

Index

ACCIDENTS

- Evidence, as, 3:4
- Motor vehicle. See MOTOR VEHICLES
- Suspension of driver's license following, 4:3

ACQUITTALS

- Circumstances warranting, 11:12
- Motions for, 11:12

ADMINISTRATIVE REGULATIONS

- Alcohol and drug testing. See ALCOHOL AND DRUG TESTING

ADMISSIBILITY OF EVIDENCE

- See also particular subject concerned
- Alcohol test results. See ALCOHOL AND DRUG TESTING

ADMISSIONS

- See also CONFESSIONS

AFFIDAVITS

- Hardship driver's licenses, 12:44

AGGRAVATING CIRCUMSTANCES

- Generally, 11:13
- Sentencing process, 12:1 et seq.

ALCOHOL AND DRUG TESTING

- Generally, 6:1 et seq.
- Administration, 6:6
- Administrative regulations
 - generally, 6:1, 7:38
 - compliance, 7:35, 14:7
 - discovery, 7:36
- Admissibility
 - generally, 3:11, 7:2, 7:33
 - confrontation rights, 8:3
 - drug analysis, 7:39
 - field sobriety test, 9:18
 - foundation, 6:1, 8:1, 11:2
 - hearsay
 - generally, 8:2, 8:8
- See also HEARSAY, generally.
- implied consent, refusal to submit to testing, 7:41 to 7:43
- motion to suppress. See SUPPRESSION OF EVIDENCE, at Alcohol and drug test results

ALCOHOL AND DRUG TESTING

—Cont'd

- Admissibility—Cont'd
 - objections, 11:2
 - preliminary breath tests, 11:7
 - prohibited alcohol level offense, 6:4, 7:40
 - records
 - generally, 8:8, 11:2
 - maintenance record of breath analysis machine, 6:15
 - refusal to submit to testing, 3:17, 7:30, 9:12
 - substantial compliance standard, 6:2
 - critique, 6:3
 - time requirement, 6:4, 7:40
- Blood tests. See BLOOD TESTS
- Breath tests. See BREATH ANALYSIS
- Commercial drivers, 1:16
- Consent to draw blood, 14:20
- Discovery
 - generally, 3:11
 - administrative regulations, compliance, 7:36
- Drivers' licenses, suspension. See DRIVER'S LICENSES, SUSPENSION FOR D.U.I. OFFENSE
- Drugs, for, 3:15, 6:8
- Due process requirements. See DUE PROCESS
- Equipment. See ALCOHOL AND DRUG TESTING EQUIPMENT
- Evaluation of case, 3:11
- Expert witnesses, 11:9
- Field sobriety test, 9:18
- Horizontal gaze nystagmus tests. See HORIZONTAL GAZE NYSTAGMUS TESTS
- Implied consent. See IMPLIED CONSENT
- Intoxilyzer, sample instruction on operation and working order, 11:25
- Leg stand test, 9:18
- Miranda rights, applicability, 3:5, 7:27, 7:28, 14:13
- Persons authorized to administer, 6:6
- Presumptions. See PRESUMPTIONS, at Alcohol concentration

ALCOHOL AND DRUG TESTING**—Cont'd**

Prohibited alcohol level offense
admissibility, 6:4, 7:40
correlation of results to charged
offense, 11:3
refusal to submit to testing, charge
inapplicable, 3:17
Proof of offense, as, 3:15
Records. See **ALCOHOL AND DRUG
TESTING RECORDS**
Refusal to submit to testing
generally, 3:17, 14:8
admissibility, 3:17, 7:30, 9:12
aggravating circumstances, 11:13,
12:1 et seq.
commercial drivers, 1:16
consequences, advising arrestee of,
14:14
defined, 14:8
drawing of blood, 14:9
impact, 3:17
implied consent. See **IMPLIED
CONSENT**
insufficient breath sample not
constituting, 14:8, 14:9
motions in limine, 9:12
nontestimonial evidence, as, 7:30
obstruction of testing process, 14:9
preliminary breath tests, 14:12
pretrial license suspension procedure,
14:15
prohibited alcohol level offense
charge inapplicable, 3:17
request for counsel, effect, 14:13
retraction of refusal, 14:11
Right to counsel
generally, 7:32, 14:13
during testing, 7:32
miranda rights, 14:13
refusal to submit to testing, effect of
request, 14:13
telephoning attorney, 7:32
Rules and regulations. See **Administra-
tive regulations, this heading**
Seizure, as, 7:34
Suppression of results. See **SUPPRES-
SION OF EVIDENCE**
Time requirement, 6:4, 7:40
Urinalysis. See **URINALYSIS**
Validity of results, 3:11
Walk and turn test, 9:18

**ALCOHOL AND DRUG TESTING
EQUIPMENT**

8000 instrument data/records, 5:8

ALCOHOL AND DRUG TESTING**EQUIPMENT—Cont'd**

Generally, 5:1 to 5:8
Breath analysis. See **BREATH ANALY-
SIS**
Calibration, 5:2
Common intoxilyzer error
interpretation, 5:3
messages, 5:3
5000EN and 8000 instrument data and
records, 5:7
Expert witnesses, 11:9
General challenges, 11:6
Machine interference, 5:4, 5:6
Mouth alcohol, 5:4, 5:5
Prohibited alcohol level offense, chal-
lenge to weight of evidence based
on instrument malfunction, 11:4,
11:6
Source code machine interference, 5:4
Specific challenges, 11:6

**ALCOHOL AND DRUG TESTING
RECORDS**

Admissibility, 8:2, 8:8, 11:2
Breath analysis. See **BREATH ANALY-
SIS**
Exclusive evidence of guilt, 8:4
Form, 2:12
Hospital records, 8:5, 8:7
Law enforcement records, 8:4
Suppression. See **SUPPRESSION OF
EVIDENCE**, generally

**ALCOHOL AND SUBSTANCE ABUSE
TREATMENT PROGRAMS**

Credit for time served, 12:27
First offenders, 12:11, 12:37
Fourth offenders, 12:25, 12:37
Juvenile offenders, 12:40
Notice to attend, form, 12:46
Second offenders, 12:15, 12:37
Third offenders, 12:20, 12:37
Underage persons, prohibited alcohol
level offense, 12:4

AMENDMENTS

Uniform traffic citation, 2:5

APPEALS

Driver's license revocation, suspension,
or denial, D.U.I. offense, for. See
**DRIVER'S LICENSES, SUSPEN-
SION FOR D.U.I. OFFENSE**
Ignition interlock device, 12:45
Implied consent violations
generally, 14:16 to 14:18
checklist, 14:23

INDEX

APPEALS—Cont'd

- Motions in limine, rulings on, 9:8
- Motions to suppress. See SUPPRESSION OF EVIDENCE
- Motor vehicles, involving, operator's license revocation or suspension, D.U.I. offense, for See DRIVER'S LICENSES, SUSPENSION FOR D.U.I. OFFENSE
- State, by; motions to suppress, 7:16

APPEARANCE

- Arraignment, 4:2
- Driver's license, suspension, 4:3
- Drivers' licenses, suspension for D.U.I. offense, 4:2

ARRAIGNMENT

- Generally, 4:1
- Appearance by defendant, 4:2
- Continuances, 3:1
- Defenses asserted prior to, 4:1
- Discovery unavailable until not guilty plea entered, 3:1
- Drivers' licenses, suspension, 4:3
- Drivers' licenses, suspension for D.U.I. offense
 - generally, 4:2, 4:4
 - initial determination, 3:1
- Motions made prior to, 4:1

ARRESTS

- Actual pursuit doctrine, 9:5
- Blood testing, prerequisite to, 14:5
- Breath analysis, prerequisite to, 14:5
- Citation issuance not deemed to be, 14:5
- D.U.I. offenses, 7:26
- Elements, 7:25
- Extraterritorial, 9:6
- Implied consent, prerequisite for
 - generally, 7:41 to 7:43, 14:5
 - reasonable grounds, 14:6
- Jurisdiction, 9:5
- Probable cause
 - generally, 7:24
 - horizontal gaze nystagmus test, 9:13
- Reasonable grounds, lacking, 14:6
- Suppression of evidence
 - generally, 7:24, 7:25
 - burden of proof, 7:12
 - statutory police authority violations, effect, 9:6
- Urinalysis, prerequisite to, 14:5
- Warrantless, 7:24

