

THE 2012 PROVINCIAL AND TERRITORIAL LEGISLATIVE REVIEW

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EXECUTIVE SUMMARY

PART I: INTRODUCTION

Section 1: MADD Canada's Provincial and Territorial Legislative Program

The 2012 Provincial and Territorial Legislative Review (The 2012 Review) is the fifth comprehensive assessment that MADD Canada has undertaken and published since 1998. A major element of the first four reports was the comparative assessment of the provincial and territorial¹ legislation and the formal rating and ranking of the jurisdictions. While *The 2012 Review* continues to assess the provincial legislation in terms of domestic and international best practices, it does not include ratings and rankings. Rather, we have provided detailed charts in Appendices III to VI which permit each jurisdiction to determine how the major features of its legislation compare to those of the other provinces.

A second major change in *The 2012 Review* is the inclusion of statistical data on total and impairment-related crash deaths in each jurisdiction. While the assessment of legislation is important, so too is the impact of that legislation. Consequently, we have included tables and graphs in PART II comparing the national and provincial crash data for 2009, the latest year for which the data are available, and national crash statistics from 2000 to 2009. Moreover, each provincial assessment in PART III includes a table comparing the jurisdiction's crash data with the national data during this ten-year period.

The recent decreases in Canadian impaired driving deaths needs to be acknowledged. Nevertheless, MADD Canada believes that Canada's traffic safety goals should not be defined exclusively in terms of its past record, but rather should include reference to what other comparable developed democracies have achieved. To this end, PART II also includes recent total and impairment-related crash data, and per capital alcohol consumption rates from 12 other nations.

The provincial, national and international crash data must be viewed with some caution as they are subject to limitations which are noted in the report. Despite these limitations, the tables and graphs provide a general indication of the provinces' impairment-related crash record from both a national and international perspective.

The first step in producing *The 2012 Review* was to analyze the recent impaired driving research from Canada and abroad. MADD Canada used this information to formulate seven legislative priorities which it will be encouraging the provinces to adopt. These legislative priorities also draw upon three publications that are available on MADD Canada's website (www.madd.ca).² These documents provide readers with a detailed, fully-referenced review of the relevant domestic and international traffic safety research.

¹ Unless otherwise stated, subsequent references to the provinces should be interpreted as including the territories.

² R Solomon & E Chamberlain, *Youth and Impaired Driving in Canada: Opportunities for Progress* (Mississauga, Ont: MADD Canada and The Centre for Addiction and Mental Health (CAMH), 2006); R Solomon *et al*, *Alcohol, Trauma and Impaired Driving*, 4th ed (Toronto, Ont: Canadian Centre on

The second step in producing *The 2012 Review* was the preparation of a detailed summary of the relevant legislative developments in each province since August 2009. The summaries include: all relevant legislation and regulations as of January 2012; enacted legislation that had not been proclaimed in force as of that date; and related information that was available on the governments' websites. Where appropriate, the statutory language was paraphrased to make the assessments more understandable and to facilitate comparisons among the jurisdictions.

The compilation, analysis and writing of *The 2012 Report* was undertaken by Professor R Solomon, and J Cardy, I Noble and R Wulkan (JD candidates 2013) of the Faculty of Law, The University of Western Ontario. A Murie (CEO, MADD Canada) and D Kelly (Director of Communications, MADD Canada) reviewed the document and provided comments. The document was then submitted to the Board of Directors of MADD Canada for approval.

Although *The 2012 Review* differs in some ways from the four preceding provincial reviews, the goal has remained the same. MADD Canada has prepared *The 2012 Review* to provide the provinces with information on realistic and effective measures that will reduce impaired driving in their jurisdictions. It will also serve as the basis for MADD Canada's ongoing discussions with the provincial governments on the critical role that they can play in reducing impaired driving. Finally, *The 2012 Review* permits each jurisdiction to assess its impaired driving legislation and crash record relative to national and international standards.

Section 2: A Message from Andrew Murie, CEO, MADD Canada

MADD Canada is a grassroots organization with over 100 chapters and thousands of dedicated volunteers across the country. The organization is committed to both assisting the victims of impaired driving and saving lives by reducing the frequency of this senseless crime. One way in which we fulfill our mission is by advocating for comprehensive reform of the federal and provincial impaired driving laws, based on the best available research.

In 2001, MADD Canada introduced its federal reform agenda, *Taking Back Our Roads: A Strategy to Eliminate Impaired Driving in Canada*. Since then, representatives of MADD Canada met with senior Parliamentarians from all parties, made submissions before the Senate and House of Commons Justice Committee, and published its underlying studies in international traffic safety journals and Canadian law reviews. Earlier this year, MADD Canada published *The 2012 Federal Legislative Review*, outlining key issues that need to be addressed at the federal level.

While Parliament needs to do a great deal more, the provinces should not wait for federal amendments. They have broad legislative authority which can be used to dramatically reduce impaired driving deaths and injuries on their roads. *The 2012 Review* permits each jurisdiction to evaluate its impaired driving legislation and crash record. More importantly, it provides each jurisdiction with specific proposals which research indicates will reduce impaired driving deaths and injuries. As in the past, MADD Canada's provincial assessments and proposals reflect the following principles:

Substance Abuse, CAMH and MADD Canada, 2009); and E Chamberlain & R Solomon, *The MADD Canada Model 2009* (Oakville, Ont: MADD Canada, 2009).

- Obtaining and holding a driver's licence is a privilege and not a right.
- Traffic authorities must be empowered to take action to prevent tragedies, not just react after the event by sanctioning offenders.
- The police need broader investigatory authority to efficiently detect impaired drivers and obtain admissible evidence.
- Administrative proceedings are far more expedient, efficient and inexpensive than penal sanctions, and more appropriate for regulatory issues relating to the licensing of drivers, vehicle sanctions and remedial programs.
- Public safety should be given the highest priority in framing provincial and territorial impaired driving legislation.

MADD Canada believes that the recent declines in impaired driving deaths and injuries are due in large measure to provincial initiatives, particularly the graduated licensing program, the .00% blood-alcohol concentration (BAC) limit for new and young drivers, and the strengthening of the short-term .05% administrative licence suspension (ALS) programs. Nevertheless, there remain major gaps in the provincial legislation regarding, for example, drug-impaired³ and distracted driving,⁴ particularly among the young.

There are also broad variations in the current provincial legislation across Canada. MADD Canada is generally pleased with the legislative progress that British Columbia, Ontario and Newfoundland and Labrador made in the last three years, and with some of the pending legislation in Alberta, Nova Scotia and Québec. Most provinces enacted major initiatives prior to the 2009 assessment or in the interim. In contrast, Saskatchewan, Nunavut, the Northwest Territories, and the Yukon, jurisdictions which have had very poor impaired driving records, have failed to implement major impaired driving initiatives in the past three years.

³ Survey and roadside screening data indicate that rates of driving after drug use have significantly increased among young drivers. For example, 15.1% of high-school students surveyed in Atlantic Canada reported driving under the influence of cannabis, while 11.7% reported driving while under the influence of alcohol. M Asbridge, C Poulin & A Donato, "Motor vehicle collision risk and driving under the influence of cannabis: Evidence from adolescents in Atlantic Canada" (2005) 37 *Accid Anal and Prev* 1025 at 1029. See also D Beirness & C Davis, *Driving Under the Influence of Cannabis: Analysis drawn from the 2004 Canadian Addiction Survey* (Ottawa: Canadian Centre on Substance Abuse, 2006); and F McGuire *et al*, "Driving under the Influence of Cannabis or Alcohol in a Cohort of High-frequency Cannabis Users: Prevalence and Reflections on Current Interventions" (2011) 53 *Can J Criminology and Criminal Justice* 247.

⁴ In MADD Canada's view, drivers in the graduated licensing program should be prohibited from using cell phones and other electronic devices, whether handheld or hands-free. Research from Canada and abroad indicates that the use of even hands-free devices significantly increases crash risks. D Redelmeier & R Tibshirani, "Association Between Cellular-Telephone Calls and Motor Vehicle Collisions" (1997) 336:7 *NEJM* 453; A McCartt, L Hellinga & K Braitman, "Cell Phones and Driving: Review of Research" (2006) 7 *Traffic Inj Prev* 89; and K Kircher, C Patten & C Ahlström, *Mobile telephones and other communication devices and their impact on traffic safety – A review of the literature* (Linköping, Sweden: Swedish National Road and Transport Research Institute, 2011) VTI report 729A, Summary.

Unfortunately, it often takes a particularly horrendous crash or heart-wrenching death to galvanize governments to take action. MADD Canada would encourage all jurisdictions to review and amend their legislation based on existing best practice, rather than waiting for a tragedy. While all progressive legislation is welcomed, the timely enactment of the 2012 legislative priorities will prevent needless deaths and injuries.

As outlined in PART II, there are also considerable variations in the rate of impaired driving deaths and injuries among the jurisdictions. Moreover, even those Canadian provinces with the best impaired driving records fall short of many comparable developed democracies, despite the fact that most of these countries have far higher rates of per capita alcohol consumption. MADD Canada sees no reason why Canada should continue to have one of the poorest impaired driving records by international standards, when it is clear that major progress can be made. Like its predecessors, *The 2012 Review* will provide the basis for MADD Canada's ongoing efforts to assist each province in significantly reducing impaired driving deaths and injuries.

Section 3: MADD Canada's 2012 Provincial Legislative Priorities

The 2012 priorities have been drafted to reflect Canada's unique constitutional division of legislative authority and the requirements of the *Canadian Charter of Rights and Freedoms*.⁵ In selecting its priorities, MADD Canada considered those measures that would likely garner the greatest public support and most significantly reduce impaired driving. The 2012 legislative priorities seek to: strengthen measures to safeguard new and young drivers;⁶ enhance and expand the current short-term roadside ALS legislation; and encourage greater use of immediate roadside administrative vehicle impoundments⁷ and alcohol interlocks.

⁵ Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act (UK)*, 1982, c 11.

⁶ The proposed measures are needed to protect new and young drivers, given their heightened vulnerability to impairment-related crash death. For example, 15 to 25-year olds accounted for 13.7% of the Canadian population in 2008, but constituted 33% of the alcohol-related traffic deaths. These deaths help to explain why 15 to 19-year olds are almost 15 times, and 20 to 24-year olds are more than 9 times, more likely to die per kilometre driven than their parents. From a public health perspective, these youth deaths represent a major cause of preventable years of life lost, as the victims typically die 50 to 60 years prematurely. See Statistics Canada, *CANSIM Table 051-0001, Estimates of Population, by age group and sex for July 1, Canada, provinces and territories, annual (persons)* (Ottawa: Statistics Canada, 2010); Traffic Injury Research Foundation (TIRF), *Alcohol-Crash Problem in Canada: 2008* (Ottawa: Canadian Council of Motor Transport Administrators (CCMTA), 2010) at 14 [*Crash Problem 2008*]; and P Emery, D Mayhew & H Simpson, *Youth and Road Crashes: Magnitude, Characteristics and Trends* (Ottawa: TIRF, 2008) at 1.5.

⁷ Preliminary results from Ontario and British Columbia strongly suggest that these immediate roadside sanctions have significantly reduced impaired driving deaths and injuries in both jurisdictions. For example, the British Columbia Office of the Superintendent of Motor Vehicles reported that there was a 40% decrease in alcohol-related fatalities in the 12 months following the 2010 implementation of its immediate roadside .05% ALS and vehicle impoundment program. Office of the Superintendent of Motor Vehicles, News Update, "Alcohol-Related Motor Vehicle Fatalities" (23 November 2011).

Given the two-year time lag and other inadequacies in the Canadian crash data, it will be some time before the exact impact of the Ontario and British Columbia initiatives can be fully documented.

Finally, the five key recommendations in the 2009 report have been modified and subdivided into the following eight legislative priorities in order to ensure that each major proposal is appropriately highlighted.

MADD Canada's 2012 Provincial Legislative Priorities

1. A comprehensive graduated licensing program lasting at least three years for all new drivers, which includes: express police powers to enforce it; passenger, nighttime and highway restrictions; a ban on the use of any electronic devices; and mandatory roadside ALSs for breaches of the program conditions.
2. A .00% blood-alcohol concentration (BAC) limit for all drivers under 21 and all drivers with less than five years of driving experience; express police powers to enforce it; and mandatory roadside ALSs for breaches.
3. A prohibition on being positive for any illicit psychoactive drug⁸ for all drivers under 21 or with less than five years driving experience. The proposed legislation should include express statutory police powers to enforce the prohibition and mandatory roadside ALSs for its breach. This drug-impaired driving prohibition would parallel the .00% BAC limit that some provinces have already enacted for drivers who are under 21 or who have less than five years of driving experience.
4. A 7-day .05% BAC ALS and vehicle impoundment program, which includes a \$150-\$300 licence reinstatement fee and the recording of the suspension on the driver's record. Drivers with a second or subsequent .05% infringement within five years should be subject to 30 and 60-day ALSs and vehicle impoundments, respectively, and remedial programs.
5. A parallel ALS and vehicle impoundment program: (i) for drivers whose ability to drive, based on a standard field sobriety test (SFST) or drug recognition evaluation (DRE), is reasonably believed to be impaired by drugs or a combination of drugs and alcohol; and (ii) for drivers who refuse to submit to a breath test, SFST, DRE, or other lawfully demanded test.⁹

Nevertheless, MADD Canada believes that modifying its provincial and territorial priorities based on the currently available research is preferable to waiting until 2013 or 2014 for better data.

⁸ Any subsequent reference to this drug prohibition for new and young drivers should be interpreted as applying to only illicit psychoactive drugs, such as marijuana, hallucinogenics, methamphetamines, and cocaine. This prohibition is not intended to apply to new and young drivers who simply test positive for prescription medication or over-the-counter drugs.

⁹ In MADD Canada's view, this ALS and vehicle impoundment program is needed to address the increase in driving after drug use within the general population. While the problem of drug-impaired driving is greatest among the young, it is not limited to those under the age of 21. For example, the percentage of respondents in a national survey who admitted to driving within two hours of using marijuana/hashish increased from 1.5% in 2002 to 2.4% in 2006. H Simpson *et al*, *The Road Safety Monitor: Drugs and Driving* (Ottawa: TIRF, 2006) at 9. See also D Beirness & E Beasley, "A Roadside Survey of Alcohol and Drug Use Among Drivers in British Columbia" (2010) 11 *Traffic Inj Prev* 215; E Beasley & D Beirness, *Drug Use by Fatally Injured Drivers in Canada (2000-2008)* (Ottawa: Canadian Centre on Substance Abuse, 2011); and B Jonah, *Drugs and Driving Framework, Revised Draft* (Ottawa: CCMTA, 2012) at 19-24.

