

NEW ALCOHOL-IMPAIRED DRIVING LAWS

What do they mean?

Impaired driving is the leading criminal cause of death and injury in Canada and this is unacceptable. In 2017, there were **more than 69,000 impaired driving incidents reported by the police**, including almost **3,500 drug-impaired driving incidents**. In December 2018, new impaired driving laws came into effect to **make our roads safer and to save lives**.

MYTH:



Mandatory alcohol screening permits police to demand a breath sample from people in their homes or bars.



Police cannot stop you while driving unless you have done something wrong.



Police can use mandatory alcohol screening to come to your house two hours after you arrive home and demand a breath sample.



You can beat an "at or over 80 mg" charge if you have several drinks right before driving, because the alcohol didn't affect you until after you drove.



You can beat a charge of "at or over 80 mg" if you drink after being stopped by the police.



If you are under 80 mg of blood alcohol concentration, you are safe to drive.

FACT:



Mandatory alcohol screening **can only be used** if you, as the driver, are in care and control of the vehicle, have been lawfully stopped, and if the police officer has the approved screening device at hand.



Police have long had the power to stop drivers to check to see if they have a valid licence, if they are sober, and if their vehicle is roadworthy. They don't need to see you do anything wrong.



For mandatory alcohol screening to be used:

- ✓ The car must be lawfully stopped
- ✓ You, as the driver, must be in care and control of the vehicle
- ✓ The police officer must have the device at hand



The new law covers this situation and you can be convicted if you have a blood alcohol concentration (BAC) at or over 80 mg within two hours of driving. This change was made to address this type of risky and dangerous behaviour on our roads.



This defence now only applies if:

- ✓ A driver drank after driving
- ✓ There was no reason to think they would need to provide a sample (e.g., they were not involved in an accident)
- ✓ The breath results indicate they were under a blood alcohol concentration of 80 mg while driving



Many individuals are impaired long before they reach a blood alcohol concentration of 80 mg. You can still be charged with impaired driving, and you may face serious provincial consequences, like losing your licence.

The best practice is not to drink and drive.



The two hour window aims to prevent risky and dangerous behavior that decreases road safety by eliminating the "bolus drinking" defence and limiting the "intervening drinking" defence.

For example:

- ✓ In a "bolus drinking" defence, a driver would admit that their BAC was at or over 80 mg at the time of testing but claim it was not at the time of driving because they consumed a significant amount of alcohol just before or while driving, arguing that the alcohol was still being absorbed and, not at or over 80.
- ✓ In an "intervening drink" defence, a driver claims to have consumed alcohol after operating the vehicle but before testing, often used after an accident where the driver claimed they drank to calm their nerves. This defence made it difficult for law enforcement to determine the actual BAC at the time of driving.



Alcohol And The Impaired Driver

**United States. Congress. Senate.
Committee on Commerce, Science,
and Transportation. Subcommittee for
Consumers**

Alcohol And The Impaired Driver:

Alcohol-impaired Driver Act United States. Congress. Senate. Committee on Commerce, Science, and Transportation. Subcommittee for Consumers, 1980 **Getting to Zero Alcohol-Impaired Driving Fatalities** National Academies of

Sciences, Engineering, and Medicine, Health and Medicine Division, Board on Population Health and Public Health Practice, Committee on Accelerating Progress to Reduce Alcohol-Impaired Driving Fatalities, 2018-05-25 Alcohol impaired driving is an important health and social issue as it remains a major risk to Americans health today surpassing deaths per year of certain cancers HIV AIDS and drownings among others and contributing to long term disabilities from head and spinal injuries Progress has been made over the past decades towards reducing these trends but that progress has been incremental and has stagnated more recently Getting to Zero Alcohol Impaired Driving Fatalities examines which interventions programs systems and policies are most promising to prevent injuries and death from alcohol impaired driving the barriers to action and approaches to overcome them and which interventions need to be changed or adopted This report makes broad reaching recommendations that will serve as a blueprint for the nation to accelerate the progress in reducing alcohol impaired driving fatalities **Social Characteristics of Alcohol Impaired Drivers** Tere Scotney, 1983 Alcohol

& the Impaired Driver American Medical Association. Committee on Medicolegal Problems, 1970 Public Attitudes Toward Alcohol-impaired Driving and Speed W. A. Perkins, 1990 Alcohol and the Impaired Driver; a Manual on the Medicolegal Aspects of Chemical Tests for Intoxication , 1968 **Addressing Alcohol-impaired Driving: Training Physicians to**

Detect and Counsel Their Patients who Drink Heavily Frederick P. Rivara, 2000 Combating the Drug-impaired Driver