AUTHENTICATION OF EVIDENCE

- Generally, 8:9

AUTHENTICATION OF EVIDENCE

—Cont'd

- Documentary evidence. See DOCUMENTARY EVIDENCE
- Foreign judgments, 8:11
- Self-authentication, 8:10

BICYCLES

- Prosecution of operator for D.U.I. offense, 1:7

BIFURCATED TRIALS

- Generally, 11:14

BILLS OF PARTICULARS

- Requests for, 3:18
- particular section charged, specification, 2:3

BLOOD TESTS

- Generally, 6:17
- See also ALCOHOL AND DRUG TESTING, generally.
- Additional test, right to, 7:46, 14:8
- Administrative regulations. See ALCOHOL AND DRUG TESTING
- Admissibility. See ALCOHOL AND DRUG TESTING
- Arrest as prerequisite, 14:5
- Certified clinical laboratories, by, 6:6, 6:18
- Chain of custody, 6:19
- Collection and handling requirements, 6:18
- Consent. See IMPLIED CONSENT
- Dead or unconscious persons, 14:5
- Due process requirements. See DUE PROCESS, at Alcohol and drug testing
- Independent test, 7:46
- Laboratories, certified; by, 6:6, 6:18
- Per se violations
 - generally, 1:9
 - constitutionality, 1:18
- Physician-patient privilege, 8:6
- Preservation of test samples, 7:45
- Presumptions. See PRESUMPTIONS, at Alcohol concentration
- Prohibited alcohol level offense, 1:14, 11:3
- Qualified personnel, 6:6
- Refusal to submit to. See ALCOHOL AND DRUG TESTING
- Reliability, 6:17
- Right to counsel. See ALCOHOL AND DRUG TESTING
- Seizure, as, 7:34

BLOOD TESTS—Cont'd

Specimens, collection and handling, 6:18
Suppression of results. See **SUPPRESSION OF EVIDENCE**, at Alcohol and drug test results
Techniques, 6:18
Use of, 6:8

BREATH ANALYSIS

See also **ALCOHOL AND DRUG TESTING**, generally.
Additional test, right to, 7:46, 14:8
Administrative regulations. See **ALCOHOL AND DRUG TESTING**
Admissibility of results. See **ALCOHOL AND DRUG TESTING**
Approved testing equipment, 6:9
Arrest as prerequisite, 14:5
Calibration of equipment
 generally, 6:13, 6:14
 frequency, 6:13
 log sheets, 8:4
 process, 6:14, 6:15
 records, 6:15, 8:4
 admissibility, 6:15
Calibration solution
 generally, 6:15
 records, 8:4
Certificates, operators, 6:5, 7:37
Consent. See **IMPLIED CONSENT**
Dead or unconscious persons, 14:5
Due process requirements. See **DUE PROCESS**, at Alcohol and drug testing
Equipment
 approved, 6:9
 breath alcohol test ticket
 generally, 6:12
 calibration. See **Calibration of equipment**, this heading
 intoxilyzer, 6:9
Intoxilyzer
 approved testing device, 6:9
 sample instruction on operation and working order, 11:25
Operators, certification, 6:5, 7:37
Per se violations
 generally, 1:9
 constitutionality, 1:18
Preliminary breath tests
 generally, 11:7
 implied consent, satisfaction, 14:12
Preliminary breath-testing equipment, 6:10

BREATH ANALYSIS—Cont'd

Preservation of test samples, 7:45
Presumptions. See **PRESUMPTIONS**, at
 Alcohol concentration
Prohibited alcohol level offense, 1:14, 11:3
Qualified personnel, 6:5
Radio frequency interference, 6:16
Records and reports
 breath alcohol test ticket
 generally, 6:12
 calibration of equipment
 generally, 6:15, 8:4
 admissibility, 6:15
 breath alcohol instrument service record, 6:15
Refusal to submit to. See **ALCOHOL AND DRUG TESTING**
Requirements
 general standards, 6:11
 twenty-minute observation period, 6:12
Right to counsel. See **ALCOHOL AND DRUG TESTING**
Seizure, as, 7:34
Suppression of results. See **SUPPRESSION OF EVIDENCE**, at Alcohol and drug test results
Technicians
 generally, 6:5
 calibration of equipment, 6:13
 radio frequency interference, testing, 6:16
Twenty-minute observation of defendant prior to testing required, 6:12
Use of, 6:8

BURDEN OF PROOF

Motions to suppress, 7:9

BUSINESS RECORDS

Hearsay exception, 8:2, 8:4

CARETAKER FUNCTION

Motion to suppress, 7:18

CERTIFICATES

Blood tests, clinical laboratories, 6:6, 6:18
Breath analysis, operators, 6:5, 7:37
Motor vehicles, titles. See **MOTOR VEHICLE REGISTRATION AND TITLING**, at Certificates of title
Urinalysis, clinical laboratories, 6:7

CHAIN OF CUSTODY

Alcohol and drug test specimens, 6:19

INDEX

CHARGING D.U.I. OFFENSE

Generally, 2:1 et seq.
Citations. See CITATIONS
Method of charging
uniform traffic citation
generally, 2:1
See also UNIFORM TRAFFIC CITATION.
Prohibited alcohol level offense charge or under influence charge, election not required, 2:7

CHECKLISTS

Discovery, general document checklist, 3:19
Documentary evidence, review, 3:19
Evaluation of case, 3:2
Implied consent violations, checklist, 14:23

CHEMICAL TESTS

See ALCOHOL AND DRUG TESTING, generally
Blood tests. See BLOOD TESTS
Breath analysis. See BREATH ANALYSIS
Urinalysis. See URINALYSIS

CHILDREN

See MINORS

CITATIONS

Issuance not deemed to be arrest, 14:5
Service, 2:6
Uniform traffic citation. See UNIFORM TRAFFIC CITATION

COLLATERAL CONSIDERATIONS

Introduction, 13:1

COMMERCIAL DRIVERS

Alcohol and drug testing, 1:16
Detectable level of alcohol or drugs, 1:15
Implied consent, 1:16
Licenses. See COMMERCIAL DRIVERS' LICENSES
Penalties for driving under influence generally, 1:15
See also DRIVING UNDER INFLUENCE, at Penalties, generally.
Refusal to submit to alcohol or drug testing, 1:16

COMMERCIAL DRIVER'S LICENSES

See also DRIVER'S LICENSES, generally
Considerations, 13:13

COMMERCIAL DRIVER'S LICENSES—Cont'd

Disqualification, 1:16
Drunk driving
generally, 1:15
alcohol and drug testing, refusal to submit to testing, 1:16
Suspension
See also DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE, generally.
refusal to submit to alcohol or drug testing, 1:16

COMMERCIAL VEHICLES

See MOTOR VEHICLES
Drivers. See COMMERCIAL DRIVERS

COMMUNITY LABOR PROGRAMS

First offenders, 12:5, 12:10
Fourth offenders, 12:24
Juvenile offenders, 12:40
Second offenders, 12:12, 12:14
Third offenders, 12:19
Underage persons, prohibited alcohol level offense, 12:4

COMPLAINTS

See also CITATIONS
Criminal complaints, form, 2:10

CONDITIONAL PLEAS

Pretrial motions in limine, based on, 9:8
Suppression motions, denial; appeal, 11:2

CONFESSIONS

Admission at trial, 3:5
Nature of drinks consumed, 3:6
Number of drinks consumed, 3:6
Prohibited alcohol level offense, 3:5, 3:6
Types of drinks consumed, 3:6

CONFIDENTIAL INFORMATION

See PRIVILEGED INFORMATION

CONFRONTATION RIGHTS

Alcohol and drug testing, 8:3
Documentary evidence, 8:3
Hospital records, 8:5

CONSENT

See IMPLIED CONSENT

CONSTABLES

See also POLICE, generally

CONSTITUTIONALITY

See DUE PROCESS

CONSTITUTIONALITY—Cont'd

Drivers' license suspension, pretrial generally, 4:7
 underage persons, prohibited alcohol level offense, 1:18
 Per se prohibitions, 1:18
 Presumptions, 1:18