6. A mandatory alcohol interlock program for all federal impaired driving offenders, which includes: reduced provincial suspensions to encourage participation; mandatory 7, 30 and 60-day ALSs and vehicle impoundments, and 1, 2 and 3-year extensions of the alcohol interlock order for first, second and subsequent violations of the program conditions; and reliance on the data log readings and other behavioural criteria in relicensing.
7. Administrative vehicle impoundments for uninsured, unlicensed, suspended, prohibited, and disqualified drivers. Mandatory administrative vehicle forfeiture for drivers with three or more federal impaired driving or other *Criminal Code* traffic convictions within 10 years.
8. Mandatory remedial programs for all federal impaired driving offenders, and for drivers with a repeat short-term or 90-day impairment-related ALS within five years.

Section 4: The Results of the 2012 Provincial Legislative Review

This section provides a synopsis of both the jurisdictions' rankings in *Rating the Provinces and Territories: The 2009 Report (The 2009 Report)*, and the legislation that each has enacted in the last three years. Not surprisingly, some of the jurisdictions that enacted comprehensive reforms prior to *The 2009 Report* have been less active in the interim than some of the provinces that had weaker legislation prior to that report.

(a) Jurisdictions Demonstrating Legislative Leadership

- British Columbia: The province ranked seventh in *The 2009 Report*. In September 2010, British Columbia greatly strengthened its short-term and 90-day ALS programs, introducing immediate roadside prohibitions (IRPs) coupled with matching immediate vehicle impoundments. Despite a successful court challenge to one IRP component,¹⁰ the province appears to have the most effective short-term ALS program in the country.
- Ontario: The province ranked first in *The 2009 Report*. It subsequently brought into force legislation extending the .00% BAC limit to all drivers under the age of 22. It is also proclaimed in force legislation imposing mandatory 7-day vehicle impoundments on: drivers with BACs above .08%; drivers who refuse a required breath, blood or other test; and drivers found in contravention of an interlock order or various provincial licence suspensions.
- Newfoundland and Labrador: The province ranked eighth in *The 2009 Report*. It subsequently introduced several minor and major initiatives. It modestly improved its graduated licensing program, greatly expanded police enforcement powers, greatly strengthened its short-term ALS program for drivers with BACs

¹⁰ *Sivia v British Columbia (Superintendent of Motor Vehicles)*, 2011 BCSC 1639; and *Sivia v British Columbia (Superintendent of Motor Vehicles)*, 2011 BCSC 1783.

of .05% or more, and introduced a parallel ALS program for suspected drug-impaired drivers.

(b) Jurisdictions Making Some Progress

- Alberta: The province ranked sixth in *The 2009 Report*. In December 2011, Alberta enacted amendments that, when proclaimed in force, will modestly improve its graduated licensing program, greatly strengthen its short-term ALS program for suspected alcohol and drug-impaired drivers, and impose mandatory alcohol interlock orders on all federal impaired driving offenders.
- Nova Scotia: The province ranked fourth in *The 2009 Report*. Nova Scotia subsequently strengthened its short-term ALS program for drivers with BACs of .05% or more and authorized the Registrar to impose an interlock condition on applicants for a driver's licence. However, it has not proclaimed in force 2007 legislation that would greatly improve its graduated licensing program and 2008 legislation that would expand police powers to impound vehicles.
- Manitoba: The province ranked second in *The 2009 Report*. Manitoba subsequently increased the suspensions in the short-term ALS program for repeat occurrences and made some other minor changes to its legislation. The province had enacted major reforms prior to the 2009 assessment.
- Prince Edward Island: The province ranked third in *The 2009 Report* and has not implemented any major impaired driving initiatives in the interim. The province had enacted major reforms prior to the 2009 assessment.
- Québec: The province ranked ninth in *The 2009 Report*. It subsequently modestly improved the graduated licensing program for drivers over the age of 25, the alcohol interlock program and the vehicle impoundment legislation. However, Québec has not yet proclaimed in force a 2010 amendment that would create a .00% BAC limit for all drivers under the age of 22. The province remains the only jurisdiction without a short-term ALS program.
- New Brunswick: The province ranked twelfth in *The 2009 Report*. New Brunswick subsequently increased the short-term ALS from 24 hours to 7 days for drivers with BACs of .05% or more, and modestly strengthened stage one of its graduated licensing program.

(c) Jurisdictions Making No Progress

- Saskatchewan: The province ranked fifth in *The 2009 Report* and has not implemented any significant impaired driving initiatives in the interim.
- Northwest Territories: The territory ranked eleventh in *The 2009 Report*, but has failed to introduce any impaired driving initiatives in the interim.
- Nunavut: The territory ranked thirteenth in *The 2009 Report*, but has failed to introduce any impaired driving initiatives in the interim.

- Yukon: The territory ranked tenth in *The 2009 Report*, but has failed to introduce any impaired driving initiatives in the interim.

Most jurisdictions have programs that address, in some fashion, almost all of the 2012 legislative priorities. However, as explained in detail in the individual assessments in PART III, much of the current legislation needs to be expanded and strengthened. In some cases, such as British Columbia's short-term .05% ALS and vehicle impoundment legislation and Ontario's graduated licensing program, only relatively modest changes are necessary. In contrast, Nunavut's short-term ALS legislation, New Brunswick's alcohol interlock program and much of the legislation in other jurisdictions require major reforms. Similarly, there are broad discrepancies in the progress made across the legislative priorities. For example, considerable strides have been made with respect to graduated licensing, .00% BAC limits for young drivers, the short-term ALS programs, and the alcohol interlock and remedial initiatives. However, less progress has been made on police enforcement powers, and virtually nothing has been done in terms of administrative vehicle forfeiture.

As indicated in the CEO's message, the tendency to initiate amendments only after a particularly disturbing crash is disconcerting. MADD Canada is also concerned about the often long delays between the passing of legislation and its coming into force. For example, Nova Scotia has still not proclaimed in force the graduated licensing and vehicle impoundment amendments that it enacted in 2007 and 2008, respectively. Similarly, a .00% limit for drivers under the age of 22 and other progressive legislation is awaiting proclamation in Québec. Moreover, some important legislation, such as that relating to graduated licensing and drug-impaired driving, has been undermined by the failure to enact complementary enforcement powers. Finally, some reforms have had only a limited impact, because the legislation was narrow in scope, complicated, time-consuming to enforce or invoke, or was subject to various exceptions.

PART II: THE PROVINCIAL AND TERRITORIAL CRASH RECORDS

Section 1: The Canadian Data

The provincial and national crash data in this report are largely based on an annual publication of the CCMTA, the most recent of which is the *Alcohol-Crash Problem in Canada: 2009*.¹ This publication relies on the Fatality and Serious Injury Databases developed by TIRF in conjunction with the provincial coroners and medical examiners, and police authorities.² Several features of these databases warrant comment.

First, the provinces do not all use the same criteria for categorizing and reporting total and alcohol-related crash deaths and injuries. For example, Québec has adopted a narrower definition of an alcohol-related crash death than other jurisdictions, excluding deaths among alcohol-impaired pedestrians, deaths in alcohol-related off-road crashes, and alcohol-related deaths involving snowmobiles, ATVs, bicycles, and other non-principal vehicle types.³ Moreover, a crash in Québec is only categorized as alcohol-related, in the absence of BAC evidence, if the police specifically list alcohol as a “probable cause” of the crash.⁴ Thus, the provincial and territorial data are apparently reported as received without any central standardization or verification.

Second, given the inherent limitations in the Fatality and Serious Injury Databases, they likely significantly understate the total number of alcohol-related crash deaths and injuries. For example, if an impaired driver crashes into a vehicle, killing its sober driver and two occupants, it is only the dead driver’s BAC that would be reported in the Fatality Database. Unless the police are able to obtain BAC evidence from the surviving impaired driver or record the crash as being due to the surviving driver’s impairment, all three deaths will be recorded as being non-alcohol-related. Similar problems arise when impaired drivers survive crashes in which they kill sober passengers, pedestrians or bicyclists.⁵

Moreover, Canadian research indicates that the police frequently fail to detect and report the presence of alcohol.⁶ Even if the police strongly suspect that a surviving driver is impaired by alcohol, it is extremely difficult to obtain BAC evidence, particularly if the driver is taken to hospital.⁷ Thus, relatively few hospitalized impaired drivers are charged with or convicted of a federal impaired driving

¹ TIRF, *Alcohol-Crash Problem in Canada: 2009* (Ottawa: CCMTA, 2011) [*Crash Problem 2009*].

² *Ibid* at 3-10.

³ *Ibid* at 133.

⁴ *Ibid* at 10.

⁵ H Simpson, *Drinking-Driving Statistics in Canada: Does Anyone Really Know How Big the Problem Is?* (Ottawa: TIRF, 1997) at 53-56.

⁶ See for example, E Vingilis, E Adlaf & L Chung, “Comparison of Age and Sex Characteristics of Police-Suspected Impaired Drivers and Roadside-Surveyed Impaired Drivers” (1982) 14 *Accid Anal and Prev* 425; and E Vingilis & V Vingilis, “The Importance of Roadside Screening for Impaired Drivers in Canada” (1987) 29 *Can J Crim* 17 at 22-25. Although these sources are dated, police underreporting remains problematic, particularly in Québec.

⁷ For a detailed review of the issue see E Chamberlain & R Solomon “Enforcing Impaired Driving Laws Against Hospitalized Drivers: The Intersection of Healthcare, Patient Confidentiality and Law Enforcement” (2010) 29 *WRLSI* 45.

offence.⁸ For example, a 2004 British Columbia study reported that only 11% of drivers with BACs above .08% who were hospitalized following a crash were convicted of any *Criminal Code* impaired driving offence, even though the mean BAC of the alcohol-positive drivers was .15%. Police reluctance to report a crash as alcohol-related in the absence of BAC evidence is understandable.

Third, given the limits on police-reported alcohol involvement data, post-mortem testing is particularly important. However, the testing rates vary from 100% of fatally-injured drivers in Prince Edward Island, the Northwest Territories and Nunavut to lows of 63% in Québec and 71% in the Yukon.⁹ Similarly, the testing of fatally-injured pedestrians ranges from 100% in Prince Edward Island and the three territories to lows of 33% in Saskatchewan and 39% in Québec.¹⁰ The lower the post-mortem testing rates, the greater the reliance on the far less reliable police-reported alcohol involvement data.

Fourth, there has often been a delay of more than two years in reporting and publishing the crash data. Even with efforts to speed up the process, the 2009 crash data only became publicly available in December 2011.

In 2002, MADD Canada commissioned G. Mercer and M. Marshall of Applied Research and Evaluation Services (ARES) at the University of British Columbia to prepare a report on the number and cost of impairment-related crashes in Canada.¹¹ The authors used the CCMTA's total and alcohol-related crash deaths as the starting point for their analysis. Given the underreporting of non-fatal injury crashes, the authors used insurance data to estimate the number of injuries based on a ratio of 118 crash injuries for each crash fatality.¹² Relying on BAC readings at various levels of injury severity, the authors calculated that the percentage of alcohol-related crash injuries would be half the percentage of alcohol-related crash fatalities.¹³ Thus, for example, if the CCMTA reported that 38% of crash fatalities were alcohol-related, the authors would assume that 19% of crash injuries were alcohol-related.

Neither the CCMTA nor any other agency provides annual statistics on drug-impaired crash deaths and injuries.¹⁴ Based on data primarily from the 1980s and 90s, Mercer and Marshall estimated that about 75% of alcohol-positive crashes involve alcohol alone and 25% involve alcohol and drugs.¹⁵

⁸ R Purssell *et al*, "Proportion of injured alcohol-impaired drivers subsequently convicted of an impaired driving criminal code offence in British Columbia" (2004) 6:2 CJEM 80. The comparable conviction rate for hospitalized impaired drivers in Sweden, which has broader police powers to demand blood samples, is 85%. S Mattsson, A Eriksson & H Sjögren, "Conviction rates among hospitalized DUI/DWI drivers" (2000) 28 J Traffic Medicine 21.

It is also worth noting that these drivers have high rates of recidivism and thus pose ongoing risks to the public. See R Purssell *et al*, "Proportion of Injured Drivers Presenting to a Tertiary Care Emergency Department Who Engage in Future Impaired Driving Activities" (2010) 11 Traff Inj Prev 35; and E Vingilis *et al*, "Psychosocial Sequelae of Motor Vehicle Collisions: A Follow-up Study" (1996) 28 Accid Anal and Prev 637.

⁹ *Crash Problem 2009*, *supra* note 1 at 6.

¹⁰ *Ibid* at 7.

¹¹ G Mercer & M Marshall, *Estimating the Presence of Alcohol and Drug Impairment in Traffic Crashes and their Cost to Canadians: A Discussion Paper* (Vancouver: ARES, 2002) [Mercer]. The study contains a detailed discussion of the authors' methodology. See www.madd.ca/english/research/magnitude_report2k2.doc (accessed 28 November 2011).

¹² *Ibid* at 4.

¹³ *Ibid* at 18-19.

¹⁴ However, there has been a recent review of the national drug-related traffic fatality data. See E Beasley & D Beirness, *Drug Use by Fatally Injured Drivers in Canada (2000-2008)* (Ottawa: Canadian Centre of Substance Abuse, 2011).

¹⁵ Mercer, *supra* note 11 at 23.

The authors also estimated that in addition to the alcohol-positive crashes there will be another 10% of crashes that involve drugs alone.¹⁶ The recent reports of substantial increases in drug-impaired driving suggest that the 10% figure may significantly understate the current number of drug-impaired crashes.¹⁷

The tables and graphs in the following two sections are based on the CCMTA fatality data as modified by Mercer and Marshall, and Statistics Canada population data.¹⁸ As outlined above, the tables and graphs should be viewed as providing a conservative estimate of impairment-related crash deaths and injuries in Canada.

Section 2: The 2009 Provincial, Territorial and National Crash Data

The table and three graphs in this section provide a snapshot of the total and impairment-related crash deaths across Canada in 2009. The reader is encouraged to refer to the individual provincial assessments in PART III, which include a table comparing the jurisdiction's crash record to the national average over the last ten-year reporting period. This is particularly important in the less populated jurisdictions where a single crash can skew the data in any one year.

Table 1: Total and Impairment-Related Crash Deaths in Canada, 2009

	Total Crash Deaths		Impairment-Related Crash Deaths		
	Number	Per 100,000 population	Number	As % of total crash deaths	Per 100,000 population
CAN	2,575	7.63	1,074	41.69%	3.18
AB	394	10.68	210	53.32%	5.70
BC	416	9.34	161	38.61%	3.60
MN	111	9.08	59	53.51%	4.86
NB	84	11.21	42	49.76%	5.58
NL	45	8.89	14	31.78%	2.82
NT	5	11.51	3	66.00%	7.60
NS	81	8.63	43	52.96%	4.57
NU	4	12.43	0	0.00%	0.00
ON	711	5.44	265	37.29%	2.03
PE	12	8.51	8	64.17%	5.46
QC	530	6.77	168	31.75%	2.15
SK	175	16.99	87	49.66%	8.44
YK	7	20.80	2	31.43%	6.54

Note: All calculations were done using non-rounded values.

