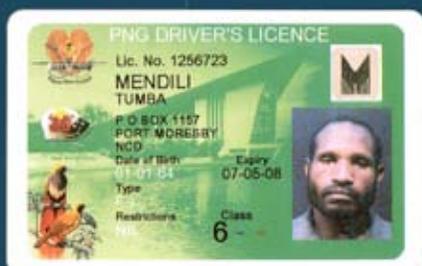


GEORGIA traffic PROSECUTOR

our mission

The goal of PAC's Traffic Safety Program is to effectively assist and be a resource to prosecutors and law enforcement in keeping our highways safe by helping to prevent injury and death on Georgia roads.

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feature article >

Legislation now allows temporary residents of Georgia to retain their foreign driver's licenses when they obtain Georgia driver's licenses; and foreign visitors who are allowed to drive in Georgia on non-English driver's license must get an International Driving Permit.

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A Publication of the Prosecuting Attorneys' Council of Georgia Traffic Safety Program

Foreign Drivers In Georgia: An Update

By Chuck Olson, General Counsel, Prosecuting Attorneys' Council of Georgia

DURING THE 2008 GENERAL ASSEMBLY, THE legislature passed Senate Bill 488 which was designed to deal with several problems that citizens of foreign countries encounter when they drive in Georgia while on business or vacation. The new law, which becomes effective on January 1, 2009, also addresses two issues that impact how law enforcement deal with drivers from foreign countries who are lawfully in the United States. The new law does not change the fact that citizens of other countries, who are in the United States illegally, cannot operate a motor vehicle in Georgia.

Section 1 of S.B. 488 (Ga. L. 2008, p. 1154) amends subsection (c) of O.C.G.A. § 40-5-20 and allows citizens of foreign countries who become temporary residents of Georgia to retain their foreign driver's license when they get a Georgia driver's license. Under prior law, anyone who had a driver's license issued by another state or foreign country was required to surrender their old license when they applied for a Georgia driver's license. This requirement created a problem for citizens of other countries who were going to reside in Georgia for more than 30 days but would eventually be returning to their home country. In many countries, including some with extensive business holdings in Georgia such as Germany, South Korea and Japan, driver's licenses do not expire or are valid for more than 10 years. In these countries, driver's licenses are, compared to driver's licenses in the U.S., very expensive and difficult to obtain. In some cases, replacement of a driver's license is just as difficult and expensive as obtaining a new one. That, combined with the fact that these driver's licenses are considered government property that must be accounted for, was affecting the State's ability to attract foreign investment.

The second major change made by S.B. 488 was to add a requirement that citizens of other countries who are allowed by state and federal law to drive in Georgia using their

home country license must also have an International Driving Permit (IDP) if the license is in a language other than English. The purpose of this change to O.C.G.A. § 40-5-21(a)(2) was to make it easier for officers to verify that the foreign driver's license was valid. The IDP was created by the 1949 Convention on Road Traffic, TIAS 2487, 3 U.S.T. 3008, and is recognized in more than 150 countries. (See sidebar on page 2) The IDP is not a driver's license but an official translation of a driver's license into other languages, including English. Individuals from countries whose license are in English are not required to have an IDP.

A legitimate IDP can only be obtained in the country that issues the driver's license from a government agency or an organization authorized by the government of that country to issue IDPs. For example, in the United States, the U.S. Department of State has designated the American Automobile Association and the American Automobile Touring Alliance as the only entities authorized to issue IDPs to holders of U.S. driver's licenses. The IDP must be obtained before the person leaves their home country and is only valid for one year.

Because a legitimate IDP can only be obtained within the country where the driver's license was issued, the new law creates a problem for foreign visitors who arrived in the U.S. prior to January 1, 2008 — there is no legal way they can obtain an IDP until they return to their home country. Case law in Georgia recognizes that impossibility to commit a crime is a valid defense. See *Guzman v. State*, 206 Ga. App. 170, 172 (1992). While documents that purport to be an international driver's license or permit are widely available on the Internet, none of these documents are valid.

