

The Law Office of Wesley Scott Jones, P.C.  
1442 Military Cutoff Road, Suite 28  
Wilmington, North Carolina 28403  
Tel: (910) 256-5800 Fax: (910) 256-5801

# THE LEGALPAD

News You Can Use  
September 15, 2000

**Editor's Note: I am pleased to publish the next issue of "The Legal Pad," a quarterly newsletter for clients, associates, and friends of THE LAW OFFICE OF WESLEY SCOTT JONES, P.C.**

**This newsletter is intended to address basic aspects of the ever-changing and often complex topics of law that effect our everyday lives. I hope that you will enjoy this newsletter, and hopefully it will be "news you can use."**

**This quarter's legal focus is on DRIVING WHILE IMPAIRED.**

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## Introduction.

State lawmakers have recently signed into law new legislation that makes our drunk driving laws among the toughest in the nation.

The new laws impose a \$4,000 maximum fine for all DWI offenses; create a "zero tolerance law" for drivers of commercial vehicles, school buses, and day care vehicles; impose a 30-day administrative license revocation for underage drinking drivers; and improve the state's DWI vehicle seizure/forfeiture law by expediting the sale of impounded vehicles, and making it easier for innocent owners to reclaim their vehicles.

## What happens if I get stopped for Driving While Impaired?

A person commits the offense of impaired driving if he drives any vehicle upon any highway, any street, or any public vehicular area within this State:  
(1) While under the influence of an impairing substance; or  
(2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.08 or more.

If you are stopped for a DWI you will be required to display a valid operator's license and registration card and may be asked to

perform a preliminary sobriety and breath test. If you are then suspected of driving while impaired, you will be arrested, you may be searched, handcuffed, restrained in a patrol vehicle and transported to a law enforcement facility.

At the law enforcement facility, you will be requested to perform sobriety tests in the presence of the arresting officer and submit to a breath or blood test or both. If you refuse to be tested or the test results are .08 or more at the time you are tested, your operator's license will be revoked immediately for at least 30 days. You have the right to have a witness or an attorney present for the testing; however, the testing will not be delayed for more than 30 minutes for this purpose.

Once you are charged with DWI, you will be required to appear in court and enter a plea to a criminal offense. Before you are released from custody, you may have to post an appearance bond to ensure your appearance in court.

## What happens if I get convicted of a DWI?

Penalties for drivers who are convicted depend upon the number of times you have been convicted in the past.

A first conviction carries a mandatory revocation of your driver's license for a period of one year. Once your license is restored,

your legal alcohol concentration will be lowered to 0.04. The minimum punishment is a fine of up to \$200 and not less than 24 hours imprisonment, 24 hours community service, or 30 days without a limited driving privilege or any combination of these. The maximum punishment is a fine of up to \$4,000 and not less than 30 days or more than 24 months imprisonment.

If you are convicted of having an alcohol concentration of 0.16 or higher, you will be required to have an ignition-interlock system installed in your vehicle, at your own expense, before you are allowed to drive.

A second conviction carries a mandatory driver's license revocation period of four years if convicted within three years of your first offense. Once your license is restored, your allowable legal alcohol concentration will be lowered to 0.00 and you will be required to have an ignition-interlock system installed in your vehicle, at your own expense, before you are allowed to drive. The minimum punishment is a fine of up to \$2,000, not less than seven days or more than 12 months imprisonment. The maximum punishment is the same as for a first conviction.

A third conviction carries a mandatory permanent driver's license revocation when at least one of the prior convictions was within the last five years. The minimum and maximum punishments are the same as the maximum punishment for a second conviction.

A fourth conviction carries a mandatory permanent driver's license revocation. Once your license is restored, you will be required to have an ignition-interlock system installed in your vehicle, at your own expense, before you are allowed to drive. The punishment is 12-59

months imprisonment and a fine.

Special circumstances can warrant additional punishment. If you drive when your driver's license is revoked for a prior DWI (or certain other related offenses), and are stopped and charged with a new DWI, your car will be seized and held pending trial. If you are driving a friend's car, your friend's car will be seized and held pending trial. If you are convicted of both DWI and driving while license revoked, your car will be sold, and the money given to the local school system. If you were driving a friend's car, then your friend's car will be sold unless your friend can convince the judge that he or she did not know your driver's license was revoked.

### **How will a DWI conviction affect me financially?**

Actual costs for a DWI conviction differ in each case. One thing is certain - a DWI conviction is expensive and time-consuming. Direct costs you can expect are as follows: 1) Attorney fees between \$500 and \$1,500 (an appeal will cost even more); 2) Fines up to \$4,000; 3) Insurance premiums can increase up to 400%; 4) You must pay a \$50 pretrial license revocation fee; 5) You must pay a \$50 license reinstatement fee; 6) You must pay \$50 substance abuse assessment fee and a minimum of \$75 for substance abuse treatment or school; 7) If you are required to do community service, the fee is \$100; and 8) Under certain circumstances your vehicle can be taken from you and sold by the court.