¹⁶ *Ibid.*

¹⁷ See PART I, notes 3 and 9.

¹⁸ Statistics Canada, *CANSIM Table 051-0001, Estimates of population, by age group and sex for July 1, Canada, provinces and territories, annual (persons)* (Ottawa: Statistics Canada, 2011).

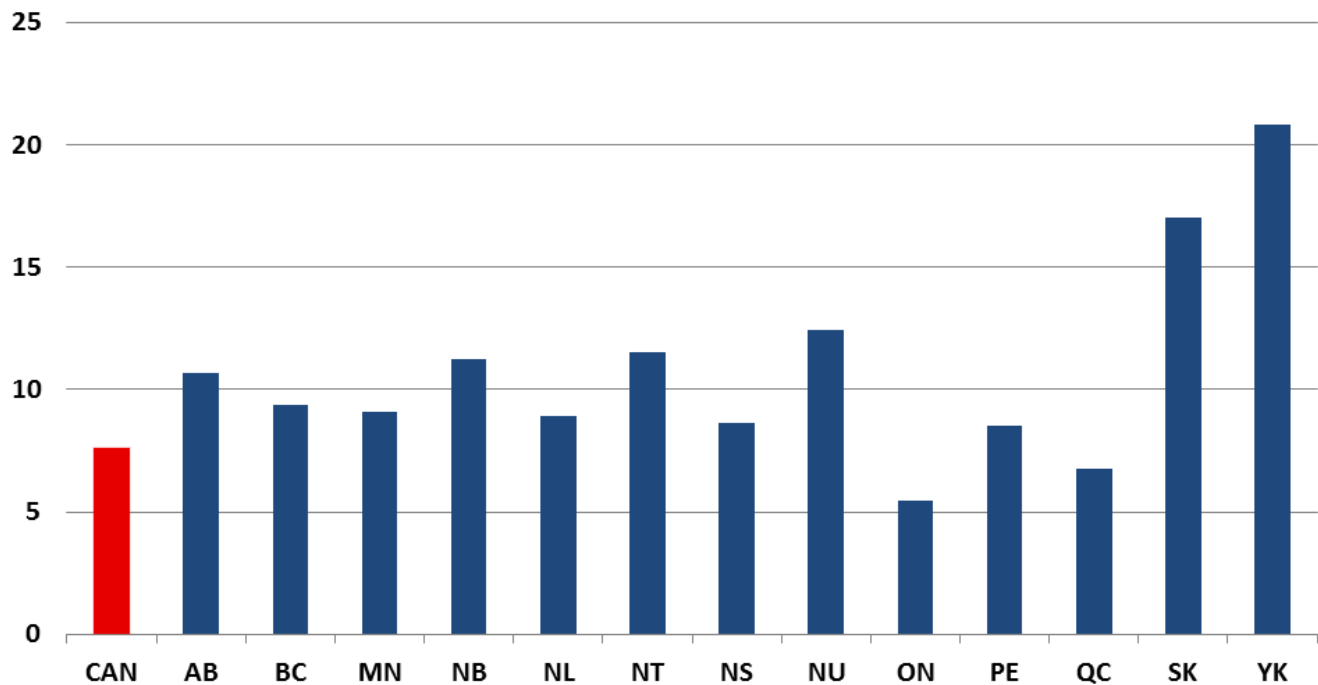
**Table 2: Provincial Impairment-Related Crash Deaths
Per 100,000 in Canada, 2009***

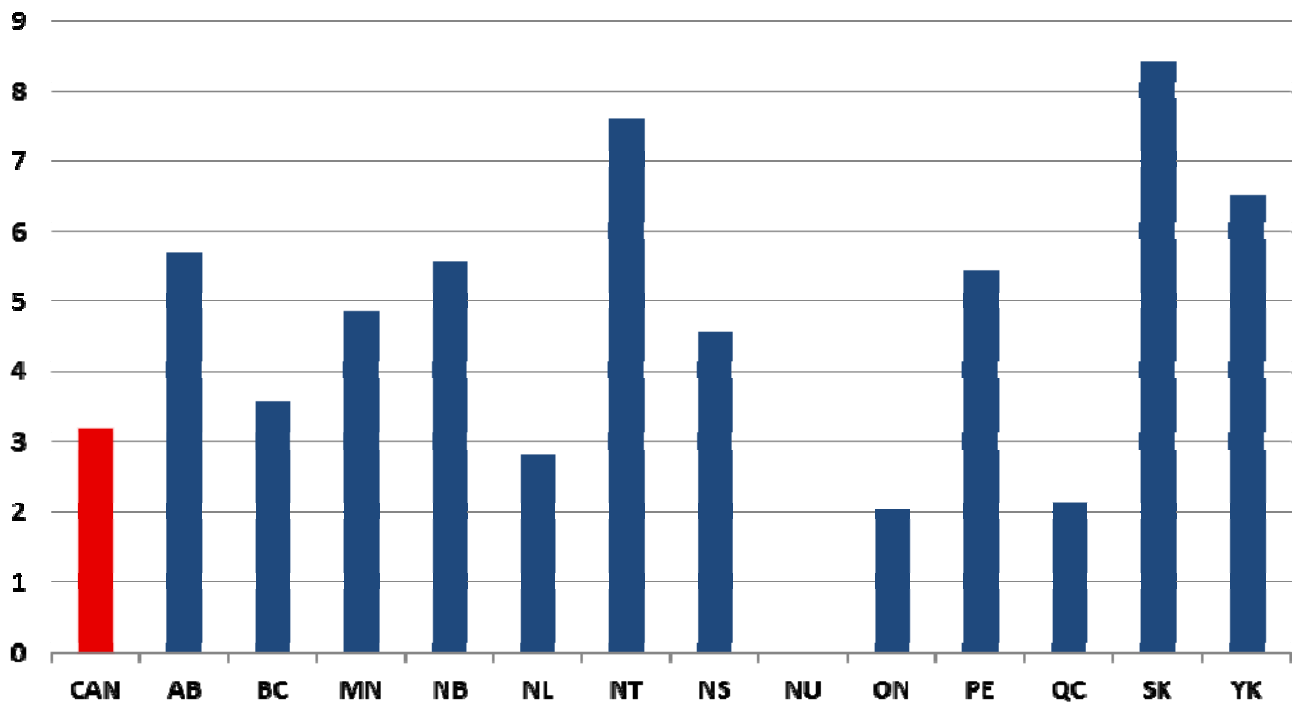
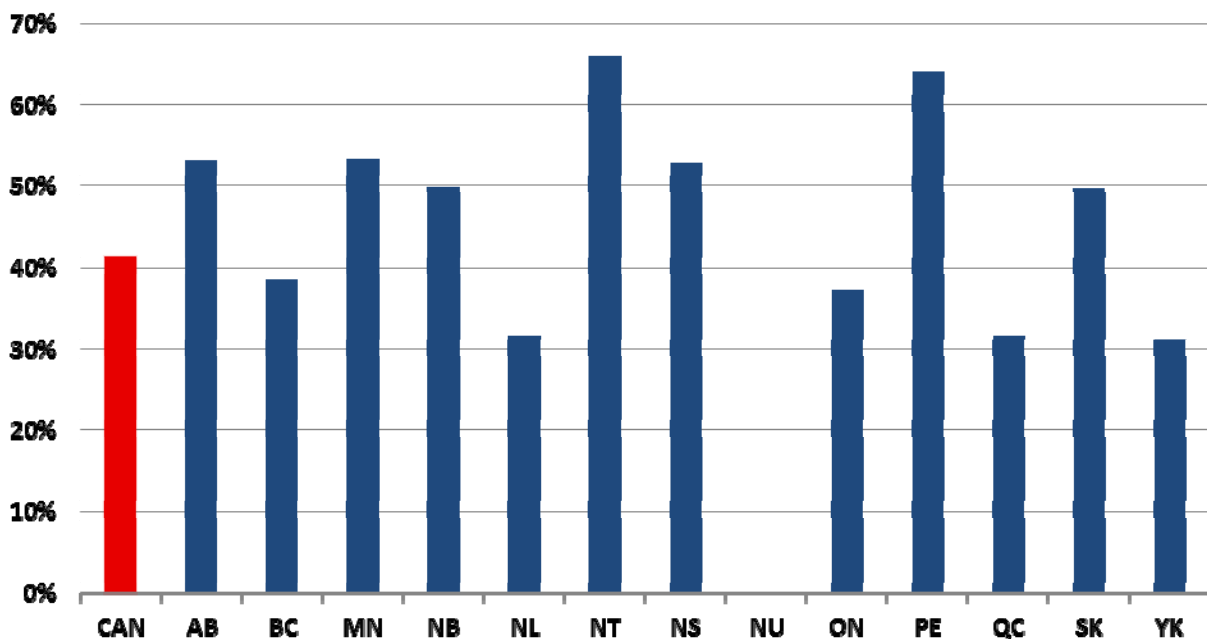
1. Ontario	2.03
2. Québec**	2.15
3. Newfoundland	2.82
4. British Columbia	3.60
5. Nova Scotia	4.57
6. Manitoba	4.86
7. Prince Edward Island	5.46
8. New Brunswick	5.58
9. Alberta	5.70
10. Saskatchewan	8.44
Canada	3.18

* The territories were not included in this table because of the small numbers involved.

** The Québec data must be viewed with caution because of problems with underreporting.

Graph 1: Total Crash Deaths Per 100,000 in Canada, 2009



Graph 2: Impairment-Related Crash Deaths Per 100,000 in Canada, 2009**Graph 3: Percentage of Impairment-Related Crash Deaths in Canada, 2009**

Section 3: Recent Trends in the Canadian Crash Data

Impaired driving deaths in Canada peaked in the early 1980s,¹⁹ prompting an unparalleled flurry of federal²⁰ and provincial²¹ legislative amendments. Research, public health, government, and grass-roots organizations launched major public awareness and education programs. The public, politicians and the media adopted more critical attitudes toward drinking and driving.²² These and other measures resulted in significant declines in impaired driving deaths and injuries. However, the rate of decline slowed in the late 1990s and, by 2000, had all but stopped.²³

In the following ten years, there were: numerous federal²⁴ and provincial²⁵ legislative amendments; ongoing awareness and educational campaigns; the introduction of responsible serving practices by municipalities, post-secondary institutions and the hospitality industry; and the implementation of alternate transportation policies, such as designated driver programs. Unfortunately, there were no further declines in impaired driving deaths and injuries until 2008 and 2009.²⁶

Several comments about the ten-year comparative data in PART III are warranted at this point. First, only Ontario and Québec (leaving aside the problem of underreporting) had substantially better impairment-related crash records than the national average. The records of British Columbia, Manitoba, Nova Scotia, and Newfoundland and Labrador were roughly comparable to the national average. However, the remaining seven jurisdictions had impairment-related crash records that were significantly poorer than the national average. Second, the recent major amendments in Ontario and British Columbia, and the pending legislation in Alberta, Nova Scotia and Québec should reduce

¹⁹ D Mayhew, D Beirness & H Simpson, “Trends in Drinking-Driving Fatalities in Canada – Progress Continues” in H Laurell & F Schlyter, eds, *Alcohol, Drugs and Traffic Safety – T’2000: Proceedings of the 15th International Conference on Alcohol, Drugs and Traffic Safety*, CD-ROM (Stockholm: International Council on Alcohol, Drugs and Traffic Safety, 2000) [ICADTS 2000].

²⁰ These included: new offences of impaired driving causing death and bodily injury; provisions permitting the police to demand blood samples in certain limited circumstances; mandatory minimum driving prohibitions; and significantly increased minimum and maximum penalties. *Criminal Law Amendment Act, 1985*, SC 1985, c 19.

²¹ The measures introduced at the provincial level included: 90-day ALSs for drivers with BACs of .08% or above; lengthier minimum licence suspensions for drivers convicted of a federal impaired driving offence; mandatory education, assessment and treatment programs; and graduated licensing programs for new and young drivers.

²² For a general discussion of these developments see M Asbridge *et al*, “The Criminalization of Impaired Driving in Canada: Assessing the Deterrent Impact of Canada’s First Per Se Law” (2004) 65 *J Studies on Alcohol and Drugs* 450 at 456-58; and R Mann *et al*, “Drinking-Driving Fatalities and Consumption of Beer, Wine and Spirits” (2006) 25 *Drug and Alcohol Review* 321 at 324.

²³ S Pitel & R Solomon, *Lives Saved* (Oakville: MADD Canada, 2012); and D Mayhew, D Beirness & H Simpson, “Trends in Drinking-Driving Fatalities in Canada – Progress Stalls” in P Williams & A Clayton, eds, *Proceedings of the 17th International Conference on Alcohol, Drugs and Traffic Safety*, CD-ROM (Glasgow: ICADTS, 2004).

²⁴ For a discussion of these amendments, see R Solomon, E Chamberlain & C Lynch, “Canada’s New Impaired Driving Legislation: Modest Gains and Missed Opportunities” (2010) 56 *Crim LQ* 51.

²⁵ Most provinces have enacted several progressive programs in the last ten years, including: comprehensive graduated licensing programs; zero BAC limits for new and young drivers; more comprehensive short-term ALS programs for driving with a BAC of .05% or more; mandatory alcohol interlock programs for federal impaired driving offenders; vehicle impoundment programs; and comprehensive assessment and treatment programs. These measures have been effective and, in our view, have prevented increases in impaired driving deaths. For a review of the provincial reforms see R Solomon *et al*, *Rating the Provinces and Territories: The 2009 Report* (Oakville: MADD Canada, 2009).

²⁶ S Pitel & R Solomon, *Estimating the Number and Cost of Impairment-Related Traffic Crashes in Canada: 1999 to 2009* (Oakville: MADD Canada, 2012) at 7-8.

impairment-related crash deaths in those jurisdictions. Third, in the absence of significant legislative reforms, the impairment-related crash records of New Brunswick, the Northwest Territories, Nunavut, Prince Edward Island, Saskatchewan, and the Yukon, which are already poor, will likely worsen relative to the national standard.

