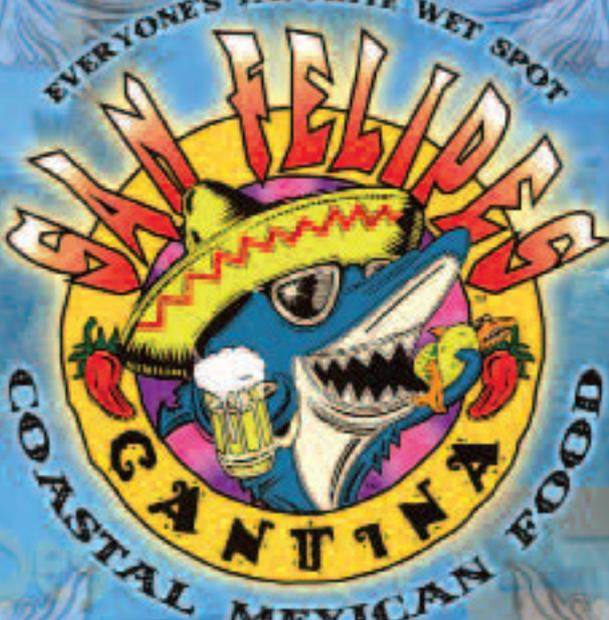


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# DUI ≠ Alcohol Alone...

By Kevin Breger  
www.TheAZCriminalLawyer.com

There are a number of ways a person could be illegally "driving under the influence" (DUI) and subject themselves to prosecution. For example: A.R.S. § 28-1381(A)(1) deals with a DUI for being "impaired to the slightest degree"; A.R.S. § 28-1381(A)(2) deals with a DUI when your blood alcohol concentration is 0.08 or higher; A.R.S. § 28-1381(A)(3) deals with a DUI when there "is any drug defined in section 13-3401 or its metabolite in the person's body." There are various other sections that deal with when a DUI can be a felony as well (as opposed to a misdemeanor).

The bottom line is you can get a DUI as a result of drinking and driving and as a result of taking drugs (legal and illegal) and driving.

The problem with the (A)(3) charge referenced above is that some of the drugs that are listed in the statutes can be legally used with a valid prescription. What that means is even if you are validly using the drugs you could be exposing yourself to a DUI... this is true for the (A)(1) charge as well: If the drug that you are taking is legal and as a result of taking it your driving is "impaired to the slightest degree" you are once again exposed to a DUI citation.

The moral of the story is if you are taking illegal drugs-don't. If you do take illegal drugs and drive you could find yourself the subject of a DUI investigation and/or citation.<sup>3</sup> If you are taking prescription drugs and drive you probably should consult with your health care provider and/or pharmacist about whether what you are taking could "impair you to the slightest degree". If they need help with what "impair to the slightest degree"

<sup>3</sup>And possibly other criminal charges depending on the circumstances.



means as far as the law is concerned have them contact your attorney to discuss it. If you have been cited for a DUI you should likewise contact your lawyer immediately for help and guidance. It can be a minefield out there. . .

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](mailto: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. 3<sup>rd</sup> 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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