

# Use of SCRAM Units in Austin Texas DWIs

You're awaiting trial for your DUI arrest. You've just paid bond. As a condition of your release, you have been ordered to abstain from alcohol. If you drink, your bond will be revoked.

You've been released. You're at home, on a date, at dinner, etc. It's midnight. You want a drink. *It's just one, you think. How would they know?*

## **Enter SCRAM.**

In past years, courts would have monitored your alcohol intake by one of several different methods. Either by ordering you to come into a court official's office daily for urine analysis, by subjecting you to random alcohol screenings, or by installing breath reading equipment in your home.

With the introduction of SCRAM (a Secure Continuous Remote Alcohol Monitor), the court can now monitor your alcohol intake continuously, without ordering you to come in for testing.

## **So, what does this new technology mean for you?**

If the court orders you to wear a SCRAM device, you will be fitted with a tamper-resistant ankle bracelet made up of two boxes. One box will conduct the tests that will compute your BAC. The second box stores the calculations and transmits the data to the correct law enforcement personnel.

The SCRAM device will monitor your BAC at least every hour. If the device detects any alcohol in your system, the tests will then be performed every thirty minutes.

## **When would a court order me to wear a SCRAM device?**

A court might order you to be fitted with SCRAM while you are out on bond awaiting trial, or as a condition of your probation. Some courts will allow a convicted offender to choose to be fitted with SCRAM in lieu of jail time.

## **Is it expensive?**

SCRAM can be costly depending on how long you are ordered to wear it. Upon the court's order for you to be fitted with the device, you will be required to pay a refundable \$100 deposit, a \$75 fitting fee, and approximately \$12 per day of use. These fees must all be paid up front.

## **Can it be tampered with?**

No. The device has a sensor designed to detect any attempts at tampering. If you attempt to tamper with the device, the computer will store and relay the date and time of the attempted tampering to the law enforcement officials.

## **Is the device ever wrong?**

The reliability of SCRAM has been called into question. While the producers of the device claim it to be a scientifically valid method for determining blood alcohol content, there are those who have not yet been persuaded.

In December of 2004, a judge in Michigan dismissed a case involving the usage of the SCRAM device by holding that it lacked scientific reliability.

The defendant in the case was out on bond awaiting trial when SCRAM began to send reports with data showing consumption of alcohol over a two-day period. The defendant denied drinking, and underwent a polygraph test. She passed.

During the trial, an expert witness explained how the device might render inaccurate results. Apparently, while the method of computing BAC from the skin has been around since the 1930s, the device itself does not allow for certain discrepancies.

If the machine begins to give a false positive, it could be because of food converting to alcohol in the body. Additionally, the technology used by the machine has been shown to be non-specific to beverage alcohol. This means it is difficult to determine whether positive readings came from a drink or from food prepared with alcohol.

## **If I have been ordered to wear a SCRAM device and my bond gets revoked due to a positive result, is there any way to fight it?**

Like all BAC computations, the SCRAM device is based on technology that assumes certain ratios and percentages based on the "average" individual. Anytime the BAC is calculated by a means other than a blood test, there is a chance for error.

SCRAM depends on the assumptions that the average person emits one liter of perspiration per day, and that five percent of everything a person drinks is emitted through the skin in the form of perspiration. This perspiration is emitted primarily unnoticeably.

As with urine analysis and breath reading equipment, assumptions based on the average person are not always reliable.

If your bond is revoked based upon a positive reading, your attorney can fight the case by highlighting the problems with technology based on average assumptions.

\*\* Written for Ken Gibson, Attorney at Law. Published online at <http://www.austin-texas-dwi.com/parts/scram.html>.