In 2009, it was estimated that there were 181,911 impairment-related crashes resulting in 1,074 deaths, 63,338 injuries, and 209,336 vehicles damaged in non-injury crashes.²⁷ These crashes cost an estimated \$20.15 billion.²⁸ Impaired driving remains Canada's leading criminal cause of death, claiming almost twice as many lives per year as all types of homicide combined.²⁹

Table 3: Total and Impairment-Related Crash Deaths in Canada, 2000-2009

Year	Total Crash Deaths	Impairment-Related Crash Deaths	
		Number	Percentage
2000	3,162	1,247	37.2%
2001	3,021	1,176	40.2%
2002	3,197	1,161	36.3%
2003	3,124	1,257	40.3%
2004	3,013	1,157	39.4%
2005	3,226	1,210	37.5%
2006	3,122	1,278	40.9%
2007	3,045	1,239	40.7%
2008	2,694	1,162	43.1%
2009	2,575	1,074	41.7%

Table 4: Percentage Changes in Impairment-Related Crash Deaths Per 100,000 in Canada, 2000-2009*

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Alberta	-7.38%	-12.65%	+1.77%
British Columbia	-15.69%	-26.84%	-7.32%
Manitoba	+1.40%	+33.51%	-15.40%
New Brunswick	+15.31%	-24.15%	+2.38%
Newfoundland	-3.20%	-51.10%	-56.67%
Nova Scotia	+10.91%	+29.97%	+69.28%

²⁷ *Ibid* at 3.

²⁸ *Ibid* at 11.

²⁹ In contrast to the 1,074 impairment-related crash fatalities in 2009, there were 610 homicides in Canada, which include the separate offences of murder, manslaughter and infanticide. S Beattie & A Cotter, "Homicide in Canada, 2009" (Fall 2010) 30:3 Juristat (Statistics Canada Catalogue No. 85-002-X).

Ontario	-32.46%	-21.42%	-5.71%
Prince Edward Island	-3.20%	+128.48%	-23.07%
Québec**	-31.86%	-25.16%	-13.91%
Saskatchewan	+22.65%	+27.00%	-28.68%
Canada	-16.96%	-15.20%	-8.71%

* The territories were not included in this table because of the small numbers involved.

** The Québec data must be viewed with caution because of problems with underreporting.

Table 5: Total and Impairment-Related Crash Injuries in Canada, 2000-2009

Year	Total Crash Injuries	Impairment-Related Crash Injuries	
		Number	Percentage
2000	373,116	69,362	18.6%
2001	356,478	71,563	20.1%
2002	377,246	68,470	18.2%
2003	368,632	74,181	20.1%
2004	355,534	68,245	19.2%
2005	380,668	71,413	18.8%
2006	368,396	75,374	20.5%
2007	359,310	73,120	20.4%
2008	317,892	68,538	21.6%
2009	303,850	63,353	20.9%

Section 4: Canada's Impaired Driving Record in an International Perspective

There is a great deal of research detailing the annual fluctuations in the Canadian data but little discussion of Canada's record relative to that of comparable countries. This narrow scope of inquiry tends to normalize Canada's poor impaired driving record and preclude consideration of measures that have proven effective in other countries. While the comparative data presented in this section must be viewed with caution,³⁰ they clearly establish that Canada's impaired driving record is bleak by international standards.

This conclusion is consistent with earlier comparative studies. For example, an international study published in 2000 reported that Canada had the second highest rate of alcohol involvement in fatal crashes of 16 comparable developed democracies.³¹ Similarly, a 2001 Transport Canada study

³⁰ As the numerous technical notes and sources to Graphs 4, 5 and 6 in Appendices I and II illustrate, it is challenging to make subtle distinctions in the comparative data. Despite these concerns, the data provide ample evidence that Canada's impaired driving record falls far below that of the world leaders of traffic safety.

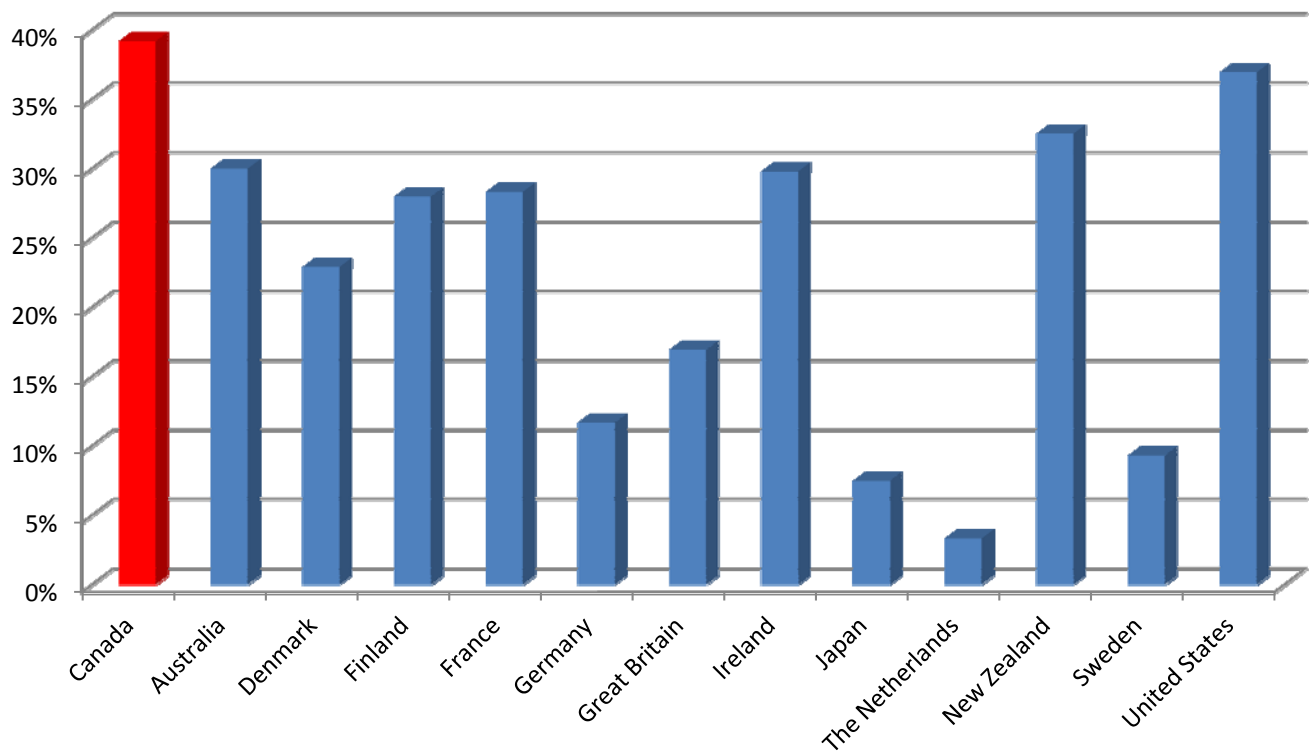
³¹ K Stewart *et al*, "International Comparison of Laws and Alcohol Crash Rates: Lessons Learned" in ICADTS 2000, *supra* note 19.

found that Canada had the highest rate of impairment among fatally-injured drivers of eight Organisation for Economic Co-operation and Development (OECD) countries.³²

As illustrated by the following graphs, Canada has one of the lowest rates of per capita alcohol consumption among comparable developed countries, but one of the highest rates of alcohol-related crash deaths. For example, while Germany consumed 20% more alcohol per capita than Canada in 2008, less than 12% of its traffic fatalities were alcohol-related. The comparable figure in Canada is 39%. Of greater concern, from MADD Canada's perspective, is that Canada's per capita rate of alcohol-related crash deaths was more than five times that of Germany.³³ Put simply, most comparable countries are doing a much better job than Canada in separating drinking from driving.

Even Canada's jurisdictions with the best impaired driving records fare poorly by international standards. For example, Ontario and Québec's per capita rates of alcohol-related crash deaths in 2008 were more than 3 and 3½ times, respectively, that of Germany. In MADD Canada's view, no Canadian jurisdiction has a crash record that warrants complacency.

Graph 4: Alcohol-Related Fatalities as a Percentage of Total Crash Fatalities in 13 Countries, 2008*

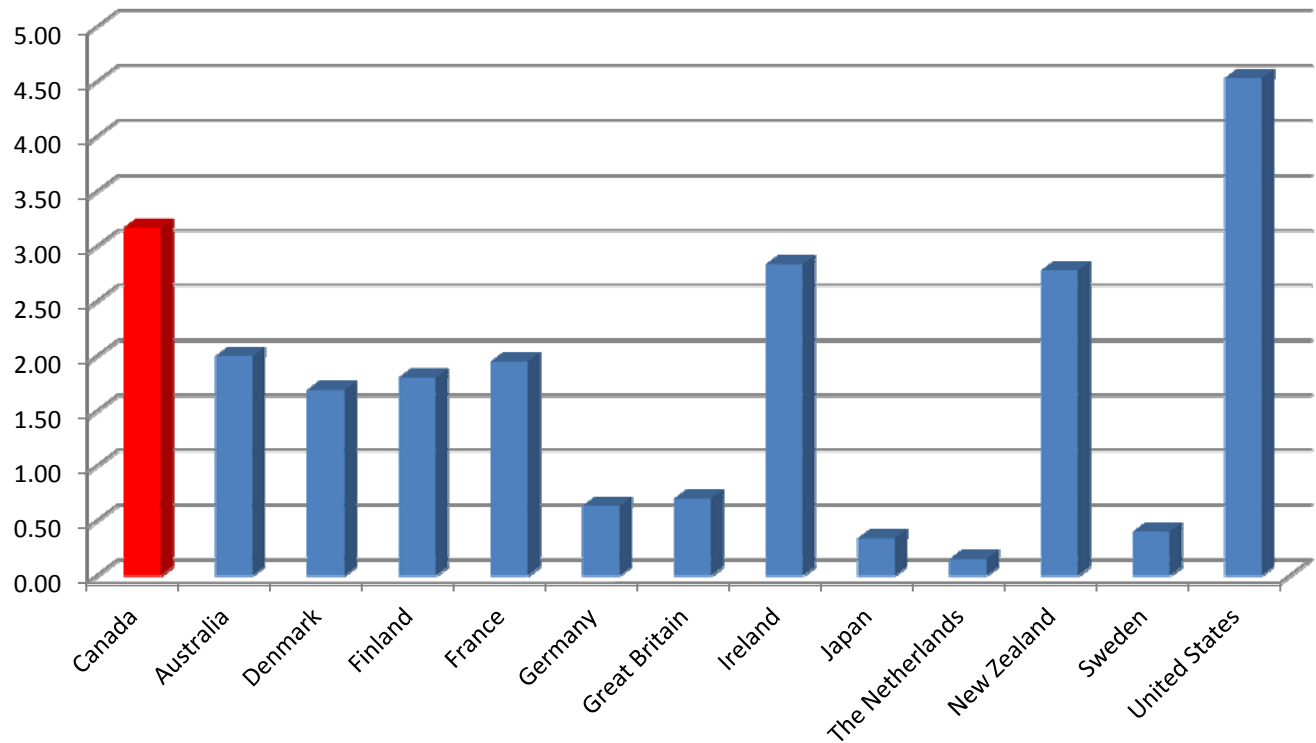


* See Appendix I at 82-83, below, which contains technical data and sources related to Graphs 4 and 5. Note that the crash data are from 2008, except for Australia (2010), Japan (2007) and the United States (2009).

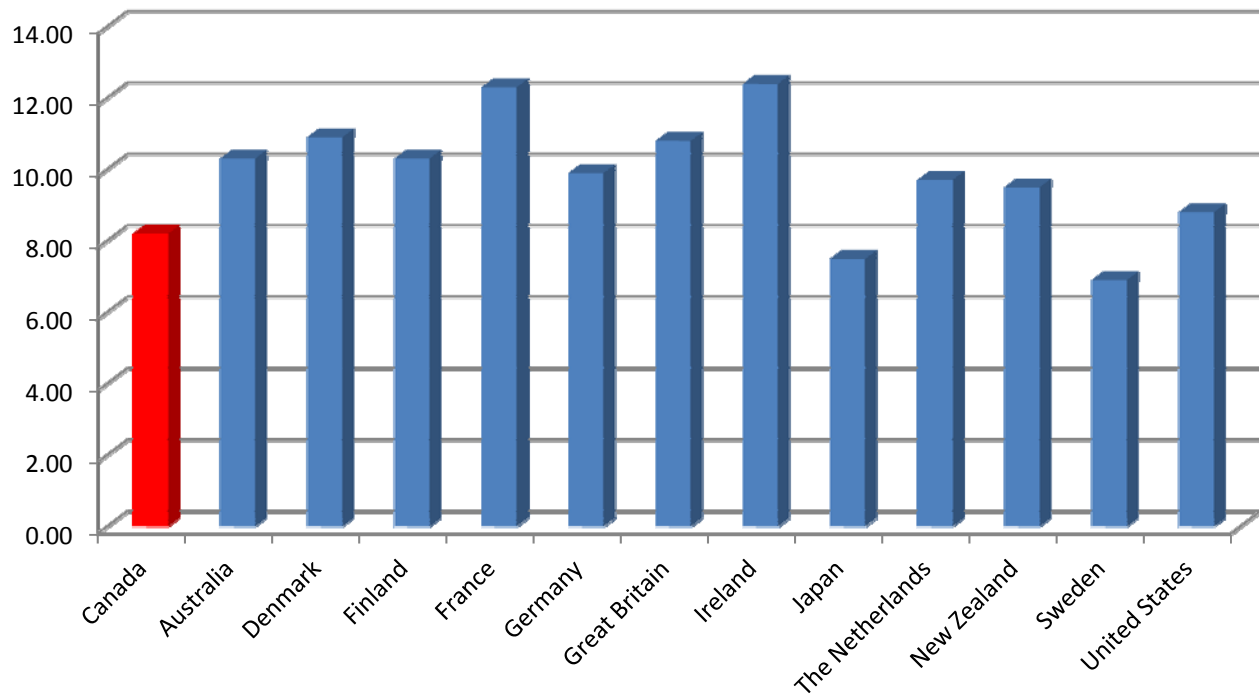
³² Transport Canada: *Canada's Road Safety Targets to 2010* (Ottawa: Minister of Public Works and Government Services, 2001) at 7.

³³ See Appendix I: Technical Notes and Sources For Graphs 4 and 5 and Appendix II: Technical Notes and Sources For Graph 6 at 82-84, below.

Graph 5: Alcohol-Related Crash Deaths Per 100,000 in 13 Countries, 2008



Graph 6: Alcohol Consumption in Litres of Pure Alcohol Per Capita in 13 Countries, 2008*



* See Appendix II at 84, below, which contains technical data and sources related to this graph.

Section 5: Looking Forward

The 2008 and 2009 decreases in impairment-related crash deaths provide a basis for guarded optimism. The recent progressive legislation in British Columbia, Ontario and Newfoundland and Labrador, and the pending amendments in Alberta, Nova Scotia and Québec should contribute to this positive trend. However, there are counterbalancing factors that may offset or even reverse these gains, including: the easing of the recession; increased rates of binge drinking (consuming five or more drinks in a single sitting), particularly among the young;⁴⁴ greater incidence of drug-impaired driving, again mostly among the young;⁴⁵ and the greatly increased availability of alcohol.⁴⁶

While future trends in impairment-related crash deaths cannot be predicted, it is clear that progressive legislation will have a positive impact. Consequently, MADD Canada will distribute this report to officials in each jurisdiction and seek a meeting. As in the past, MADD Canada will offer its assistance and support to any province wishing to strengthen its impaired driving legislation and better protect its constituents.