CONTINUANCES

Arraignment, 3:1

CONTROLLED SUBSTANCES

See DRUGS

COORDINATION TESTS

Generally, 3:7
 Videotapes, 3:12, 7:31

COSTS

Ignition interlock device, 12:43

COURT COSTS

Generally, 12:33
 Garnishments, 12:33
 Juvenile offenders, 12:40

CRIMES AND OFFENSES

See also particular offense concerned
 Records and reports
 discovery, 3:18
 expungement, 13:11

CRIMINAL COMPLAINTS

Form, 2:10

CRIMINAL PROSECUTIONS

Dismissal. See DISMISSAL OF ACTIONS, generally

CULPABILITY

Generally, 1:19
 Strict liability, 1:19
 Voluntariness as element of offenses, 1:20

DECLARANTS

Hearsay. See HEARSAY

DEFENDANTS

Appearance. See APPEARANCE, generally
 Arraignment. See ARRAIGNMENT
 Attorney, right to. See RIGHT TO COUNSEL
 Confessions. See CONFESSIONS
 Confrontation rights. See CONFRONTATION RIGHTS
 Criminal records. See CRIMES AND OFFENSES, at Records and reports
 Indigent. See INDIGENT DEFENDANTS

DEFENDANTS—Cont'd

Miranda rights. See MIRANDA RIGHTS
 Physical condition at time of arrest. See EVIDENCE
 Right to counsel. See RIGHT TO COUNSEL
 Silence of, 9:11
 Statements by
 discovery, 3:18
 D.U.I. charge. See DRIVING UNDER INFLUENCE
 prohibited alcohol level offense. See PROHIBITED ALCOHOL LEVEL OFFENSE
 voluntary statements to police, admissibility, 3:5
 Summons and warrant form, electronic complaint, 2:11

DEFENSES

Arraignment, asserted prior to, 4:1
 Choice of evils as defense, 1:23
 Duress as defense, 1:22
 Entrapment as defense, 1:25
 Ignorance as defense, 1:21
 Intoxication as defense, 1:20
 Mental illness or retardation as defense, 1:24
 Mistake as defense, 1:21
 Reaction to medication as defense, 1:26

DEFINITIONS

Anywhere in the state, 1:8
 Horizontal gaze nystagmus test, 9:13
 Indigent defendants, 12:33
 Motions in limine, 9:7
 Operation of vehicle, 1:3, 1:4
 Physical control of vehicle, 1:3, 1:4
 Refusal to submit to alcohol or drug testing, 14:8
 Under the influence, 1:10
 Vehicle, 1:6

DISCOVERY

Administrative regulations for alcohol and drug testing, compliance, 7:36
 Alcohol and drug tests, 3:11
 Criminal records of defendants, 3:18
 Documents and tangible objects material to defense or intended for use by prosecution, 3:18
 Examination and test reports, 3:11, 3:18
 General document checklist, 3:19
 Motions
 generally, 3:18
 time requirements, 4:1

INDEX

DISCOVERY—Cont'd

Not guilty plea as prerequisite, 3:1
Officer training records request, 3:21
Particular section charged, specification, 2:3
Prior convictions, 3:18
Statements of defendants, 3:18
Suppression of evidence motion as discovery device, 7:3

DISMISSAL OF ACTIONS

Generally, 9:1 to 9:4
Commencement of prosecution requirement, violation, 9:4
Double jeopardy challenge, 9:1
Failure to state offense grounds for motion, 9:1, 9:3
timing of motion, 9:3
Grounds, 9:1, 9:3
Pre-plea challenge to defect in institution of prosecution, 9:1
Speedy trial violation, 9:4
Suppression motion compared with dismissal motion, 9:2

DOCUMENTARY EVIDENCE

Generally, 8:1 et seq.
Authentication generally, 8:9
domestic public documents under seal, 8:10
foreign judgments, 8:11
hospital records, 8:5
public records, 8:9
self-authentication, 8:10
Checklist for reviewing, 3:19
Confrontation rights, 8:3
Discovery, 3:18
Foundation for admission, 8:1
Hospital records, hearsay exception, 8:5, 8:7
Prior convictions, 8:11

DOUBLE JEOPARDY

Dismissal motion, grounds for, 9:1
Facts and procedural history of case, evaluation, 3:2
Multiple prosecutions for same act of driving, 1:14, 2:8
Suppression motions, consideration in timing, 7:4

DRIVER IMPROVEMENT PROGRAM

Generally, 13:7

DRIVERS' LICENSES

Generally, suspension for D.U.I. offense, 3:1, 4:3, 12:36
Appeal of revocation, suspension, or denial, D.U.I. offense, for. See **DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE**
Commercial drivers' licenses. See **COMMERCIAL DRIVERS' LICENSES**
Confiscation orders, 4:12
Denial, statement, form, 14:24
Forms. See **FORMS**
Habitual violators, 13:9
Hardship licenses. See **DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE**
Minors. See also **Underage persons**, this heading.
Reinstatement of license, D.U.I. offense. See **DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE**
Revocation or suspension. See also **DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE**
Suspension See **Revocation or suspension**, this heading
D.U.I. offense, for. See **DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE**
Underage persons, suspension for prohibited alcohol level offense generally, 12:4, 12:36
alcohol and substance abuse treatment program, 12:4
community service, 12:4
constitutionality, 1:18
fines, 12:4
hardship license, 12:4

DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE

Accidents involving D.U.I. offense, 4:3
Appeals out-of-state convictions, based on, 13:12
point suspension, 13:8
pretrial suspension, refusal hearings, 14:16, 14:23
refusal to submit to testing, 14:16
checklist, 14:23
Appearance, 4:2
Arraignment. See **ARRAIGNMENT**
Chemical tests, refusal of, pretrial suspension, 14:15

DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE—Cont'd

Commercial drivers, 1:16
 Constitutionality of pretrial suspension, 4:7
 Fees
 hardship licenses, 12:9
 reinstatement, 14:20
 First offenders, 12:6
 Forms
 denial statement, 14:24
 hardship licenses, 12:43 to 12:52
 pretrial suspension order, 4:11
 Habitual violators, 13:9
 Hardship licenses
 generally, 4:5
 affidavit, 12:44
 applications
 generally, 12:9
 form, 12:48 et seq.
 fees, 11:9
 forms, 12:43 to 12:52
 grounds, 12:7
 ignition interlock device, 11:53, 12:16, 12:21, 12:26
 point suspension, 13:8
 refusal to submit to testing, effect, 12:8, 14:1, 14:16
 requirements, 12:9
 statutory penalties, 12:16, 12:21, 12:26
 underage persons, prohibited alcohol level offense, 12:4
 violations, 12:9
 Ignition interlock device, hardship licenses
 fourth offense, 12:26
 second offense, 12:16
 third offense, 12:21
 Indigent defendants, ignition interlock device guidelines, 11:53
 Juvenile offenders
 generally, 12:6, 12:36
 pretrial suspension, constitutionality, 4:7
 Mandatory, 3:1
 Minors. See Juvenile offenders, and
 Underage persons, this heading
 Occupational driving privileges. See
 Hardship licenses, this heading
 Out-of-state convictions, based on, 13:12
 Point suspension, 13:7
 Poor prior driving record, 4:3
 Pretrial, seizure and suspension, 4:3

DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE—Cont'd

Pretrial suspension
 generally, 3:1, 4:3, 14:21
 appeals
 generally, 4:8 to 4:10
 refusal hearings, 14:16, 14:23
 death or serious physical injury, 4:10
 hearings
 generally, 4:4
 refusal hearings, 14:16, 14:23
 procedure, 4:6, 14:15
 refusal of chemical tests, 14:15
 repeat offender, 4:9
 test refusal, 4:8
 Prior convictions, effect, 4:4
 Procedure, pretrial suspension, 4:6, 14:15
 Refusal to submit to alcohol or drug testing
 generally, 4:4, 14:15, 14:21
 appeals
 generally, 14:16
 checklist, 14:23
 commercial drivers, 1:16
 consequences, advising arrestee of, 14:14
 denial form, 14:24
 hardship licenses, effect, 12:8, 14:1, 14:16
 periods of suspension, 14:1
 pretrial license suspension procedure, 14:15
 reinstatement of license, 14:19
 Reinstatement of license
 generally, 13:10
 fees, 14:20
 habitual violators, 13:9
 refusal to submit to alcohol or drug testing, 14:19
 Underage persons, prohibited alcohol level offense, 12:4, 12:36
 alcohol and substance abuse treatment program, 12:4
 community service, 12:4
 constitutionality, 1:18
 fines, 12:4
 hardship license, 12:4
 Warning letters, 13:6

