

**INQUIRY INTO ROAD TRANSPORT AMENDMENT
(MEDICINAL CANNABIS-EXEMPTIONS FROM
OFFENCES) BILL 2021**

Organisation: TCann Pty Ltd
Date Received: 26 April 2022

Dear Members,

I wish to support the proposed amendment for the following reasons:

1. THC is now a drug listed on the ARTG in Sativex™ and should be removed from the definition of “prescribed illicit drugs” within the meaning of “the ACT”
 - a. Morphine is not mentioned in the definition of “prescribed illicit drugs”
 - b. Opium is not mentioned in the definition of “prescribed illicit drugs”
 - c. Many other illicit drugs are absent from the definition of “prescribed illicit drugs”
2. THC should receive at least the same treatment as morphine in section 111 of “the Act” being a safer substance than morphine *“Opioids are widely prescribed for chronic pain, but due to concerns related to harms, recommendations have been made to reduce reliance on higher doses [1]. Dowell D, Haegerich TM, Chou R. CDC guideline for prescribing opioids for chronic pain—United States, 2016. JAMA. 2016;315:1624–45.*
3. The exemption for Morphine being extended to THC does not detract from the greater offences included in subsequent sections of “the Act”
4. The exemption for Morphine being extended to THC does not detract from offences related to impairment.
 - a. Impairment can also be caused by many of the ARTG drugs that are often now successfully replaced by doctors and patients with prescribing of Medicinal Cannabis according to anecdotal feedback from patients and doctors.
 - b. In many cases “poly-pharma” (the use of multiple pharmaceuticals by a given patient) is reduced by the prescribing of Medicinal Cannabis according to anecdotal feedback from patients and doctors possibly/probably reducing impairment.
5. The success of Medicinal Cannabis in Australia, as predicted by the Minister for Health in 2016, is such that now 2,000 doctors are regularly prescribing Medicinal Cannabis to hundreds of thousands of patients per year usually in replacement for another medication/s.
 - a. Because of restrictions on driving while taking the medicine but not impaired (as exemplified by proper use of morphine) thousands more patients are afraid to take a medicine that both the patient and the treating doctor believe will be beneficial to the patient.
 - b. From an industry perspective a large number of prescriptions are for CBD isolate, the least efficacious form of Medicinal Cannabis to try to avoid all THC but still hoping for the benefits.
6. Medicinal Cannabis acts on the body’s own endocannabinoid system unlike many synthetic pharmaceuticals which are regularly prescribed, which may cause significant impairment but are not specifically mentioned in the way that THC is singled out eg: SSRIs, SNRIs, pregabalin.
7. The concern raised by the “digest” about “reversal of onus of proof” must surely have been dealt with in the wording for the defence of using Morphine properly under medical direction. Therefore, it is sensible to match the wording for THC to the wording for Morphine to avoid said concern.
8. https://www.bitre.gov.au/sites/default/files/documents/international_comparisons_2019.pdf measures that road fatalities per 100,000 of population in

Australia and Canada in 2019 show similar rates of road safety at 4.68 vs 4.69 while Canada had legalised and significantly liberalised access to, Medicinal Cannabis and Australia was only at the beginnings of the industry.

- a. This however could be compared to Germany at only 3.62 where legalisation of Medicinal Cannabis was extensive by 2019 and was paid for by most Health Insurers.
- b. Driving under the influence of drugs is considered an offence according to German law. Drivers are considered under the influence if drugs are found in their blood, irrespective of the amount or concentration. This regulation refers to a selected list of drugs. **Drugs used as medication and administered as intended are exempt.**

As a person whom had charge as Director of Integrated Care at a major Sydney trauma centre including the Emergency Department, Mental Health, Homeless Health, Palliative Care, Geriatric Care, the Chronic Pain Clinic, Endocrinology and Drug and Alcohol Addiction Medicine, and whom had NO experience of Cannabis until asked by a Palliative Care consultant to sign-off permission to research Medicinal Cannabis I believe I am well placed to pass comment.

