

醫生律師話你知 酒後駕駛

知多D NEED KNOW about DRINK DRIVING

「酒後駕駛」須知 – 醫生話你知

1. 一個人最多可飲用多少酒而不超過法定上限？

10克酒精為一個標準份量，相等於250毫升(半品脫)啤酒、100毫升餐酒或30毫升威士忌。兩杯標準份量的酒會將呼氣中酒精含量提升至接近法定上限的每100毫升22微克。

2. 飲用兩杯標準份量酒的人比完全沒有喝酒的人涉及交通意外的風險有何差別？

飲用兩杯標準份量酒的司機撞車的風險比沒有喝酒的司機高出一倍。

3. 有何飲品，例如飲用1杯咖啡、1公升可樂、1.5公升蒸餾水或人參茶可使呼氣中酒精含量減低至法定標準以下嗎？

不可。上述方法皆不能把酒精呼氣測試中的酒精讀數降低至法定標準以下。

4. 進食牛油、雞蛋或飲用牛奶可把酒精讀數降至法定標準以下嗎？

在喝酒之時或之前，進食牛油或雞蛋是可以減慢胃倒空，從而減慢酒精的吸收，但未必能夠把酒精讀數降至法定標準以下。

5. 睡眠可消除酒精含量嗎？

不可。例如當飲用10杯標準份量的酒後，就算睡了7小時以上，呼氣中酒精含量仍然會超出法定上限。沒有辦法確知酒精含量何時才回復到正常水平。

6. 為何有些人喝酒會面紅？

酒精在體內會被酵素分解為醋酸鹽。此酵素的活躍程度因人的基因組合而有所不同。50%日本人及中國人的酵素是不活躍的，這解釋了為何他們喝酒時會有令人尷尬的酒精潮紅反應。潮紅的程度與呼氣酒精含量全無關係。

7. 喝了相同份量的酒，不同人的呼氣中酒精含量會是一樣的嗎？

除了酒精總攝取量外，呼氣中酒精含量是視乎以下因素而定：酒精的濃度、用於飲酒的時間、有否曾經進食、進食和飲酒的時間關係、食物的種類，以及個人的新陳代謝和排泄的速度。因此不同人雖喝了相同份量的酒，其呼氣中酒精含量未必一樣。

8. 沒有喝酒，有無可能在呼氣中錄得有酒精讀數？

當使用過漱口水後或當糖尿病患者的血糖處於非常高的水平時，便有可能出現未曾喝酒而被錄得有酒精讀數的情況。使用過漱口水的人在酒精呼氣測試中，酒精讀數會隨著時間而下降。糖尿病可以測量血糖確定。

9. 藥物跟酒精一同服食危險嗎？

酒精及撲熱息痛藥一同服用會增加睡意，並可能導致肝衰竭。

治療咳嗽和感冒藥物內的抗組織胺、麻醉止痛藥、鎮靜劑等，若與酒精同時服用，會倍增其抑制作用，使駕駛更為危險。

酒精及阿斯匹靈或非類固醇消炎藥一同服用可能導致胃出血。

服用阿斯匹靈、華法林薄血丸等血液稀釋藥物的長者，即使飲用少量酒精，他們嚴重出血的風險也會大大提高。

酒精會加劇利尿藥和降血壓藥的降血壓作用，尤其是長者，可能導致暈倒和認知能力衰退。

酒精會減低某些降血糖藥的藥效，令血糖難以控制。

10. 喝酒對心臟好嗎？

喝適量的酒能減少心血管疾病只是一個假設，未經全面臨床證實，並非所有人都能從中得益。

「酒後駕駛」須知 – 律師話你知

1. 我知道駕車時酒量超標是違規的。假如我違規，會有甚麼後果？

一名駕駛者體內的酒精比例在呼氣測試行動中如證實超過法定限度，一經定罪後會被監禁3年、罰款港幣25,000元、記10分違例駕駛記分、強制參加駕駛改進課程及有可能被取消駕駛資格。無論刑罰是什麼，經刑事定罪後定會留有案底。

2. 我可不可以拒絕接受呼氣測試的要求？

如軍裝警察要求你進行呼氣測試而你沒有合理理由去拒絕的話，你仍屬違規，並且會被判罰款港幣25,000元及被監禁3年，法庭也會同時判決在一個特定時期內取消你的駕駛資格及規定你要完成一項強制性的駕駛改進課程。