DRIVING UNDER INFLUENCE

Generally, 1:2, 1:9
 Accidents as evidence, 3:4
 Alcohol and drug testing. See
 ALCOHOL AND DRUG TESTING

INDEX

DRIVING UNDER INFLUENCE

—Cont'd

- Arraignment. See ARRAIGNMENT
- Arrests, 7:26
- Bicycle operators, 1:7
- Blood tests. See BLOOD TESTS
- Bloodshot eyes, 3:9
- Breath analysis. See BREATH ANALYSIS
- Charges. See CHARGING D.U.I. OFFENSE
- Citations, sufficiency generally, 2:3
- See also CITATIONS; UNIFORM TRAFFIC CITATION.
- Commercial drivers, penalties generally, 1:15
- See also Penalties, generally, this heading.
- Commercial drivers' licenses. See COMMERCIAL DRIVERS' LICENSES, at Drunk driving
- Confessions, 3:5, 3:6
- Coordination tests. See COORDINATION TESTS
- Double jeopardy. See DOUBLE JEOPARDY, generally
- Drivers' licenses, suspension. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
- Driving impairment, proof, 1:11
- Drugs, influence of generally, 1:13
- commercial drivers, 1:15
- driving impairment, 1:11
- jurors' reactions, 3:14
- multiple prosecutions for same act of driving, 1:14, 2:8
- per se drug driving law, 1:17, 3:16
- proof, 3:15
- subjective considerations, 3:13
- test results, admissibility, 7:39, 8:1
- testing for, 3:15, 6:8
- Election of charges not required, 2:7
- Electronic complaint, 2:11
- Elements of. See ELEMENTS OF D.U.I. OFFENSE
- Evaluation of case generally, 3:1 et seq.
- alcohol or drug test results, 3:11
- checklist, 3:2
- human factor, 3:10
- Guilty pleas, 4:13
- Horizontal gaze nystagmus tests. See HORIZONTAL GAZE NYSTAGMUS TESTS

DRIVING UNDER INFLUENCE

—Cont'd

- Interlock program application, 4:14
- Jury instructions, 11:17
- Minors. See Underage offenders, license suspension, this heading
- Miranda rights. See MIRANDA RIGHTS, generally
- Multiple prosecutions for same act of driving, double jeopardy, 1:14, 2:8
- Odor of alcohol, 3:9
- Parking lots, offenses committed in, 1:8
- Penalties generally, 3:1
- alcohol and substance abuse treatment programs. See ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS
- commercial drivers, 1:15
- community labor programs. See COMMUNITY LABOR PROGRAMS, generally
- drivers' licenses, suspension. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
- enhancement due to prior convictions. See PRIOR CONVICTIONS, at Enhancement of penalties
- fines and forfeitures. See FINES AND FORFEITURES, generally
- incarceration. See INCARCERATION, generally
- sentences. See SENTENCES, generally
- service fees, 12:34, 12:35
- Per se drug driving law, 1:17, 3:16
- Prior convictions. See PRIOR CONVICTIONS
- Records and reports
- See also DOCUMENTARY EVIDENCE, generally
- alcohol and drug influence report, 2:12
- Seatbelt law violations, 1:1
- Sentences. See SENTENCES
- Slurred speech, 3:9
- Standard, subjectivity of, 1:12
- Statements by defendants generally, 3:5
- number of drinks consumed, 3:6
- type of drinks consumed, 3:6
- Stewed prune rule, 1:13
- Subjectivity of standard, 1:12
- Summons and warrant form, electronic complaint, 2:11

DRIVING UNDER INFLUENCE

—Cont'd

Under the influence defined, 1:10
Underage offenders, license suspension generally, 12:4, 12:36
alcohol and substance abuse treatment program, 12:4
community service, 12:4
constitutionality, 1:18
fines, 12:4
hardship license, 12:4
Uniform traffic citation, sufficiency generally, 2:3
See also **UNIFORM TRAFFIC CITATION**, generally.
Urinalysis. See **URINALYSIS**
Vehicle operation. See **OPERATION OF VEHICLES**
Voluntariness. See **VOLUNTARINESS**, at D.U.I., element of

DRUG ABUSE

Treatment programs. See **ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS**

DRUGS

Driving while drugged. See **DRIVING UNDER INFLUENCE**, at Drugs, influence of
Testing generally, 6:8
See also **ALCOHOL AND DRUG TESTING**, generally.

DRUNK DRIVING

See **DRIVING UNDER INFLUENCE; PROHIBITED ALCOHOL LEVEL OFFENSE**

DUE PROCESS

See also **CONSTITUTIONALITY**, generally
Alcohol and drug testing generally, 7:44
additional test, right to, 7:46
preservation of test samples, 7:45
Violations, suppression of evidence, 7:44

DURESS

Defense to D.U.I. charge, 1:22

EDUCATION

Notice to attend alcohol driver education program, 12:46

8000 INSTRUMENT

Data/records, alcohol and drug testing equipment, 5:8

ELECTRONICALLY MONITORED HOME INCARCERATION

Generally, 12:28

ELEMENTS OF D.U.I. OFFENSE

Generally, 1:1 et seq.
Anywhere in the state, 1:8
Boating offenses, 1:27
Culpability, 1:19
Historical background generally, 1:1
boating offenses, 1:28
Impaired driving, 1:11
Operation of vehicle. See **OPERATION OF VEHICLES**
Per se drug driving law, 1:17, 3:16
Strict liability, 1:19
Vehicles, definition, 1:6
Voluntariness. See **VOLUNTARINESS**

ENTRAPMENT

Defense to D.U.I. charge, 1:25

EVALUATION OF CASE

Generally, 3:1 et seq.
See also particular subject concerned.
Worksheet, 3:22

EVANS FACTORS

Worksheet, 7:54

EVIDENCE

Generally, 3:3
See also particular subject concerned.
Accidents, 3:4
Admissibility. See **ADMISSIBILITY OF EVIDENCE**
Authentication. See **AUTHENTICATION OF EVIDENCE**
Bloodshot eyes, 3:9
Chain of custody, 6:19
Coordination tests. See **COORDINATION TESTS**
Discovery. See **DISCOVERY**
Documentary. See **DOCUMENTARY EVIDENCE**
Hearsay. See **HEARSAY**
Miranda rights, nontestimonial evidence, 7:30
Motions in limine. See **MOTIONS IN LIMINE**
Odor of alcohol, 3:9

Physical condition of defendant at time of arrest
bloodshot eyes, 3:9
coordination test results, 3:7
slurred speech, 3:9
videotapes, 3:12, 7:31

INDEX

EVIDENCE—Cont'd

Prohibited alcohol level offense, challenges to weight of evidence. See **PROHIBITED ALCOHOL LEVEL OFFENSE**
Refusal to submit to alcohol or drug testing as nontestimonial evidence, 7:30
Slurred speech, 3:9
Statements by defendants, 3:5 discovery, 3:18
Suppression. See **SUPPRESSION OF EVIDENCE**
Videotapes, 3:12, 7:31
Weight of, challenging, 11:4

EXCLUSIONARY RULE

See **SUPPRESSION OF EVIDENCE**, generally

EXPERT WITNESSES

Alcohol testing equipment and test results, to challenge, 11:9
Horizontal gaze nystagmus tests. See **HORIZONTAL GAZE NYSTAGMUS TESTS**
Hypothetical alcohol level, opinion as to, 11:9
Police officers as, 11:10
Prohibited alcohol level offense, 11:4, 11:9

