



Personal Injury, Workplace, Insurance & CTP LAW FOCUSED DRUG & ALCOHOL QUARTERLY NEWS / VIEWS & HELPFUL HINTS

Summer 2013 / 2014

Could my client have been below 0.05% at the time of driving? What are the implications of drinking up to (or after) the time of a stop, MVA or fall on BAC

Drinking shortly prior to an incident will likely lead to an increasing BAC such that at the time of the incident (random stop; MVA; fall) the BAC would have been lower (and sometimes significantly lower) than the BAC determined at the time of the breath test or blood collection.

Typical Scenarios:

- i) Was drinking up to the time of leaving the party and was stopped within 15 minutes of leaving. Client had a BAC of 0.07% 30 minutes after a random breath test;
- ii) A BAC of 0.09% 2 hours after an accident when tested at home having consumed some 3 beers between the accident and the test;
- iii) A BAC of 0.16% when blood was taken in hospital after the crash.

Typical Question:

On balance of probabilities was my client below 0.05% (Or 0.08% or 0.15%) at the time of the incident (e.g. police stop, accident or incident)?

Answer:

- i) Under the following circumstances the BAC may have been below and indeed probably below 0.05%
 - a. In scenario i) and ii) above the consumption of a number of standard drinks shortly before the test would lead to amount that was unabsorbed at the time of driving yet contribute to the EBT when tested 30 minutes or two hours later i.e. has risen between the time of the stop or accident and the subsequent EBT.
 - b. With respect to scenario iii) firstly was the sample tested serum or plasma? If so you can deduct almost 20% off the value before considering any influence of ongoing absorption so the BAC may have been significantly lower than 0.05% (or 0.08% or 0.15%).
- ii) If there is no consumption of alcohol in the 30 minutes or so before the stop or accident etc. it is likely that the BAC was equivalent to or higher at the time of the stop or accident

The same can be said of any BAC level where a similar important threshold exists i.e. above 0.08% or above 0.15% etc.

Recent Question from Lawyers

- *Q: Are there any drugs that may elevate the concentration of alcohol in my clients blood stream?*
A: Whilst alcohol may affect the concentration of some drugs in the blood, in general there are no drugs that will cause an unusual or unexpected increase in blood alcohol concentration

And a Reminder.....

- We also provide newsletters for lawyers specialising in Criminal Law and Family law - Please let us know if you would like to receive these or any past newsletters listed below

The IFC Experience, having written over 1000 reports and testifying routinely around Australia:

- A well written, clearly understood and scientifically defensible report leads to a positive outcome
- When we are made aware of the outcome, reports have facilitated positive outcomes for our clients in over 95% of cases
- When in Court, 98% of cases that we testify in end up favourable to the client who engaged us

RECENT NEWSLETTERS (Contact IFC for copies) -

- ❖ Drugs, Impairment and Post-Incident Administration
- ❖ Synthetic Drugs - What are they and what are the implications for Personal Injury, Workplace and Insurance Law Lawyers
- ❖ No BAC reading? Determining if alcohol contributed to an incident in the absence of a blood alcohol reading
- ❖ How to Engage and What to Expect from your Expert - Effective Use of Experts
- ❖ Common Issues that Influence Drug Test Results
- ❖ How to convert to a BAC from serum or plasma levels
- ❖ How to establish drug or alcohol-related impairment

HAVE YOUR GENERAL QUESTIONS ANSWERED via LinkedIn - A lawyer's resource to have general Drug and Alcohol-related questions answered

Join our LinkedIn forum to have your general drug and alcohol-related questions answered. Simply click the link below, join up and post your questions:

http://www.linkedin.com/groups?gid=3976423&trk=hb_side_g

Newsletter provided courtesy of:

Independent Forensic Consulting
Experts in Drug & Alcohol-Related Matters

For more information or clarification of any content or for previous newsletters or join our mailing list please contact IFC via:

m: Dr. Michael Robertson on 0421 320 931

e: michael@ifcforensics.com.au

w: www.ifcforensics.com.au

<http://au.linkedin.com/pub/michael-robertson/18/206/a83>