

Ask a Cop Submission
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Question: Can I be arrested for DUI if my Blood Alcohol Concentration is less than .08?

Answer: Yes, you can be arrested under Arizona's DUI law with a blood alcohol concentration less than .08, which is oftentimes referred to as "the BAC legal limit" however, this requires some explanation. If you are unfamiliar with Arizona Revised Statute 28-1381, there are really two provisions to the criminal traffic law that apply to driving under the influence.

During this discussion you need to remember that the DUI law applies to alcohol, or any drug, vapor releasing substance, any other toxic substance or combination thereof that can impair your ability to operate a motor vehicle.

The first part of Arizona's DUI law deals with a person being impaired "to the slightest degree" by alcohol, drugs or any combination of substances that can impair a person while driving or in actual physical control of a vehicle. Each person has a different tolerance level to impairing substances. The law recognizes that a person's ability to operate a vehicle safely can be impaired without having a BAC of .08 or greater. If a police officer can demonstrate through driving habits, his observations and subsequent investigation that a person was under the influence of a substances and it impaired the person "to the slightest degree", that person can be arrested for violating that provision of the DUI statute, which is found under ARS 28-1381.A.1.

The second part of the statute, ARS 28-1381.A.2, it states that a person is guilty of DUI if that person has a blood alcohol concentration of .08 or greater within two hours after driving or in actual physical control of a vehicle. Proving "impairment" is not an issue under this provision of the DUI law. The DUI law itself creates a presumption of impairment if the BAC level is at or greater than .08, no matter what a person's tolerance level might be. This provision of the DUI law is found under ARS 28-1381.G.3

The Glendale Police Department realizes the tremendous danger to society that impaired driving creates. Glendale PD has traffic squads that specialize in combating impaired driving. Remember, prior to putting the key into that ignition, the decision you make could forever change someone's life, including yours. Please drive responsibly.