EXPUNGEMENT OF RECORDS

Generally, 13:11
Forms, 13:14

FEES AND COSTS

See also particular subject concerned
Court costs. See **COURT COSTS**
Garnishments, 12:33
Hardship drivers' licenses, 12:9
Service fees, 12:34, 12:35
Suspended drivers' licenses, reinstatement fees, 14:20

FELONIES

Class D felons, imprisonment, 12:1, 12:17
Incarceration, class D felons, 12:1, 12:17
Sentences. See **SENTENCES**

FIELD SOBRIETY TESTING

Generally, 3:7, 10:1 to 10:5
HGN, 10:4
miscellaneous tests, 10:5
one leg stand, 10:2
walk and turn, 10:3
Alcohol and drug testing, 9:18

FINAL ORDERS

Suppression orders not considered to be, 7:15

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Suppression motions, 7:14

FINES AND FORFEITURES

Commercial drivers, driving under influence, 1:15
Failure to pay, 12:29
Felonies. See **FELONIES**
First offenders, 12:5
Fourth offenders, 12:23
Garnishments, 12:33
Incarceration for failure to pay, 12:29 to 12:35
Indigent defendants, payment, 12:32
Juvenile offenders, 12:40
Payment generally, 12:29 to 12:35
contempt discharge, 12:30
court costs, 12:33
incarceration, 12:32
indigent defendants, 12:32
service of jail time, 12:32
services fee, 12:34, 12:35
Second offenders, 12:13
Service fees, 12:35
Third offenders, 12:18
Underage persons, prohibited alcohol level offense, 12:4

FIRST OFFENDERS

See **SENTENCES**

5000EN AND 8000 INSTRUMENT

Data and records, alcohol and drug testing equipment, 5:7

FORMS

See also particular subject concerned
Alcohol and drug influence report, 2:12
Alcohol and substance abuse treatment program, notice to attend, 12:46
Criminal complaint, 2:10
Driver's license, confiscation orders, 4:12
Electronic complaint and summons and warrant, 2:11
Expungment, 13:14
Hardship driver's license generally, 12:43 to 12:52
affidavit, 12:44
applications, 12:43
orders, 12:45
Implied consent, denial statement, 14:24

FORMS—Cont'd

- Impoundment of vehicles, guidelines, 7:52
- In-car video/audio equipment, guidelines for use, 7:53
- Inventory searches of impounded vehicles, guidelines, 7:52
- Jury instructions, sample, 11:20
- Prior conviction, vacation motion, 7:49
- Roadblocks, guidelines, 7:50
- Sentencing instructions, sample
 - first offense, 11:21
 - second offense, 11:23
- Suppression motion, 7:48
- Traffic checkpoints, guidelines, 7:51
- Uniform traffic citation, 2:9
- Verdict, sample
 - generally, 11:20
 - first offense, 11:22
 - second offense, 11:24

FOURTH OFFENDERS

- See PRIOR CONVICTIONS; SENTENCES

GUILTY PLEAS

- Conditional pleas. See CONDITIONAL PLEAS
- Driving under influence
 - form, 4:13
 - requirements, 12:37, 12:39

HABITUAL VIOLATORS

- Generally, 13:9

HARDSHIP

- Affidavits, hardship drivers' licenses, 12:44
- Drivers' licenses. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
- Driving under influence, underage offenders, license suspension, hardship license, 12:4
- Fees and costs, hardship drivers' licenses, 12:9
- Kiddy per se law, driver's license suspension for prohibited alcohol level offense, hardship license, 12:4
- Motor vehicle registration and titling, hardship registration, 12:53
- Prohibited alcohol level offense, underage offenders, license suspension, hardship license, 12:4
- Underage persons, drivers' licenses, suspension for prohibited alcohol level offense, hardship license, 12:4

HEARINGS

- Drivers' licenses, pretrial suspension, 4:4
- See also DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE, generally.
- refusal hearings
 - appeals, 14:16, 14:23
 - checklist, 14:23
- Probation and conditional release. See PROBATION AND CONDITIONAL DISCHARGE

HEARSAY

- Alcohol and drug testing, admissibility, 8:2, 8:8
- Business records and reports, exception, 8:2, 8:4
- Calibration records not constituting, 8:4
- Exceptions
 - generally, 8:2, 8:4
 - See also particular exception, this heading.
- Hospital records, 8:5, 8:7
- Personal knowledge requirement, 8:7
- Public records, exceptions, 8:2
- Recorded recollection, exception, 8:2
- Totem pole hearsay, 8:7

HIGHWAYS AND ROADS

- Aggravating circumstance, wrong way driving on limited access highway, 11:13, 12:1 et seq.

HIPPA

- Physician-patient privilege, 8:6
- Testing regulations, 6:17

HOME INCARCERATION

- Generally, 12:28

HORIZONTAL GAZE NYSTAGMUS TESTS

- Admissibility
 - generally, 3:8
 - expert testimony, 9:14 to 9:17
 - out-of-state authority, 9:16
- Arrests, probable cause, 9:13
- Definition, 9:13
- Effectiveness, 9:13
- Expert witnesses
 - admissibility, 9:14 to 9:17
 - correlation of observation to degree of intoxication, 9:17
- Motions in limine, 9:13
- Probable cause for arrest, establishing, 9:13

INDEX

HOSPITALS
Records, 8:5, 8:7

HOUSE ARREST
Electronically monitored home incarceration, 12:28

IGNITION INTERLOCK DEVICE
Generally, 12:42
Affidavit of indigency, 12:55
Appeals, 12:45
Costs, 12:43
 request for reduction, 12:55
Employer work exemption, 12:58
Financial statement, 12:55
Hardship licenses
 fourth offense, 12:26
 second offense, 12:16
 third offense, 12:21
Ignition interlock License Approval Letter, 4:15
Indigency guidelines, 12:53
Installation, 12:46
 certificate, 4:16
Non-interlock employer vehicles, 12:44
Procedure to obtain, pretrial, 4:17
Program application, driving under influence, 4:14
Removal request form, 12:56
Sentencing
 generally, 12:42 to 12:47
 appeals, 12:45
 costs, 12:43
 ex post facto, 12:47
 installation, 12:46
 non-interlock employer vehicles, 12:44

IMPLIED CONSENT
Generally, 7:41 to 7:43, 14:1 et seq.
Appeals of violations
 generally, 14:16 to 14:18
 checklist, 14:23
Arrest prerequisite
 generally, 7:43, 14:5
 reasonable grounds, 14:6
Checklist, 14:23
Commercial drivers, 1:16
Defendant's who don't speak English, 14:4
Drawing of blood, 14:9
Operation requirement, 14:3
Preliminary breath tests, 14:12
Refusal of blood testing, 14:10
Refusal to submit to alcohol or drug testing
 generally, 7:41, 14:11

IMPLIED CONSENT—Cont'd
Refusal to submit to alcohol or drug testing—Cont'd
 See also ALCOHOL AND DRUG TESTING
Scope of statute, 14:2
Suppression of evidence, 7:41
Test compliance requirement, 14:7
Theory, 14:1
Warning, 14:25

IMPRISONMENT
See INCARCERATION

IN-CAR VIDEO/AUDIO EQUIPMENT
Guidelines, 7:53

INCARCERATION
Class D felons, 12:1, 12:17
Failure to pay fines, 12:29 to 12:35
Felonies. See FELONIES
First offenders, 12:2, 12:5
Fourth offenders, 12:22
Home incarceration, 12:28
Juvenile offenders, 12:40
Room and board expenses, reimbursement by prisoners, 12:3
Second offenders, 12:12
Third offenders, 12:17

INDIGENT DEFENDANTS
Court costs, payment, 12:33
Defined, 12:33
Fines, payment, 12:32
Ignition interlock device guidelines, 11:53
Service fees, 12:35

INFORMANTS
Suppression motions, tips as bases for, 7:24

INTOXICATION
See also DRIVING UNDER INFLUENCE
Defense to D.U.I. charge, as, 1:20
Drivers' licenses. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE

INTOXILYZER
Breath analysis
 approved testing device, 6:9
 sample instruction on operation and working order, 11:25
Daubert hearings, 3:11
Source code, 1:12

JAILS
See also INCARCERATION

JAILS—Cont'd

Room and board expenses, reimbursement by prisoners, 12:3

JURISDICTION

Arrests, 9:5

JURY INSTRUCTIONS

Generally, 11:15

Deadlocked juries, instruction for further deliberations, 11:18

Driving under influence, 11:17

Intoxilyzer, sample instruction on operation and working order, 11:25

Objections, 11:16

Prohibited alcohol level offense, 11:17

Sample instructions, 11:19

JURY TRIALS

Instructions. See JURY INSTRUCTIONS

JUVENILE OFFENDERS

Generally, 12:40

See also UNDERAGE PERSONS.

