

Legal Aid ACT

DRINK DRIVING OFFENCES

(Applying for a restricted licence)

What happens if I've been charged?

If you have been charged with drink driving you will receive a Summons to appear in court. Accompanying this will be a statement of facts, detailing the alleged offence. Before your court appearance you must decide whether you intend to plead guilty or not guilty to the charge. Drink driving is a criminal offence and if convicted, you will have a criminal record.

Character references

It is advisable that you obtain some character references from independent adults (not members of your family) who can state that you have a good driving history. A character reference must show that the writer knows about the charges you are facing.

How can Legal Aid ACT help you with a DUI offence?

For a first or second time drink driving offenders Legal Aid ACT holds fortnightly group advice sessions. One of our lawyers conducts these sessions and will help you to prepare for your appearance in court. Book your attendance by phoning 1300 654 314.

People with three or more drink driving offences may have a free, individual appointment with a lawyer, and if eligible receive a grant of legal assistance.

Minimum penalties for first time offenders

The blood alcohol limit is 0.00 for special drivers (includes 'P' Plate drivers) and 0.05 for ordinary drivers. The minimum penalties for first time offenders exceeding these limits whilst driving range from:

- Level one (more than 0.00 but less than 0.05): a fine not exceeding \$550 and loss of licence for 1 month
- Level four (0.15 or more): a fine not exceeding \$1,650 or imprisonment for a period not exceeding 9 months, or both, and loss of licence for at least 6 months.

You should also be aware that the police are required to suspend your licence on the spot if you are caught exceeding your blood alcohol limit by 0.05 (i.e. 0.05 for special drivers and 0.10 for all others).

What if I am found guilty of a drink driving offence and my licence is disqualified?

For the period that your licence is disqualified, you cannot drive at all unless the court grants you a restricted licence.

Am I eligible for a restricted licence?

To be granted a restricted licence you must:

1. hold an ACT drivers licence
2. complete an alcohol awareness course
3. be a first time offender (excludes high range first time offenders)
4. not have **any** previous driving convictions
5. prove to the court that you or people dependent on you will suffer hardship if you cannot drive

When should I apply for a restricted licence?

The Magistrate needs time to consider your application so you should apply at least 3 weeks before the date you are due in court to face your drink driving charge. If you have not applied before this date, ask for an adjournment on the day so that you can organise your application.

How do I apply?

At the Magistrates Court Registry complete and file the following documents:

1. Application for a restricted licence form
2. Affidavit (statement) supporting your application
3. Supporting documents

Once you've done this and paid the \$127.00 court fee, you will receive two copies of your application. Take one to the Australian Federal Police (AFP), and the other to the Road Transport Authority (RTA). If your application is successful, you will need to pay a licence issuing fee of \$178.20 to the RTA.

How do I fill in the affidavit?

When writing your affidavit it is important to give the Magistrate as much information as possible about your personal circumstances. For example, if you need your car for work, provide details about:

- the nature of your work
- where you work
- the days and the times you work
- why taxis and public transport are not suitable
- how long it takes you to drive to & from work



What supporting documents do I need to provide?

It is important to provide as much information as possible about your need for a restricted licence. If you need your car for work purposes, have your employer to provide a letter stating this.

Your day in court

Arrive at the court with plenty of time to tell the Court Associate or Court Officer that you are present.

If you are ready to enter a plea of guilty and make your application, tell this to the court. After the prosecution has read out the charges and statement of facts the Magistrate will ask you if there is anything you want to say. This is your opportunity to tell the Magistrate your story.

It is a good idea to prepare. Make some notes or write a letter to the Magistrate which you can give to him/her on the day outlining the following:

- the circumstances of the offence
- your driving history
- your need for a licence
- your personal circumstances

To view step by step the process of going to court, visit: <http://www.legalaidact.org.au/firsttimeatcourt/>

