

DRIVERS SAVED BY THE STEAM OF THEIR PEE

By: Jon Saia



Crowds panic as flooding threatens Ireland...

The above headline appeared in an Irish newspaper. The article was about two drunk driving cases that were dismissed after the presiding judge ruled that the steam of the driver's pee could have affected the result of the breath alcohol tests.

Absurd, you say?

Not so fast. A further reading of the article adds some insight to the judge's well reasoned decision.

It seems that Ireland, like Ohio, has a requirement that an individual be observed for 20 minutes prior

to the administration of a breath alcohol test. In each of the two cases, this requirement was not followed by law enforcement. The result was the suppression of the breath alcohol test and the eventual dismissal of the charges.

In commenting on such an "absurd" decision, the judge simply stated, "If the State did its work, we wouldn't have to do this each time."

The regulations on breath testing in Ohio are not that complicated. Yet, time and time again, Courts find "substantial compliance" with breath testing regulations when regulations are not followed.

Courts in Ohio should take heed of Judge O'Connor's comment regarding the dismissal of the cases:

"IF THE STATE DID ITS WORK WE WOULDN'T HAVE TO DO THIS EACH TIME. "

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Tap Into This...

To some it's a six-pack, to me it's a Support Group. Salvation in a can!

~ Leo Durocher

For the Bar... OVI Case Law Update

In State v. Orians 2008-Ohio-6185, the 3rd District Court of Appeals, overturning the Seneca County Municipal Court, ruled that it was improper for the judge to allow jury instructions which contained the word "intoxication." The Court ruled that inclusion of this term failed to correctly and clearly state the applicable law, and also that its connotation was suggestive and prejudicial. Further, they ruled that the trial court erred in instructing the jury that it could infer consciousness of guilt because Orians refused the test without reason, when Orians testified that he informed police he wanted to speak to an attorney before submitting.



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On Tap is a newsletter published by 888OVIOHIO to provide the general public and the legal community with information regarding the defense of OVI charges in the State of Ohio. The members of 888OVIOHIO are experienced defense lawyers that have the credentials, skills and experience to defend individuals charged with OVI. For more information and to contact one of our members, please visit our website at 888oviohio.com.

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Who's On Tap...

Steven L. Spittler has more than a decade of legal experience and focuses his practice on OVI defense and the defense of other crimes, throughout Northwest Ohio. He is well versed in both the science and law relating to the defense of OVI charges, and will use that knowledge to aggressively challenge all of the evidence in your OVI case.

Mr. Spittler is certified in field sobriety test administration by the National Highway Traffic Safety Administration (NHTSA). This certification is invaluable to you in defending your OVI case, allowing Mr. Spittler to use his knowledge to challenge your (field sobriety) test performance.

As a participant in a national network of OVI defense lawyers, Mr. Spittler exchanges information about new laws, trial tactics, and national and local trends in OVI defense.

Steven L. Spittler is a partner in the law firm of Spittler Huffman LLP, whose individual practice is focused on those accused of OVI and other crimes throughout Northwest Ohio.



Steven L. Spittler

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