



By David Lee Wells

# LAW 4 BIKERS



## New DUI law = Lose License for 5 years, Interlock, Sweat Bracelets

New laws take affect at the end of each summer, in Missouri the magic date is August 28th. On August 27th I was in court with my client getting his DUI charge finished before the new DUI Laws took effect. The client had been arrested for DUI 4 times and had been convicted of a DUI 10 years ago, but had an arrest within the last 5 years. In those cases he hired an attorney and plead guilty to DUI and under the plea bargain he received a "Suspended Imposition of Sentence" (SIS)(no conviction). If he did not complete the probation, the Judge could then sentence him resulting in a conviction. [Plea of guilty + sentence (jail/fine/suspended sentence) = conviction]. I entered into a plea bargain of SIS and probation. An SIS was a good result for the client.

After August 28th it would not have been so good.

1. Good news because he isn't getting closer to a felony DUI.(3rd DUI is a felony, 3-5 years in jail) He did lose his license for 12 months for refusing to blow into the breathalyzer.
2. Bad news because the new statutes say that the Director of Revenue may not issue a Drivers License for 5 years to anyone who within the last 5 years has been charged with DUI/DWI twice;
  - a. Convicted or
  - b. Plead guilty [as in a plea agreement, driver plead guilty and the Judge orders a Suspended Imposition of Sentence, SIS], the prior law said the driver must have two (2)

DUI convictions.

3. Bad news because the Director of Revenue or Court may not issue a hardship Drivers License (drive to and from school or work) for 2 years.
4. Bad news in that the Director of Revenue is to suspend the Drivers License of anyone who violated these new rules for the last 5 years. So does the State have the right then to go back in time, "change the rules in the middle of the game?" and send notice to everyone who has had a 2nd plea of guilty for DUI/DWI within the last 5 years. If you get such a notice go see an attorney quickly, you have a short time to appeal the Director of Revenue suspension.
5. Bad news you will be the "test case" and you will have to pay your attorney to go to the Court

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of Appeals and Supreme Court on whether the State of Missouri can change the rules in the middle of the game (Ex post Facto).

6. Good news in that the Director of Revenue does not have, at this "time" a mechanism to obtain the DUI records from the hundreds of Circuit Court divisions, Associate Circuit Court divisions, city, town or village traffic courts, or from other states which they have reciprocity (share) driving and court records. Thank goodness, not everything is totally computerized!!
7. Bad news = Interlock - 66,000 drivers in Missouri are today in violation of the new interlock law that became effective on July 1, 2009 (Emergency Enactment). Only 4,000 drivers have complied with the 70,000 letters sent out by the Director of Revenue. The new interlock device is an attachment to your motor vehicle that before the engine will start you must blow into a portable breathalyzer. You will pay \$65 per month for the rental fee for the interlock device. The Director of Revenue apparently is getting ready to suspend 66,000 Missouri drivers for 1 year because they failed to put the device on their car. Will this also put them in violation of their probation?
8. Bad news = Continuous alcohol monitoring. The new law provides that for multiple (2 or more) offenders of alcohol related offenses, the Court shall [shall be legalese for mandatory/must do] order either continuous alcohol monitoring (sweat bracelet "Scram") or "Sobritor" a 4 times a day breath test machine, cost \$15 per day. A sweat bracelet is a band you wear all the time. The band detects alcohol re-

leased in your skin moisture (sweat). So now the person who secretly drinks at home (condition of probation no drinking) with no driving is going to be caught when his Bracelet or Sobritor is downloaded each day. How long do you have to be continuously monitored? Part of the probation 30 - 60 - 90 days or the total time of the probation 24 months? Monthly fees can add up. So say the fee is \$15 a day or \$450 a month for 24 months, the cost to you is \$10,950, you could, of course go to jail and "to Hell with probation".

#### COST OF DRINKING AND DRIVING

So the cost for a little drinking and driving, (on the high side) could be

1. Drinking at the bar \$8 x 6 = \$48
  2. Bail bondsmen \$100 - \$500
  3. Increase in insurance SR22 for 2 years \$800 x 2 years = \$1,600
  4. SATOP (\$277 screen, school \$100 to weekend program \$1006) = \$1,277
  5. The Director of Revenue Reissue of license (reinstatement fee) = \$45
  6. Interlock - breathalyzer/car won't start \$65 x 24 months = \$1,560
  7. Continuous monitor:
    - a. Sweat bracelet (SCRAM) once a day download \$15 per day - 30 - 90 - 120 days or 2 years probation, \$450 per month x 24 months = \$10,800
    - b. Sobritor - blow into machine 4 times a day \$15 per day - Once a day download
- Subtotal - \$15,830, lose license for 5 years and job [employers, insurance companies don't like for you to be hired]

\$60,000 x 5 years = \$300,000, now got a job making \$25,000 x 5 = \$125,000

Attorney fees \$700 to \$10,000 to \$15,000 = \$3,000, (looks like more jury trials) so take \$3,000

TOTAL - \$143,830

If all this happens your wife will not be happy and now you have the cost of a divorce, your stuff, and child support. . . let's say 30% of your take home pay. Attorney's fees are \$5 thousand and up if you have a fight. After a while it can turn into real money.

This is depressing, let's call our lawyer to go have a few beers with us, he'll probably buy at the price he charges.


#### Riding Motorcycle Not at Fault

No longer is riding a motorcycle in and of itself evidence of comparative fault in an accident where the rider got run over and injured. The insurance companies must prove you did something wrong. Before, the insurance companies' attorney at trial would argue that "we all know that all bike riders are reckless (and drinking), not careful and caused the accident, so reduce the amount of the money he should get by fault (50%) for his being run over by my client. We're sorry our client ran the stop sign".

#### Motorcycles and Stop Lights

You have a defense where your bike won't trip the red light to green if:

1. Came to a complete stop
2. Light red for unreasonable time (look at watch)




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