



Expat Counsel

By James Finch and Nilobon Tangprasit

Last week we began a discussion of additional traffic offences of which all drivers in Thailand should be aware. Here is another — drink-driving. Thailand is serious about keeping drink-drivers off the road, and several provisions of the Land Traffic Act (the Act) back this up. Under Ministerial Regulation No 16, if the driver's blood-alcohol is 50mg per 100ml, it is past the legal level and the driver is considered drunk. If the police suspect that a driver has been drinking, they have the power to order him or her to stop and be tested.

If the driver refuses to be tested voluntarily, he or she will be subject to a fine of 1,000 baht and taken into custody until the test can be administered. If the driver is determined to be sober, he or she will be freed immediately. In practice, the fine for refusing to be tested is discretionary with the police, who may not levy it even if the driver is determined to be drunk. The reason for this is that a driver determined to be drunk will be prosecuted for the much more serious crime of drink-driving as set forth below.

If the driver is determined to be drunk, the police will submit the case to the public prosecutor. If, after trial, the driver is found guilty, he or she will be subject to a fine of up to 20,000 baht and/or imprisonment of

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up to one year. The court will also decide whether to suspend the driver's licence for up to six months or to revoke it. Whether the licence is suspended or revoked depends on the circumstances of the case. Prior offences will be taken into account, as well.

If the licence is suspended, the police, as a practical matter, hold on to it until the suspension period is over.

There are additional criminal penalties for causing injury to others while driving drunk:

- If the drink-driver has caused bodily or mental harm to anyone, he or she will be subject to imprisonment of up to five years and a fine of up to 100,000 baht.
- If the drink-driver has caused grievous bodily harm to anyone, as determined by a decision of the judge, the maximum penalty is up to six years imprisonment and a fine of up to 120,000 baht.

- If the drink-driver has killed someone the maximum penalty is 10 years in jail and a fine of up to 200,000 baht.

If the intoxication is a result of drugs other than alcohol, stiff penalties may be applicable under the Narcotics Act and the Psychotropic Substances Act. The driver can also lose his or her licence as set forth above.

We have discussed the crimes in connection with drink-driving above in a way that conviction may appear automatic. We have done so to give you an idea of the consequences in the event you are convicted of a drink-driving offence.

In future columns, however, we will explain what it means to be tried for an offence in Thailand. There are a number of safeguards built into the system. For example, the judge has much discretion on what evidence can be introduced against a

defendant. We hope you will see at that time that the criminal process is complex and that there are many factors that need to be evaluated before anybody is convicted of anything. ■

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