Alcohol and substance abuse treatment programs, 12:40

Criminal records, 12:40

Driver's license suspension. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE

Sentences, 12:40

Trials, 12:40

KIDDY PER SE LAW

Driver's license suspension for prohibited alcohol level offense generally, 12:4, 12:36

alcohol and substance abuse treatment program, 12:4

community service, 12:4

constitutionality, 1:18

fines, 12:4

hardship license, 12:4

LABORATORIES, CLINICAL

Blood testing, 6:6, 6:18

Urinalysis, 6:7

LAW ENFORCEMENT OFFICERS

See POLICE, generally

LAY WITNESS OPINION

Foundation, 11:11

Sobriety or lack of sobriety, 11:11

LEG STAND TEST

Field sobriety testing, 9:18

LIABILITY

Generally, 1:19

LIABILITY—Cont'd

Motor vehicles. See MOTOR VEHICLES

Strict liability, 1:19

LICENSE PLATES

See also MOTOR VEHICLE REGISTRATION AND TITLING

Confiscation

generally, 12:41

order, form, 12:52

Impoundment order, 12:52

LICENSES AND PERMITS

See also CERTIFICATES

Drivers' licenses. See MOTOR VEHICLES

Motor vehicles. See MOTOR VEHICLES

Plates. See LICENSE PLATES

MENTALLY ILL PERSONS

Defense to D.U.I. charge, 1:24

MENTALLY RETARDED AND DEVELOPMENTALLY DISABLED PERSONS

Defense to D.U.I. charge, 1:24

MINORS

See also JUVENILE OFFENDERS; UNDERAGE PERSONS

Aggravating circumstance, transporting minor, 11:13, 12:1 et seq.

Drivers' licenses. See DRIVERS' LICENSES

MIRANDA RIGHTS

Generally, 7:27

Applicability, 3:7, 7:26, 7:28, 14:13

Custodial interrogation, 7:29

Nontestimonial evidence, 7:30

Right to counsel prior to alcohol or drug testing, 14:13

Silence of defendant, inadmissible, 9:11

Voluntary statements to police, admission at trial, 3:5

Warnings required, 7:27

MISDEMEANORS

Commencement of prosecution requirement, 9:4

Speedy trial requirement, 9:4

MOTIONS

See also particular subject concerned

Acquittal, 11:12

Arraignment, made prior to, 4:1

Discovery

generally, 3:18

INDEX

MOTIONS—Cont'd

Discovery—Cont'd
time requirements, 4:1
Dismissal. See DISMISSAL OF ACTIONS, generally
Evidence, to suppress. See SUPPRESSION OF EVIDENCE
In limine. See MOTIONS IN LIMINE
Prior convictions, setting aside form, 7:49
time requirements, 4:1
Severance of charges or defendants, time requirements, 4:1
Specification of particular sections charged, for, 2:3
Suppression of evidence, for. See SUPPRESSION OF EVIDENCE
Vacation motions, prior conviction, form, 7:49

MOTIONS IN LIMINE

Generally, 9:7 to 9:9, 9:19
Appeals, 9:8
Definition, 9:7
Facts and procedural history of case, evaluation, 3:2
Horizontal gaze nystagmus test, 9:13
Police interview, 9:11
Post-Miranda silence, 9:11
Preserving issue for appeal, 9:8
Prior convictions, 9:10
Refusal to submit to alcohol or drug testing, 9:12
Use of, 9:9

MOTOR VEHICLE REGISTRATION AND TITLING

Hardship registration, 12:53

MOTOR VEHICLES

See also particular vehicle concerned
Appeals involving. See APPEALS
Commercial vehicles
drivers. See COMMERCIAL DRIVERS
operating vehicle under influence, penalties, 1:15
Definitions, 1:6
Drivers
commercial. See COMMERCIAL DRIVERS
licenses. See DRIVERS' LICENSES
Impoundment of vehicles, guidelines, 7:52
License plates. See LICENSE PLATES
Operation. See OPERATION OF VEHICLES

MOTOR VEHICLES—Cont'd

Registration, hardship, 12:53
Stationary, suppression motions, 7:22
Titles, hardship registration, 12:53

MULTIPLE CASES

Pending DUI cases, 3:20

NOT GUILTY PLEAS

Discovery, prerequisite to, 3:1

NOTICE

See also particular subject concerned
Education program, notice to attend, 12:51
Warning letters, 13:6

OBJECTIONS

Alcohol and drug test results, admissibility, 11:2
Arraignment, raised prior to, 4:1
Jury instructions, 11:16

OPERATION OF VEHICLES

Generally, 1:3
Best case scenario, 3:3
Conduct constituting, 1:4
Definition, 1:3, 1:4
Implied consent, requirement, 14:3
Operability, 1:5
Prima facie case established by, 3:3
Stationary vehicles, 1:4, 1:5
Suppression of evidence, 7:22
Worst case scenario, 3:3

ORDERS

See also particular subject concerned
Final orders, suppression orders not considered to be, 7:15

PARKING LOTS

D.U.I. offense committed in, 1:8

PENALTIES

See particular subject concerned

PENDING CASES

Multiple DUI cases, 3:20

PER SE PROSECUTIONS

Admissibility of field sobriety tests and alcohol consumption, 2:7

PHYSICAL CONTROL OF VEHICLES

Generally, 1:3
See also OPERATION OF VEHICLES, generally

PHYSICIANS

HIPPA, 8:6
Physician-patient privilege, 8:6

PLEA BARGAINING

Suppression of evidence, effect on, 11:2

PLEAS

See also particular plea concerned.

POINT SYSTEM FOR TRAFFIC OFFENSES

Generally, 13:2

Assessment of points

 generally, 13:4

 multiple offenses, 13:5

Drivers' licenses, suspension, 13:8

Multiple offenses, 13:5

Records, 13:3

State traffic school, prevention of point accumulation through attendance, 13:7

Warning letters, 13:6

POLICE

Alcohol influence reports, admissibility, 8:8

Broadcasts, illegal stops; suppression motions, 7:20

Caretaker function, 7:18

Expert witnesses, as, 11:10

Field sobriety test, 9:18

In-car video/audio equipment, guidelines for use, 7:53

Interviews with, motions in limine, 9:11

Reports, admissibility, 8:8

Statutory police authority violations, suppression motions, 9:6

Testimony by

 alcohol and drug test results, suppression of testing officer's testimony, 8:4

 expert witness, as, 11:10

Training records request, 3:21

Voluntary statements to police, admission at trial, 3:5

PRESUMPTIONS

Alcohol concentration

 generally, 1:9, 11:5

 conclusive presumption of guilt, test results not considered to be, 1:18

 constitutionality, 1:18

PRETRIAL MOTIONS

See MOTIONS

PRIOR CONVICTIONS

Admissibility, 7:47, 8:11, 9:10

Attacking, 7:47, 12:39

Bifurcation of trials involving, 11:14

Certified copy as documentary evidence, 8:11

PRIOR CONVICTIONS—Cont'd

Discovery, 3:18

Driver's license suspension, effect on, 4:4

Enhancement of penalties generally, 12:37

 attacking prior convictions, 12:39

 out-of-state convictions, 12:38

Motions

 in limine, 9:10

 to set aside, time requirements, 4:1

 to suppress, 7:47

Proof, 8:11

Suppression motions

 generally, 7:47

 time requirements, 6:4

Timing, 12:37

Trials involving, bifurcation, 11:14

Uncounseled, 12:39

Vacation motion, form, 7:49

PRISONERS

See also INCARCERATION, generally

Room and board expenses, reimbursement by prisoners, 12:3

PRIVILEGED INFORMATION

Physician-patient privilege, 8:6

PROBABLE CAUSE

Arrest, for. See ARRESTS

Horizontal gaze nystagmus test, 9:13

PROBATION AND CONDITIONAL DISCHARGE

First offenders, 12:2, 12:5

Fourth offenders, 12:24

Second offenders, 12:12

Third offenders, 12:19

PROHIBITED ALCOHOL LEVEL OFFENSE

Generally, 1:2, 1:14

Accidents as evidence, 3:4

Alcohol and drug testing. See

 ALCOHOL AND DRUG TESTING

Arraignment. See ARRAIGNMENT

Blood test results, 1:14, 11:3

Bloodshot eyes, 3:9

Breath test results, 1:14, 11:3

Challenges to weight of evidence

 marginal test results, 11:8

 preliminary breath tests, 11:7

 presumptions, 11:5

 test not accurately reflecting defendant's alcohol level at time of offense, 11:4