Because it is physically impossible for these foreign drivers to obtain an IDP before they return home, it is practically impossible for them to comply with the new law. This has caused concern both to the foreign consulates

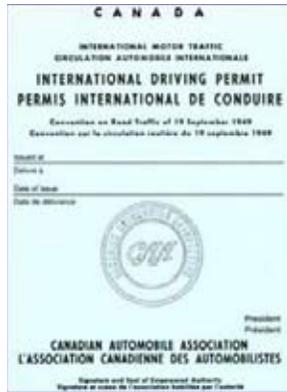
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This newsletter is a publication of the Prosecuting Attorneys' Council of Georgia. The "Georgia Traffic Prosecutor" encourages readers to share varying viewpoints on current topics of interest. The views expressed in this publication are those of the authors and not necessarily of the State of Georgia, PACOG or the Council staff. Please send comments, suggestions or articles to Fay McCormack at fmccormack@pacga.org.

located in Georgia and to the Georgia Department of Economic Development which is responsible for promoting foreign trade and tourism in this state.

In time, this problem will resolve itself. However, for the next several months, it is probable that many drivers from foreign countries will not have the IDP. When an officer encounters a driver from a foreign country whose license is not in English, it is recommended that the officer ask the driver when he or she came to the United States. If the driver has been in the United States less than one year, it is recommended that the driver be told about the new law but not charged with driving without an IDP. At the most, a warning citation may be issued.

If the validity of the license cannot be determined, a citation may be issued. If a citation is issued, the driver should be instructed to obtain an official certified translation of the driver's license from their consulate and bring that with them to court. While Georgia law does not address foreign records, the Federal Rules provide that certification of a foreign government document by the country's consulate is admissible in evidence as original evidence the same as other certified government documents. Thus a certified translation by the consulate of the foreign driver's license could be considered to be the functional equivalent of an IDP.



Celebrating the Success of Georgia DUI Courts

Courtesy The National Center for DWI Courts

ON OCTOBER 24, 2008, BEAM GLOBAL SPIRITS & WINE, INC. AND THE NATIONAL CENTER for DWI Courts (NCDC) joined forces to raise awareness about the effectiveness of DWI Courts in Georgia. With more than 17,000 alcohol-related traffic fatalities in the United States every year, Beam Global and NCDC have partnered together since 2007 to bring national attention to the effectiveness of DWI Courts in addressing high-risk impaired driving.

DWI Court judges, prosecutors and law enforcement officials assembled at the state capitol building to highlight the success of DWI Courts and their valuable contribution to the State of Georgia. "DWI Courts are saving lives," stated the Honorable Kent Lawrence, State Court of Athens-Clarke County, Athens, Georgia. "Georgia DWI Courts have proven that blending long-term treatment with the accountability, immediacy and certainty of court response is more effective than punishment alone. These courts truly promise better long-term outcomes and their success has changed the mindset of criminal justice professionals. Georgia is a powerful example of how effective these courts can be." NASCAR® driver and team owner, Robby Gordon, joined Beam Global in thanking Georgia judges, law enforcement, and legislators for their support and to acknowledge the life-saving efforts of DWI Courts.

"I am truly impressed with how successful DWI Courts have been in reducing drunk driving," commented Robby Gordon who was in Atlanta for the NASCAR Pep Boys Auto 500. "I would like to offer my appreciation to Beam Global for supporting the National Center for DWI Courts and for including me in their efforts to help raise awareness for this life-saving program. I congratulate Georgia judges, law enforcement, and legislators for their efforts throughout the state and encourage other states to follow Georgia's lead."

David Wallace, the Director of the NCDC acknowledged that partners like Beam Global Wine & Spirits, Inc. are vital to the growth of DWI Courts. "We have been fortunate to partner with some very dedicated people who are interested in making our roads safer," he said. "We now have 445 DWI Courts across the country changing the behavior of hardcore impaired drivers, but statistics show an immediate need for further growth. Through events like this we will continue to raise awareness for DWI Courts nationwide with a goal of making them available to the drivers who need them most."

High-risk drunk drivers (drivers with a high blood alcohol concentration of .15 and above and/or a prior DWI charge) are responsible for 58 percent of alcohol-related traffic fatalities and are 380 times more likely to be involved in a crash. Statistics demonstrate that conviction without treatment is not effective in addressing high-risk drunk driving. Fortunately, DWI Courts like those in Georgia are highly successful in ensuring that these drivers never get behind the wheel of a vehicle impaired again, as illustrated by the event's most stirring moment.