Having subsequently moved roles to a specialised Pharmaceutical Wholesaler dealing in medications for 30 years and supporting the pharmaceutical supply at that time to the entire ADF, I was invited to assist the growth of access to Medicinal Cannabis for doctors and their patients which I did advisedly and soberly.

It is my belief that to single out THC as a “prescribed illicit drug” within the meaning of the act is outdated since THC became a registered drug on the ARTG. Therefore, to discriminate against THC versus every other possibly impairing drug becomes unsustainable. That doctors in their wisdom, after decades of training choose to prescribe other medicinal cannabis products instead of ARTG pharmaceuticals suggests that those doctors believe the drug is of more benefit to their patients. For the law to act against the judgement of the doctor in an unbalanced way forcing patients to accept lesser health because of an outdated regulation is open to serious question.

To possibly rely on a lack of research to perpetuate the status quo would fly in the face of a very large body of research already accepted by many nations with which Australia has mutual agreements on pharmaceutical regulation. The European Parliament has already officially stated that sufficient evidence exists to allow European Doctors access to medicinal cannabis for their patients.

It must be recognised that any apparent gap in the body of research should be correlated against the inappropriate demonisation of THC as a (then) popular medicine produced by many large pharmaceutical companies, for US political and racial reasons (matter of public record) and absence of THC from “grandfathering arrangements” as the FDA was formed while grandfathering opiates and even paracetamol allowing one of the now most medically demonised pharmaceutical cocktails to pass straight through.

Road Transport Act 2013 No 18

Current version for 20 October 2021 to date (accessed 26 April 2022 at 17:51)

<https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2013-018>

***prescribed illicit drug* means any of the following—**

- (a) delta-9-tetrahydrocannabinol (also known as THC),**
- (b) methylamphetamine (also known as speed),**
- (c) 3,4-methylenedioxymethylamphetamine (also known as ecstasy),**
- (d) cocaine.**

111 Presence of certain drugs (other than alcohol) in oral fluid, blood or urine

(cf STM Act, s 11B)

(1) Presence of prescribed illicit drug in person's oral fluid, blood or urine A person must not, while there is present in the person's oral fluid, blood or urine any prescribed illicit drug—

- (a) drive a motor vehicle, or
- (b) occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (c) if the person is the holder of an applicable driver licence (other than an applicable provisional licence or applicable learner licence)—occupy the seat in a motor vehicle next to a learner driver who is driving the vehicle.

Maximum penalty—20 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence).

(2) If a person is charged with an offence against subsection (1)—

- (a) the court attendance notice may allege that more than one prescribed illicit drug was present in the oral fluid, blood or urine of the person and the proceedings are not liable to be dismissed on the ground of uncertainty or duplicity if each of those drugs is described in the court attendance notice, and
- (b) the offence is proved if the court is satisfied beyond reasonable doubt that there was present in the oral fluid, blood or urine of the defendant—
 - (i) a drug described in the court attendance notice, or
 - (ii) a combination of drugs any one or more of which was or were described in the court attendance notice.

(3) Presence of morphine in person's blood or urine A person must not, while there is present in the person's blood or urine any morphine—

- (a) drive a motor vehicle, or
- (b) occupy the driving seat of a motor vehicle and attempt to put the motor vehicle in motion, or
- (c) if the person is the holder of an applicable driver licence (other than an applicable provisional licence or applicable learner licence)—occupy the seat in a motor vehicle next to a learner driver who is driving the vehicle.

Maximum penalty—20 penalty units (in the case of a first offence) or 30 penalty units (in the case of a second or subsequent offence).

(4) If a person is charged with an offence against subsection (3), the offence is proved if the court is satisfied beyond reasonable doubt that morphine was present in the blood or urine of the defendant (whether or not in combination with any other drugs).

(5) Defence for offence relating to presence of morphine in person's blood or urine It is a defence to a prosecution for an offence against subsection (3) if the defendant proves to the court's satisfaction that, at the time the defendant engaged in the conduct that is alleged to have contravened the subsection, the presence in the defendant's blood or urine of morphine was caused by the consumption of a substance for medicinal purposes.