INDEX

PROHIBITED ALCOHOL LEVEL OFFENSE—Cont'd
Challenges to weight of evidence
—Cont'd
test not credible as compared to defense evidence of alcohol consumed, 11:4
testing instrument not working properly, 11:4, 11:6
Citations, sufficiency generally, 2:4
See also CITATIONS; UNIFORM TRAFFIC CITATION.
Commercial drivers, penalties generally, 1:15
See also Penalties, generally, this heading.
Confessions, 3:5, 3:6
Double jeopardy. See DOUBLE JEOPARDY, generally
Drivers' licenses, suspension. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
Elements. See ELEMENTS OF D.U.I. OFFENSE, generally
Evaluation of case generally, 3:1 et seq.
alcohol or drug test results, 3:11
checklist, 3:2
human factor, 3:10
Expert witnesses, 11:4, 11:9
Jury instructions, 11:17
Minors. See Underage offenders, license suspension, this heading
Miranda rights. See MIRANDA RIGHTS, generally
Multiple prosecutions for same act of driving, 1:14, 2:8
Odor of alcohol, 3:9
Penalties generally, 3:1
alcohol and substance abuse treatment programs. See ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS
commercial drivers, 1:15
community labor programs. See COMMUNITY LABOR PROGRAMS, generally
drivers' licenses, suspension. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
enhancement due to prior convictions. See PRIOR CONVICTIONS, at Enhancement of penalties

PROHIBITED ALCOHOL LEVEL OFFENSE—Cont'd
Penalties—Cont'd
fines and forfeitures. See FINES AND FORFEITURES, generally
incarceration. See INCARCERATION, generally
sentences. See SENTENCES, generally
Per se prohibitions generally, 1:9
conclusive presumption of guilt, not considered to be, 1:18
Presumptions. See PRESUMPTIONS, at Alcohol concentration
Prior convictions. See PRIOR CONVICTIONS, generally
Refusal to submit to alcohol or drug testing. See ALCOHOL AND DRUG TESTING
Relation back of test results to time of driving, 11:4
Sentences. See SENTENCES
Slurred speech, 3:9
Statements by defendants evidence, as, 3:5
number of drinks consumed, 3:6
type of drinks consumed, 3:6
Time requirement for testing, 6:4, 7:40
Under influence charge or prohibited alcohol level charge, election not required, 2:7
Underage offenders, license suspension generally, 12:4, 12:36
alcohol and substance abuse treatment program, 12:4
community service, 12:4
constitutionality, 1:18
fines, 12:4
hardship license, 12:4
Uniform traffic citation, sufficiency generally, 2:4
See also UNIFORM TRAFFIC CITATION, generally.
Vehicle operation. See OPERATION OF VEHICLES

PUBLIC RECORDS

Authentication, 8:9
Hearsay exception, 8:2

RECORDS AND REPORTS

Alcohol and drug testing. See ALCOHOL AND DRUG TESTING RECORDS

Breath analysis. See BREATH ANALYSIS

RECORDS AND REPORTS—Cont'd

Business. See BUSINESS RECORDS
 Criminal records. See CRIMES AND OFFENSES
 Drunk driving. See DRIVING UNDER INFLUENCE
 Expungement
 generally, 13:11
 juvenile offenders, 12:40
 Hospital, 8:5, 8:7
 Juvenile offenders, 12:40
 Officer training records request, 3:22
 Point system for traffic offenders, 13:3
 Police, admissibility, 8:8
 Public records. See PUBLIC RECORDS
 Traffic offenses, 13:3

REFUSAL

Alcohol and drug testing
 see ALCOHOL AND DRUG TESTING

RELATION BACK

Generally, 1:14, 2:7, 11:4

REPEAT OFFENDERS

Prior convictions. See PRIOR CONVICTIONS
 Sentences. See SENTENCES, at particular offender concerned

RESTITUTION

Garnishments, 12:33

RIGHT TO COUNSEL

Generally, 7:32, 14:13
 Advising client by phone, 7:32
 Alcohol and drug testing. See ALCOHOL AND DRUG TESTING
 Implied consent, 14:13
 Motion to suppress, 7:32
 Waiver, 12:39

ROADBLOCKS

Guidelines, 7:50
 Motions to suppress based on, 7:23

ROADS

See HIGHWAYS AND ROADS

RULES AND RULEMAKING POWERS

Alcohol and drug testing. See ALCOHOL AND DRUG TESTING, at Administrative regulations

SCHOOLS AND SCHOOL DISTRICTS

Pupils, drivers' licenses. See DRIVERS' LICENSES, at Minors

SEARCH AND SEIZURE

Alcohol tests as, 7:34
 Inventory searches of impounded vehicles, guidelines, 7:52

SEAT BELTS

Generally, 1:1

SECOND OFFENDERS

See PRIOR CONVICTIONS; SENTENCES

SENTENCES

Generally, 12:1 et seq.
 Aggravating circumstances, 11:13
 Alcohol and substance abuse treatment programs. See ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS

Collateral considerations, 13:1 et seq.
 Community labor programs. See COMMUNITY LABOR PROGRAMS

Court costs. See COURT COSTS

Credit for time served, 12:27

Discretion of court, 12:1

Drivers' licenses, revocation or suspension
 See DRIVERS' LICENSES
 D.U.I. offense, for, See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE

Fines. See FINES AND FORFEI- TURES, generally

First offenders

generally, 12:5
 alcohol and substance abuse treatment programs, 12:11, 12:37
 community labor programs, 12:5, 12:10
 driver's license suspension, 12:6
 fines, 12:5
 hardship drivers' licenses. See DRIVERS' LICENSES, SUSPEN- SION FOR D.U.I. OFFENSE
 incarceration, 12:2, 12:5
 probation, 12:2, 12:5
 sample sentencing instructions, form, 11:21
 sample verdict, form, 11:22

Fourth offenders

generally, 12:22
 alcohol and substance abuse treatment programs, 12:25
 community labor programs, 12:24
 fines, 12:23
 hardship license, 12:26
 ignition interlock device, 12:26

INDEX

SENTENCES—Cont'd

Fourth offenders—Cont'd
incarceration, 12:22
probation, 12:24
Hardship drivers' licenses. See DRIVERS' LICENSES, SUSPENSION FOR D.U.I. OFFENSE
Home incarceration, 12:28
Ignition interlock device, hardship license
fourth offenders, 12:26
second offenders, 12:16
third offenders, 12:21
Incarceration. See INCARCERATION
Juvenile offenders, 12:40
Mandatory minimum sentences, 1:1, 3:1
Prior convictions. See PRIOR CONVICTIONS, generally
Probation. See PROBATION AND CONDITIONAL DISCHARGE
Sample sentencing instructions, form
first offense, 11:21
second offense, 11:23
Sample verdict form
generally, 11:20
first offense, 11:22
second offense, 11:24
Second offenders
generally, 12:12
alcohol and substance abuse treatment programs, 12:15, 12:37
community labor programs, 12:12, 12:14
fines, 12:13
hardship license, ignition interlock device, 12:16
ignition interlock device, 12:16
incarceration, 12:12
probation, 12:12
sample sentencing instructions, form, 11:23
sample verdict, form, 11:24
Service fees, 12:34, 12:35
Statutory penalties
first offenders
generally, 12:2, 12:5
See also First offenders, this heading.
fourth offenders
generally, 12:22 to 12:26
See also Fourth offenders, this heading.
second offenders
generally, 12:12, 12:16
See also Second offenders, this heading.

