

Drink-Driving: Burden of Proof is on the Driver

The House of Lords has confirmed that when someone is accused of a drink-driving offence, it is up to the accused to prove that on the balance of probabilities, at the time of the offence, there was no likelihood that they would have driven whilst over the allowable blood alcohol limit.

The case involved a man who had been arrested and breathalysed in a car park. As a result of the test, he was convicted of drink-driving. He claimed that putting the burden of proof on him was unfair and breached the presumption of innocence guaranteed by the European Convention on Human Rights.

The Lords were of the view that the burden of proof can be discharged by taking positive action such as giving one's keys to someone else or by staying well away from one's vehicle. The purpose of the relevant section of the Road Traffic Act was to prevent people from driving while unfit due to drink. The conviction was not therefore unfair.