The final speaker was David, a graduate of DWI Court, who shared his story of restoration. "I entered a DWI Court after my second DWI offense. I was in a desperate place and needed help," he said. "It was through the DWI Court that I was able to get the help I needed. It was not easy work, but the nearly two years I was enrolled were vital to my survival...I am forever grateful for the help the court provided me to help get my life back."

...> the international driving permit

The International Driving Permit (IDP) came into existence after World War II as a way to encourage international travel, commerce and investment. The format for the IDP is specified by the 1949 Convention on Road Traffic, TIAS 2487, 3 U.S.T. 3008 which has been ratified by over 150 countries. Many Central and South American countries are parties only to the 1943 Convention on the Regulation of Inter-American Automotive Traffic, TIAS 1567, 3 Bevans 865, which provides for an Inter American Driving Permit (IADP). While there are slight differences between the two documents, they are substantially similar.

Neither the IDP nor the IADP authorize a person to operate a motor vehicle. Only a valid driver's license does that. Instead the IDP and IADP provide a translation of certain essential information from the driver's license issued by the driver's license agency in the country. The translated information includes the person's name, place of birth, date of birth, residence and the type of vehicles the individual may drive. They are valid for one year from the date of issuance. While most other countries have a single national driver licensing agency, licenses are issued at the state or provincial level in Canada, Mexico, and Switzerland as well as the United States.

Unfortunately, fake documents variously referred to as an international driver's license, international driver permit, or international driving permit are available on the Internet. None of these documents are valid in the United States.

National Groups Advocate for DWI Courts

Courtesy National Association of Drug Court Professionals

ON TUESDAY FEBRUARY 17, 2009 LEADERS in traffic safety and criminal justice communities gathered on Capitol Hill to make recommendations to Congress on the reauthorization of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Joining the The National Association of Drug Court Professionals (NADCP), The National Center for DWI Courts (a professional services branch of NADCP) and the Century Council, were five national organizations representing judges, prosecutors, defense attorneys and probation officers. The panel of national experts focused its recommendations on measures that would lead to reductions in the number of hardcore, impaired drivers on our nation's roads.

SAFETEA-LU is a reincarnation of the Highway Transportation Bill that provides state allocations for highway funds and traffic safety. The bill is up for reauthorization in October, prompting these leaders to advocate for increased support for strategies that have the greatest effect on curbing impaired driving such as DWI Courts. In the past six years since the bill was last authorized DWI Courts have emerged as one of the nation's most effective strategies for dealing with our nation's most dangerous impaired drivers, those with a blood alcohol content of 1.5 or above or with a prior conviction.

These drivers are referred to as hardcore, impaired drivers by the National Highway Traffic Safety Administration (NHTSA) are vastly overrepresented in fatal crashes involving alcohol. More than half of the impaired driving fatalities in this country involve hardcore, impaired drivers and today there are 2 million people currently driving with at least three prior DWI convictions.

"Hardcore drunk drivers remain a disproportionately large and growing part of the problem," said Susan Molinari, Chairman of the Century Council. "The fact is DWI cases are among the most complex to adjudicate. Without more Federal resources to enforce our nation's drunk driving laws in our courtrooms, our national effort to reduce drunk driving is dangerously incomplete." Since 1997 the Century Council has been heavily involved with initiatives to combat hardcore drunk driving. She went on to add "I am honored to be partnering with these prestigious national organizations in issuing these joint SAFETEA-LU reauthorization recommendations."

Across the country there are 532 DWI Courts designed specifically to address hardcore drivers and their addiction. National Association of Drug Court Professionals CEO West Huddleston explained why the number of DWI Courts was growing so rapidly. "Treatment

with intensive supervision works with hardcore, impaired driving offenders – and promises better long-term outcomes, through decreased recidivism," said Mr. Huddleston. "With the courts' proven effectiveness and rapid expansion across the country the time has come to expand the reach of DWI Courts and make them available to more Americans in need."

"The National Center for DWI Courts is proud to be a part of this collaborative effort to combat impaired driving in this country," said David Wallace, Director of the National Center for DWI Courts. "In renewing SAFETEA-LU with the recommendations presented by the prestigious organizations here today, Congress has an opportunity to stem the tide of impaired driving."