(6) Meaning of consumption for medicinal purposes In this section, a substance is consumed for medicinal purposes only if it is—

- (a) a drug prescribed by a medical practitioner taken in accordance with a medical practitioner's prescription, or
- (b) a codeine-based medicinal drug purchased from a pharmacy that has been taken in accordance with the manufacturer's instructions.

Note—

Division 1 of Part 7.4 provides for the disqualification of persons from holding driver licences for certain offences (including offences against this section).

The offences of driving with a prescribed concentration of alcohol in the blood, and of driving under the influence of alcohol or any other drug, are dealt with in sections 110 and 112, respectively.

NSW Parliamentary Submission on Medicinal Cannabis and driving

How to

<https://www.parliament.nsw.gov.au/committees/pages/engaging-with-committees.aspx>

Section 111:

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(a) [drive](#) a [motor vehicle](#), or

(b) occupy the driving seat of a [motor vehicle](#) and attempt to put the [motor vehicle](#) in motion, or

(c) if the person is the holder of an [applicable driver licence](#) (other than an [applicable provisional licence](#) or [applicable learner licence](#))--occupy the seat in a [motor vehicle](#) next to a [learner driver](#) who is driving the [vehicle](#).

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9. ROAD TRANSPORT AMENDMENT (MEDICINAL CANNABIS-EXEMPTIONS FROM OFFENCES) BILL 2021*

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Clarity – reversal of onus of proof

The Bill amends section 111 of the *Road Transport Act 2013* to create an exception to an offence of driving with the presence of a prescribed illicit drug in a person's oral fluid, blood or urine. It changes section 111 by enabling a person who uses medicinal cannabis, or delta-9- tetrahydrocannabinol (THC), to drive with THC in their body in certain circumstances.

The Committee notes the Bill is not clear on the issue of who bears the onus of proof in proving the THC was used for medicinal purposes and was obtained and administered in accordance with the *Therapeutic Goods Act 1989*. If the amendment requires the defendant to prove these facts in issue then this may result in a shift of the onus of proof from the prosecution to the defendant. In criminal proceedings, the onus of proof rests on the prosecution and elements of offences must be proven beyond reasonable doubt. If the onus of proof were to be reversed it may also result in a shift in the standard of proof on a defendant as the standard of proof for a defence is on the balance of probabilities. This is particularly relevant considering a finding of guilt may result in a fine of up to \$2200 for a first offence and \$3300 for a second or subsequent offence as well as a licence disqualification of up to 6 months.

In regards to criminal actions, a reversed onus may undermine the presumption of innocence. The legal issues surrounding the mental element of a crime are complex, which may be exacerbated if the accused is unable to obtain legal representation and compromise their right to a fair court proceeding.

It appears the intention behind the amendment according to the Second Reading Speech is for the exception to act as a defence. If so, then the onus of proving the THC was used in accordance with law rests on the defendant on the balance of probabilities. The Crown will bear the onus of

LEGISLATION REVIEW DIGEST

23 NOVEMBER 2021 xi

LEGISLATION REVIEW COMMITTEE

proving that the THC was not used in accordance with law by proving it was not used for medicinal purposes or was not obtained or administered in accordance with the *Therapeutic Goods Act 1989*. Given a person may experience high financial penalties and lengthy licence disqualifications, it is important the legislation is drafted with sufficient clarity so that all parties are aware of their rights and obligations in subsequent proceedings. In the circumstances, the Committee refers this issue of clarity to Parliament for its consideration.

Canadian Impaired Driving Laws

<https://www.rcmp-grc.gc.ca/ts-sr/aldr-id-cfa-aldr-eng.htm#sfst>

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Tests, criminal charges, penalties, suspensions and prohibitions

Impaired driving applies to all conveyances, including motor vehicles such as cars, trucks, snowmobiles, all-terrain vehicles, etc., boats and even aircraft and railway equipment.

