

## Insurance and icewine don't mix

Published: 13 Oct 2013 at 00.00

Newspaper section: [Spectrum](#)

Over the previous weeks, we have addressed a number of laws regarding the consumption of alcohol and the use of your motor vehicle. We have also [covered](#) many of the penalties that can be imposed upon a drunk-driver.



Today, we'll discuss the insurance implications of a scenario that is entirely avoidable with a little foresight and yet is all too prevalent here - traffic accidents caused as a result of drink-driving. According to the World Health Organization, there is an average of 26,000 deaths every year in Thailand as a result of traffic accidents. More than 40% are alcohol-related.

The perceptions of wide-eyed tourists on their first hair-raising journey in from Suvarnabhumi are correct; Thailand ranks as one of the most dangerous places in the world to drive. So, in order to further deter anyone that happens to be reading Spectrum while enjoying an all-you-can-drink Sunday brunch at a posh hotel, here are a few insurance related reasons to opt for a taxi instead of the cockpit of your Audi.

Private insurance companies in Thailand are regulated by the Office of Insurance Commission (OIC). The OIC is responsible for drafting the standard insurance policy used by private insurers throughout the Kingdom. In brief, if you are over the limit your motor insurance may not cover you if there is an accident.

But there is a gap. Current policy states that an insurance company is not liable for damages and medical expenses if the driver's blood alcohol concentration (BAC) level equals or exceeds 0.15. I just checked my car insurance policy, and there it is. However, recall that under the Land Traffic Act BE 2522 (1979), the legal limit where a driver is considered to be intoxicated behind the wheel is only 0.05. This means that as of this year, private insurance companies are obligated to honour policy claims even when a driver is heavily intoxicated to the point of having a BAC that is almost three times the legal limit.

This is unheard of in most other countries. However, the OIC is seeking to amend this policy to reduce the level of accepted drunkenness while driving to be on par with the 0.05 under the Land Traffic Act.

Thailand also has two different public safety nets in place as protection mechanisms against those who cannot afford or choose not to buy private insurance. With regards to drink-drivers, these public insurance options will honour claims for medical expenses from both the driver and the third party irrespective of the level of drunkenness.

Even though there is no compensation paid to either party for damage to property, these policies are still strikingly generous of the government. The first is a compulsory third-party insurance which is commonly known as por lor bor. This insurance is mandated for all personal motor land vehicles under the Protection for Motor Vehicle Victims Act BE 2535 (1992).

The penalty for not registering for por lor bor is 10,000 baht every time you are stopped by the police, so the incentive is in place to make sure everyone has basic coverage. In the event that a drink-driver causes a traffic accident and is only covered by por lor bor insurance, the maximum payments for claims are as follows:

Compensation paid to driver and/or passenger:

- 15,000 baht maximum for medical expenses.
- 35,000 baht maximum for death.

Compensation paid to third party (person who was hit):

- 50,000 baht maximum for medical expenses.
- 35,000 baht maximum for organ loss, disability or death.

Since there is no compensation paid by por lor bor for damage to property, if you are hit by a drink-driver and your vehicle is damaged, then unless you have private insurance that covers the damage to your vehicle, you must either settle with the driver yourself, or bring a civil lawsuit against them for their reckless actions.

If the drink-driver failed to register for por lor bor or the insurance does not cover all of the claims, or the vehicle was stolen, a second public protection is in place, which is the Traffic Accident Victim Compensation Fund established under the Protection for Motor Vehicles Victims Act. The monies in this fund are a mix of allocated government spending, and a mandatory quarterly contribution by all private insurance companies not exceeding 10% of the premiums collected during that three-month period. There are no predetermined compensation maximums for the victim compensation fund, as each petition is considered on a case-by-case basis.

Although Thailand has a relatively comprehensive insurance system in place for traffic accidents where alcohol is involved, this is in no way an excuse to fail in exercising common sense judgment when consuming alcohol.

The risks we have outlined in this series of articles should not be surprising to anyone, and by adhering to the words of a famous public relations campaign to: "Think before you drink before you drive," you can ensure that your backyard barbecue or night out with the boys doesn't take a turn (literally) for the worse.

---

[Angus Mitchell \(angus.mitchell@dfd.com\)](mailto:angus.mitchell@dfd.com),  
Matthew Christensen ([Matthew.C@dfd.com](mailto:Matthew.C@dfd.com)) and  
Ponpun Krataykhwan ([ponpun@dfd.com](mailto:ponpun@dfd.com)) of DFDL Legal and Tax



For more information please visit [www.dfd.com](http://www.dfd.com)

Source: <http://www.bangkokpost.com/news/investigation/374420/insurance-and-icewine-don-t-mix>