

Get Smart!

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Get Legal Smart



Local attorney Joseph Passanise, who is writing a book called *Busted: College Kids Have Rights, Too!*, is a leading voice in education about the consequences of drinking and driving, and how to deal with it if you're arrested. He's agreed to answer some of our questions. Look for tips from Joe on other topics in future issues. Take it away, Joe.'

Many of you (or your friends) may have been on the receiving end of DWI enforcement, and may have hired a lawyer to go through the process, and know the consequences all too well. The process is intimidating. This is exactly what the community wants from law enforcement; after all, it's scary to have an impaired driver on the road. Bottom line: You should be smart! You need to realize that you have a career at stake and that you're jeopardizing it by getting behind the wheel after consuming

alcohol.

—JOSEPH S. PASSANISE

[Quiz Questions by Matt Lemmon]

1. If I am pulled over, do I have to take a field sobriety test?

A

No

B

Yes

Answer: A

Joe says: Treat the officer with respect, but you don't have to do the field sobriety tests. It is most likely you will be arrested anyway, if you've been drinking. Miranda rights don't apply to field sobriety tests.

2. Can officers legally follow me after I leave a bar?

A

Yes, but only if the officer sees me drink inside.

B

No

C

Yes

D

Only if I leave with a hooker.

Answer: C

Joe says: Law enforcement has "details" known as "wolf packs" where they are strictly looking for impaired drivers. Whether you like it or not, law enforcement is going to look for impaired drivers around drinking establishments, not libraries or churches.

3. If I am pulled over, do I have to take a Breathalyzer test?

A

Can't talk... I have a pufftic oob in uh mowf.

B

Absolutely, yes.

C

No, I do not.

Answer: C

Joe says: As far as the breath test, you can refuse! This is a complicated procedure, but can be contested; it is not automatic. Further, you have the right to call a lawyer before you take a breath test. Officers have to give you 20 minutes to call. Don't give up your right!

4. The penalty for a driver with a commercial drivers' license (CDL) hit with a second DWI is...

A

A year of no commercial driving.

B

A decade of no commercial driving.

C

A lifetime of no commercial driving.

D

Waterboarding

Answer: B or C

Joe says: If you have a commercial driver's license (CDL) —even if you are not using your CDL at the time—it can still affect your CDL and have drastic consequences. For a first offense they will take your

CDL for a period of one year; for a second offense, they can take your CDL for life, or a minimum of 10 years.

5. Most impaired drivers are caught because they're driving erratically

A

True

B

False

C

You can't see me... I'm Batman!

D

I once did a beer bong while driving.

Answer: B

Joe says: Most people don't realize that it doesn't take much for law enforcement to stop a vehicle. If you fail to use a signal, drive over the line, or make a wide turn, this is enough. A tail light or brake light out, expired tags or a cracked windshield can also give law enforcement a valid reason to stop you. An individual can weave within a lane—which is not a traffic infraction, but rather “unusual operation” of a motor vehicle—and law enforcement can stop the car and check for impairment.

6. Can you be prosecuted for blowing less than a .08?

A

Yes

B

No

C

I can blow that sober.

D

What's .08 mean?

Answer: A

Joe says: Missouri's DWI law does not require a breath sample; rather it is "substantial impairment in driving" that officers are looking for. Technically, you can blow under .08 and be prosecuted for DWI. You can be prosecuted for being under the effect of valid prescription medication, or illegal drugs and still be considered DWI. The law indicates a person commits the crime of DWI if he or she operates while in an intoxicated or drugged condition. "Intoxicated condition" is a person under the influence of alcohol, a prescription or illegal drugs.

7. After 10 years, how many DWI/BAC guilty pleas can I expunge from my record once I'm older than 22?

A

I can't expunge any.

B

All. It's called a second chance, dude.

C

I can only expunge one.

Answer: C

Joe says: It is very important to note that under present law in Missouri, after 10 years, you can expunge only one DWI or BAC guilty plea. This means one conviction or one SIS (suspended imposition of sentence), if you have no other alcohol contacts and you don't have a commercial driver's license. This means you will be dealing with the consequences of a DWI arrest for well over 10 years. When expunging

a DWI or BAC, you are restored to the status you had prior to the arrest. If you have a CDL, you can't expunge.