

On Tap

A Monthly OVI Report

GOVERNOR SIGNS “DRUGGED DRIVING” LAW

Senate Bill 8 creates a whole new kind of impaired motorist -- the “DRUGGED DRIVER.” Soon, law enforcement personnel may be pulling over motorists with the legal authority to issue citations for “Drugged Driving.” DUID, short for “Driving Under the Influence of Drugs,” is quite frankly, the latest buzzword among politicians and police. Citations issued to motorists for drugged driving may soon be as common place as those issued to motorists for driving under the influence of alcohol.

The new law goes into effect on August 9, 2006. Currently, ten states have enacted similar legislation. Arizona, Georgia, Illinois, Indiana, Iowa, Michigan, Minnesota, Rhode Island, Utah and Wisconsin have enacted “zero tolerance” driving.

Among these ten states, Arizona, Georgia, Illinois, Indiana and Utah forbid drivers from operating a motor vehicle with **any** detectable level of a controlled substance, or its metabolites in any person’s bodily fluids - regardless if there is any evidence that the alleged controlled substance actually caused the motorist to drive his or her car in an impaired manner.

Attorneys Attend DRE Seminar...

In order to prepare for Senate Bill 8 to become law in Ohio, two attorneys from Saia & Piatt, P.L.L. recently attended a seminar in Las Vegas on legal issues pertaining to “drugged driving.”

On June 2 and 3, 2006, Attorneys Jon Saia and Dominic Mango attended a seminar entitled “Drug Evaluation and Classification Training.” The seminar dealt with drugged driving and the impaired driver.

Both Mr. Saia and Mr. Mango received Certificates of Training for successfully completing the National Highway Traffic Safety Administration (NHTSA) and the Internal Association of Chiefs of Police (IACP) Drug Evaluation and Classification Program.

When it goes into effect, Senate Bill 8 will make it “per se” unlawful to operate a motor vehicle in the State of Ohio if a chemical test taken within three hours shows any signs of the following substances in a person’s system at or above a specified level: - marijuana, marijuana metabolites, amphetamines, cocaine, cocaine metabolites, heroin, heroin metabolites, L.S.D., metamphetamines, and phencyclidines.

When making the determination as to whether or not a motorist is in fact, operating a motor vehicle under the influence of drugs, law enforcement personnel may soon be using the services of Drug Recognition Experts, or “DREs” for short. The DRE would be trained to conduct an evaluation of an impaired driver to determine what type of drug, if any, a motorist is being impaired by. A finding by the DRE that the motorist is under the influence of a specific type of drug, would likely result in the arresting officer charging a motorist with “Drugged Driving.” It is also anticipated that law enforcement personnel will seek search warrants from judges, no matter what time of day an individual is stopped, to immediately withdraw the blood of an impaired motorist to bolster the DUID charge. While Senate Bill 8 has the support among politicians and law enforcement, there remain many critics of the new

legislation. As it is, there is little doubt problems will persist with the drug detection procedures that will be put in place. Further, there remains the difficulty, if not the impossibility, of correlating the “per se” drug levels of substances and their metabolites, and the impairing affects of these compounds on an individual’s ability to operate a motor vehicle safely on the roadway.

What is even more startling is that the new legislation will undoubtedly result in DUID/OVI convictions for an untold number of individuals who, at the time of driving, are not in the least either under the influence of or impaired by any drug.

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JULY 2006



For The Bar...

OVI Case Law Update

Village of Granville v. Matthew R. Graziano is an OVI case out of the Licking County Municipal Court. Judge W. David Branstool granted Defendant's motion to suppress with regard to the pre and post test instrument check documents. Citing *Crawford v. Washington*, the Court held that the Confrontation Clause applies at OVI suppression hearings and that these documents are testimonial evidence that, if admitted, would violate Defendant's Constitutional Rights.

Village of Granville v. Matthew R. Graziano (2006), 05 TRC 12702, Licking County Municipal Court.

Bounced from the Bar...

The Ohio State Highway Patrol recently denied an attorney in our firm from attending a seminar on Impaired Driving sponsored by OSHP because the attorney was not a Judge or Prosecutor!

Ironically enough, Saia & Piatt, P.L.L. welcomes the opportunity to educate law enforcement about OVI's and the problems associated with prosecuting the impaired driver from a defense perspective.

Tap Into This...

"Without question, the greatest invention in the history of mankind is beer. Oh, I grant you that the wheel was also a fine invention, but the wheel does not go nearly as well with pizza."

~ Dave Barry

Who's On Tap...

Richard A.L. Piatt is a founding partner in the law firm of Saia & Piatt, P.L.L. Mr. Piatt, a 1990 *cum laude* graduate of Ohio University, decided to attend law school so that he could begin representing individuals charged with criminal and traffic offenses. In 1993, Mr. Piatt received his Juris Doctorate Degree from Capital University. Today, Mr. Piatt devotes a large area of his practice handling OVI and traffic related matters.

A frequent source for the media, especially with regard to matters relating to drunk driving, Mr. Piatt has been quoted in virtually every local newspaper in Central Ohio and has appeared on Good Morning America and Fox News Nationally.

Mr. Piatt served as President of the Central Ohio Association of Criminal Defense Lawyers (2005 - 2006), and is a member of the National Association of Criminal Defense Lawyers, the Ohio State Bar Association, the Ohio Association of Criminal Defense Lawyers and the Columbus and Delaware County Bar Associations. When Mr. Piatt is not in court, he makes it his duty to educate himself about new issues pertaining to drunk driving defense. Mr. Piatt holds a "Certificate of Training" for his attendance and successful completion of the NHTSA Standardized Field Sobriety Testing Instructor Course, and he holds "Certificate of Competency" for his attendance and successful completion of a 24 hour instruction course on the BAC DataMaster, the breathalyzer machine frequently used by law enforcement throughout the State of Ohio. When Mr. Piatt is not working, he enjoys spending time with his family and friends, playing basketball, and listening to country music.



RICHARD A.L. PIATT

A complete listing of new cases related to OVI can be found at www.888oviohio.com

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