

Don't drink and drive.

With so many alternatives available, it's dangerous and unnecessary in any urban environment. There is no safe limit, no acceptable amount of alcohol prior to driving. The various blood alcohol levels only help define how badly your motor skills and judgement are affected – not if they are affected. The law is pretty clear, it's been around awhile, and it gets repeated in every type of news medium, every single year around this time. RIDE programs are now up and in force 365 days a year, the police are everywhere, and the penalties are devastating. And yet people still get arrested for drunk driving all the time.

But then – you knew all that. So what else is new? Well, with the new amendments to the Highway Traffic Act – quite a bit, actually.

But before we get to that, let's do a quick review of the current legislation. At the moment, drinking and driving legislation is a federal responsibility. There are various sections of the Criminal Code of Canada which establish several laws regarding drinking and driving which break down into two broad categories.

The first is impaired driving. This is pretty straightforward, and what generally comes to mind when people talk about drinking and driving. These are the stories where the police stop the guy driving the wrong way on the 401 at 50 km/hr, bouncing from one guardrail to the other. The cops open the door and pour the guy out, stinking of booze while covered in liberal amounts of vomit and urine. Pretty obvious stuff.

The second is over 80 milligrams. This is a more subtle case of drinking and driving, and is reliant on toxicology and mathematics. These are the stories where the guy has a few drinks before heading out on the highway, actually feels pretty good, and winds up being arrested at a RIDE program spot check.

This type of offence deals with the pharmacological and toxicological effects of alcohol on humans. While the first offence deals with the readily observable effects of alcohol, the second deals with studies and models of alcohols effects on performance. And while you can develop a significant tolerance to the effects of alcohol through repeated exposure, there is a direct correlation between increased alcohol consumption and diminished performance while operating a vehicle – even when you're not aware of it.

To determine whether there are grounds for arrest for an over 80 charge, an officer can demand a roadside screening test for alcohol if he has reasonable grounds to believe the driver has alcohol in his body. When a sample is provided, there are three possible outcomes;

1. The driver registers a **reading**. This would range from 0 mgs to 49 mgs, and indicate a blood alcohol concentration (BAC) as displayed. In this case, a G or M class driver would get a dirty look, and be sent on his way. (G1 or M1, G2 or

M2 drivers would face fines and suspension charges for having a BAC above zero.)

2. The driver registers a **Warn**. This would appear on the device as an (A), and would indicate a BAC of 50mg to 100mgs. In this case, a G or M class driver would face a 12 hour licence suspension.
3. The driver registers a **Fail**. This would appear on the device as an (F), and would indicate a BAC of above 100mgs. In this case, you're under arrest. At that point, you face a mandatory 90 day licence suspension, and a court date. Minimum sentencing at conviction carries a further 1 year suspension, and a \$600.00 fine. Sentences are correlated to your readings, and go up as your BAC rises – injuries or death equal substantial jail time.

If the driver refuses to provide a sample, he faces charges equal to providing a sample and failing, including the 90 day mandatory licence suspension.

In Canada, the current legislation places the impaired level at over 80 milligrams of alcohol per 100 millilitres of blood. (.08g) However, there are a large number of studies which suggest the BAC level for impairment is considerably lower. In several European countries, the legal limit has been set at 50 milligrams of alcohol per 100 millilitres of blood. (.05g)

In the United States, the American Medical Association encourages state medical societies to urge their state legislators to adopt a blood alcohol level of 50 milligrams [policy H-30.986, modified in 1997 calls for 40 milligrams] as per se illegal for driving; and supports working with Congress to make federal highway funds to states contingent upon state adoption of a blood alcohol level of 50 milligrams as per se illegal for driving. (Res. 1, I-89)

Recently, the Ontario government enacted a second section to the Safer Roads for a Safer Ontario legislation (bill 203) which changes the consequences for registering a Warn (50mgs – 100mgs) on a roadside screening device. This new legislation - which is slated to be introduced in time for the Christmas 2008 RIDE program - provides for increased licence suspension periods, which escalate upon each subsequent offence within a 5 year period of the first offence.

Under this legislation, a driver will have his licence suspended for;

- (a) **three days**, in the case of a first suspension under this section;
- (b) **seven days**, in the case of a second suspension under this section;
- (c) **thirty days**, in the case of a third or subsequent suspension under this section.

Upon suspension if there is no suitable driver available, the vehicle can be impounded and held pending retrieval at the pound. Any costs for towing and storage are to be paid in full prior to the vehicle being released, and although the costs of a held vehicle are assessed to the vehicle owner, the Act allows for the owner to bring an action against the driver to recover any costs or other losses.

In addition, the act also allows for the introduction of remedial driving programs and other measures to be enacted as directed. Although nothing has been put forward, this allows for the development of special driving schools, alcohol education programs and ignition interlock requirements.

The choice seems pretty straightforward. You can make arrangements ahead of time and avoid the temptation, or you can hope you'll be in a proper state of mind to make them at the time. Or you can try your luck, and gamble that the police are in the east when you're in the west. But since the conservative cost of a DUI conviction is estimated at \$18,000, how many cabs can you take for that and still be ahead of the game?

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