Judge Kent Lawrence, State Court of Athens-Clarke County, Athens, Georgia spoke about the success of DWI Courts and illustrated the need for funding in the reauthorization of SAFETEA-LU. "DWI Courts are changing the mindset of criminal justice professionals and affecting how DWI offenders are handled. We know that conviction, unaccompanied by treatment and accountability, especially in the case of hardcore drivers, is an ineffectual deterrent for the repeat DWI offender."

The most compelling evidence of the effectiveness of DWI Courts came when a recent graduate from Judge Lawrence's DWI Court stood before the audience and told her story of alcohol addiction, arrest and restoration: "I stand here today grateful for the opportunity I had to go to DWI Court. When I entered the DWI Court program I had lost everything in my life I cared about. I had lost control. DWI Court gave me my life back and I am proud to stand here today and tell you that since graduating DWI Court I have remained alcohol free and I have my life back." She added that since graduating has been reunited with her children and is currently teaching pre-school in Georgia.

The NADCP, NCDC and The Century Council were joined at the event by the American Probation and Parole Association, The National District Attorneys Association, The National Association of Prosecutor Coordinators, The National Judicial College and The National Partnership on Alcohol Misuse and Crime.

The partnership jointly issued the following recommendations to Congress:

- + Expansion of and increased funding for DWI courts and intermediate probation responses that do not require judicial action
- + Funding of full time traffic safety resource prosecutors in every state and territory

- + Mandatory assessments on hardcore drunk drivers so judges can tailor conditions of bail and sentences to each offender.
- + Comprehensive and frequent trainings for judges, prosecutors, law enforcement officers, and probation and parole officials
- + Increased communication among state and local agencies to improve DWI adjudication
- + Increased state look-back periods for repeat offenses to a minimum of 10 years
- + Develop statewide tracking and reporting systems so offenders can be tracked from arrest through conviction and sentence completion
- + Provide funding to enhance probation's ability to effectively respond to hardcore drunk driving through training, knowledge transfer, and technical assistance.

New Data Show Drinking Age Laws Saved 4,441 Lives Over 5 Years

Courtesy NHTSA

MINIMUM 21-YEAR-OLD DRINKING AGE laws prevented an estimated 4,441 drunken driving deaths in the last five years alone, according to a new report released in November by the National Highway Traffic Safety Administration.

NHTSA Acting Administrator David Kelly, who presented the report at a symposium on the subject led by Mothers Against Drunk Driving (MADD) said, "Turning our back on these laws would be a deadly mistake. Minimum drinking age laws are among the most effective measures ever used to reduce drunken driving deaths among America's young people."

In addition to estimating lives saved due to 21-year-old minimum drinking age laws, the new NHTSA study shows the number of lives saved by motorcycle helmets has risen sharply in recent years, paralleling an increase in motorcycle use. Agency estimates indicate that lives saved by helmets rose from 1,173 in 2003 to 1,784 in 2007. For the five-year period ending last year, fully 7,502 lives were spared because motorcyclists used helmets.

The new statistical report examined a series of additional safety issues, and showed that in 2007 alone: frontal air bags saved 2,788 passengers age 13 and older; child safety seats saved 358 lives of children age 4 and under; seat belts saved 15,147 and could have saved another 5,024 lives had they been worn by all vehicle occupants involved in fatal crashes.

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----> fact:

Drunk driving is the nation's most frequently committed violent crime, **killing someone every 30 minutes.** Because drunk driving is so prevalent, about three in every ten Americans will be involved in an alcohol-related crash at some time in their lives. In 2006, an estimated 17,602 people died in alcohol-related traffic crashes in the USA. These deaths constituted 41 percent of the nation's 42,642 total traffic fatalities.

-Statistics courtesy NHTSA (www.nhtsa.gov)

The "Georgia Traffic Prosecutor" addresses a variety of matters affecting prosecution of traffic-related cases and is available to prosecutors and others involved in traffic safety. Upcoming issues will provide information on a variety of matters, such as ideas for presenting a DUI/Vehicular Homicide case, new strategies being used by the DUI defense bar, case law alerts and other traffic-related matters. If you have suggestions or comments, please contact Editor Fay McCormack at PAC.