Before, or at, a traffic stop, police officers use their training as well as what they see, hear and smell to look for signs that a driver may have alcohol and/or drugs in their body

If you are, or were within the preceeding 3 hours, operating a conveyance and a police officer has reason to suspect that you have alcohol and/or drugs in your body, a police officer may make a demand on you to:

- Provide a sample of your breath, at roadside, on an Approved Screening Device (ASD)
- Provide an oral fluid sample, at roadside, on Approved Drug Screening Equipment (ADSE)
- Participate in [Standardized Field Sobriety Testing \(SFST\)](#)

Failure to comply with the demand will result in criminal charges which carry the same, or greater, penalties as driving while impaired.

After providing a breath or oral fluid sample the results of that test will determine what, if any, further actions are taken. Performing poorly on any of these tests can lead to an arrest.

After an arrest, the driver is typically taken to a police detachment or medical facility to undergo additional testing. Additional testing can be done in the form of an evidentiary breath alcohol test, a Drug Recognition Expert (DRE) evaluation or a blood sample taken by a trained medical technician.

An Approved Drug Screening Device is not required to enforce drug-impaired driving laws. If the police officer does not have any Approved Drug Screening Equipment available, they are also able to use SFST to determine if they have reasonable grounds to believe a driver is impaired.

Investigative process

Roadside testing - prior to arrest

Under new legislation, a police officer can now demand that a driver provide an oral fluid sample to be tested with an ADSE at the roadside.

- If the oral fluid sample gives a positive result, the driver may be arrested and undergo additional testing.
- If the oral fluid sample gives a negative result, and the police officer continues to see indications of drug usage, they can demand that the driver participate in a Standardized Field Sobriety Test (SFST).
 - If the driver passes the SFST, they are released.
 - If the driver performs poorly on the SFST, they may be arrested.
- If the oral fluid sample gives a negative result, and the police officer doesn't see indicators of impairment, the driver may be released.

Additional testing - after an arrest

Under new legislation, after the suspected drug-impaired driver is arrested, police can proceed in one, or both, of the following ways:

1. A police officer can demand that the impaired driver provide a blood sample.
 - If, after analysis, the blood sample shows a blood drug concentration over the legal limit the driver is charged with the associated offence.
 - If, after analysis, the blood sample shows a blood drug concentration under the legal limit, no charges are laid.
2. Demand that the driver undergo a 12-step DRE evaluation at a police detachment.
 - If, after the evaluation, the police officer determines that the driver is impaired by drugs, a charge can be laid and a bodily fluid sample is taken to confirm the findings of the evaluator.
 - If, after the evaluation, the police officer determines that the driver is not impaired by alcohol and/or drugs, no charges are laid and no bodily fluid sample is taken.

After being arrested, an officer will advise the driver of their rights, including the right to a lawyer. The right to speak with a lawyer can be exercised before an evidentiary breath test, providing a blood sample, or participating in a 12-step DRE evaluation. However, the ASD, ADSE, and SFST evaluations, performed prior to arrest, are done before speaking with a lawyer.

Other criminal charges

Based on a police officer's observations you can also be charged criminally, under section 320.14 of the *Criminal Code* of Canada: it is a crime to operate a conveyance while impaired by alcohol or a drug, regardless of additional evaluations confirming specific blood intoxicant concentrations.

Provincial laws also carry additional penalties for impaired driving

Check your Provincial/Territorial laws to determine what additional penalties may be imposed upon you, in addition to any criminal penalties, for impaired driving where you live. These penalties can include such things as administrative costs, licence suspensions, required training to renew your licence, and/or vehicle seizures.

Definitions and explanations

Mandatory alcohol screening

As of December 18, 2018, police no longer require a reasonable suspicion to demand a breath sample from a driver. Anyone operating a motor vehicle who is lawfully stopped by police can be required to provide a breath sample, at the roadside, to detect potential alcohol in their blood. Failure to comply with this demand will also result in criminal charges which carry the same, or greater, penalties as driving while impaired.

The "Warn" range (a blood alcohol content of 50mg% to 80mg%)

An individual who submits a breath sample in the "Warn" range can be subject to administrative penalties such as a roadside suspension or an immediate roadside prohibition.

