



Driving Impaired by Sahaub Missaghi

When someone is sentenced to jail it is because they are found, beyond a reasonable doubt, to have committed a criminal act for which they have criminal intent. Most of us tend to think of examples of crimes to be murder, manslaughter or theft to name a few. However, driving with a blood alcohol level of 0.08 (8%), termed driving impaired, is a serious crime and imprisonment, depending on the circumstances, may be the punishment. It may be shocking to picture a murderer sharing a prison cell with a person that happened to drink a few beers at a pub and then while driving home is pulled over by the police, even if that person did not happen to cause any injury, death or accident. Despite this, the stringent standards have recently been established to prevent the tragic harm that may result from driving impaired. The criminal intent of driving impaired, legally denoted as “*mens rea*,” is the intent to drive a motor vehicle after voluntary consumption of alcohol or a drug. At first glance, it may not seem that there is intent to cause harm or injury to another, but when one puts themselves in the driving seat when they are not capable of proper driving

inherently shows intent to harm others.

What most people may not know is that the definition of “motor vehicle” is not restricted to automobiles. If someone is at their cabin by the beach and has been drinking and subsequently operates a motor-boat, they can be charged with driving impaired, and if found guilty will have a criminal record. There may not be a single other boat out in the lake, and yet culpability for a crime is established if a blood alcohol level of 8% is found. Even if someone shows absolutely no signs of impairment, if the blood level is at 8%, then they will be convicted.

In finding the 8% blood alcohol level, the police go about it in two different ways. Generally, they get a breath sample, but if the person they want to examine is injured then alternatively they will get a blood sample. The breath sample is much more common and there are two particular means of getting the sample – through an “approved screening device” or an “approved instrument.” The former is used when a police officer has a reasonable suspicion

that the person has alcohol in his or her body, whereas the latter is used when the police officer has reasonable grounds to believe that the person has committed an impaired driving offence or was driving while over the legal limit.

When the police have reasonable grounds to obtain a breath sample, then compliance is a must, so much that “refusal” to give a breath sample is a crime which has the same punishment as driving impaired. Refusing to provide a blood sample warrants the same punishment.

For a first time offense of driving impaired, the minimum punishment is a fine of at least \$600. For a second offense, one must serve 14 days in prison. The stringent standards are meant to act as deterrence; the law works in order to prevent people from driving impaired. Too many lives have been lost because someone was stupid enough to drive drunk and stupid enough to risk being classified as a criminal!