

ATTENTION PENNSYLVANIA DRIVERS

On May 6, 2008, the Pennsylvania State Police Commissioner announced a three percent increase in Driving Under the Influence (DUI) and Driving While Intoxicated (DWI) arrests for 2007. State Police arrested a total of 15,583 people for DUI/DWI in 2007. State Police often target DUI/DWI enforcement through Operation Nighthawk, which is aimed at arresting those drivers who drink and drive.

In 2004, Pennsylvania's DUI law changed to a three tiered statute penalizing offenders based upon their blood alcohol content (BAC). Prior to this change, the legal limit was a .10 BAC. Now, a violation of the DUI law occurs at a .08 for those 21 years of age or older and a .02 BAC for those under the age of 21. The following chart lists the three tiers for DUI offenders.

	Mandatory Minimum Sentences 1 st Offense	Mandatory Minimum Sentences 2 nd Offense	Mandatory Minimum Sentences 3 rd or subsequent Offense
Lowest Rate of Alcohol .08 to .099	6 Months Probation \$300 fine Highway Safety School D&A treatment ¹	5 days imprisonment \$300 minimum fine Highway Safety School D&A treatment	10 days imprisonment \$500 minimum fine Highway Safety School D&A treatment
High Rate of Alcohol .10 to .159	48 hours imprisonment \$500 minimum fine Highway Safety School D&A treatment	30 days imprisonment \$750 minimum fine Highway Safety School D&A treatment	90 days imprisonment \$1,500 minimum fine Highway Safety School D&A treatment
Highest Rate of Alcohol .16 and higher; or DUI of Controlled Substances; or refusal to take BAC test; or underage offenders	72 hours imprisonment \$750 minimum fine Highway Safety School D&A treatment	90 days imprisonment \$1,500 minimum fine Highway Safety School D&A treatment	1 year imprisonment \$2,500 minimum fine Highway Safety School D&A treatment

First time offenders, who have no prior criminal convictions, may be eligible for a program called Accelerated Rehabilitative Disposition (ARD). The District Attorney's Office has discretion to admit offenders into the ARD program. Depending on which county you are charged in, the factors to be considered for eligibility into the ARD

¹ D&A (Drug and Alcohol) treatment can be ordered by the court.

program include: whether there was a traffic accident involving another occupied vehicle, whether there were injured passengers in the offenders vehicle, whether the offender was properly licensed to drive, whether the offender possessed valid automobile insurance and whether the offender has any criminal history. Successful completion of the ARD program will result in the expungement of an individual's arrest record.

The state prohibits granting ARD in the following situations for DUI offenders: (1) the offender has received ARD within the past 10 years for DUI, (2) an accident occurred resulting in death or serious bodily injury or (3) there was a passenger in the vehicle under 14 years of age while the defendant was operating the vehicle.

Offenders who refuse to take a blood alcohol test are subject to having their driver's license suspended for one year. In addition, a conviction for DUI may result in suspension of an offender's driver's license depending upon the offender's BAC and prior DUI history.

Being charged with DUI can have many unanticipated consequences. It is important to retain an experienced attorney who will assess your case to determine any constitutional issues that could be raised, potential defenses and to provide guidance to ensure the best possible outcome.

Please call Scott MacNair for more information concerning the DUI law. Before joining our firm, Scott was an Assistant Bucks County District Attorney for 5 years, and is well versed in the nuances of this statute and other Pennsylvania criminal statutes.