



MORE GOVERNMENT MISINFORMATION ABOUT ATLANTA DUI'S AND BLOOD ALCOHOL AMOUNT

Have you seen the ads showing the guys getting stopped for a DUI, with the follow up line saying, "OVER THE LIMIT, UNDER ARREST"?



You know the commercials with the guy sitting in his car full of beer, wine or a martini? I think they are pretty interesting from a marketing point, but they ARE misleading. Following is a letter from Mary MacMurray, an expert on breath testing devices:

"The commercials showing trashed, obvious drunks are misleading because rarely do you find 0.08's that look that drunk or act that trashed. The general public is being misled into thinking that at a 0.08, you are drunk/ wasted. A 0.08 is an arbitrary number that was chosen because it is an alcohol level where the probability of accident involvement begins to increase exponentially. It is not a level where most people feel or look drunk.

The general population has no clue what it takes to reach a 0.08 and because all the anti-drinking/ driving commercials and such portray drunks, people are misled into thinking a 0.08 is drunk. This misconception results in otherwise responsible individuals being arrested at or near that 0.08 level who do not look, act or feel drunk but according to the law are over the limit. Would they have not driven if they knew that a 0.08 is not drunk but may be just "feeling good"?

While lowering the limit to 0.08 I am not aware of ANY states improving the quality of their testing and protocols to keep the level of science being applied at the highest standards possible. Why did we get a federally imposed 0.08, but no federal minimums as to what must be done scientifically in obtaining the test results? States like Georgia do not believe in running calibration standards at the time of testing still exist. Should a person who was arrested and tested in a state like Nebraska or Iowa (single breath; no cal and unscientific guidelines for testing and maintenance of the equipment) be counted as having a prior in a state like Alabama where they quantify each sample with fuel cell and infrared; adjust for the temperature of the sample if it is above 34C and also check the accuracy of the machine at a 0.02 and a 0.08 as part of each test? **(Note: Georgia takes two breath samples, but otherwise does not check calibration on each test, nor does Georgia measure body temperature, which does have an effect on breath test results.)**

In Canada, when the 0.08 limit was imposed they also imposed minimum standards for the testing protocols that must be met in all provinces. The provinces can go above and beyond what is required, but at a minimum there are certain things that must be done. And in Canada, they do recognize that minimum guidelines of a single breath are not scientific and do not assure reliability. Unlike here, law enforcement did not own or control the breath testing... their scientists were the ones who consulted with the rule makers. (From what I have seen in the past 3 years this is changing as the RCMP is becoming more and more like our cops stateside.)

A last point I like making on the 0.08 laws is that the penalties are much greater than people realize. Hidden consequences such as increased insurance, denial or loss of jobs (even though the alcohol consumption had nothing to do with you at work), and expulsion from college (Colgate College kicks you out simply for being arrested, doesn't matter if you are convicted since you have already been expelled) are all among the hidden consequences. The arrest/convictions stay on your DL essentially forever so getting arrested at 21 will still haunt you at 41. And in most states, there is no way to get this off of your record. You will pay for it the rest of your life. " – Mary MacMurray

The Georgia Court of Appeals recently ruled in **Stetz v. State** that the prosecution only has to produce the breath test slip to the Defendant, nothing more. Knowing the lack of scientific protocols necessary to insure accurate breath tests, as explained by Mary MacMurray above, why would anyone EVER submit to a State breath test?



Have you checked out my blog?
defendingdriversrights.com

If you had, you might know about the [man dressed as an Intoxilyzer](#) who got a DUI while on the way to his Halloween party!

Mel Gibson gets DUI Expunged, why can't I do it?

You may have seen where Mel Gibson was able to have his DUI arrest deleted or expunged. Anytime someone is arrested and fingerprinted, that arrest goes on both a State and Federal computer records system.



The DUI arrest stays on the criminal history forever, unless it is expunged. Many folks call me and ask if their DUI arrest can be expunged. The answer, at least for Georgia, is NO.

Apparently California law allows DUI arrests to be expunged under certain circumstances. Unfortunately, Georgia only allows expungement in 2 ways:

1. You were not actually the person arrested; in other words, your criminal history is showing an arrest, but that is a mistake.
2. You were arrested, but prior to disposition of your case, you enter into a pre trial agreement with the prosecutor, whereby you agree to perhaps pay a fine, do community service, or do certain classes, then the charges are dismissed AND the prosecutor agrees in advance that you are eligible for expungement.

Under Georgia law you are not eligible to enter into a pre trial agreement on a DUI. You are not eligible for "first offender" status. Therefore the only option in a DUI case is to plead guilty or not guilty. Even if you are found "not guilty", Georgia law does not allow expungement of the arrest. Is that fair? Ask your legislator.

In Georgia, a person charged with a felony (robbery, burglary, drug possession) can enter into pre trial agreements and sometimes can have their arrest record expunged. That is not the case for a person charged with DUI.

Click [here](#) to read some of my most recent testimonials!

© Mickey G. Roberts, P.C.

Atlanta Law Practice dedicated exclusively to aggressive defense of those accused of DUI and serious traffic offenses since 1980.

PHONE: 770-923-4948

WEBSITE: www.mrgadui.com

EMAIL: mickey@mrgadui.com