⁴⁴ By 2005, Statistics Canada reported that 64.8% of 15 to 19-year old current drinkers acknowledged binge drinking at least once in the past year and almost half of these binge drinkers reported doing so 12 or more times. The comparable rates for 20 to 24-year olds were substantially higher. See Canadian Institute For Health Information (CIHI), “Frequency of drinking 5 or more drinks on one occasion ... 1994/95-1998/99” (2001) 2001:3 *Health Indicators*, Catalogue No. 82-221-XIE; CIHI, “Frequency of drinking 5 or more drinks on one occasion ... 2000/01” (2001) 2001:2 *Health Indicators*, Catalogue No. 82-221-XIE; and Statistics Canada, *CANSIM Table 105-0431, Frequency of drinking in the past 12 months ... 2005* (Ottawa: Statistics Canada, 2005).

The 15 to 24-year old age group also has the highest rate of weekly and monthly binge drinking, and of binge drinking on a typical drinking day. E Adlaf, P Begin & E Sawka, eds, *Canadian Addiction Survey (CAS): A National Survey on Canadians’ Use of Alcohol and Other Drugs (Detailed Report)* (Ottawa: Canadian Centre on Substance Abuse, 2005) at 29 and 31.

⁴⁵ See PART I, notes 3 and 9.

⁴⁶ The number and types of alcohol-related services and venues have increased, and the restrictions on alcohol advertising, promotions and other marketing activities have been eased. For example, Ontario now licenses U-Brews, U-Vins, brew pubs, wine pubs, microbreweries, wine outlets in grocery stores, private sector delivery services, sports stadiums, movie theatres, bowling alleys, and a broad network of agency stores and other liquor outlets. The days and hours of on and off-premise alcohol sales have been extended. Patrons can now bring their own wine into designated licensed establishments and golfers can now purchase alcohol from mobile carts while on the course. Licensees can now sell full bottles of liquor, offer one-price food and alcohol packages, host alcohol manufacturers’ sampling and marketing events, and theme nights, and provide price incentives to boost alcohol sales. Extra-strength beers, liquor coolers, shooters, and alcoholic energy drinks are now readily available. Alcohol may now be offered as a prize and manufacturers have greater leeway in providing alcohol free of charge. Federal and provincial alcohol advertising restrictions have been significantly eased and government pre-approval has given way to industry self-regulation. Moreover, the promotion and marketing of alcohol on the internet is largely unregulated. In other provinces, the government monopoly has been repealed and private sector liquor stores have proliferated. For general reviews of alcohol advertising and marketing in Ontario, see B Hovius & R Solomon, *Alcohol Advertising: A Legal Primer*, 2d ed (Toronto: Association to Reduce Alcohol Promotion in Ontario, 2001); and R Fortin & B Rempel, *The Effectiveness of Regulating Alcohol Advertising: Policies and Public Health* (Toronto: Association to Reduce Alcohol Promotion in Ontario, 2005).

Moreover, per capita sales in litres of absolute alcohol increased by about 14% from 7.2 litres in 1997 to 8.2 litres in 2009. Statistics Canada, *CANSIM Table 183-0019, Volume of sales of alcoholic beverages ... March 31, annual* (Ottawa: Statistics Canada, 2010).

PART III: THE PROVINCIAL AND TERRITORIAL ASSESSMENTS AND REFORM PROPOSALS

ALBERTA

Synopsis

Alberta ranked sixth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. While it has not brought into force any significant impaired driving initiatives since then, several major amendments are pending proclamation.

Relative to the national average, Alberta has not had a good record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The province needs to enact major reforms to its licensing provisions, short-term ALS legislation, interlock programs, vehicle impoundment and forfeiture provisions, and remedial programs.

Crash Deaths

In 2009, Alberta had the fourth highest rate of impairment-related crash deaths per capita and the fourth highest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Alberta made relatively little progress, as the following two tables illustrate. In MADD Canada's view, of greatest concern has been the province's failure to significantly reduce its per capita rate of impairment-related crash deaths, which has consistently been well in excess of the national average. While the pending short-term ALS legislation is promising, additional reforms are necessary.

Table 1: Total and Impairment-Related Crash Deaths, 2000-2009¹

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Alberta	Canada		Alberta	Canada	Alberta	Canada
2000	393	13.08	10.30	185	47%	37%	6.15	3.83
2001	433	14.16	9.74	204	47%	40%	6.65	3.91
2002	400	12.79	10.20	171	43%	36%	5.45	3.70
2003	411	12.91	9.87	204	50%	40%	6.39	3.97

¹ The crash data in all of the tables in PART III are based on the CCMTA fatality data, as modified by Mercer and Marshall. See Part II at 15-17, above. The population data is based on Statistics Canada, *CANSIM Table 051-0001, Estimates of population, by age group and sex for July 1, Canada, provinces and territories, annual (persons)* (Ottawa: Statistics Canada, 2011).

2004	408	12.59	9.43	183	45%	38%	5.64	3.62
2005	501	15.08	10.00	217	43%	38%	6.52	3.75
2006	477	13.94	9.58	228	48%	41%	6.66	3.92
2007	471	13.41	9.25	222	47%	41%	6.32	3.76
2008	432	12.01	8.08	201	47%	43%	5.60	3.49
2009	394	10.68	7.63	210	53%	42%	5.70	3.18

Note: All calculations were done using non-rounded values.

Table 2: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Alberta	-7.38%	-12.65%	+1.77%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives

In October 2009, Alberta brought into force 2008 amendments that required the police to issue a 3-month licence suspension to a driver who: they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or who fails to submit to a SFST or DRE, without a reasonable excuse.²

As of 2011, the police were required to report 24-hour licence suspensions to the Registrar.³

In December 2011, Alberta enacted the *Traffic Safety Amendment Act, 2011*.⁴ When proclaimed in force, the Act will: modestly strengthen the graduate licensing program; greatly improve the short-term ALS program; introduce ongoing licence suspensions and short-term vehicle seizures for all drivers charged with a *Criminal Code* impaired driving offence; and impose mandatory interlock orders on all federal impaired driving offenders.

Licensing Recommendations

- **Increase the minimum age of licensed driving on public roads to 16, regardless of whether the applicant is enrolled in a driver education program.**
- **Strengthen the graduated licensing program.**
Alberta's graduated licensing program could be strengthened by: increasing the minimum age of supervising drivers to 21; imposing stricter passenger and late-night driving restrictions on novice drivers; limiting driving on high-speed roads; and implementing a .00% BAC limit for supervising drivers.

² *Traffic Safety Act*, RSA 2000, c T-6, s 88(2)(a), (2)(b)(i.1), (2)(b)(iii), and (5) [TSA].

³ *Operator Licensing and Vehicle Control Regulation*, Alta Reg 320/2002, s 43.1(1)(b).

⁴ SA 2011, c 22 [TSAA].

While there is a general ban on handheld electronic devices,⁵ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an approved screening device (ASD) test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**

Novice drivers who have at-fault collisions or commit serious provincial traffic violations should be subject to automatic administrative licensing sanctions. Drivers who violate the conditions of the graduated licensing program, the .00% BAC restriction or the proposed drug prohibition should be subject to 30 and 60-day ALSs for first and second violations, respectively. Young drivers with a third violation should also be required to restart their stage in the graduated licensing program.⁶

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.⁷**
- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day ALS to a driver: if they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs; or if the driver registers a BAC of .05% or higher on a breath, blood or urine test. Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of relicensing.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

⁵ In September 2011, Alberta prohibited the use of handheld electronic devices, subject to specified exceptions, and other distracting activities such as reading and personal grooming while driving. *TSA*, *supra* note 2, ss 115.1-115.5.

⁶ When proclaimed in force, s 14(c) of the *TSAA* will eliminate the 7-day temporary licence currently applicable to novice drivers who are subject to a 30-day ALS for testing positive for alcohol or refusing an ASD test. Moreover, s 19 of the *TSAA* will require the police to seize for 7 days the vehicle of a suspended novice driver. See *TSAA*, *supra*, note 4.

⁷ When proclaimed in force, the *TSAA* will authorize the police to suspend for 24 hours the licence of any driver who they reasonably suspect has a medical or physical condition that affects his or her physical or mental ability. They will also be required to impound the vehicle of these drivers for 24 hours. *Ibid*, ss 13 and 19.

Drivers who receive a short-term ALS should be required to pay a \$150-\$300 licence reinstatement fee. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.⁸

- **Strengthen the province's 90-day administrative licence suspension program.**

Alberta's 90-day program could be strengthened by enacting progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures for drivers with multiple 90-day suspensions within 5 years.

Interlock Recommendations

- **Strengthen the alcohol interlock program for federal impaired driving offenders.**

Alberta should proclaim in force the 2011 amendments creating a mandatory alcohol interlock program for all federal impaired driving offenders.⁹

Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock periods should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence. Moreover, driving a vehicle without a required interlock should constitute the offence of driving while disqualified.

Once the minimum interlock period ends, the order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this decision-making process, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program for uninsured, unlicensed, suspended, prohibited, and disqualified drivers.**

The police in Alberta should be required to impound any vehicle they have reasonable grounds to believe is uninsured. Alberta should also increase its current impoundment periods for federal

⁸ When proclaimed in force, the *TSAA* will require the police to impose an immediate roadside licence suspension on drivers with BACs of .05% or more. The suspensions will be 3, 15 and 30 days for first, second, and subsequent infringements, respectively. *Ibid.* The driver's vehicle will be impounded for 3 days on a first occurrence, and 7 days on a second or subsequent occurrence. Moreover, drivers with a second or third infringement will be required to take the "Planning Ahead" and "Impact" courses, respectively. The lookback period for prior occurrences will be 10 years. *Ibid.*, s 12.

⁹ When proclaimed in force, section 12 of the *TSAA* will impose 1, 3 and 5-year interlock orders on impaired driving offenders for a first, second and subsequent federal conviction, respectively. The provincial licence suspension that would otherwise apply will be reduced to the length of the minimum *Criminal Code* driving prohibition. The lookback period for a prior conviction will remain 10 years. The Registrar will have discretion to extend the length of these interlock orders and to refrain from imposing an interlock order on a first offender whose BAC was below .16%.

impaired driving offenders who subsequently drive while suspended, prohibited or disqualified to 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

The police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) the police reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) the police reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

Alberta should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

Remedial Program Recommendations

- Alberta should enact legislation making participation in an alcohol or drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders, and drivers who accumulate multiple 7, 30, 60, or 90-day ALSs within 5 years.

BRITISH COLUMBIA

Synopsis

British Columbia ranked seventh in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. Since then, it has introduced more major impaired driving initiatives than any other jurisdiction.

British Columbia's record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related has been very close to the national average.

The province should strengthen some aspects of its licensing provisions, interlock program, and vehicle impoundment and forfeiture legislation.

Crash Deaths

In 2009, British Columbia had the fifth lowest rate of impairment-related crash deaths per capita and the sixth lowest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, British Columbia made some progress, as the following two tables illustrate. In MADD Canada's view, of greatest importance has been the decrease in the province's per capita rate of impairment-related crash deaths. It should be noted that the province's new immediate roadside ALS and impoundment program will likely sharply reduce impairment-related crash deaths.¹⁰

Table 3: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		British Columbia	Canada		British Columbia	Canada	British Columbia	Canada
2000	448	11.09	10.30	173	39%	37%	4.28	3.83
2001	418	10.25	9.74	187	45%	40%	4.59	3.91
2002	508	12.40	10.20	198	39%	36%	4.83	3.70
2003	499	12.10	9.87	178	36%	40%	4.32	3.97
2004	485	11.67	9.43	191	39%	38%	4.61	3.62
2005	496	11.82	10.00	207	42%	38%	4.93	3.75
2006	458	10.79	9.58	185	40%	41%	4.35	3.92

¹⁰ The Superintendent of Motor Vehicles reported a 40% decrease in alcohol-related fatalities in the 12 months following the 2010 implementation of the province's immediate roadside .05% ALS and vehicle impoundment program. Office of the Superintendent of Motor Vehicles, News Update, "Alcohol-Related Motor Vehicle Fatalities" (23 November 2011).

2007	475	11.02	9.25	204	43%	41%	4.72	3.76
2008	395	9.01	8.08	171	43%	43%	3.89	3.49
2009	416	9.34	7.63	161	39%	42%	3.60	3.18

Note: All calculations were done using non-rounded values.

Table 4: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
British Columbia	-15.69%	-26.84%	-7.32%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives

In September 2010, the province greatly strengthened its short-term ALS program. The police are required to immediately seize and suspend the licence of a driver if he or she registers a “Warn” (*i.e.* not less than a .05% BAC) on an ASD and the police reasonably believe that the driver’s ability to drive is “affected” by alcohol.¹¹ These “immediate roadside prohibitions” (IRPs) are 3 days for a first occurrence, 7 days for a second occurrence within 5 years, and 30 days for a third or subsequent occurrence within 5 years.¹²

Drivers who receive a 3, 7 or 30-day IRP are required to pay both an escalating monetary penalty¹³ and a \$250 licence reinstatement fee.¹⁴

Moreover, the vehicle of a driver who receives a 3 or 7-day IRP may be impounded immediately if the police believe that doing so is necessary to prevent the person from driving while prohibited.¹⁵ The police are required to impound for 30 days the vehicle of any driver who receives a 30-day IRP.¹⁶

The province also created 90-day IRPs for drivers who register a “Fail” (*i.e.* not less than a .08% BAC) on an ASD, if the police reasonably believe that their ability to drive is “affected” by alcohol.¹⁷ Parallel provisions apply to drivers who fail or refuse to comply with an officer’s demand for an ASD test.¹⁸ These drivers are subject to a \$500 monetary penalty,¹⁹ a \$250 licence reinstatement fee²⁰ and a

¹¹ *Motor Vehicle Act*, RSBC 1996, c 318, s 215.41(3) [MVA].

¹² *Ibid*, s 215.43(1).

¹³ The monetary penalties are \$200, \$300 and \$400 for 3, 7 and 30-day IRPs, respectively. *Motor Vehicle Act Regulations*, BC Reg 26/58, s 43.09(a)-(c) [MVAR].

¹⁴ *MVA*, *supra* note 11, s 97.2.

¹⁵ *Ibid*, ss 215.46(1) and 253(6).

¹⁶ *Ibid*, ss 215.46(2), and 253(7) and (6). It should be noted that these drivers are required to attend any remedial programs required by the Superintendent. *Ibid*, s 215.45.

