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LAWYERS BRACE FOR SPIKE IN DUI CASES WITH NEW LAWS

Robbie Sherwood, The Arizona Republic; Republic writer Brent Whiting contributed to this article.

When drunken-driving laws get tough, lawyers for suspected drunken-drivers get going.

The first ripple effect of the profound changes made this year to Arizona's DUI laws can be found among the attorneys who defend accused drunken drivers. They are getting ready for new business. Meanwhile, Valley cities are scrambling to find more taxpayers' money for police and courts to handle the cases.

"When you increase the stakes you are going to have a lot more people who want to fight the case," said Tempe attorney **Craig Penrod**, who has specialized in drunken-driving cases for more than 20 years.

"If you're facing 10 days in jail and installation of an interlock device on your car," he said, "you aren't just going to walk in and plead guilty."

On Aug. 31 the blood alcohol standard for driving under the influence will drop to 0.08 percent from 0.10. The standard for extreme drunken driving has already been lowered to 0.15 percent from 0.18, increasing the number of suspects who face mandatory jail time and suspension of their driver's license for up to a year.

People convicted of extreme DUI also will have to use a Breathalyzer to start their cars once their driving privileges are restored.

Suspects arrested in Valley drunken-driving sweeps over the past year averaged a blood alcohol content of 0.157 percent, so the average case could now be

prosecuted as an extreme DUI.

"There needs to be a whole lot more education, because when I show people what happens to them under the new law, they are shocked," said Prescott attorney Daniel Furlong, who is already picking up new clients accused of extreme drunken driving.

Reaction among residents is mixed, as evidenced by comments from people interviewed outside a sports bar in downtown Phoenix.

Dave Thelen, 33, of Phoenix, said he doesn't consider the drop to 0.08 percent harsh.

"But we don't have enough mass transit," Thelen added. "So if you want to go bar-hopping, you don't have enough alternatives to driving."

Bobbi Smith, a Peoria resident who described herself as "forty-something," hopes the law will keep people from drinking and driving, but said the jury's still out on that.

"I'm not sure it will have an inhibiting effect," Smith said. "People who like to drink will probably go out and drink anyway without giving the new law a second thought."

Anthony Thomason, 31, of Ahwatukee, said something needs to be done about drunken driving. However, he doubts the law will accomplish much except "the arrest of a bunch more people."

Attorneys and residents aren't the only ones reviewing the possible impact of the new laws. Because the changes to the law amount to an unfunded mandate, cities are looking for money to take on new cases.

If city courts face more trials, they may need more prosecutors, more judges, more space in jails and more public defenders if suspects can't afford attorneys.

Mesa officials are asking for an extra \$600,000 this year to add a prosecutor, court staff and to pay increased jail costs. Phoenix officials are expecting an additional \$740,000 in court costs, alone. The Scottsdale City Council expects to pour an extra \$577,000 into its courts, although some of the increase will go toward increased domestic violence prosecutions.

Mesa City Councilman Dennis Kavanaugh knows that the new 0.08 percent limit is a congressional mandate, and non-compliance would hurt federal highway funding. But he said changing extreme DUI to 0.15 percent from 0.18 was a legislative whim, with a not so whimsical cost.

"It's going to spark more jury trials, but of course the Legislature didn't provide any money to implement the new law," Kavanaugh said. "It's a good law, I like the goal, but there are real costs to local governments that they shouldn't ignore."

The expected stress on courts and jails could be overblown, said Alberto Gutier, director of the Governor's Office of Highway Safety. He said an extensive public education campaign his office is planning will, hopefully, curb the number of drunken drivers on the road. And suspects on the borderline, right at the 0.15 percent blood alcohol level will likely be offered plea bargains to ordinary DUI rather than extreme DUI, Gutier predicted.

"It may start out heavy, but then it will balance itself out," he said.

The goal, Gutier reminded, is to save lives and property by keeping drunken drivers off the road. Extreme drunken drivers may account for only 1 percent of those arrested, but they are responsible for half the personal and property damage tied to drunken-driving accidents, he added.

Smaller cities like Glendale, Chandler and Gilbert are expecting a more modest financial hit but have not yet calculated the cost. Officials from those cities don't expect a large increase in arrests without more police officers, something not on the immediate horizon.

But any sweeping change to a law can stress other parts of the system in unexpected ways. For instance, if the new laws spark more jury trials as expected, more arresting officers will be called into court to testify.

"Most DUI arrests are on the night side and on graveyard shifts," Gilbert police Sgt. Ken Fixel said. "When those officers come into court during the day, that's overtime and the cost can get up there. But we welcome anything that makes the roads safer."