SENTENCES—Cont'd

Statutory penalties—Cont'd
third offenders
generally, 12:17, 12:21
See also Third offenders, this heading.
Tables, 12:1
Third offenders
generally, 12:17, 12:21
alcohol and substance abuse treatment programs, 12:20, 12:37
community labor programs, 12:19
fines, 12:18
hardship license, 12:21
ignition interlock device, 12:21
incarceration, 12:17
probation, 12:19

SERVICE OF PROCESS

Citations, 2:6
Facts and procedural history of case, evaluation, 3:2

SHERIFFS

See also POLICE, generally

SILENCE, RIGHT TO

Generally, 9:11

SOURCE CODES

Machine interference, alcohol and drug testing equipment, 5:4

SPEED

Aggravating circumstances, 11:13, 12:1 et seq.

SPEEDY TRIALS

Dismissal motion based on violation, 9:4
Facts and procedural history of case, evaluation, 3:2
Misdemeanors and traffic offenses, requirement, 9:4

STATE POLICE

See also POLICE, generally

STATE TRAFFIC SCHOOL

Generally, 13:7

STRICT LIABILITY

D.U.I., degree of culpability for, 1:19

SUBJECTIVITY

Driving under influence, 1:12, 3:13

SUBSTANCE ABUSE TREATMENT PROGRAMS

See ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS

SUMMONS

Warrant form, electronic complaint, 2:11

SUPPRESSION OF EVIDENCE

Generally, 7:1 et seq.

Alcohol and drug test results

generally, 7:33

burden of proof, 7:13

due process, denial, 7:44

field sobriety testing, 9:18

testing officer's testimony, 8:4

trial objections, 11:2

Appeals

generally, 7:15

conditional plea, denial of motion, 11:2

state, by, 7:16

Arrests. See ARRESTS

Burden of proof, 7:9 to 7:13

Caretaker Function, 7:18

Conditional plea, appeal of motion denial, 11:2

Due process violations, 7:44

Evans factors, worksheet, 7:54

Facts and procedural history of case, evaluation, 3:2

Field sobriety testing, 9:18

Final orders, suppression orders not considered to be, 7:15

Findings of fact, 7:14

Form, 7:48

Grounds, 7:7, 7:17 to 7:46

Illegal stops

burden on proof, 7:12

grounds for motion, 7:18, 7:19

informers' tips, 7:24

informer's tips, 7:21

police broadcasts, 7:20

roadblocks, 7:23

Implied consent, 7:41 to 7:43

Miranda rights violation, 7:27

Motions

generally, 13:1 et seq.

appeals. See Appeals, this heading

burden of proof, 7:9 to 7:13

contents, 7:5, 7:48

discovery device, use as, 7:3

dismissal motions compared to, 9:2

double jeopardy, consideration, 7:4

drafting, 7:5

evidence, 7:6

field sobriety testing, 9:18

filings, 7:8

form, 7:48

grounds, 7:7, 7:17 to 7:46

SUPPRESSION OF EVIDENCE**—Cont'd**

Motions—Cont'd

prior convictions. See PRIOR CONVICTIONS

rulings on, 7:14

time requirements, 4:1, 6:4, 7:8

Operation of vehicle, 7:22

Plea bargaining, effect on, 11:2

Prior convictions. See PRIOR CONVICTIONS

Right to counsel, 7:32

Roadblocks, 7:23

Stationary vehicles, 7:22

Statutory police authority violations, effect, 9:6

Use of, 7:1

Videotapes, 7:31

TESTIMONY

See WITNESSES AND TESTIMONY

THIRD OFFENDERS

See PRIOR CONVICTIONS; SENTENCES

TICKETS

See CITATIONS; UNIFORM TRAFFIC CITATION

TIME

Requirements. See particular subject concerned

TRAFFIC OFFENSES

Arraignment. See ARRAIGNMENT

Arrests. See ARRESTS

Citations. See CITATIONS

Commencement of prosecution requirement, 9:4

Drunk driving. See DRIVING UNDER INFLUENCE

Habitual violators, 13:9

Point system. See POINT SYSTEM FOR TRAFFIC OFFENSES

Records, 13:3

Speedy trial requirement, 9:4

Tickets. See CITATIONS

TREATMENT PROGRAMS

See ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS

TRIALS

Generally, 11:1 et seq.

See also JURY TRIALS.

Aggravating circumstances, 11:1 et seq., 11:13

INDEX

TRIALS—Cont'd

Bifurcated, 11:14
Challenges to weight of evidence. See PROHIBITED ALCOHOL LEVEL OFFENSE
Evaluation of case, 3:1 et seq.
Intoxilyzer, sample instruction on operation and working order, 11:25
Jury instructions. See JURY INSTRUCTIONS
Juvenile offenders, 12:40
Motions for acquittal, 11:12
Objections. See OBJECTIONS
Speedy trial. See SPEEDY TRIAL

UNDERAGE PERSONS

Drivers' licenses, suspension for prohibited alcohol level offense generally, 12:4, 12:36
alcohol and substance abuse treatment program, 12:4
community service, 12:4
constitutionality, 1:18
fines, 12:4
hardship license, 12:4

UNIFORM TRAFFIC CITATION

Generally, 2:1
See also CITATIONS, generally.
Amendment, 2:5
Defects, effect, 2:2, 2:3
Form, 2:9
Service, 2:6
Sufficiency generally, 2:2
driving under influence, 2:3
driving with prohibited alcohol level, 2:4

URINALYSIS

Generally, 6:17
See also ALCOHOL AND DRUG TESTING, generally.
Additional test, right to, 7:46, 14:8
Administrative regulations. See ALCOHOL AND DRUG TESTING
Admissibility of results. See ALCOHOL AND DRUG TESTING
Arrest as prerequisite, 14:5
Certified clinical laboratories, by, 6:7
Chain of custody, 6:16
Collection and handling requirements, 6:18
Consent. See IMPLIED CONSENT
Dead or unconscious persons, 14:5
Drugs, testing for, 3:15, 6:8

URINALYSIS—Cont'd

Due process requirements. See DUE PROCESS, at Alcohol and drug testing
Laboratories, certified; by, 6:7
Preservation of test samples, 7:45
Qualified personnel, 6:7
Refusal to submit to. See ALCOHOL AND DRUG TESTING
Reliability, 6:17
Right to counsel. See ALCOHOL AND DRUG TESTING
Seizure, as, 7:34
Specimens, collection and handling, 6:18
Suppression of results. See SUPPRESSION OF EVIDENCE, at Alcohol and drug test results
Techniques, 6:18
Use of, 6:8

VEHICLES

See particular vehicle concerned

VERDICTS

Deadlocked juries, instruction for further deliberation, 11:18
Sample verdict, form generally, 11:20
first offense, 11:22
second offense, 11:24

VIDEO/AUDIO EQUIPMENT IN CAR

Guidelines, 7:53

VIDEOTAPES

Evidence, as, 3:12, 7:31

VIOLATIONS

See particular subject concerned

VOLUNTARINESS

D.U.I., element of generally, 1:20
choice of evils as defense, 1:23
duress as defense, 1:22
entrapment as defense, 1:25
ignorance as defense, 1:21
intoxication as defense, 1:20
mental illness or retardation as defense, 1:24
mistake as defense, 1:21
reaction to medication as defense, 1:26

WAIVER

Right to counsel, 12:35

WALK AND TURN TEST

Field sobriety testing, 9:18

WITNESSES AND TESTIMONY

Generally, 11:9
Confrontation rights. See
CONFRONTATION RIGHTS
Experts. See EXPERT WITNESSES
Field sobriety test, 9:18
Lay opinion. See LAY WITNESS
OPINION

WORKSHEETS

Evaluation of case, 3:22
Evans factors, 7:54