Eric Paltell, Mark L. Booz, 1985 In recent years the Commonwealth of Virginia has increased its efforts to improve highway safety by combating the problems created by drunken drivers However law enforcement officials still face major obstacles in their efforts to detect and prosecute persons who drive under the influence of drugs DUID The greatest impediment to DUID enforcement is the lack of certain crucial statutory provisions Specifically Virginia s implied consent law Va Code 18 2 268 does not allow a police officer to require a driver to submit to a chemical analysis of his bodily fluids to determine drug content As a result the state is precluded from obtaining the most meaningful evidence of drug impaired driving Additionally the DUID offense Va Code 18 2 266 iii is not clearly defined and thus leaves doubts as to the degree of impairment necessary to constitute a violation of the law Finally Virginia police officers limited training in identifying the symptoms of drug impairment makes it difficult for them to detect DUID offenders and reduces the evidentiary value of their testimony at trial To remove these obstacles to DUID enforcement it is recommended that Virginia follow the lead of the 31 states which include provisions for drug testing in their implied consent statute To implement this change in the law the Division of Consolidated Laboratory Services must be given the capacity to analyze DUID specimens Should drug testing become a part of the implied consent statute several other statutory amendments need to be made as well i law enforcement officials must

be allowed to test for drugs after a blood alcohol test has been administered 2 police must be allowed to designate the type of specimen to be obtained for testing and 3 a person's refusal to consent to drug testing should be made admissible in a DUID case The DUID offense in 18 2 266 iii should be redefined to make it clear that drug induced impairment of driving skills is the essence of the offense To remedy the deficiencies in police training Virginia officers should be given better instruction in the identification of drug impairment as it relates to a person's ability to drive safely A pilot project for developing specially trained Drug Recognition Experts is also recommended on the basis of the highly successful program used by the Los Angeles Police Department Through this combination of strengthened DUID laws improved training of police officers and properly equipped testing facilities Virginia should have the capacity to detect and prosecute the drug impaired driver

Alcohol, Drugs, and Driving, 1995 **Alcohol-impaired Driving** Michael C. Boehm, 2013 The National Transportation Safety Board NTSB has long been concerned about alcohol impaired driving which accounts for approximately one third of all U S highway fatalities In the past several decades awareness of the dangers of alcohol impaired driving has increased Public and private entities focusing on this safety issue have changed social perceptions concerning alcohol impaired driving they have also achieved important legislative actions to help reduce it Due to these efforts the number of lives lost annually in alcohol impaired driver related crashes declined 53 percent from 21 113 in 1982 to 9 878 in 2011 and the percentage of highway fatalities resulting from alcohol involved crashes is down from 48 percent in 1982 to about 31 percent today In recent years however U S success in addressing this safety issue has plateaued This book describes the scope of the impaired driving problem summarizes the efforts of advocacy groups researchers law enforcement agencies traffic safety groups public health organizations legislators and motor vehicle agencies as well as federal state and local governments to reduce the number of crashes injuries and fatalities examines the effect of alcohol consumption on an individual's ability to operate a motor vehicle and on the risk of being involved in a crash and evaluates the effectiveness of current and emerging alcohol impaired driving countermeasures and identifies new approaches and actions needed to reduce and ultimately eliminate alcohol impaired driving Report on Impaired Driving Tests B. B. Coldwell, 1957 **State of Colorado Impaired Driving Assessment, October 30-November 4, 2005** United States. National Highway Traffic Safety Administration. Technical Assistance Team, 2006 Alcohol, Drugs, and Traffic Law, 1981 *Working Party on the Rehabilitation of Alcohol Impaired Drivers Second Report* New Zealand. Working Party on the Rehabilitation of Alcohol Impaired Drivers, 1981 **Report of the Working Party on the Rehabilitation of Alcohol Impaired Drivers** Working Party on the Rehabilitation of Alcohol Impaired Drivers (N.Z.), 1979 **Obstacles to Enforcement of Youthful (under 21) Impaired Driving. Final Report** David F. Preusser, 1992 **Proceedings, Seventh International Conference on Alcohol, Drugs and Traffic & Safety, Melbourne, 23-28 January 1977** International Committee on Alcohol, Drugs, and Traffic Safety, 1979 **Alcohol and the Impaired Driver** American Medical Association. Committee on Medicolegal

Problems,1968 *Alcohol, Drugs, and Traffic Safety* S. Israelstam,S. Lambert,1975 **Report of the Working Party on
the Rehabilitation of Alcohol Impaired Drivers** New Zealand. Working Party on the Rehabilitation of Alcohol Impaired
Drivers,Sir Leonard Whitmore Thornton,1979

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