506th Judicial District Court

Albert M. McCaig, Jr., Judge

www.Court506.com

Court Coordinator
Susie Schubert

Court Reporter
Robyn S. Wiley

Grimes County
Waller County

836 Austin Street, Suite 307
Hempstead, Texas 77445
Fax: 979.826.9149
Ofc: 979.921.0921

FACTS, COMMENTS & CONCERNS
DRUG AND ALCOHOL USE AND ABUSE

Common Drug Related Offenses:

Possession of Marijuana: From Class B Misdemeanor to Life in Prison

Class B Misdemeanor:	Less than 2 oz
Class A Misdemeanor	Less than 4 oz but more than 2 oz
State Jail Felony	5 lbs or less but more than 2 oz
Third Degree Felony	50 lbs or less but more than 5 lbs
Second Degree Felony	2,000 lbs or less but more than 50 lbs
First Degree Felony	More than 2,000 pounds

Delivery of Marijuana: From Class B Misdemeanor to Life in Prison

Same penalty ranges but for slightly less amounts on the low end

Possession of a Controlled Substance: State Jail Felony up to Life in Prison
Based upon amounts and penalty group (Health & Safety Code)

Common Examples:
Codeine, Heroin, Morphine, Opium, Cocaine, Rohypnol, Methamphetamine, Phencylidine, Ketamine, LSD, Mescaline, Amphetamine, Synthetic Cannabinoid, Diazepam, Phenobarbital, Peyote, Anabolic Steroids, (and many, many others)

Delivery of a Controlled Substance: State Jail Felony up to Life in Prison

Based upon amounts and penalty group (Health & Safety Code)
Upper end punishments have higher minimum punishments and higher minimum fines depending on the Penalty Group and the quantity

Most common offense: Possession of Cocaine, a State Jail Felony

Drugs: What are they; what do they do?

Whether prescription, over-the-counter or illegal – drugs can impair necessary driving skills including vision, reaction time, judgment, hearing, and simultaneous task processing/accomplishment. Driving requires other cognitive skills, such as information processing and psychomotor skills, which may also be impaired by the use of drugs. When drugs are mixed with alcohol, the results can be devastating. Drug combinations (called poly-drug use) may cause one of three reactions: additive, synergistic or antagonistic.

☞ **Marijuana:** Marijuana has been linked to the impairment of the ability to drive a vehicle. Concentration is affected and there is difficulty in perceiving time and distance, which can lead to the following: bad judgment, impaired reaction time, poor speed control, an inability to accurately read signs, drowsiness, and distraction. When marijuana is combined with alcohol it creates greater impairment in areas such as reaction time and coordination. When combined with sedatives and opiates, it can cause an increase in anxiety and even hallucinations, along with an increase in heart rate and blood pressure when used with amphetamines. On the other hand, effects are somewhat unpredictable when marijuana is combined with stimulants, such as nicotine, caffeine, amphetamines, and cocaine.

☞ **Cocaine:** Cocaine may successfully mask fatigue; however, high dosages impair judgment and interfere with the ability of the driver to concentrate. Coordination and vision are impaired. There is an increase in impulsive behaviors with tendencies to take more risks and create confusion within the user. A person using cocaine maintains the illusion of being alert and stimulated, although physical reactions are impaired. Additive effects are noted when cocaine is combined with over-the-counter products, such as diet pills or antihistamines. Cocaine taken with psychotropic drugs, especially antidepressants, can be extremely detrimental. A person who has extremely high blood pressure and uses cocaine may suffer from a stroke or heart attack.

Some users combine cocaine with alcohol and sedatives to cushion the "crash" or feeling of depression and agitation that sometimes occurs as the effects of cocaine wear off. Further research indicates that additive and antagonistic effects can be produced when cocaine is mixed with alcohol.If cocaine is used in high doses, as in the case of overdose, alcohol will probably have an additive effect on the symptoms that eventually contribute to death. When cocaine is injected in combination with heroin, sometimes called "speedballing," there is an increased risk of toxicity, overdose, and death.