¹⁷ *Ibid*, s 215.43(2)(a).

¹⁸ *Ibid*, s 215.43(2)(b).

¹⁹ *MVAR*, *supra* note 13, s 43.09(d).

²⁰ *MVA*, *supra* note 11, s 97.2.

30-day vehicle impoundment.²¹ These 90-day IRPs are similar to the pre-existing 90-day administrative driving prohibitions, except that the IRPs are based on a roadside ASD test and come into effect immediately.

As a matter of administrative policy, the Superintendent broadened the circumstances in which participation in an interlock program will be required to include drivers with: one 30 or 90-day IRP; one 90-day administrative driving prohibition; or any combination of three 24-hour prohibitions, 3-day IRPs or 7-day IRPs within 5 years.²²

In *Sivia v British Columbia (Superintendent of Motor Vehicles)*, the Court rejected all but one legal challenge to the validity of the 3, 7, 30 and 90-day IRP provisions.²³ The 90-day IRP based on registering a “fail” on an ASD was found to infringe section 8 of the *Canadian Charter of Rights and Freedoms* and this infringement was held not to be justifiable under section 1. In the Court’s view, the onerous consequences of the 90-day IRP and the lack of any meaningful way of challenging the ASD result on which it is based made the provision an unreasonable law.²⁴ The Court subsequently suspended the declaration of invalidity until June 30, 2012 to give the province the opportunity to enact remedial legislation.²⁵

Licensing Recommendations

- **Strengthen the graduated licensing program.**
British Columbia’s graduated licensing program could be strengthened by: increasing the second stage of licensing to 24 months, even for drivers who have completed a driver education program; introducing high-speed roadway restrictions; introducing nighttime restrictions for novice drivers; and implementing a .00% BAC limit for supervising drivers.²⁶
- **Enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**

²¹ *Ibid*, ss 215.46(2) and 253(7). It should be noted that these drivers are required to attend any remedial programs required by the Superintendent. *Ibid*, s 215.45.

²² Office of the Superintendent of Motor Vehicles, *Ignition Interlock Program*, online: BC Ministry of Public Safety and Solicitor General <<http://www.pssg.gov.bc.ca/osmv/improvement/ignition-interlock.htm>> (accessed 18 March 2012).

²³ 2011 BCSC 1639.

²⁴ *Ibid* at paras 318-320. The ruling did not affect the validity of 90-day administrative licence suspensions imposed on drivers who register BACs above .08% on an approved instrument (*i.e.* an evidentiary breathalyzer). Nevertheless, several aspects of the Court’s analysis are troubling and it may be years before the appellate courts resolve all of these issues.

²⁵ *Sivia v British Columbia (Superintendent of Motor Vehicles)*, 2011 BCSC 1783.

²⁶ Drivers in the graduated licensing program are prohibited from using any electronic devices whether handheld or hands-free. This prohibition results from the combined impact of two convoluted statutory provisions. See *MVA*, *supra* note 11, ss 214.1 and 214.2; and *MVAR*, *supra* note 13, s 30.072. Other drivers are only prohibited from using handheld electronic devices.

- **Broaden police powers to enforce the graduated licensing program and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol and/or drug consumption.

- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**

Learner and novice drivers who have at-fault collisions or commit serious provincial traffic violations should be subject to automatic administrative licensing sanctions. Drivers who violate the conditions of the graduated licensing program, the .00% BAC limit or the proposed drug prohibition should be subject to mandatory administrative 30 and 60-day suspensions for first and second violations, respectively. Young drivers with a third violation should be required to restart their stage of the graduated licensing program.

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness unrelated to alcohol or drugs, such as in the case of fatigue or mental illness.**
- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for drug impairment.**

The province should create a parallel program of IRPs for drivers who the police reasonably believe, based on a SFST or DRE, are impaired by drugs.

- **Strengthen the 90-day administrative licence suspension program.**

British Columbia should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.

Interlock Recommendations

- **Strengthen the alcohol interlock program.**

In order to encourage participation, the provincial licence suspension that would otherwise apply should be reduced to the length of the minimum *Criminal Code* driving prohibition. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program for uninsured, unlicensed, suspended, prohibited, and disqualified drivers.**

The current impoundment period for federal impaired driving offenders who drive while suspended, prohibited or disqualified should be increased to 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Extend the current administrative vehicle impoundment program to suspects charged with a drug-impaired or other *Criminal Code* driving offence.**

- **Introduce a mandatory administrative vehicle forfeiture program.**

British Columbia should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

MANITOBA

Synopsis

Manitoba ranked second in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. It has introduced some minor impaired driving initiatives in the interim.

Relative to the national standard, Manitoba has not fared well in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

While the province has strong programs in many areas, it needs to enhance several aspects of its impaired driving legislation.

Crash Deaths

In 2009, Manitoba's per capita rate of impairment-related crash deaths was in the mid-range, but it had the third highest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Manitoba made no progress, as the following two tables illustrate. In MADD Canada's view, of greatest concern has been the increases in the province's per capita rate of impairment-related crash deaths. Given its record, the province needs to adopt additional legislative reforms.

Table 5: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Manitoba	Canada		Manitoba	Canada	Manitoba	Canada
2000	133	11.59	10.30	55	41%	37%	4.79	3.83
2001	117	10.16	9.74	47	40%	40%	4.11	3.91
2002	122	10.55	10.20	53	43%	36%	4.57	3.70
2003	118	10.14	9.87	57	48%	40%	4.91	3.97
2004	116	9.88	9.43	55	47%	38%	4.69	3.62
2005	120	10.18	10.00	43	36%	38%	3.64	3.75
2006	144	12.16	9.58	70	49%	41%	5.95	3.92
2007	126	10.55	9.25	62	49%	41%	5.16	3.76
2008	100	8.29	8.08	69	69%	43%	5.75	3.49
2009	111	9.08	7.63	59	54%	42%	4.86	3.18

Note: All calculations were done using non-rounded values.

Table 6: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Manitoba	+1.40%	+33.51%	-15.40%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives²⁷

In August 2011, Manitoba increased the short-term ALSs for second, third, fourth, and subsequent occurrences from 24 hours to 15, 30 and 60 days, respectively.²⁸ The legislation also increased the lookback period for repeat occurrences from 3 to 10 years.²⁹

The legislation also eliminated the seven-day appeal period for drivers who received a three-month ALS.³⁰

Both the short-term and three-month ALSs were made applicable to those who operate watercraft, planes or railway equipment.³¹

Licensing Recommendations

- **Increase the minimum age of licensed driving on public roads to 16, regardless of whether the applicant is enrolled in a driver education program.**

- **Strengthen the graduated licensing program.**

Manitoba's graduated licensing program could be strengthened by: increasing the learner stage to 12 months and the intermediate stage to 24 months; introducing nighttime and high-speed roadway restrictions; lowering the BAC limit to .00% for supervising drivers; and requiring drivers to pass an exit test to obtain full driving privileges.

While there is a general ban on using handheld electronic devices,³² drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Extend its .00% BAC limit by 6 months to include all drivers under 21 years of age.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**

²⁷ As of June 2010, drivers were prohibited from using hand-operated electronic devices while driving, subject to specified exceptions. *The Highway Traffic Act*, CCSM, c H60, s 215.1(1)-(6) [HTA].

²⁸ *Ibid*, s 263.1(7) and (8).

²⁹ *Ibid*.

³⁰ *Ibid*, s 263.1(7)1.

³¹ *Ibid*, ss 263.1(1) and (2), and 265(1) and (2). The legislation also replaced the term "field sobriety tests" with the term "physical coordination tests" in several sections of the HTA to be consistent with the *Criminal Code's* impaired driving provisions. See for example, *ibid*, s 242.1(1.1)(d), (7.1)(e), (7.1.1)(e), and (7.1.2)(b.1).

³² *Ibid*, s 215.1(1)-(6).

- **Broaden police powers in order to enforce the proposed drug prohibition for new and young drivers.**

The police should be authorized to demand a SFST from all new and young new drivers, even in the absence of a reasonable suspicion of drug consumption.

- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**

Novice drivers who have an at-fault collision or commit a serious provincial traffic violation should be subject to automatic administrative licensing sanctions. Drivers who violate the .00% BAC restriction or the proposed drug prohibition should be subject to 30 and 60-day ALSs for first and second occurrences, respectively. Young drivers with a third violation should be required to restart their stage of the graduated licensing program.

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**
- **Increase the short-term administrative licence suspensions for alcohol/drug impairment from 24 hours to 7 days for a first occurrence.**

Moreover, the vehicle of a driver who receives any short-term ALS should be impounded for the duration of the suspension.

Increase the relicensing fees from \$50 to \$150-\$300 for drivers subject to short-term ALSs.

- **Strengthen the province's 90-day administrative licence suspension program.**

Manitoba should enact legislation requiring police to issue 90-day suspensions to drivers: who they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or who fail to submit to a DRE without a reasonable excuse.

Interlock Recommendations

- **Strengthen the alcohol interlock program.**

Manitoba should enact a mandatory alcohol interlock program for all federal impaired driving offenders. Drivers should not have the option of sitting out the interlock program.

Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum period ends, the interlock order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this decision, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program for driving while uninsured, unlicensed, suspended, prohibited, or disqualified.**

The police should be expressly authorized to impound any vehicle they reasonably believe to be uninsured. Manitoba should increase its current impoundment periods for federal impaired driving offenders who subsequently drive while unlicensed, suspended, prohibited, or disqualified to 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Strengthen the administrative vehicle impoundment program for suspected federal impaired driving offenders.**

Manitoba's current impoundment program for suspected federal impaired driving offenders should be expanded to include drivers: who fail to submit to a DRE required by federal law; or who the police reasonably believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol.

- **Expand the lookback period for administrative forfeitures to include the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.**

NEW BRUNSWICK

Synopsis

New Brunswick ranked twelfth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. Nevertheless, it has introduced only one significant impaired driving initiative in the interim.

Relative to the national average, New Brunswick has had a poor record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that are impairment related.

The province needs to enact major reforms to its licensing provisions, short-term ALS legislation, interlock program, administrative vehicle impoundment and forfeiture provisions, and remedial programs.

Crash Deaths

In 2009, New Brunswick had the fifth highest rate of impairment-related crash deaths per capita and the sixth highest percentage of total crash deaths which were impairment related.

During the 10-year period from 2000 to 2009, New Brunswick made no progress, as the following two tables illustrate. In MADD Canada's view, of greatest concern has been the increase in the province's per capita rate of impairment-related crash deaths which has consistently been well in excess of the national average. Given its record, the province needs to enact significant legislative reforms.

Table 7: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		New Brunswick	Canada		New Brunswick	Canada	New Brunswick	Canada
2000	100	13.32	10.30	36	36%	37%	4.84	3.83
2001	104	13.87	9.74	47	45%	40%	6.31	3.91
2002	123	16.41	10.20	54	44%	36%	7.19	3.70
2003	103	13.74	9.87	47	46%	40%	6.31	3.97
2004	86	11.48	9.43	36	42%	38%	4.84	3.62
2005	126	16.85	10.00	55	44%	38%	7.35	3.75
2006	113	15.15	9.58	42	37%	41%	5.61	3.92
2007	104	13.95	9.25	54	52%	41%	7.23	3.76
2008	84	11.24	8.08	41	48%	43%	5.45	3.49
2009	84	11.21	7.63	42	50%	42%	5.58	3.18

Note: All calculations were done using non-rounded values.

Table 8: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
New Brunswick	+15.31%	-24.15%	+2.38%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives³³

New Brunswick proclaimed in force legislation increasing to 8 months the minimum length of stage one of its graduated licensing program for drivers with driver education.³⁴

The province increased its short-term ALSs from 24 hours to 7 days for drivers who have a BAC in the “warn” range (*i.e.* .05% or more) and for novice drivers who refuse a breath test or have a positive BAC.³⁵

Drivers who refuse a breath test or have a BAC above .08% will no longer be granted a seven-day grace period before their three-month suspension takes effect.³⁶

Licensing Recommendations

- **Strengthen the graduated licensing program.**

New Brunswick’s graduated licensing program could be strengthened by: requiring beginning drivers to remain at the initial stage for 12 months, regardless of their participation in a driver education program; lengthening stage 2 to 24 months; introducing high-speed roadway restrictions; implementing a .00% BAC limit for supervising drivers; and requiring novice drivers to pass an “exit” test to obtain full driving privileges.

While there is a general ban on using handheld electronic devices,³⁷ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Extend the .00% BAC limit to all drivers during their first five years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an ASD test

³³ New Brunswick also enacted legislation prohibiting drivers, subject to specified exceptions, from using hand-operated electronic devices and from placing screens within their field of vision. *Motor Vehicle Act*, RSNB 1973, c M-17, ss 265.02 and 265.04(1) [MVA]. As well, the province updated its list of provincially-approved screening devices. NB Reg 83-42, s 27.2(1).

³⁴ MVA, *ibid*, s 84(6)(a).

³⁵ *Ibid*, s 310.01(4) and (6). This provision came into force on June 24, 2011.

³⁶ *Ibid*, s 310.04(3).

³⁷ *Ibid*, s 265.02.

from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

- **Enact stronger and broader administrative sanctions for new and young drivers.**

Novice drivers who have an at-fault collision or commit a serious provincial traffic violation should be subject to automatic administrative licensing sanctions. Novice and young drivers who violate the graduated licensing program, the .00% BAC restriction or the proposed drug prohibition should be subject to 30 and 60-day ALSs for first and second occurrences, respectively.³⁸ Young drivers with a third violation should be required to restart their stage of the graduated licensing program.

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**

- **Strengthen its seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day ALS to a driver if they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs.

Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of relicensing.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

Drivers who receive a short-term ALS should be required to pay a \$150-\$300 licence reinstatement fee. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.³⁹

- **Strengthen the province's 90-day administrative licence suspension program.**

New Brunswick should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.

Drivers with multiple 90-day suspensions within 5 years should be subject to mandatory progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

³⁸ It should be noted that novice drivers convicted of breaching the .00% BAC limit are subject to a one-year licence revocation, must take a "re-education" course, and are required to restart stage one of the graduated licensing program. *Ibid*, at ss 84(11) and (12)(a), and 310.02(4) and (5).

³⁹ Although s 287(1) of the *MVA*, *ibid*, requires the Registrar, upon request, to provide a certified abstract which includes, among other things, "any suspension or reinstatement of the person's motor vehicle privilege," information on short-term ALSs is not included.

Interlock Program Recommendations

- **Strengthen the alcohol interlock program.**

New Brunswick should enact a mandatory alcohol interlock program for all federal impaired driving offenders.

Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum period ends, the interlock order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this decision-making process, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

The Registrar should have explicit authority to impose an interlock order on any driver that he or she reasonably believes poses a significant risk of impaired driving.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Enact a comprehensive administrative vehicle impoundment program for driving while uninsured, unlicensed, suspended, prohibited, or disqualified.**

Police should be required to impound any vehicle they have reasonable grounds to believe is uninsured, or is being driven by an unlicensed, suspended, prohibited, or disqualified driver. The impoundment period should be 7 days, unless the suspension, prohibition or disqualification resulted from a federal impaired driving offence. In such cases, the impoundment period should be 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

Police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

New Brunswick should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* driving convictions within 10 years.

Remedial Program Recommendations

- **Strengthen the mandatory remedial programs.**

New Brunswick should make participation in an alcohol or drug assessment and the successful

completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders, and drivers who accumulate multiple 7, 30, 60, or 90-day ALSs within 5 years.

NEWFOUNDLAND AND LABRADOR

Synopsis

Newfoundland and Labrador ranked eighth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. However, it has introduced several major impaired driving initiatives in the interim.

Relative to the national average, Newfoundland and Labrador fared poorly until 2009 in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The province needs to enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving, strengthen its interlock program, and expand the administrative vehicle impoundment and forfeiture legislation.

Crash Deaths

In 2009, Newfoundland and Labrador had the fourth lowest rate of impairment-related crash deaths per capita and fourth lowest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Newfoundland and Labrador made virtually no progress, as the following two tables illustrate. In MADD Canada's view, of greatest importance is the province's per capita rate of impairment-related crash deaths, which fell sharply in 2009. It should be noted that the province has enacted major amendments in the last two years which will likely further reduce impairment-related crash deaths.

Table 9: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Total Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		NL	Canada		NL	Canada	NL	Canada
2000	59	11.17	10.30	15	26%	37%	2.92	3.83
2001	44	8.43	9.74	20	45%	40%	3.79	3.91
2002	41	7.89	10.20	18	43%	36%	3.39	3.70
2003	43	8.29	9.87	20	46%	40%	3.82	3.97
2004	42	8.12	9.43	21	50%	38%	4.04	3.62
2005	58	11.28	10.00	30	51%	38%	5.77	3.75
2006	48	9.41	9.58	18	37%	41%	3.45	3.92
2007	46	9.08	9.25	29	62%	41%	5.65	3.76
2008	46	9.08	8.08	33	72%	43%	6.52	3.49
2009	45	8.89	7.63	14	32%	42%	2.82	3.18

Note: All calculations were done using non-rounded values.

Table 10: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Newfoundland	-3.20%	-51.10%	-56.67%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives⁴⁰

The province amended the *HTA* in October 2010, lowering the permissible BAC limit from .05% to .00% for supervising drivers in the graduated licensing program.⁴¹

The legislation also greatly strengthened police enforcement powers. It authorized the police to: stop any vehicle at random; require drivers to identify themselves and produce their licence, insurance and registration; question drivers regarding their alcohol or drug consumption prior to driving, and their fitness; require drivers to submit to a field sobriety test; and inspect the vehicle's mechanical condition.⁴²

The legislation also increased the mandatory short-term ALSs for drivers who: register a BAC of .05% or more; refuse to provide a breath sample; or are charged with the *Criminal Code* offence of impaired driving, driving with a BAC above .08%, or refusing to provide a breath or blood sample. The suspensions were increased from 24 hours to 7 days for a first occurrence, 14 days for a second occurrence, 2 months for a third occurrence, 4 months for a fourth occurrence, and 6 months for a fifth or subsequent occurrence within the previous 2 years.⁴³

On May 31, 2011, the province became the first jurisdiction to bring into force a parallel ALS program for drivers who the police reasonably believe are impaired by a drug, or a combination of drugs and alcohol.⁴⁴ These suspensions may be imposed based solely on the officer's belief that the driver's ability is impaired, even in the absence of a failed SFST or DRE.

Licensing Recommendations

- **Strengthen the graduated licensing program.**

Newfoundland's graduated licensing program could be strengthened by: requiring all drivers to remain at the initial stage for 12 months, regardless of their participation in a driver education

⁴⁰ In October 2010, the province proclaimed in force legislation prohibiting all drivers from using "hand-held wireless communication devices" and other similar devices, subject to specified exceptions. *Highway Traffic Act*, RSNL 1990, c H-3, s 176.1 [*HTA*].

⁴¹ *Ibid*, s 60.5(1)-(6).

⁴² *Ibid*, s 201.1(1) and (2). The legislation also authorized the police to demand that passengers identify themselves. Officers are not required to inform drivers or passengers of their right to legal counsel or permit them to contact counsel when invoking these powers. *Ibid*, s 201.1(3) and (4).

⁴³ *Ibid*, ss 60.03(1) and 60.2. The licence suspension for novice drivers who register a positive BAC or who refuse to provide a sample is two months for a first occurrence, four months for a second occurrence, and six months for a third or subsequent occurrence. If the novice driver's application for reinstatement is granted, he or she must restart the level they held when suspended. *Ibid*, s 60.03(3).

⁴⁴ *Ibid*, s 60.02.

program; lengthening stage 2 to 24 months; imposing stricter passenger limits; introducing high-speed roadway restrictions; and requiring novice drivers to pass an “exit” test to obtain full driving privileges.

While there is a general ban on using handheld electronic devices,⁴⁵ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Enact a .00% BAC limit for drivers under 21 and drivers in their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit for new and young drivers.**

The police should be authorized to demand an ASD test from all drivers and supervisors who are subject to a .00% BAC limit, even in the absence of reasonable suspicion of alcohol consumption.⁴⁶

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness unrelated to alcohol or drugs, such as in the case of fatigue or mental illness.**
- **Strengthen the seven-day administrative licence suspension program.**

The province should create a parallel program of ALSs for drivers who the police reasonably believe, based on a SFST or DRE, are impaired by drugs.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Strengthen the 90-day administrative licence suspension program.**
Newfoundland and Labrador should enact legislation requiring the police to issue 90-day suspensions to drivers who they reasonably believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol.

Interlock Program Recommendations

- **Strengthen the alcohol interlock program.**
Newfoundland and Labrador should enact a mandatory alcohol interlock program for all federal impaired driving offenders.

Moreover, offenders who do not apply or are not accepted for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

⁴⁵ *Ibid*, s 176.1(1).

⁴⁶ It should be noted that the police already have authority to demand a SFST from any driver whom they have stopped, even in the absence of a suspicion of alcohol or drug consumption. *Ibid*, at s 201.1(2)(e).

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum period ends, the interlock order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program.**

Newfoundland and Labrador should increase its current impoundment periods for federal impaired driving offenders who subsequently drive while suspended, prohibited or disqualified to 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

Police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory vehicle forfeiture program.**

The province should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired driving or other *Criminal Code* traffic convictions within 10 years.

NORTHWEST TERRITORIES

Synopsis

The Northwest Territories ranked eleventh in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. Nevertheless, it has not introduced any impaired driving initiatives in the interim.

By national standards, the Northwest Territories has had a poor record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The territory needs to enact major reforms to its graduated licensing, short-term ALS, interlock, administrative vehicle impoundment and forfeiture, and remedial programs.

Crash Deaths

In 2009, the Northwest Territories had the second highest rate of impairment-related crash deaths per capita and the highest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, the Northwest Territories' impaired driving record has fluctuated considerably, as the following two tables illustrate. Despite the progress made in 2008 and 2009, the territory's record remains weak. In MADD Canada's view, of greatest concern is the territory's per capita rate of impairment-related crash deaths, which has often been twice the national rate. Given its weak record, it is troubling that the territory has not introduced any new impaired driving initiatives in the past three years.

Table 11: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		NWT	Canada		NWT	Canada	NWT	Canada
2000	10	14.71	10.30	9	88%	37%	12.95	3.83
2001	5	7.25	9.74	1	22%	40%	1.59	3.91
2002	9	12.77	10.20	3	37%	36%	4.68	3.70
2003	20	27.82	9.87	12	61%	40%	16.83	3.97
2004	10	13.67	9.43	3	33%	38%	4.51	3.62
2005	5	11.52	10.00	3	66%	38%	7.60	3.75
2006	7	16.20	9.58	7	94%	41%	15.28	3.92
2007	6	13.78	9.25	6	92%	41%	12.63	3.76
2008	5	11.44	8.08	2	44%	43%	5.03	3.49
2009	5	11.51	7.63	3	66%	42%	7.60	3.18

Note: All calculations were done using non-rounded values.

Table 12: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Northwest Territories	-41.32%	-0.09%	+50.97%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives

The territory has not introduced any new impaired driving initiatives.⁴⁷

Licensing Recommendations

- **Increase the minimum age of licensed driving on public roads to 16, regardless of whether the applicant is enrolled in a driver education program.**

- **Strengthen the graduated licensing program.**

The Northwest Territories' graduated licensing program could be strengthened by: increasing the second stage to 24 months; introducing high-speed roadway restrictions; enacting nighttime restrictions for stage-2 drivers; and requiring drivers to pass an "exit" test to obtain full driving privileges.

Drivers in the graduated licensing program should be prohibited from using any electronic devices while driving, whether handheld or hands-free.

- **Enact a .00% BAC limit for all drivers under the age of 21 and for all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**
- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**

The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

Novice drivers who have at-fault collisions or commit serious territorial traffic violations should be subject to automatic administrative licensing sanctions. Drivers who violate the proposed .00% BAC limit or drug prohibition should be subject to 30 and 60-day ALSs for first and second

⁴⁷ A Bill introduced in 2011, if enacted, would prohibit using handheld electronic devices while driving, subject to specified exceptions. Bill 16, *An Act to Amend the Motor Vehicles Act*, 6th Sess, 16th Ass, the Northwest Territories, 2011.

infringements, respectively.⁴⁸ Young drivers with a third violation should be required to restart their current stage of the graduated licensing program.

Licence Suspension and Revocation Recommendations

- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day ALS to a driver if: they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs; or the driver registers a BAC of .05% or higher on a breath, blood or urine test. Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively and to mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of licence reinstatement.

Drivers who receive short-term ALSs should be required to pay \$150-\$300 licence reinstatement fees. These suspensions should be recorded on the driver's record and included on all driver abstracts for a period of 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Strengthen the territory's 90-day administrative licence suspension program.**

The Northwest Territories should enact legislation requiring the police to issue 90-day suspensions to drivers who: they reasonably believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.

The program could also be strengthened by enacting progressive sanctions, driver record reviews, and mandatory assessments and other remedial measures for drivers with multiple 90-day suspensions within 5 years.

Interlock Recommendations

- **Strengthen the alcohol interlock program.**

Participation in an interlock program should be a mandatory condition of relicensing for all federal impaired driving offenders. In order to encourage participation, drivers who enrol in an interlock program should be eligible for early licence reinstatement once the minimum *Criminal Code* driving prohibition ends. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to territorial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum interlock period ends, the order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any

⁴⁸ It should be noted that drivers in the graduated licensing program who test positive for alcohol are subject to a 30-day licence suspension. *Motor Vehicles Act*, RSNWT 1988, c M-16, s 116.2(3).

underlying alcohol problem. As part of this decision-making process, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program for uninsured, unlicensed, suspended, prohibited, and disqualified drivers.**

The police should be required to impound for seven days any vehicle they have reasonable grounds to believe is uninsured, or is being driven by a person who is unlicensed, suspended, prohibited, or disqualified pursuant to territorial sanctions. The police should also be required to impound the vehicle of federal impaired driving offenders who subsequently drive while suspended, prohibited or disqualified. The impoundment period should be 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

The police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

The Northwest Territories should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

- **Establish a mandatory remedial program for all impaired driving offenders.**

The Northwest Territories should enact legislation making participation in an alcohol/drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders, and drivers who accumulate multiple 7, 30, 60, or 90-day ALSs within 5 years.

NOVA SCOTIA

Synopsis

Nova Scotia ranked fourth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. The province has introduced several major impaired driving initiatives in the interim.

By national standards, Nova Scotia has not had a good record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

Nova Scotia needs to proclaim in force the graduated licensing and vehicle impoundment amendments that were enacted in 2007 and 2008, respectively. The province also needs to strengthen several other aspects of its impaired driving legislation.

Crash Deaths

In 2009, Nova Scotia had the sixth lowest rate of impairment-related crash deaths per capita and the fifth highest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Nova Scotia made no progress, as the following two tables illustrate. In MADD Canada's view, of greatest concern has been the increase in the province's per capita rate of impairment-related crash deaths, which has generally exceeded the national average.

Table 13: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Nova Scotia	Canada		Nova Scotia	Canada	Nova Scotia	Canada
2000	94	10.07	10.30	39	41%	37%	4.12	3.83
2001	89	9.54	9.74	41	46%	40%	4.36	3.91
2002	88	9.41	10.20	42	48%	36%	4.47	3.70
2003	77	8.21	9.87	37	49%	40%	3.99	3.97
2004	96	10.22	9.43	35	37%	38%	3.75	3.62
2005	81	8.64	10.00	33	41%	38%	3.52	3.75
2006	93	9.91	9.58	46	50%	41%	4.93	3.92
2007	114	12.18	9.25	46	41%	41%	4.94	3.76
2008	88	9.40	8.08	25	29%	43%	2.70	3.49
2009	81	8.63	7.63	43	53%	42%	4.57	3.18

Note: All calculations were done using non-rounded values.

Table 14: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Nova Scotia	+10.91%	+29.97%	+69.28%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives⁴⁹

While Nova Scotia enacted major reforms to its graduated licensing program in April 2007, these have not been proclaimed in force.⁵⁰

In October 2010, Nova Scotia increased its short-term ALSs for a first, second, and third or subsequent occurrence from 24 hours to 7, 15 and 30 days, respectively.⁵¹ The lookback period for prior occurrences was made 10 years.

In May 2010, legislation was enacted, authorizing the Registrar to require an applicant for a driver's licence to participate in an alcohol interlock program.⁵²

In 2008, the province enacted legislation increasing police authority to impound vehicles, but it has not been proclaimed in force.⁵³

Licensing Recommendations

- **Strengthen the pending graduated licensing amendments.**

The amendments could be strengthened by: requiring learners to remain at the initial stage for 12 months, regardless of their participation in a driver education program; enacting high-speed road and nighttime driving restrictions; requiring supervising drivers to have a .00% BAC and be at least 21 years of age; and requiring newly-licensed drivers to pass an “exit” test to obtain full driving privileges.

⁴⁹ A 2011 amendment, when proclaimed in force, will increase the provincial licence revocation imposed on impaired driving offenders by 12 months if they had a passenger in their vehicle who was under 16 years of age. *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, SNS 2011, c 22, ss 1 and 2.

Moreover, Nova Scotia enacted amendments which, when proclaimed in force, will increase the penalties for street racing, and for using handheld electronic devices while driving. *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, SNS 2010, c 61, ss 1-3 and 4, respectively.

