required cost.

OTHER SANCTIONS FOR NON-DRIVING ALCOHOL-RELATED OFFENSES BY MINORS.

WHEN THE 1997 Texas Legislature adopted SB35, it also established other ZERO TOLERANCE sanctions for minors who commit offenses under the non-driving alcohol related laws. Generally speaking, a minor may not purchase, attempt to purchase, falsely state that they are 21 years of age or older or present any document that indicates that they are 21 years of age or older to a person engaged in selling or serving of alcoholic beverages, consume, or possess an alcoholic beverage. (There are some very limited exceptions for some of these). The penalty upon conviction of one of the above non- driving alcohol-related offenses and for a minor is as follows:

1st Non-Driving Alcohol Related Offense By A Minor- (Class C Misdemeanor) punishable by a fine up to \$500.00, 8 to 12 hours of community service, and mandatory attendance of an alcohol awareness course. The minor's drivers license will be suspended (or his privilege will be denied if not licensed) for 30 days.

2nd Non-Driving Alcohol Related Offense By A Minor-(Class C Misdemeanor) punishable by a fine up to \$500.00, 20 to 40 Hours of community service, and may be required to attend an alcohol awareness course. The minor's drivers license will be suspended (or his privilege will be denied if not licensed) for 60 days.

3rd Non-Driving Alcohol Related Offense By A Minor-(10 years of age or older but less than 17 years of age) (Class C Misdemeanor and "conduct indicating a need for supervision" under the family code.) – Punishable by a fine up to \$500.00, 20 to 40 hours of community service, and the minors drivers license suspended (his privilege will be denied if not licensed) for 180 days. Minors are not eligible for preferred adjudication on the 3rd and subsequent convictions for the offense of Consumption by a Minor.

3rd Non-Driving Alcohol Related Offense By A Minor-(17 years of age or older but less than 21 years of age) (Class B misdemeanor)- punishable by a fine not less than \$250.00 or more than \$2,000.00, not less than 40 nor more than 60 hours of community, and/or confinement in jail not to exceed 180 days. The minor's drivers license will be suspended (or will be denied if not licensed) for 180 days. Minors are not eligible for preferred adjudication on the 3rd and subsequent convictions for the offense of Consumption by a Minor.

OTHER SANCTIONS FOR NON-DRIVING ALCOHOL-RELATED OFFENSES

A person who purchases a alcoholic beverage for a minor or who furnished an alcoholic beverage to a minor can be punished by a fine up to \$2,000.00 and/or confinement in jail for up to 180 days. A person who sells a minor a alcoholic beverage can be punished by a fine up to \$4,000.00 and/or confinement in jail for up to one year.