BILL 80

MADD Canada's Positions on Nova Scotia's *Traffic Safety Act*

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Positions 1 and 2: Roadside Suspensions and Vehicle Impoundments

MADD Canada has long advocated for the use of immediate 7-day administrative licence suspensions (ALSs) and vehicle impoundment for drivers who are above the .05% blood alcohol concentration (BAC) threshold. This 7-day ALS and impoundment should also be extended to drivers who fail an oral fluid test or standardized field sobriety test. An immediate 90-day ALS and 30-day vehicle impoundment should be given to drivers who are above the .08% BAC threshold. On the drug side, 90-day ALSs and 30-day vehicle impoundments should be for any driver who:

i. has failed a DRE;

ii. has a blood delta-9-tetrahydrocannabinol (THC) level of 5 ngs per ml or more based on an evidentiary blood test; or

iii. has a blood-THC level of 2.5 ngs per ml or more based on an evidentiary blood test and a BAC of .05% or more as determined by an approved instrument.

These sanctions should be given upon the return of a positive confirmatory blood test in the situations mentioned above. In these cases, the driver should be issued an immediate seven-day roadside suspension and impoundment, which prevents him or her from driving home in an impaired condition. Unfortunately, unlike the results of an approved instrument for alcohol, the results of the required confirmatory blood test take weeks or months to be returned. As a result, if the confirmatory blood test returns a result at a level in violation of the previously mentioned offences, the driver should be tracked down, have his or her licence seized and be given a temporary licence (seven days). After this temporary licence has expired, both the ninety-day administrative suspension and thirty-day vehicle impoundment should come into effect. The temporary licence allows the driver to make arrangements for alternate transportation before the ALS and impoundment come into effect.

Immediate ALSs, particularly when combined with vehicle impoundments, have had a strong deterrent impact in jurisdictions where they have been used. For example, in 2010, British Columbia implemented a number of traffic safety measures, including a mandatory ALSs and vehicle impoundments for drivers with a BAC of above .05%,[1] drivers with a BAC above .08%, or those who failed or refused to take a blood or breath test.

Between the program's implementation in late-2010 and 2012, one recent study determined that these changes resulted in a 59% decrease in drivers with BACs above .08%, and a 21% decrease in drivers with a BAC between .05% and .08%.[2] Moreover, alcohol-related injury

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1 It should be noted that impoundments for drivers with a BAC above .05% but below .08% were not mandatory at law as the legislation was drafted to have these impoundments be discretionary. They were however treated as if they were mandatory.

2 E. Beasley & D. Beirness, Alcohol and Drug Use among Drivers Following the Introduction of Immediate Roadside Prohibitions in British Columbia: Findings from the 2012 Roadside Survey

collisions fell by 23.4% and property-damage-only collisions fell by 19.5%.[3] Further, there was an approximate 44% reduction in alcohol-related fatalities between 2010 and 2012 and an approximate 38% reduction between 2010 and 2014, saving an estimated 43 lives annually between 2010-2015.[4] To put the effectiveness of British Columbia's impoundment regime in perspective, Ontario and Manitoba saw an 11% reduction and 9% increase in alcohol-related traffic fatalities respectively during the 2010-2012 period respectively.[5]

Position 3: Novice Drivers

Any action that makes it easier for the police to identify drivers within the graduated licensing program is supported by MADD Canada. MADD Canada has long advocated for enhanced driving provisions for new and young drivers. It is our suggestion that beginning drivers should be subject to zero-alcohol and zero-cannabis and illicit drug thresholds for the first five years of licensed driving or until they reach the age of 22, whichever is longer.

This is of particular concern for MADD Canada as motor vehicle crashes constitute the leading cause of death among 15-24 year old Canadians.[6] Moreover, impairment-related crashes take a disproportionate toll among young people. For example, in 2014, 16-25 year olds made up 13% of the population[7] but accounted for almost 30% of alcohol-related traffic deaths.[8] Similarly, the percentage of 16-19-year-old, fatally-injured drivers who tested positive for drugs rose from approximately 26% in 2000 to over 40% in 2012.[9] In terms of public health, youth crash deaths represent a major preventable cause of years of life lost, as these victims die 50-60

(Victoria: Office of the Superintendent of Motor Vehicles, 2014) at 11.