3. 但我是否可以等至我有律師陪同下才接受呼氣測試？

你當然可以尋求律師意見，但律師不在場時你不能拒絕或阻延進行呼氣測試。

4. 如果我的呼氣測試結果超過法定限制，我是否仍有權保持緘默？

可以，你有權保持緘默，但因為你可能已經犯了法，所以你應立即諮詢律師意見。

5. 假如我駕駛時遇上意外而我的呼氣測試結果顯示酒精比例超標的話，警察會有可能採取甚麼行動？

有關的駕駛者可以被控危險駕駛或因危險駕駛而導致他人死亡。一但被定罪，有關的駕駛者可能被監禁10年。當意外涉及他人死亡，律政司就事件的嚴重性可考慮控告駕駛者誤殺罪而最高判罰可導致終生監禁。

6. 駕駛時酒精比例超標的話會涉及甚麼保險問題？

違規的駕駛者要面對第三者傷亡賠償責任。目前，車輛保單內通常列有‘酒後駕駛’免責條款，使保險公司無須就第三者傷亡或因駕駛者在酒精影響下造成意外而作出賠償。假如保險公司就一宗酒後駕駛事故為受害人作出賠償，保險公司也可以循民事訴訟向司機及車主個人追討有關賠償。

7. 換言之，我是否要向受害人作出賠償？

因為保險公司可以拒絕向在酒後駕駛的駕駛者提出彌償，後者須承擔所有責任包括第三者的身體損傷和財物損毀以及個人因有關意外而引發的財物損毀責任。潛在的民事責任可以是天文數字。保單內所列的豁免條款雖為保險公司提供保障，但司機和登記車主亦要負上賠償責任。

8. 要付給酒後駕駛的受害人的賠償金額可能會很高，我如果不能負擔的話，又如何？

如果你未能付出賠償的話，你可能要面對破產。而作為司機的你及登記車主亦要負上賠償責任。

9. 如果我因酒後駕駛而被處罰，我的保險費會增加？

涉及酒後駕駛的人士會面對保險費驟增的情況。登記車主也會面對同樣的情況。

What you NEED to KNOW about ‘Drink Driving’ – Medical Issues

1. How much can one drink before the legal limit is exceeded?

One standard drink is 10 g of alcohol and is equivalent to 250 ml (half pint) of beer, 100 ml table wine or 30 ml whisky. 2 standard drinks may result in a rise in breath alcohol concentration near the legal limit of 22µg/100ml.

2. How does the risk of collision for those who drink 2 standard drinks compare with those who do not drink at all?

The relative crash risk of drivers after 2 standard drinks doubles that for a person who does not drink at all.

3. Is there any drink e.g. coffee, 1 litre of Cola Drink, 1.5 litres of distilled water, or Ginseng Tea that can bring the alcohol level in the breath to a level below legal limit?

No, none of the methods will bring the alcohol level in the breath below legal limit.

4. Does eating butter or eggs or drinking milk reduce the alcohol limit to a level below the legal limit?

Alcohol absorption may be slowed if gastric emptying is delayed by the consumption of fat-rich food before or during alcohol ingestion, but the level of alcohol may not be brought below legal limit.

5. Can one sleep away the alcohol level after drinking?

No, the alcohol concentration remains above the legal limit after sleeping more than 7 hours when one drinks 10 standard drinks. One cannot easily know when the alcohol level returns to normal.

6. Why do some drinkers flush?

Alcohol is changed to acetate by an enzyme, which is affected by the individual's genetic makeup. The enzyme is inactive in 50% of Japanese and Chinese, which explains the embarrassing alcohol flush reaction seen when they consume alcohol. There is no relationship between alcohol level and flushing.

7. Do we all have the same breath alcohol concentration after drinking the same amount of alcohol?

In addition to the total dose, breath alcohol concentration depends on the strength of the solution, time over which it is taken, presence of food, time relationship of taking food and alcohol, the kind of food eaten, as well as the individual's speed of metabolism and excretion.

8. Is there any situation where one may have a raised alcohol level when one have not drunk?

When a diabetic patient has a very high sugar level or when someone uses mouth gargles, there is a possibility that a raised alcohol level may arise without drinking alcohol. The diabetic condition will be obvious with measurement of blood sugar while the alcoholic breath in mouth gargles will be found to fall with time.

9. Is it dangerous to take drugs along with alcohol?

Alcohol and acetaminophen increase drowsiness and may cause liver failure.

Antihistamines in cough and cold medications, narcotic painkillers, and sedatives when taken with alcohol, will have the depressant effect multiplied and make driving more dangerous.