A "Fail" (a blood alcohol content at or above 80mg%)

An individual who submits a breath sample and registers a "Fail" will be required to provide further breath samples at the police station. A subsequent breath sample that meets-or-exceeds the legal BAC limit of 80 mg% means that the person may be charged under section 320.14 of the *Criminal Code* of Canada: having a blood alcohol concentration that is equal to or exceeds 80mg% within two hours of ceasing to operate a conveyance.

Standardized Field Sobriety Test (SFST)

If you are, or within the preceeding 3 hours were, in the driver's seat/position of any car, truck, ATV, boat, aircraft, etc. (whether it is in motion or not) and a police officer reasonably suspects you have consumed alcohol, drugs or a combination of alcohol and drugs, the police officer may make a demand of you to submit to a Standard Field Sobriety Test (SFST).

A SFST test is typically administered roadside and consists of a police officer putting a conveyance operator through a series of standardized sobriety tests.

Based on a police officer's observations you can also be charged criminally, under section 320.14 of the *Criminal Code* of Canada, regardless of you submitting to a SFST demand.

Failure, or refusal, to comply with the SFST demand can also result in criminal charges that carry the same, or greater, penalties as impaired driving.

Drug Recognition Expert Evaluation

The evaluation includes sobriety tests that are similar to the SFST's, taking clinical indicators (blood pressure, body temperature, pulse, etc.) and measuring your pupil size in different lighting conditions. If, at the conclusion of the evaluation the officer forms the opinion that your ability to operate a motor vehicle is impaired by one, or more, categories of drugs, you will be charged under section 320.14 of the *Criminal Code* of Canada.

Refusal to undertake the evaluation or quitting at any time will result in criminal charges that have the same, or greater, penalties as driving while impaired by alcohol.

At the conclusion of the drug evaluation, if the evaluator determines that you are impaired and that the impairment is the result of one or more category of drugs, or a combination of alcohol and drugs, you will be given a demand to provide a bodily fluid sample (blood, oral fluid or urine). The sample is to confirm the findings of the evaluator and the choice of the sample is made by the evaluator.

Failure to provide the sample will result in criminal charges that have the same, or greater penalties as impaired driving.

<https://www.justice.gc.ca/eng/cj-jp/sidl-rlcfa/>

Impaired Driving Laws

Related Documents

- [Report by the Minister of Justice and Attorney General of Canada on the Implementation and Operation of former Bill C-46: *An Act to amend the Criminal Code \(offences relating to conveyances\) and to make consequential amendments to other Acts*](#)
- [Backgrounder for former Bill C-46](#)
- [Frequently Asked Questions - Alcohol-Impaired Driving Laws](#)
- [Frequently Asked Questions - Drug-Impaired Driving Laws](#)

Infographic: New alcohol-impaired driving laws



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.



- [Infographic: Text version](#)
- [Infographic: PDF version](#)

Impaired driving is the leading criminal cause of death and injury in Canada. In 2017, there were more than 69,000 impaired driving incidents reported by the police, including almost 3,500 drug-impaired driving incidents.

Please visit Canada's [impaired driving](#) webpage for statistics, research, and more information on the dangers of driving while impaired.

It is important to note that provinces and territories have additional laws or regulations that may apply. Make sure to check the laws in your area.

Impaired Driving

The *Criminal Code* prohibits driving while impaired to any degree by drugs, alcohol, or a combination of both. Penalties for this offence range from a mandatory minimum fine to life imprisonment, depending on the severity of the offence

Prohibited Levels

In addition to the offence of impaired driving, there are separate offences of having specified prohibited levels of alcohol, cannabis or certain other drugs in the blood within two hours of driving. Penalties range from fines to life imprisonment, depending on the severity of the offence.

Alcohol

The prohibited blood-alcohol concentration (BAC) is **80 milligrams or more (mg) of alcohol per 100 millilitres (ml) of blood.**

Cannabis (THC)

There are two prohibited levels for THC, the primary psychoactive component of cannabis: it is a less serious offence to have between **2 nanograms (ng) and 5 ng of THC per ml of blood.** It is a more serious offence to have **5 ng of THC or more per ml of blood.**

Combination of alcohol and cannabis

The prohibited levels of alcohol and cannabis, when found in combination, is **50mg or more of alcohol per 100ml blood and 2.5 ng or more of THC per ml of blood.**

Other drugs

Having **any detectable amount** of LSD, psilocybin, psilocin ("magic mushrooms"), ketamine, PCP, cocaine, methamphetamine or 6-mam (a metabolite of heroin) in your system within two hours of driving is also prohibited.

