

Winnipeg Jets defenseman Dustin Byfuglien not only agreed to take a Breathalyzer test when police boarded his boat on Aug. 31 but passed the test.

However, the Minnesota native refused to provide a urine sample which has led to criminal charges being filed against him, Byfuglien's lawyer told ESPN.com Tuesday evening.



Byfuglien

Minneapolis-based lawyer Mitch Robinson said Byfuglien and three passengers aboard Byfuglien's boat were pulled over on the evening of Aug. 31 by Hennepin County sheriffs because the craft's navigational lights weren't on. It was 8:15 p.m. and still dusk, not completely dark, when the boat was stopped by police, Robinson said.

After a routine inspection of the vessel, police asked Byfuglien if he'd been drinking and the All-Star defenseman told them he had consumed one drink, Robinson said.

Byfuglien agreed to a preliminary breath test and the reading registered a blood alcohol level of .03, well below Minnesota's legal limit of .08, the lawyer said.

"The sheriff's department was not satisfied," Robinson said, adding that it asked for a urine sample which Byfuglien refused to provide.

Under state law it is a gross misdemeanor to refuse such a test and Byfuglien was taken to a local police station and held for about three hours before being released.

Lake Minnetonka Conservation district attorney Steve Tallen confirmed that a criminal complaint against Byfuglien has been prepared in connection with the incident.

Robinson said Byfuglien was polite and co-operative and said he wasn't sure why police insisted on the secondary test given the results of the preliminary Breathalyzer.

"I don't know why they placed him under arrest," Robinson said.

The irony of the situation is that the current charge of failing to provide a chemical test carries a maximum sentence of one year in jail and a fine of up to \$3,000.

Had Byfuglien, 26, submitted to the urine test and it revealed a reading of .08 or higher he would have been charged with a misdemeanor and the penalties wouldn't have been potentially severe, Robinson said.

As for why Byfuglien didn't submit to the test, Robinson said his client was under the mistaken belief that it was the most prudent course to take under the circumstances.

"It's just bad advice," he said.

The defenseman is already in Winnipeg preparing for the Jets' training camp that opens at the end of the week but the question of what will happen when Byfuglien tries to re-enter and then leave the United States after that is unknown given the specter of the criminal charges.

"That's the \$5 million a year question. I don't know just yet," Robinson said.

Byfuglien will also be subject to a mandatory evaluation under the NHL's/NHLPA's joint behavioral program as part of the protocol when any player faces criminal charges.

Robinson welcomes that involvement as he said he intends to prove Byfuglien is not an alcoholic and not a danger to anyone.