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## BOATING WHILE INTOXICATED

As summer heats up, many people try to cool down with a cold beer or other adult beverage. Earlier this summer, the Iowa Supreme Court ruled in the case of *State v. Paye* that it is not illegal for you to be intoxicated on your front porch in most cases.

However, it may be a different story on the lake or river. Many people enjoy some alcohol while boating, but beware. Similar to driving a vehicle while intoxicated, it is also illegal to operate your boat while intoxicated.

In order for a person to be convicted of Boating While Intoxicated the State must prove beyond a reasonable doubt that:

- The Defendant operated a motorboat or sailboat;
- On the navigable waters within the state of Iowa; and
- The Defendant was either:
  - o Under the influence of alcohol, other drug or a combination; or
  - o Had an alcohol concentration of .08 or more; or
  - o Had any amount of controlled substance present in his or her system as measured in his or her blood or urine.

**Boating While Intoxicated is punishable by the following:**

Offense	Classification	Confinement	Fine
1 <sup>st</sup> Offense	Serious Misdemeanor	2 days- 1 year jail	\$1,000
2 <sup>nd</sup> Offense	Aggravated Misdemeanor	7 days jail- 2 years prison	\$1,500- \$5,000
3 <sup>rd</sup> Offense	Class D Felony	30 days jail- 5 years prison	\$2,500-\$7,500

**If you are stopped for Boating While Intoxicated, you have a right to refuse field sobriety tests, a preliminary breath test (PBT) and chemical tests. However, a refusal of a chemical test will result in an automatic revocation of right to operate a boat for a set period and a civil fine. In certain situations, even if you refuse a chemical test, law enforcement can obtain a search warrant to obtain a blood specimen. Refusal to submit to a chemical test after law enforcement validly obtains a search warrant is considered contempt.**

**Unlike an OWI, the Department of Transportation cannot suspend your license to drive a vehicle for a Boating While Intoxicated conviction. However, upon conviction the Court will take away your boating privileges for a fixed amount of time. Currently, the Iowa Supreme Court is reviewing whether this is lawful. We will update you on this case when it is decided.**

**During the hot summer months, many people enjoy alcoholic beverages. Please consume responsibly and know your laws, limitations and rights.**

**DISCLAIMER:** The information provided in this blog is not meant to be nor should it be construed to be legal advice, but rather general information on the subject matter. Statutes, case law and any other sources used to write this blog can be overruled, amended and changed over time. For any specific questions and/or legal advice contact a licensed attorney.

