

New York State Gets Tough on Teenage Drunk Driving

Questions and Answers on the "Zero Tolerance" Law

- Q. What is the "zero tolerance" law?
- A. Effective November 1, 1996, it is a violation of law for a person under the age of 21 to consume alcohol and operate a motor vehicle.
- Q. Will any evidence of alcohol consumption constitute a violation of law?
- A. Actually, the law states that any person under the age of 21 who is caught operating a motor vehicle with a blood alcohol content ("BAC") of .02 or 1% or more but not more than .07 or 1% will be guilty of a "zero tolerance" violation.
- Q. How much alcohol is .02?
- A. The average person would have a BAC of .02 after consuming just one drink. Each of the following drinks contain an equal amount of alcohol: 12 oz. of beer, 5 oz. glass of wine at 12% content, 1 1/2 oz. shot of 80 proof liquor or 12 oz. of wine cooler.
- Q. If it is called "zero tolerance" why is .01 not a violation?
- A. Since certain cough syrups and mouthwashes contain alcohol, and since some families will permit the consumption of small amounts of alcohol as part of religious or family functions, the Legislature decided to set the standard at .02% in order to address only those young people who had willfully consumed alcohol and operated a motor vehicle. Additionally, some breathalyzers used by the police have a margin of error of approximately .01%. By setting the standard at a more reasonable .02%, the number of unfair stops will be reduced or eliminated.
- Q. Does this mean I can have one drink before I have a problem?
- A. Not really. There are many factors which lead to a BAC reading, including a person's weight, the consumption of food and the time of the drink or drinks. It's important to note that it's not how many drinks you've had but how impaired you are while operating a motor vehicle. Separate from the zero tolerance law driving while impaired violates other sections of New York State's DWI laws. The best bet is don't drink at all before you drive.
- Q. What happens to me if I am stopped by a police officer for having consumed alcohol?
- A. If the officer deems you are younger than 21 and appear to have consumed alcohol, but does not believe you are driving while intoxicated or while impaired, you will be "temporarily detained" for the purpose of taking a breathalyzer test, usually at the police station.
- Q. Am I under arrest?
- A. Not unless you are suspected of being impaired or intoxicated, or have committed some other criminal act.
- Q. What happens next?
- A. If your BAC turns out to be between .02 and .07%, you will be charged with the traffic offense of "driving after having consumed alcohol." You will then be provided with a notice to appear for a hearing before an administrative law judge of the Department of Motor Vehicles.
- Note: If you are found to have a BAC of .06 or .07% the police will have the option of charging you with driving while ability is impaired by alcohol (DWAI) and prosecuting the matter in criminal court. Anyone found driving with a BAC of .08 or greater will be charged with a Class A misdemeanor Driving With A Blood Alcohol Content of .08 or greater.