



Understanding drink driving charges

Read this to find out about drink driving laws in NSW and what do do if you received a fine or have to go to court for drink driving.

Alcohol and driving in NSW

It can be a crime to drive after drinking alcohol.

Police can stop you for a breath test to see how much alcohol is in your body.

What could happen to me?

Depending on your licence and the amount of alcohol, you can:

- get a fine of \$3,300 or more, and **suspension** of your licence straight away
- be arrested and taken to a police station
- have your car taken away
- go to court
- get a criminal record, and
- go to prison for 12 months and have your licence **disqualified** for a long time.

If you are a temporary visa holder and driving on an overseas licence, you could lose your driving privileges. This means you will not be able to drive anywhere in Australia using your overseas licence.

If you refuse a breath test you will be arrested and taken to the police station.

If you also test positive for drugs or are driving while disqualified or without a valid licence, the penalties will be more severe. For more information see the factsheet **Driving without a licence – information for temporary visa holders**.

Can I dispute a fine or licence suspension?

Yes, you can ask to have your fine to be heard by a court or appeal a licence suspension.

It is very important to get legal advice before going to court.

Tips to avoid a drink driving charge

- If your licence is learner, P1 or P2 or the overseas equivalent, the legal alcohol limit is 0% (no alcohol).
- Sometimes, you can still have alcohol in your body the next morning after drinking. If you have had a big night, be careful about driving the next day.
- If you get an 'on the spot' fine from police (and you agree that you did drink drive), you should pay the fine or arrange to deal with the fine before the due date.
- If your licence is suspended, don't drive.

Going to court

If you have been charged with drink driving and have received a notice to attend court, follow these steps.

1. See a lawyer before you go to court

Call LawAccess NSW on **1300 888 529** as soon as you have received your Court Attendance Notice. They can help you find a lawyer.

2. Ask for an interpreter if you need one

Call Court Services on **1300 679 272** to book an interpreter for court. A Legal Aid NSW lawyer can also organise an interpreter for you for court and for your appointment.

3. Get character references

Ask a person you know to write a letter to the magistrate about your good character. It may help your case. See the Legal Aid NSW publication [Character references](#) for what they should write.

4. Write down what you want to say to the court

A lawyer can help you talk to the magistrate in court. You can also write a letter or read it out in court explaining what happened and why including things like:

- any special reason why you were driving
- why you were driving after drinking alcohol
- if you believed you were under the legal alcohol limit when you drove
- why you need your licence for work,
- if it's difficult to take public transport because you live in the country
- if you need to take care of family members, and
- what your weekly income and expenses are (this will help the court work out any fine it gives you).

5. Read the Legal Aid NSW factsheet 'What happens when you go to court?'

This will help you understand how to prepare for court, what happens in court and what penalties you could get.

Tips for after court

- Pay your fine within 28 days. If you can't afford it, you have options. Talk to court staff before you leave court about making a payment plan.
- If the court says you have been disqualified from driving, you must hand in your licence to the court registry. **Don't drive while disqualified.**
- When your disqualification period is over, you must re-apply for your licence. You will not get it back automatically. You can find out more by calling Service NSW on **13 77 88** or at their website www.service.nsw.gov.au/transaction/apply-for-a-licence-to-be-reissued-after-an-enforcement-action

Can I appeal the court's decision?

You can appeal to the District Court if you are not happy with the magistrate's decision, but you should get legal advice before you do this. You have 28 days from the date of the magistrate's decision to lodge your appeal.

Will this affect my visa or application for residency?

Most traffic offences will not affect your visa. If you go to prison or get a criminal record it might. Talk to a lawyer. Call LawAccess NSW on **1300 888 529** for free legal help about visa cancellation. You can get an interpreter for free.

Case study

Fetu is on a temporary working visa with the Pacific Australia Labour Mobility (PALM) scheme, and has a job on a farm in NSW. After a few drinks at the pub with his mates, Fetu drives back to the work camp. The police stop his car and give him a alcohol breath test. Fetu has a blood alcohol concentration reading of 0.09 which is over the limit allowed to be driving. He gets a notice to attend court and pleads guilty. The court gives him a fine for \$2,200 and disqualifies his licence for three months.

After court, Fetu contacts Revenue NSW to make a payment plan and starts paying off the fine every month. When three months is up, he applies to Service NSW to get his licence again.

If Fetu drives while his licence is disqualified, he might have to go to prison and pay a bigger fine. This might affect his visa.

Where can I get legal help?

Law Access NSW

LawAccess NSW is a free information service run by Legal Aid NSW. Anyone who has a legal problem in NSW can contact LawAccess NSW for legal help.

LawAccess NSW can connect you to a lawyer, a community legal service or other services.

Click on the Chat with us button at www.legalaid.nsw.gov.au or call **1300 888 529** between 9am and 5pm, Monday to Friday (excluding public holidays).