Alcohol taken with aspirin and non-steroidal anti-inflammatory drugs may cause stomach bleeding.

Elderly on blood-thinners like aspirin or warfarin are at increased risk of serious bleeding even if they take more than a small amount of alcohol.

Alcohol worsens the hypotensive effect of diuretics and blood pressure lowering drugs and may result in falls and cognitive failure, especially in the elderly.

Alcohol reduces the effect of some oral hypoglycemic drugs and makes control of sugar level difficult.

10. Is alcohol drinking good for the heart?

That moderate drinking reduces coronary heart disease is a hypothesis and not yet confirmed to be universal in clinical trials.

What you NEED to KNOW about ‘Drink Driving’ – Legal Issues

1. I know that driving with an alcohol level that exceeds the limit is against the law. What usually happens if I am guilty?

Any motorist whose alcoholic level exceeds the prescribed limit in an Evidential Breath Test will be prosecuted and shall face 3 years' imprisonment, a fine of \$25,000, a penalty of 10 driving-offence points, compulsory attendance of a driving improvement course and disqualification from driving. A criminal record will be recorded upon conviction regardless of the sentence.

2. Can I refuse to provide a breath specimen for a screening breath test (in simple terms, the breathalyser test) upon demand?

If a police officer in uniform demands that you provide a breath specimen and you refuse to do so without reasonable excuse, you are still guilty of an offence and liable on conviction on indictment to a fine of HK\$25,000.00 and to imprisonment for 3 years. The court shall also order that you be disqualified from driving for a prescribed period and attend and complete a driving improvement course.

3. But can't I wait for my lawyer to accompany me before I take the breath test?

A person can always seek advice from his lawyer but this may not stop or delay police officers from requiring the person to take the breathalyser test.

4. Do I still have the right to remain silent after being caught driving with an alcohol level above the limit?

Yes, you have the right to remain silent. But since you may already have committed an offence, it is advisable to consult a lawyer immediately.

5. If I cause an accident while driving with an alcohol level exceeding the legal limit, what are the police likely to do?

Such a driver can be convicted of dangerous driving or causing death by dangerous driving. A person who causes the death of another person by driving a motor vehicle on a road dangerously may be sentenced to an imprisonment for 10 years. In more serious cases, the Department of Justice may consider charging the driver for manslaughter which carries a maximum sentence of imprisonment for life.

6. What are the insurance consequences of driving with an alcoholic limit above the prescribed limit?

Drink driving offenders are exposed to liability for third party injuries and losses. Nowadays, it is common to find a "drink driving" exclusion clause in Motor Vehicle Insurance Policies. These operate to exclude the Insurers' responsibility to provide indemnity when the above liability occurs or arises from the vehicle being used by the motorist who is under the influence of alcohol. Even if an insurance company should pay a victim in the drink driving accident compensation, the insurer can take action to recover the amount paid from the driver and owner of the vehicle.

7. Does that mean that I will have to pay the victims?

Because insurance companies may refuse to indemnify motorists who drive under the influence of alcohol, the motorists will have to bear all liabilities, be it the third party's bodily injury and property damage as well as for own property damage arising out of the accident. The potential civil liabilities could be astronomical. The exclusion clause in the insurance policies aims at protecting the insurers against claims arising from "drink driving" which is an illegal activity. The driver and registered owner of the vehicle will also be liable to compensate.

8. The compensation payable to victims in drink-driving cases can be very high – what if I cannot afford to pay?

You or the registered owner of the vehicle or both could face bankruptcy if you cannot pay all the compensation.

9. Will my insurance premium go up if I am caught drink-driving?

Offenders of drink driving may also face significant increases in their insurance premiums. The same applies to the registered owner of the vehicle.



The Hong Kong Medical Association
香港醫學會

香港灣仔軒尼詩道十五號
溫莎公爵社會服務大廈五樓
Duke of Windsor Social Service Building,
5th Floor, 15 Hennessy Road, Hong Kong

Tel 電話：(852) 2527 8285
Fax 傳真：(852) 2865 0943
Website 網址：www.hkma.org
Email 電郵：hkma@hkma.org



THE LAW SOCIETY OF HONG KONG
香港律師會

香港中環德輔道中七十一號
永安集團大廈三字樓
3rd Floor, Wing On House, 71 Des Voeux Road,
Central, Hong Kong

Tel 電話：(852) 2846 0500
Fax 傳真：(852) 2846 0387
Website 網址：www.hklawsoc.org.hk
Email 電郵：sg@hklawsoc.org.hk