

Abstract

This thesis, the study of seeking for physical testimonial of the defendant subject to alcohol-drunk test while driving of the driver. In according to The Road Traffic Act of B.E. 2522 that empowered the Authority in seeking for the physical testimonial of the driver and as legislated in Criminal Procedural Code, Section 131 / 1 empowered the Authority to seek for testimony from the wounded body of defendant, damage person and relevant persons related in the criminal case which the criminal penalty over three years of imprison punishment. In using scientific methods may affect the rights and freedom of life and body as stipulated in the Constitution of the Kingdom of Thailand B.E. 2550 Section 29 and Section 32 in pursuit of physical evidence from the defendant in the testing case of car-driving with alcohol drunk.

The study, is done by reading textbooks, articles, pronouncement of the court documents, comparative studies in respect of the Road Traffic Law in connection with the case of alcohol test of the drivers in the United States, UK and Australia.

The study found that, the traffic laws in the United States, UK and Australia provided the criteria of the standard level of alcohol subject to the condition that an authority sees the driver and the suspicion that the person is drunk of alcohol for that person, and the driver must be complied with the measurement. But, if a person is denied or not follow the instructions, that person must receive punishment in accordance with the law, such as defined in the UK, considered that person be guilty and shall be punished by a fine of not exceeding £ 1,000 or by imprisonment for not exceeding 6 months or by both in according to the Road Traffic Law 1994. The measurement method can be made in 3 ways, that is by breath, urine and blood test which the driver is entitled to choose the measurement method.

And as the law in Thailand in respect of The Road Traffic Act of B.E. 2522, an authority can measure the quantity of alcohol from driving. And the drivers must be complied under Section 142, if they do not follow, they shall be guilty and shall be punished by a fine of not exceeding 1,000 baht per each offence under Section 154; which caused the most drivers to avoid alcohol detection. The measurement method according to Ministerial Regulations can do by measuring the breath and urine, but the measurement of blood can not be done by the decision of the Council of State (Group10). But if the driver agrees, the said measurement can be performed, but the Criminal Procedural Code Act Section 131 / 1 shall not be applicable for this case since the penalties of alcohol-drunk while driving is provided less than 3 years of the maximum punishment.

Therefore, Thailand should revise The Road Traffic Law Section 142 to give more power to the authority to call for any driver who's appearing an alcohol-drunk behavior. In the Event of the person not allow for the measurement, assuming that ,such person is in state of alcohol-drunk while driving.