

A newsletter by **Taheri & Todoro, P.C.**, devoted to Driving While Intoxicated law in New York State
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The Impact of a DWI Conviction on Automobile Insurance

One of the most common concerns of individuals arrested for DWI is the potential impact of a conviction on their automobile insurance. To answer these questions, we spoke with insurance agent Joe Floss, CIC, President of the Floss Agency, Inc., 6455 Transit Road, PO Box 370, East Amherst, New York 14051-0370, (716) 688-5115. His answers to some of the questions posed are set forth below.

1. How much does a premium typically increase for an alcohol-related conviction?

Drivers convicted of an alcohol related conviction may see their premiums increase anywhere from 70% to 250%, depending on age and prior conviction. As an example, in a recent case a forty-eight year old driver with a clean driving record was convicted of DWI. He and his fifty-one year old wife, who also had a clean driving record, insured three vehicles and were the only drivers listed on the policy. Two of the vehicles have full coverage; the third only had liability coverage. After the DWI conviction, their insurance premium went from \$1645 per year to \$2800 per year, an increase of 70%. Younger drivers or drivers with otherwise poor driver records may see an even greater increase.

2. How does an insurance company find out about a DWI?

Insurance companies usually find out about alcohol-related convictions by running the client's DMV record. This is always done for new applicants. How frequently this is done for driver's already insured by the company, if at all, depends on the individual insurance company.

3. Is there a difference in the insurance premium for a conviction for Driving While Intoxicated vs. a conviction for Driving While Ability Impaired by Alcohol?

No. All alcohol and drug related driving convictions are treated the same for insurance purposes.

4. What is the "risk pool"?

While some insurance companies may retain a driver convicted of DWI at an increased premium rate, many companies will not renew the policy at the end of the policy period. As a result, the driver will be forced into the New York State Assigned Risk Program (the "risk pool"). New York State requires that all standard insurance companies doing business in the state take on a certain number of adverse (i.e., "risky") clientele. The state sets the premium rate for these drivers and regulates the coverage that must be provided. Drivers forced into the risk pool do not get to choose which insurance company will provide their coverage. Instead, they are assigned to an insurer by the state.

5. What is the impact of a license revocation for refusing a breath test on insurance?

Insurance companies will not cover a driver whose license has been revoked for any reason. They will cancel an insurance policy mid-term if a revocation is discovered. A driver is not, however, under any contractual obligation to report a revocation or DWI conviction. Whether the insurance company

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discovers a revocation usually depends on the frequency with which they check the insured's driving record (if at all). Some insurance companies also send out annual renewal questionnaires to their clients. Lying about a revocation on this document would constitute a crime.

6. *Can alcohol counseling reduce premiums? How about attending the Drinking Driver Program?*

Neither voluntary nor court mandated programs have any impact on insurance premiums. The only program that may reduce premiums is the Defensive Driving Course offered by the National Safety Council and other local vendors, which reduces premiums by 10%.

7. *How long is an alcohol conviction used for computing insurance premiums?*

Insurance companies cannot charge increased premiums for longer than 39 months. However, many companies will not take *new* customers who have had an alcohol-related conviction within the past 5, or even 10, years. As a result, drivers who have been forced into the risk pool may have to shop around to find an insurance company that will cover them after the 39 months has elapsed.

8. *If there is no accident, must a client call the insurance company?*

No, there is no contractual obligation for a driver to report if there is no accident involved.

9. *What if there is an accident?*

Drivers are required to report an accident to their insurance company. Additionally, if the driver is charged with an alcohol-related offense, his or her "No Fault" coverage will be suspended by the insurance company. This portion of automobile insurance is typically used to cover medical expenses. As a result, denial of "No Fault" coverage could have a substantial impact in cases where an accident resulted in serious injury. To avoid the possibility of suspension of "No Fault" coverage, most insurance companies will allow drivers to add "Medical Payments" coverage to their automobile insurance for a nominal fee. "Medical Payments" coverage is not suspended in cases where the insured is charged with alcohol-related offense.

10. *Can a DWI impact other types of insurance?*

A DWI conviction will also cause an increase in insurance premiums for boats, motorcycles, or any other moving vehicle that a driver needs to insure. Additionally, life insurance companies check applicants' driving records before providing coverage. An alcohol-related conviction will prevent an applicant from getting the best rate on life insurance. If an alcohol-related conviction is coupled with other indications of alcohol-related health problems, such as an increased liver enzymes, companies may decline to provide an applicant with life insurance.

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If readers have any additional questions regarding this or other insurance topics, they are invited to contact Mr. Floss or one of his agents at (716) 688-5115, or e-mail him at joe@flossagency.com, for further information.

This newsletter does not offer specific legal advice. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. If you have any questions or would like a specific topic covered in the newsletter, please contact Michael S. Taheri, Esq., or Peter J. Todoro, Esq., at Taheri & Todoro, PC, 388 Evans Street, Williamsville, NY 14221, telephone no. (716) 633-0374, e-mail: taheri@localnet.com.

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