

# Should Low-Range Drink Drivers be Sent to Court?

As most of us are aware, fully licensed drivers in NSW must have a Blood Alcohol Content (BAC) below 0.05 to legally drive.

This is the same across Australia, as well as in [many other countries](#) – but this wasn't always the case. Decades ago, the limit was 0.08, and this is still the legal limit in some countries including England, Wales and several US states.

In NSW, driving with a reading of 0.08 constitutes the offence of 'mid range drink driving'.

On the other hand, some countries take drink driving so seriously that they have imposed a zero limit – including the Czech Republic, Hungary, Indonesia and Japan.

## The Effect of Alcohol on Driving Ability

Drinkwise Australia says that having a BAC of 0.05 means you are [twice as likely to crash than if you have no alcohol in your system](#).

The level of alcohol causes drivers to have a slower reaction time, shorter concentration span and impaired sensitivity to red lights. It also reduces the ability to judge distances.

The organisation states that by the time your BAC reaches 0.08, you are five times more likely to have a crash than with a zero BAC.

But despite the general trend towards lowering the legal BAC for driving, not all agree that a lower maximum BAC is a good thing.

**Drink Driving to Cure Depression!**

In 2013, [one Irish council backed a motion to allow drink driving](#) in their rural community in order to combat depression and suicide.

The council proposed to allow special permits to allow driving after 'two or three drinks', because this would allow people in isolated communities to get out more and ward off depression and suicidal thoughts.

Interestingly, three of the councillors in favour of the change are also believed to own pubs.

Perhaps unsurprisingly, the idea didn't spread to the rest of the country, with one Labor party councillor refusing to be associated with the suggestion, and Ireland's Road Safety Authority labelling the idea "off the wall."

### **Dealing with Low-Range Drink Driving Out of Court**

Going to court can be a stressful experience for anyone. But in [NSW, drink driving](#), even a low-range charge, means you must go to court and will have a criminal record if you are convicted by the Magistrate. The only way around a criminal conviction is for you (or your lawyer) to successfully argue for a '[section 10 dismissal](#) or [conditional release order](#)'; which means that you are guilty but no conviction is recorded against your name.

But should low-range drink driving be dealt with in court, or should police have the option of dealing with it by way of a fine, just like for speeding, or running a red light?

In Western Australia, police have the discretion to give you an infringement notice instead of sending you to court. For a first offence between 0.05 and 0.06, WA police can give you a \$400 fine and you will end up losing 3 demerit points, but you will not automatically get a criminal record and lose your licence.

If your BAC is between 0.06 and 0.07, you can be given a \$400 fine and lose four points. The same fine applies for between 0.07 and 0.08, but you will lose 5 demerit points.

But police can still choose to send you to court for low-range drink driving in that state, where a criminal conviction, a fine of up to \$500 and licence disqualification can be imposed.

With thousands of low range drink driving cases clogging up NSW courts every year, some believe that only lawyers really benefit from drivers having to face court rather than receiving an infringement notice from police.

What are your thoughts?