There are also many hidden costs, such as loss of employment, time off from work, alternative transportation costs, and sometimes auto repair and medical costs.

### **DWI laws concerning youthful offenders.**

It is unlawful for a person less than 21 years old to drive a motor vehicle while consuming alcohol or while he has remaining in his body any alcohol or controlled substance previously consumed.

Penalties for drivers under age 21 who are convicted of DWI consist of mandatory revocation of driver's license for one year in addition to any other punishment required or authorized by law and mandatory substance abuse assessment or education is required.

### **Final Thoughts.**

The information contained in this newsletter is intended only as a brief summary of the laws relating to DWI offenses in North Carolina.

If you are charged with a DWI, it is imperative that you immediately retain an attorney, and not wait until a few days prior to your first court appearance. Although hiring an attorney can be expensive, an attorney should be able to help reduce the impact of a conviction, or help avoid a conviction altogether.

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#### **Previous topics in The Legal Pad:**

- 1) Corporations;**
- 2) Small Claims Actions;**
- 3) Social Host Liability;**
- 4) Landlord-Tenant Law, Parts I & II;**
- 5) Materialmen and Laborer's Liens, Parts I & II**
- 6) Worthless Checks**

**Note: To request free copies of previous issues, please call and leave your name and mailing address.**

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**It's Bad...But it Could be Worse -**  
**DWI Punishments of Other Countries:**

1. **South Africa** - A 10 year prison sentence and the equivalent of \$10,000 fine, or both.
2. **Malaysia** - The driver is jailed, and if he is married, his wife is jailed too.
3. **Australia** - The names of the drivers are sent to the local newspaper and are printed under the heading "Drunk and in Jail."
4. **Turkey** - Drunk drivers are taken ten miles from town by the police and forced to walk back under escort.
5. **Norway** - Three weeks in jail at hard labor, one year loss of license. Second offense within 5 years, license revoked for life.
6. **Russia** - Revoked for life.
7. **Finland  
& Sweden** - Automatic jail for one year at hard labor.
8. **Costa Rica** - Police remove plates from car.
9. **Bulgaria** - A second conviction results in execution.
10. **England** - One year suspension, \$250 fine, and jail for one year.
11. **France** - Three years loss of license, one year in jail and \$1,000 fine.
12. **Poland** - Jail and fine. Forced to attend political lectures.
13. **El Salvador** - Your first offense is your last . . . execution by firing squad.

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1442 MILITARY CUTOFF ROAD - SUITE 28  
WILMINGTON, NORTH CAROLINA 28403

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**My greatest source of clients is from referrals by past and present clients, associates and friends such as yourself. Therefore, any referral from you would be greatly appreciated. I accept cases in the following areas:**

- |                                    |  |                              |
|------------------------------------|--|------------------------------|
| - Construction Law                 | - Corporate Representation               | - Collections                |
| - Lien Filings and Defense         | - Corporate Formation                    | - Overdue Accounts           |
| - Collection of Overdue Accounts   | - Shareholder Agreements                 | - Promissory Notes           |
| - Building Disputes and Litigation | - Homeowner and Condominium Associations | - Homeowner Association Dues |
| - Foreclosures                     |  | - Foreclosures               |
| - Criminal Law                     | - Civil Litigation                       | - General Advice and Counsel |
| - DWI                              | - Business and Commercial Litigation     | - Professional Service       |
| - Drug Charges                     | - Serious Accidents or Injuries          | - Reasonable Fees            |
| - Traffic Violations               | - District or Superior Court             | - Caring Advice              |
| - Juveniles                        | - Small Claims Court                     | - Solutions to Problems      |

#### **DISCLAIMER**

This newsletter was prepared by THE LAW OFFICE OF WESLEY SCOTT JONES, P.C. as a courtesy for my clients, associates and friends and is not intended to be a comprehensive statement of the law. North Carolina laws change frequently and such change could affect the information in this newsletter. If you have specific questions with regard to any matter contained in this newsletter, I encourage you to consult with me or another attorney. An attorney-client relationship will be created only by individualized and personalized advice from me to a current or prospective client, and only after the signing of a Contract for Legal Services by all parties affected thereby.

If you do not wish to receive this quarterly newsletter, or if you know of a friend or associate who would like to receive a copy of this newsletter, please contact my office either by phone, fax or mail. Thank you.