☞ **Tranquilizers:** The use of tranquilizers produces drowsiness, a lack of coordination, altered perceptions, memory impairment, poor control of speech, and slower reaction time. Effects on driving include poor tracking, difficulty in maintaining lane position, and neglecting roadside instructions.

Some people in methadone treatment programs use benzodiazepines to enhance the effects of methadone. When tranquilizers are combined with alcohol or other central nervous system depressants, synergistic effects may be produced, which may be fatal. Alcohol increases the absorption of benzodiazepines, slows their break down in the liver and can cause cardiovascular and respiratory depression. People who take stimulants sometimes take tranquilizers to off set agitation and sleepiness.

☞ **Opiates:** Opiates can cause drowsiness, mental confusion, and visual impairment even at lower, moderate doses. A driver may have difficulty keeping the vehicle in the correct lane and may make errors in judgment.

Alcohol greatly increases the present effects of opiates and can lead to respiratory arrest. A person injecting heroin mixed with cocaine or methamphetamines, known as "speedballing," produces a stimulant effect. The

listed drug combinations increase the risk of toxicity, overdose, and death.

☞ **Amphetamines:** The use of amphetamines can interfere with concentration, impair vision, and increase the driver's tendencies to take risks. Amphetamines should never be taken with a class of antidepressants known as MAO inhibitors, because of potential hypertensive crisis. Amphetamine users sometimes use marijuana and depressant drugs in order to avoid the adverse side effects of the "crash," therefore creating multiple drug dependencies.

The worst of the worse:

☞ **Methamphetamine** acts by increasing the release of dopamine in the brain, which leads to feelings of euphoria. However, this surge of pleasure is followed by a "crash" that often leads to repeated use of the drug and eventually to difficulty feeling any pleasure at all, especially from natural rewards. Long-term methamphetamine abuse also results in many damaging physical and psychiatric effects, such as:

Addiction
Violent Behavior
Anxiety
Confusion
Insomnia
Psychotic symptoms (e.g. paranoia, hallucinations, delusions)
Cardiovascular problems (e.g. rapid heart rate, irregular heartbeat, increased blood pressure, stroke).

What Does Methamphetamine Do to the Brain?

Methamphetamine's adverse effects on the brain are clear. Imaging studies have demonstrated changes in the dopamine system (important for reward, motivation, and learning) as well as structural and functional deficits in brain areas associated with emotion and memory. These may account for the psychiatric and cognitive problems observed in chronic abusers. Fortunately, some of the methamphetamine-induced deficits in dopamine function have been shown to recover, at least partially, with extended abstinence. But even with the partial recovery found in some brain regions following protracted abstinence, other regions do not show recovery of function—suggesting that long-lasting and even permanent brain changes may result from methamphetamine abuse.

Driving and Drugs:

According to the National Highway Traffic Safety Administration's (NHTSA) 2007 National Roadside Survey, more than **16 percent of weekend, nighttime drivers tested positive** for illegal, prescription, or over-the-counter medications. More than 11 percent tested positive for illicit drugs. Another NHTSA study found that in 2009, **among fatally injured drivers, 18 percent tested positive for at least one drug** (e.g., illicit, prescription, or over-the-counter), an increase from 13 percent in 2005.Together, these indicators are a sign that continued substance abuse education, prevention, and law enforcement efforts are critical to public health and safety. *(Judge's comment: What we have been doing does not work. We must change our approach.)*

According to the 2009 National Survey on Drug Use and Health (NSDUH), an estimated 10.5 million people aged 12 or older reported driving under the influence of illicit drugs during the year prior to being surveyed. ***(Judge's Comment: Using 12 and older is rather odd as we would hope there would be very few drivers between the age of 12 and 16. I believe this skews the figures and would actually cause the percentage between the ages of 16 and 25 to significantly increase.)*** This corresponds to 4.2 percent of the population aged 12 or older, similar to the rate in

2008 (4 percent) and not significantly different from the rate in 2002 (4.7 percent). In 2009, the rate was highest among young adults aged 18 to 25 (12.8 percent). In addition, NSDUH reported the following:

☞ In 2009, an estimated 12 percent of persons aged 12 or older (30.2 million persons) drove under the influence of alcohol at least once in the past year. This percentage has dropped since 2002, when it was 14.2 percent.

