



Public Highways / Enforcement Zone of Impaired Driving Laws

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States have a wide variety of cases dealing with whether DUI statutes may be enforced when the offense occurs on private property. Each state takes its own approach for applying and interpreting its statutes, so there is not a uniform national trend in either the result or the logic courts use to get to the result. The selected cases from the following four states represent some of the approaches states have taken in order to determine the scope of impaired driving offenses:

Minnesota: In *State v. Carroll*, 31 N.W.2d 44 (Minn. 1948), the court ruled that the DWI statute's "within the state" language applied to private roads just as much as it applied to public roads and therefore upheld the defendant's conviction. In *Pahl v. Commissioner of Public Safety*, 398 N.W.2d 67 (Minn. App. 1984), however, the Court of

Appeals of Minnesota ruled that Minnesota's implied consent law only applied to



snowmobiles operated on streets and highways, not on frozen public lakes. The court differentiated between snowmobiles and motor vehicles and said that additional legislation would be required for public lakes to be considered streets or highways for snowmobiles, while the implied consent law covered motor vehicles operated anywhere in the state, without restriction.

Louisiana: In *Galloway v. Wyatt Metal & Boiler Works*, 181 So. 197 (La. 1938), the Supreme Court of Louisiana ruled that a privately-held road that had been maintained by the state counted as a public road for jurisdiction. In *State v. Zachery*, 601 So. 2d 27 (La. App. 1992), however, the Court of Appeal of Louisiana ruled that there was a difference between public parking lots and private parking lots. The court suggested that since the law said nothing about private lots or driveways, the legislature intended to distinguish public and private property, so it held that privately-held parking lots (such as one owned by a McDonald's restaurant) were not public roadways for the purposes of the state's impaired driving law.

Massachusetts: In *Commonwealth v. Stoddard*, 905 N.E.2d 114 (Mass. App. Ct. 2009), the Appeals Court of Massachusetts ruled that a limited access campground was not a public road for the purposes of an impaired driving offense. The court drew great significance from the presence of a gate separating the campground in question from the outside roads. It also stressed that the campground was not intended to be open to the general public, but that only licensees were allowed to access the area.

New Jersey: Finally, in *State v. McColley*, 157 N.J. Super 525, 385 A.2d 264 (App. Div. 1978), the Appellate Division of the Superior Court of New Jersey held that the state's



impaired driving statute applied anywhere in the state, not on just the public highways. The court said that since the legislature failed to insert specific language specifying where the law could be enforced, it could be enforced anywhere in the state. The court went on to say that it also held the two offenses to be qualitatively the same because the same amount of harm could result from impaired driving in a private place as in a public or semi-public place, and therefore affirmed defendant's conviction.

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