3 S. Macdonald, *et al.*, "The impact on alcohol-related collisions of the partial decriminalization of impaired driving in British Columbia, Canada" (2013) 59 Accident Analysis and Prevention 200 at 202-203.

4 Office of the Chief Coroner, Motor Vehicle Incident Deaths 2007-2016 (Burnaby, British Columbia: Ministry of Public Safety and Solicitor General, 2018) at 7.

5 TIRF, Alcohol-Crash Problem in Canada: 2010 (Ottawa: Canadian Council of Motor Transportation Administrators (CCMTA), 2013) at 92 & 108; and TIRF, Alcohol and Drug-Crash Problem in Canada 2012 Report (Ottawa: CCMTA, 2015) at 92 & 108.

6 Public Health Agency of Canada, *Injury in Review: 2012 Edition* (Ottawa: Public Health Agency of Canada, 2012) at 10.

7 Statistics Canada, *CANSIM Table 051-0001: Estimates of Population, by Age Group and Sex for July 1, Canada, Provinces and Territories Annual (Persons Unless Otherwise Noted)* (Ottawa: Statistics Canada, 2012), online: <https://www5.statcan.gc.ca/cansim/a26?lang=eng&retrLang=eng&id=0510001&paSer=&pattern=&stByVal=1&p1=1&p2=37&tabMode=dataTable&csid>.

8 R. Solomon, C. Ellis & C. Zheng, *Alcohol-Related Fatalities Occurring Within 30 Days of a Crash on a Public Road Involving a Highway Vehicle, by Jurisdiction and Age: Canada, 2014* (Oakville: MADD Canada, 2018) at 4.

9 TIRF, *Trends Among Fatally Injured Teen Drivers, 2000-2012* (Ottawa: TIRF, 2015) at 4.

years prematurely.

The zero-alcohol and blood-drug requirements should apply beyond the GLP until a driver is 22 or has five years of licensed driving, whichever is longer, because young, beginning drivers usually lack both driving experience and experience with drugs. They tend to be risk takers and are less cautious than their older counterparts.[10] Thus, even in the absence of drugs, young drivers are at a greater relative risk of a crash than older, more experienced drivers.[11] While older, beginning drivers may have experience with drugs, they, like their younger counterparts, lack the driving experience necessary to ensure their safety while driving with a positive, non-criminal BDL. A zero-blood drug requirement for non-medical drugs that lasts until a driver is 22 or has five years of licensed driving will allow young and older, beginning drivers to gain the driving experience necessary to mitigate any impairing effects that are present from a non-criminal BDL.

Position 4: Reporting Unsafe Drivers

MADD Canada supports any action that would enhance the ability of the public to report suspected impaired drivers. Extending legal protection to individuals who report a suspected impaired driver in good faith eliminates the fear of adverse consequences that may cause an individual to hesitate. The further step to ensure that the Registrar is not required to share the report is likewise lauded by MADD Canada as it will help to minimize the likelihood that family members or individuals vulnerable to the impaired driver will be the subject of reprisal.

These provisions are in line with MADD Canada's longstanding "Campaign 911", which encourages the Canadian public to call 911 and report drivers suspected of being impaired. Information about this campaign can be found at https://madd.ca/pages/programs/awareness-campaigns/campaign-911/.

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[10] See for example, J. Hatfield & R. Fernandes, "The role of risk-propensity in the risky driving of younger drivers" (2009) 41(1) Accid Anal Prev 25.

[11] A. McCartt, *el al.*, "Effects of Age and Experience on Young Driver Crashes: Review of Recent Literature" (2009) 10 Traffic Inj Prev 209 at 217-218.