The prohibited level for GHB is **5mg or more per litre of blood**, since the body can naturally produce low levels of this drug.

Penalties

Impaired driving is a serious crime that poses a significant threat to public safety. Having the prohibited level of alcohol, THC, or other impairing drugs in your blood within two hours of driving is an offence.

Penalties for committing this conduct can vary, depending on the alcohol or drug concentration, whether it is your first or a repeated offence, and whether you have caused bodily harm or death to another person.

Penalties			
Charge	1 st offence	2 nd offence	3 rd offence
<ul style="list-style-type: none"> Alcohol-impaired driving Having a Blood Alcohol Concentration (BAC) at or over 80mg per 100ml of blood within 2 hours of driving 	Mandatory minimum: \$1000 fine Maximum: 10 years imprisonment	Mandatory minimum: 30 days imprisonment Maximum: 10 years imprisonment	Mandatory minimum: 120 days imprisonment Maximum: 10 years imprisonment
<ul style="list-style-type: none"> Drug-impaired driving Having 5ng or more of THC per ml of blood within 2 hours of driving Any detectable level of LSD, psilocybin, psilocin, ketamine, PCP, cocaine, methamphetamine, 6-mam within 2 hours of driving Having 5mg or more of GHB per 1 litre of blood within 2 hours of driving 			
Combination <ul style="list-style-type: none"> Having a BAC of 50mg per 100ml of blood + 2.5ng or more of THC per 1ml of blood within 2 hours of driving 			
Refusal to comply with demand for sample	Minimum: \$2000 fine		
Drug-impaired driving - Summary conviction <ul style="list-style-type: none"> Having over 2ng but less than 5ng of THC per ml of blood within 2 hours of driving 	Maximum \$1000 fine		
Impaired driving causing bodily harm	<ul style="list-style-type: none"> Summary conviction: Maximum 2 years imprisonment less a day Indictment: Maximum 14 years imprisonment 		
Impaired driving causing death	<ul style="list-style-type: none"> Indictment: Maximum life imprisonment 		
First offence + BAC of 80-119mg	Mandatory minimum \$1000 fine		
First offence + BAC of 120-159mg	Mandatory minimum \$1500 fine		
First offence + BAC of 160mg or more	Mandatory minimum \$2000 fine		

Penalties for drug-impaired driving - Text version

Investigations

Mandatory alcohol screening

Police officers can demand that any lawfully-stopped driver provide a preliminary breath sample to test for alcohol without reasonable suspicion that the driver has alcohol in their body.

Oral fluid drug screeners

Oral fluid drug screeners can be used by police to detect the presence of some drugs in oral fluid, including THC. These devices are fast, non-invasive, and accurate.

The police can demand an oral fluid sample, if they reasonably suspect a drug is in a driver's body. Reasonable suspicion that the driver has drugs in their body can be developed based on objective facts, such as:

- red eyes
- muscle tremors
- agitation
- abnormal speech patterns

If a driver tests positive on an oral fluid drug screener the positive result confirms the presence of the drug and, combined with other signs of impairment or drug use observed by the police at the roadside, may provide grounds for the investigation to proceed further by making a demand for a blood sample.

Other investigative techniques

Police can also demand a driver submit to a Standard Field Sobriety Test (SFST) or a Drug Recognition Expert Evaluation (DRE).

Related links

- [Impaired driving](#)
- [RCMP SFST and DRE](#)
- [Bill C-46 Charter Statement](#)
- [News Release: Canada takes action to legalize and strictly regulate cannabis](#)
- [Backgrounder: Changes to impaired driving laws](#)
- [Cannabis laws and regulations](#)
- [Canada Gazette: Blood Drug Concentration Regulations](#)

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