**T.P.I. -- CRIM. 38.09(a)**

**UNDERAGE DRIVING WHILE IMPAIRED**

**(for offenses committed on or after 9/19/16)**

Any person who is eighteen (18) years of age or over, but under twenty-one (21) years of age and who operates a motor vehicle while impaired is guilty of a crime.

For you to find the defendant guilty of this offense, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

(1) that the defendant was driving or was in physical control of an automobile or motor driven vehicle;

and

(2)(a) that the defendant was under the influence of *[an intoxicant] [marijuana] [a controlled substance] [a controlled substance analogue] [a drug] [a substance affecting the central nervous system] [or any combination thereof]*;

or

(b) that the alcohol concentration in the defendant’s [blood or breath was two-hundredths of one percent (0.02%) or more;.

and

(3) That the defendant was eighteen (18) years of age or over, but under twenty-one (21) years of age.

[[ \_\_\_\_\_\_\_\_\_\_\_\_\_ ] is a Schedule \_\_\_ controlled substance.]

[[ \_\_\_\_\_\_\_\_\_\_\_\_\_ ] is a controlled substance analogue.]

"Intoxication" is defined as acting under the influence of *[an intoxicant] [marijuana] [a controlled substance] [a controlled substance analogue] [a drug] [a substance affecting the central nervous system] [or any combination thereof]*.

The expression "under the influence of *[an intoxicant] [marijuana] [a controlled substance] [a controlled substance analogue] [a drug] [a substance affecting the central nervous system] [or any combination thereof]*" covers not only all the well known and easily recognized conditions and degrees of intoxication, but also any mental or physical condition which is the result of taking *[an intoxicant] [marijuana] [a controlled substance] [a controlled substance analogue] [a drug] [a substance affecting the central nervous system] [or any combination thereof]* in any form and which deprives the driver of that clearness of mind and control of oneself which the driver would otherwise possess. In this situation, it would not be necessary that the person be in such a condition as would make *[him] [her]* guilty of public drunkenness. The law merely requires that the person be under the influence of *[an intoxicant] [marijuana] [a controlled substance] [a controlled substance analogue] [a drug] [a substance affecting the central nervous system] [or any combination thereof]*. The degree of intoxication must be such that it impairs the driver’s ability to safely operate a motor vehicle by depriving the driver of the clearness of mind and control of *[himself] [herself]* which *[he] [she]* would otherwise possess.

[It is not a defense to this offense that the defendant who drove while under the influence of narcotic drugs or barbital drugs was lawfully entitled to use the drugs].