

Cocktail Corner



King's Cider



- 1.5 ounce Crown Royal
- 2 ounce heated cider
- .25 ounce honey
- .25 ounce lemon juice
- 1 sprinkle cinnamon
- 1 piece cinnamon stick

Serve warm in a coffee mug. Sprinkle cinnamon on top and garnish with cinnamon stick.

Oh, No! Not a Bloody DUI!

By Kevin Breger
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There is an increasing trend amongst law enforcement agencies in Arizona to draw blood for analysis in DUI investigations. What a thought, as if it is not intimidating enough being stopped by the police (depending on which jurisdiction there might be two or even more officers standing nearby with their hands on their guns ready to draw) but now you have to agree to submit to a blood draw or face the possible consequences of losing your driver's license for a period of one year.¹

Fortunately the officers are not free to do as they please with respect to blood draws and the Fourth and Fourteenth Amendments to the United States Constitution along with Article II, Section 8 of the Arizona Constitution in conjunction with certain case authority² all place certain restrictions on the specifics of who, how and where a blood draw can take place. For example the draw must be done by a "qualified medical personnel" in a "clinical environment".

Naturally there is also case authority and statutes that further clarify what a "qualified medical personnel" and "clinical environment" means. Bottom line: each case needs to be assessed on its own merits. There certainly may be times where the way the blood was drawn was quite simply NOT OK in the eyes of the law. The

¹ Pursuant to Arizona's Implied Consent law as set out in Arizona Revised Statute § 28-1321 et al.

² See for example Scherber v. California, 384 U.S. 757, 86 S.Ct. 1826 (1966) which clarifies some of the constitutional limitations.



possible result of which could have an impact on your DUI case.

Kevin Breger is the principal attorney at The Law Offices of Kevin Breger, PLLC. Mr. Breger focuses exclusively on **criminal law** and **DUI** representation and can be reached at **602-682-5582** or at kbreger@bregerlaw.com. Remember if you do email Mr. Breger please provide a phone number where he can call you back at to discuss your situation. Mr. Breger's principal office is located at 2025 N. 3rd Street, Suite 157, Phoenix, AZ 85004 and he also has an address in Scottsdale. He represents clients throughout Maricopa County, Pinal County and Yavapai County.

The information in this article is current as of January 2009. Remember that all cases need to be assessed on their individual merits and you should consult your attorney to discuss the specific issues in your case.

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09

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