☞ Driving under the influence of an illicit drug or alcohol was associated with age. In 2009, an estimated 6.3 percent of youth aged 16 or 17 drove under the influence. This percentage steadily increased with age to reach a peak of **24.8 percent among young adults aged 21 to 25**. Beyond the age of 25, these rates showed a general decline with increasing age.

☞ Also in 2009, among persons aged 12 or older, males were more likely than females (16.9 percent versus 9.2 percent, respectively) to drive under the influence of an illicit drug or alcohol in the past year. Results from NIDA's Monitoring the Future survey indicate that in 2007, **more than 12 percent of high school seniors** admitted to driving under the influence of marijuana in the 2 weeks prior to the survey.

Common Alcohol Related Offenses:

Driving While Intoxicated (first offense): Class B Misdemeanor
minimum term of confinement of 72 hours; open container 6 days

Blood alcohol concentration level of 0.15 or more at the time the analysis was performed, the offense is a Class A misdemeanor.

Driving While Intoxicated (Second offense): Class A Misdemeanor
minimum term of confinement of 30 days

Driving While Intoxicated (Third or more): Third Degree Felony

Driving While Intoxicated with Child Passenger (under 15 yoa): State Jail Felony

Intoxication Assault: Third Degree Felony

Raised to Second Degree if the person caused serious bodily injury to a peace officer, firefighter, or emergency medical services personnel while in the actual discharge of an official duty.

Raised to Second Degree if the person caused serious bodily injury to another in the nature of a traumatic brain injury that results in a persistent vegetative state.

Raised to a First Degree if the person caused the death of a person described above.

Intoxication Manslaughter: Second Degree Felony

NOTE: Similar penalties are in place for boating, flying, amusement rides.

NOTE: A person commits an offense (Class C Misdemeanor) if the person knowingly possesses an open

container in a passenger area of a motor vehicle that is located on a public highway, regardless of whether the vehicle is being operated or is stopped or parked. Possession by a person of one or more open containers in a single criminal episode is a single offense.

Penalties and Sanctions for Alcohol Offenses:

Class B Misdemeanor:	Up to 180 days in jail and a fine of up to $2,000, or both
Class A. Misdemeanor:	Up to one year in jail and a fine of up to $4,000, or both
State Jail Felony:	Not less than 180 days nor more than 2 years in a state jail facility and a fine of up to $10,000, or both
Third Degree Felony:	Not less than 2 years nor more than 10 years in the Institutional Division of TDCJ and a fine of up to $10,000, or both
Second Degree Felony:	Not less than 2 years nor more than 20 years in the Institutional Division of TDCJ and a fine of up to $10,000, or both
First Degree Felony:	Not less than 5 years nor more than 99 years, or life, in the Institutional Division of TDCJ and a fine of up to $10,000, or both

Under certain conditions, the minimum amounts of pen time may be increased.\

Probation as a Sanction or Punishment:

For any sentence of 10 years or less, the defendant may be eligible for probation. Conditions of probation include:

- Basic conditions for all probationers
- Serve a term of confinement in the county jail
- Pay fees and costs associated with prosecution
- Pay supervision fees each month
- Pay court appointed attorneys fees
- Pay a fee to Crime Stoppers
- Pay restitution to the State
- Perform a certain number of hours of community service
- Alcohol & Drug Evaluation
- Driver's License suspension
- Vehicle Ignition Interlock
  or SCRAMx
  or Sober-Link
- Attend AA meetings as directed
- Attend a Victim Impact Panel
- Report to a supervision officer, weekly or monthly as directed
- Submit to urine or other tests as directed
- Submit to polygraph as directed

- Other terms and conditions as the Court may direct

Substance Abuse Felony Punishment Facilities (SAF-P):

Consists of treatment programs that may vary in time **from 90 days to 12 months**. The program must contain highly structured work, education, and treatment schedules, a clearly delineated authority structure, and well-defined goals and guidelines. The department shall establish a graded system of rewards and sanctions for defendants who participate in the program, but a defendant required to participate in the program is not entitled to earn awards of time for good conduct.

