

THE KEY TO KEEPING YOUR BUSINESS ON THE ROAD

For many people, the ability to drive is a critical component of their job. So the prospect of being disqualified from driving not only causes deep concern to the driver, but also their employer. With around 13,000 disqualifications imposed by the courts annually, Michael Gibson, a specialist road traffic law solicitor at David Gray Solicitors, examines the various motoring offences that can affect individuals and businesses

The ‘totting-up’ of penalty points

Disqualification can be imposed for a variety of motoring offences, but often the one that catches drivers out is that of ‘totting-up’, contained within s35 of the Road Traffic Offenders Act 1988. This is where there is an accumulation of 12 penalty points within a three-year period which attracts an immediate disqualification of a minimum of six months. Being disqualified from driving for this period of time is not just inconvenient, but it can also result in the loss of your livelihood. For employers, it can have a detrimental impact on their business.

Is it possible to avoid a ban?

The court will listen to well-presented arguments that the driving ban will lead to ‘exceptional hardship’ and the most common of these arguments relates to employment. If a driving ban is likely to cause the driver to lose his job - because a licence is needed to travel to work, or for part of their job - this can constitute an exceptional hardship argument. Factors such as the impact of the ban on the driver’s family or employees (if the driver is a business owner) are considered by the court.

Drink and drug driving

Drivers are very familiar with the restrictions on driving while under the influence of alcohol. However, a change to drug driving laws in March 2015 means that an offence is committed if a driver is over the legally prescribed limit, even if his or her driving is unaffected. The offence doesn’t just relate to recreational drugs, the presence of prescription drugs, such as diazepam or morphine is also included. Drivers and employers should be

aware that drugs can remain in a driver’s system after the effects appear to have worn off.

Tachograph offences

Businesses that employ professional drivers will be acutely aware of the need for many vehicles to have a fully functioning tachograph installed and running. To be considered fully functional, the recording sheet must record speed, distance travelled, driving time, breaks/rest periods and interruptions to the power supplying the distance and speed sensor. The punishments for tachograph offences are, understandably, quite severe.

In instances where no tachograph is installed, companies can be fined up to a maximum of £5000. Forging or altering tachographs attracts a maximum of two years’ imprisonment with an unlimited fine. Breaches of failing to adhere to driver hours’ regulations are also severe, attracting fines of up to £2500. There is also the added prospect of further proceedings before the traffic commissioner, who is responsible for licensing and regulation of HGV, bus and public service vehicles.

Is it possible to defend a tachograph offence?

On the face of it, tachograph offences appear difficult to defend, however it is possible to raise a defence if you are able to demonstrate you legitimately did not know that there was a fault with the tachograph equipment, and your actions were ‘reasonable’.

The prospect of attending court to deal with a motoring offence can be incredibly daunting, especially for those entirely unfamiliar with the court process. Whatever the motoring offence, contact David Gray Solicitors as early as possible for the best advice and representation.



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