

# THE FPT NEWS

*"... useful information for clients and prospective clients."*

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Attorneys at Law

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## Tilem on Driving While Intoxicated

### FPT Gains Diverse Experience for Clients

#### Don't Give Up the Ship!

**D**riving While Intoxicated (DWI), is one of the most pervasive charges facing individuals today. Unlike most other criminal charges, DWI charges transgress every class and racial line of our society. While most criminal defendants are more often young and poor and have extensive criminal records, people charged with DWI include teens and baby-boomers, blue collar and white collar individuals, people who drive for a living, and people who would never even think of committing another crime.

#### Pervasive in Effect

DWI is pervasive in its effects, too. While most criminal charges can result in probation, a fine, or even jail, few other charges can result in the loss of your driving privileges and long lasting effects on your insurance premiums. In addition, a conviction can leave you with a permanent criminal record. In New Jersey, the average DWI conviction can cost over \$3,500, exclusive of insurance premium increases and attorneys fees.

Yet, despite these consequences, few who are accused and few lawyers ever challenge these cases thinking that the prosecution's case is too strong to successfully litigate.

#### Statutory Maze Can Ensnare You

To further complicate the matter, the recent trend towards toughening DWI laws has created a maze of statutes that are often confusing not only to individuals, but also to all but the most experienced lawyers. For instance, while most states suspend or revoke the license of those who refuse to take a breath or other chemical test, New

#### Former Prosecutors Join FPC

**F**PC is pleased to announce former Assistant District Attorneys, Peter Tilem and Bart Eagle, have become Of Counsel to the Firm. They bring varied experience and excellent reputations to the firm.

Tilem has an office in Larchmont, Westchester County, New York, and will also handle matters from our Englewood Cliffs office. He focuses his practice on criminal and commercial matters as well as civil and family litigation. He is a member of the National Association of Criminal Defense Lawyers.

Eagle has an office at West 57<sup>th</sup> Street in Manhattan and has already provided valuable assistance handling of New York matters for the firm. He focuses his practice on corporate and commercial transactions and litigation and other complex litigation matters ranging from securities/shareholder disputes and RICO to commercial financing and insurance coverage.

York State now also suspends the licenses of even those who do, prior to conviction, while the matter is being litigated. In addition, many places also summarily seize your vehicle.

In addition, the recent reduction in the statutory limit to .08% blood alcohol content now criminalizes having only a few drinks with dinner. Yet, a person doesn't actually have to be driving the car to be charged with DWI. Merely sitting in the driver's seat, with the key in the ignition can be considered "operating" a motor vehicle for the purposes of a DWI arrest and conviction. (Cont'd on next page)

### How to Fight the Charges

As dire as these charges seem, all is not lost. Many breath machines have been proven to be inaccurate. In addition, constitutional challenges to the admissibility of evidence can severely hurt the prosecutions chances of obtaining a conviction, and a skilled attorney can often, through appropriate cross-examination, show the arresting officer to be less than reliable in his observations and recollections concerning a DWI arrest.

Getting an experienced lawyer involved early can make the difference. Evidence needs to be obtained and preserved. For instance, are there credit card receipts or restaurant bills that can be obtained and demonstrate how much alcohol was consumed? Are there bartenders, waiters, friends, or family members that need to be interviewed and if there was an accident, has the car and/or scene been photographed? Put simply, there are a myriad of facts that can be sought and preserved to obtain evidence to be used for your case.

Yet, despite all of these potential avenues of attack and the severe consequences of a guilty plea, many attorneys simply recommend that their clients plead guilty without thoroughly investigating the case and without fully explaining all of the consequences of a guilty plea.

### Don't Lose Your Head

This is a scary period of time. You cannot afford to lose your head. The bottom line in all of this is simple. Consult an experienced attorney that you trust as soon as possible. Make sure that the lawyer you hire handles DWIs and then follow his or her advice. Ask questions. Make sure you understand your rights and your

responsibilities. All too often your actions after your arrest, including when you hire an attorney and who you hire, can have a significant effect on the outcome of the case. – *Peter Tilem*

Interesting web links related to drinking and driving laws:

NJ Traffic Fines:

[www.judiciary.state.nj.us/mcs/svbschl.htm](http://www.judiciary.state.nj.us/mcs/svbschl.htm)

NJ DUI Info:

[www.state.nj.us/mvc/cit\\_violations/d\\_vp\\_dui.html](http://www.state.nj.us/mvc/cit_violations/d_vp_dui.html)

NJ Mandatory 12-Hour Impoundment of Vehicle:

[www.state.nj.us/lps/dcj/agguide/directives/dir2004\\_bapp.pdf](http://www.state.nj.us/lps/dcj/agguide/directives/dir2004_bapp.pdf)

NY Drinking and Driving Laws:

[www.nydmv.state.ny.us/broch/c39.htm](http://www.nydmv.state.ny.us/broch/c39.htm)

NY FAQ on DWI:

[www.nydmv.state.ny.us/dmvfaq.htm#dwi](http://www.nydmv.state.ny.us/dmvfaq.htm#dwi)

For more information or to learn about our law firm's services and experience, see our website at [www.fpmtlaw.com](http://www.fpmtlaw.com) or call telephone number (201) 569-5959 and ask to speak with one of our partners:

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