

Proposed Instruction 1: Presumption

If, in a prosecution for operating a vehicle with at least eight hundredths (0.08) gram of alcohol in two hundred ten (210) liters of the breath, evidence establishes that:

- (1) A chemical test was performed within three (3) hours after the law enforcement officer offered the person the opportunity to submit to a chemical test; and
- (2) The person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per two hundred ten (210) liters of the person's breath;

the jury shall presume that the person charged with the offense had an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, the presumption is rebuttable. The presumption may be rebutted by evidence which raises a reasonable doubt as to the truth of the presumed fact.

Authority:

Indiana Code 9-30-6-2; Ind. Code 9-30-6-15

Pattison v. State, 54 N.E.3d 361 (Ind. 2016)

4 Defense of Drunk Driving Cases: Criminal, Civil § 51.13 (2021)

U.S. Const., Amend. V and XIV