Ignition Interlock Device:

Ignition interlock products are breath alcohol analyzers that keep drivers with DWIs from operating vehicles if their breath alcohol level is over a pre-set level. These small electronic devices are a cost-effective alternative to jail or license suspension, and allow offenders to keep driving. Cost is generally around $80 per month, paid by the defendant.

- The driver is required to take and pass a test that screens for deep-lung breath alcohol
- Without a successful pass, the interlock device disables the car's ignition
- An alcohol specific fuel cell sensor is utilized with a patented breath sampling system
- Periodic re-tests are required once the car is started
- Several design features make circumvention and tampering difficult
- Optional integration of Photo-ID technology makes identification of the user easy
- All test results and attempts are stored in a microchip to monitor the driver's activity

SCRAMx

O ne of the more recent advances in alcohol testing is continuous transdermal alcohol monitoring, which means that alcohol is measured "through the skin," or by the concentration of alcohol present in the insensible perspiration that is constantly given off by the skin. If an offender has been drinking, it shows up in the level of ethanol vapor present in this insensible perspiration. SCRAMx combines continuous alcohol monitoring (CAM) with house arrest technology in one court-validated device. Now with wireless capabilities, SCRAMx:

- Tests for alcohol every 30 minutes, 24/7
- Drives greater accountability
- Monitors curfews and schedules
- Gives you comprehensive information on the entire 24/7 monitoring period
- Eliminates testing gaps
- Provides the only single-source admissible and court validated CAM device in the industry to enforce testing results
- Protects community safety
- Saves considerable time, resources, and budgets
- Maximizes the effectiveness of existing treatment programs
- Effects long-term behavioral change that cannot be achieved by incarceration

Sober-Link:

Sober-Link (SL2) is a patented, handheld wireless testing device designed for remote alcohol monitoring. The device obtains the participant's BAC and location and takes a picture during the breath test to verify identity. The BAC result, real-time image, and GPS location are instantly sent to the cloud-based monitoring portal where the results can be accessed remotely or will trigger automated alerts to be sent directly to any designated contact. SL2 Device Features:

- Discreet, handheld device
- Evidential grade Dart fuel cell
- Internal camera for user verification
- Embedded cellular and GPS module
- Uses Verizon's network
- Easy on-screen instructions
- Multiple tamper resistant features
- Cloud storage for remote access from any web-based device
- Receives results within seconds
- Immediate alerts sent directly to selected contacts upon violation
- Customizable testing schedules
- Automated participant test reminder texts
- Reporting options based on participant or group of participants
- Scalable with permission sets to accommodate all monitoring needs

Drug Patch:

Drug abuse test patches use sweat as the specimen source. It provides an alternative to urine collection and offers a number of advantages. Because the sweat patch is worn on the skin for up to 10 days or longer, it not only acts as a deterrent to continued drug use, but also increases the window of detection to include any period when it is worn. With sweat testing - unlike urine - the parent drug as well as the drug metabolite can typically be detected. Therefore, it is easier to identify which drug was actually taken. The following are the advantages of the PharmChek® drugs of abuse sweat patch:

- Increased window of detection
- Acts as a deterrent to drug abuse
- Detects Parent Drug and Drug Metabolites
- Variable Removal Date
- Quick Application & Removal
- No Urine Collections
- No Sample Substitution
- No Sample Dilution
- Screens for: Marijuana, Cocaine, Opiates, Amphetamine/Methamphetamine & PCP