⁵⁰ *An Act to Amend Chapter 293 of the Revised Statutes, the Motor Vehicle Act*, SNS 2007, c 20. Among other things, the amendments would lengthen the stages of the graduated licensing program, and tighten the passenger and supervising driver restrictions. The .00% BAC restriction would be extended 2 years beyond completion of the graduated licensing program, making 20¾ the minimum age at which the restriction ends.

⁵¹ *Motor Vehicle Act*, RSNS 1989, c 293, s 279C(4) [MVA].

⁵² *Ibid*, s 280A(2).

⁵³ The amendment would empower the police to impound vehicles in a broad range of circumstances, including when the driver was reasonably believed to have committed an offence under the MVA or a vehicle-related *Criminal Code* offence. *An Act to Amend Chapter 293 of the Revised Statutes, the Motor Vehicle Act*, SNS 2008, c 21, s 3.

While there is a general ban on using handheld electronic devices,⁵⁴ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Extend by 3 months and proclaim in force the pending .00% BAC limit so that it applies to all drivers under 21 years of age and during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption

- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**
New and young drivers who have at-fault collisions or commit serious provincial traffic violations should be subject to automatic administrative licensing sanctions. If they violate the .00% BAC restriction or the proposed drug prohibition, they should be subject to 30 and 60-day ALSs for first and second infringements respectively.⁵⁵

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**
- **Strengthen the short-term administrative licence suspension program.**
The program should be extended to drivers who are reasonably believed to be impaired by drugs or a combination of drugs and alcohol. Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of licence reinstatement.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.
- **Strengthen the province's 90-day administrative licence suspension program.**
Nova Scotia should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.

⁵⁴ *MVA, supra*, note 51 at s 100D(1) and (2).

⁵⁵ It should be noted that drivers are currently subject to onerous sanctions if they are convicted of a serious traffic offence, driving with a BAC above .00% or violating other conditions of the graduated licensing program. *Ibid*, ss 70A(4) and (8), 100A(1) and (4), 282(2)5A and 5B, and 283.

Drivers with multiple 90-day suspensions should be subject to progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Strengthen the interlock program.**

Nova Scotia should enact a mandatory alcohol interlock program for all federal impaired driving offenders.

Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Proclaim in force the 2008 vehicle impoundment legislation.**

- **Introduce a mandatory administrative forfeiture program.**

Nova Scotia should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

Remedial Program Recommendations

- **Strengthen the mandatory remedial programs.**

Nova Scotia should extend its remedial programs to require drivers with multiple 7, 30, 60, or 90-day ALSs to participate in an alcohol/drug assessment and successfully complete any recommended remedial program.

NUNAVUT

Synopsis

Nunavut ranked thirteenth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. Nevertheless, it has not introduced any impaired driving initiatives in the interim.

Nunavut has had a relatively poor record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The territory needs to greatly strengthen all of its impaired driving legislation.

Crash Deaths

During the 10-year period from 2000 to 2009, Nunavut's record fluctuated sharply, as the following table illustrates. In MADD Canada's view, of greatest concern is the territory's per capita rate of impairment-related crash deaths which has been more than double or triple the national average during half this period. Given its record, it is troubling that the territory has not introduced any new driving initiatives in the past three years.

Table 15: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Nunavut	Canada		Nunavut	Canada	Nunavut	Canada
2000	10	14.71	10.30	9	88%	37%	12.95	3.83
2001	5	7.25	9.74	1	22%	40%	1.59	3.91
2002	9	12.77	10.20	3	37%	36%	4.68	3.70
2003	20	27.82	9.87	12	61%	40%	16.83	3.97
2004	10	13.67	9.43	3	33%	38%	4.51	3.62
2005	6	19.78	10.00	4	73%	38%	14.51	3.75
2006	7	22.73	9.58	2	22%	41%	5.00	3.92
2007	10	31.98	9.25	2	16%	41%	5.03	3.76
2008	9	28.46	8.08	8	86%	43%	24.35	3.49
2009	4	12.43	7.63	0	0%	42%	0.00	3.18

Note: All calculations were done using non-rounded values.

Recent Impaired Driving Initiatives

Nunavut has not enacted any impaired driving initiatives since 2009.

Licensing Recommendations

- **Increase the minimum age of licensed driving on public roads to 16, regardless of whether the applicant is enrolled in a driver education program.**
- **Introduce a formal graduated licensing program.**
The program should be three years in length and apply to all new drivers, regardless of age, and include: passenger, nighttime, and high-speed driving restrictions; a .00% BAC limit for new and supervising drivers; low demerit point thresholds; a ban on the use of any electronic device while driving, whether hands-free or handheld; and an “exit” test to obtain full driving privileges.
- **Enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, the .00% BAC limit and the drug prohibition for new and young drivers.**
The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.
- **Enact administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**
New and young drivers who have at-fault collisions or commit serious territorial traffic violations should be subject to automatic administrative licensing sanctions. Drivers who violate the conditions of the graduated licensing program, the .00% BAC restriction or the proposed drug prohibition should be subject to 30 and 60-day ALSs for first and second violations, respectively. Drivers with a third violation should also be required to restart their current stage in the graduated licensing program.

Licence Suspension and Revocation Recommendations

- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**
The police should be required to issue a seven-day ALS to a driver if: they reasonably believe that the driver’s ability to drive is impaired by alcohol or drugs; or the driver registers a BAC of .05% or higher on a breath, blood or urine test. Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of licence reinstatement.

Drivers who receive a short-term ALS should be required to pay a \$150-\$300 licence reinstatement fee. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Introduce a comprehensive 90-day administrative licence suspension program.**

Nunavut should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a blood, breath or urine sample, have a BAC of .08% or more; they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to provide a sample, or to submit to a SFST or DRE, without a reasonable excuse.

The police should be required to seize the driver's licence and report the suspension to the Registrar. Drivers with multiple 90-day suspensions should be subject to progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Introduce a mandatory alcohol interlock program for all federal impaired driving offenders.**

Participation in an interlock program should be a condition of relicensing for all federal impaired driving offenders. In order to encourage participation, drivers who enrol in an interlock program should be eligible for early licence reinstatement once the minimum federal driving prohibition ends. Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to territorial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum period ends, the order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this decision-making process, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

The Registrar should have explicit authority to impose an interlock order on any driver that he or she reasonably believes poses a significant risk of impaired driving.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Enact an administrative vehicle impoundment program for driving while uninsured, unlicensed, suspended, prohibited, or disqualified.**

The police should be required to impound for seven days any vehicle they have reasonable grounds to believe is uninsured, or is being driven by a person who is unlicensed, suspended, prohibited, or disqualified pursuant to territorial sanctions. The police should be required to impound the vehicle of federal impaired driving offenders who subsequently drive while suspended, prohibited or

disqualified. The impoundment period should be 45 days for a first occurrence and 90 days for a second occurrence within 5 years.

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

The police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

Nunavut should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

Remedial Program Recommendations

- **Establish a mandatory remedial program for all impaired driving offenders.**

Nunavut should enact legislation making participation in an alcohol or drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders, and drivers who accumulate multiple 7, 30, 60, or 90-day ALSs.

The Registrar should be given explicit authority to require any driver who he or she reasonably believes has an alcohol or drug problem to undergo an assessment and successfully complete any recommended treatment or other remedial programs.

ONTARIO

Synopsis

Ontario ranked first in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. The province has since brought into force the 2009 amendment extending the .00% BAC limit in the graduated licensing program to all drivers under the age of 22.

By national standards, Ontario has had an excellent record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related. Nevertheless, as indicated, Ontario's per capita rate of alcohol-related crash deaths in 2008 was over 3 times that of Germany, which has a 20% higher rate of per capita alcohol consumption than Canada.⁵⁶

While the province has among the best programs in several areas, it could still strengthen several aspects of its impaired driving legislation.

Crash Deaths

In 2009, Ontario had the second lowest per capita rate of impairment-related crash deaths and the fifth lowest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Ontario made steady progress, as the following two tables illustrate. In MADD Canada's view, of greatest importance has been the substantial decrease in the province's per capita rate of impairment-related crash deaths. It is gratifying to see that despite Ontario's strong record, it has introduced major reforms since 2009.

Table 16: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Ontario	Canada		Ontario	Canada	Ontario	Canada
2000	958	8.20	10.30	351	37%	37%	3.00	3.83
2001	982	8.25	9.74	333	34%	40%	2.80	3.91
2002	983	8.13	10.20	314	32%	36%	2.59	3.70
2003	977	7.98	9.87	351	36%	40%	2.87	3.97
2004	914	7.38	9.43	327	36%	38%	2.64	3.62
2005	886	7.07	10.00	323	37%	38%	2.58	3.75
2006	885	6.99	9.58	334	38%	41%	2.64	3.92
2007	914	7.14	9.25	360	39%	41%	2.81	3.76
2008	752	5.81	8.08	278	37%	43%	2.15	3.49
2009	711	5.44	7.63	265	37%	42%	2.03	3.18

Note: All calculations were done using non-rounded values.

⁵⁶ See text at page 23, above, and the accompanying footnotes.

Table 17: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Ontario	-32.46%	-21.42%	-5.71%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives⁵⁷

In August 2010, legislation came into force extending the .00% BAC limit to all drivers under the age of 22.⁵⁸ Breach of this provision constitutes a provincial offence which, upon conviction, results in a fine⁵⁹ and various adverse licensing consequences.⁶⁰ In addition, the driver may be subject to an immediate roadside ALS.⁶¹

In July 2011, Ontario's comprehensive mandatory seven-day impoundment legislation came into force. The police are required to immediately impound a vehicle if they are satisfied that the driver: based on a breath or blood analysis, has a BAC exceeding .08%; or failed to submit to breath, blood, oral fluid, or urine test, or a SFST or DRE.⁶² Mandatory seven-day impoundments are also imposed on those who drive in breach of an interlock condition imposed for a first impaired driving conviction or in a "conduct review program."⁶³ Finally, the police must impound for seven days the vehicle of a person who is driving while subject to any provincial licence suspension, with some limited exceptions.⁶⁴

⁵⁷ While the Ontario government announced its intention to lengthen both the G1 and G2 stages of the graduated licensing program by six months, it has not done so. See Ministry of Transportation, *Getting Off to a Better Start: Measures for New Drivers* (Toronto: Ministry of Transportation, August 12, 2011), online: <<http://news.ontario.ca/mto/en/2009/04/getting-off-to-a-better-start-measures-for-new-drivers.html>> (date accessed: August 17, 2011).

Private members Bills introduced in 2011 called for novice drivers and drivers over the age of 80 to put a sign in the front and rear of the vehicle. See respectively: *An Act to Amend the Highway Traffic Act to Require Vehicles Driven by Novice Drivers to Display Markers or Identifying Devices*, Bill 161, 2nd Sess, 39th Leg; and *An Act to Amend the Highway Traffic Act to Require Vehicles Driven by Drivers over the Age of 80 to Display Markers or Identifying Devices*, Bill 201, 2nd Sess, 39th Leg.

⁵⁸ *Highway Traffic Act*, RSO 1990, c H8, s 44.1(1) and (2) [HTA].

⁵⁹ *Ibid*, s 44.1(3)-(6).

⁶⁰ The licence of a "novice" driver may be suspended, cancelled or changed to a different class. *Ibid*, s 44.1(7). A fully licensed driver under the age of 22 (*i.e.* a "young driver") will be suspended for 30 days. *Ibid*, s 44.1(5).

⁶¹ If the driver tests positive for alcohol, but his or her BAC is below the "Warn" range (*i.e.* below .05%) , a 24-hour ALS may be imposed. *Ibid*, s 48.2.1(4) and (11)(a). If the driver's BAC is in the "Warn" range, his or her licence may be suspended 3 days for a first occurrence, 7 days for a second occurrence, and 30 days for a third or subsequent occurrence. *Ibid*, ss 48.2.1(11)(b) and s 48(14).

⁶² *Ibid*, ss 48.3(3) and s 48.4(1).

⁶³ *Ibid*, s 41.4(1).

⁶⁴ *Ibid*, s 55.2(1).

Licensing Recommendations

- **Strengthen the graduated licensing program.**

Ontario's graduated licensing program could be strengthened by: increasing the first stage to one year, even for drivers who have completed a driver education program; increasing the second stage to two years; enacting stricter passenger restrictions; and implementing a .00% BAC limit for supervising drivers.

While there is a general ban on using handheld electronic devices,⁶⁵ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**

- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction, and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**

Novice and young drivers who have at-fault collisions or commit serious provincial traffic offences should be subject to automatic administrative licensing sanctions. Drivers who breach the conditions of the graduated licensing program, the .00% BAC limit or the proposed drug prohibition should be subject to 30 and 60-day ALSs for a first and second violation, respectively. Those with a third violation should be required to restart their current stage of the graduated licensing program.⁶⁶

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**

- **Strengthen the short-term administrative licence suspension program.**

The current three-day administrative licence suspensions for having a BAC of .05% or higher should be increased to seven days for a first occurrence, and 30 and 60 days for a second and subsequent suspension within five years. The police should also be authorized to suspend the licence of drivers who are reasonably believed to be impaired by alcohol.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

⁶⁵ *Ibid*, s 78.1(1) and (2).

⁶⁶ It should be noted that drivers who are convicted of violating the conditions of the graduated licensing program or the .00% BAC limit are currently subject to a 30-day licence suspension and other potentially significant sanctions. *Drivers' Licences Regulation*, O Reg 340/94, s 9(1)-(4); and *HTA*, s 44.1(5).

- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for drug impairment.**

The province should create a parallel ALS program for drivers who the police reasonably believe, based on a SFST or DRE, are impaired by drugs.

- **Strengthen the 90-day administrative licence suspension program.**

Ontario should enact legislation requiring the police to issue 90-day suspensions to drivers who they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol.

Drivers with multiple 90-day suspensions should be subject to statutorily-mandated progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Strengthen the alcohol interlock program**

Participation in an interlock program should be a mandatory condition of relicensing for all federal impaired driving offenders. In order to encourage participation, all drivers who enrol in the interlock program should be eligible for early licence reinstatement once the minimum *Criminal Code* driving prohibition ends.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded for 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Administrative Vehicle and Forfeiture Recommendations

- **Introduce an administrative vehicle forfeiture program.**

Ontario should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

PRINCE EDWARD ISLAND

Synopsis

Prince Edward Island ranked third in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. However, it has not implemented any major impaired driving legislation in the interim.

Relative to the national average, Prince Edward Island has had a poor record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The province should enhance some aspects of its licensing provisions, and strengthen its short-term ALS, interlock, administrative vehicle impoundment and forfeiture, and remedial programs.

Crash Deaths

In 2009, Prince Edward Island had the sixth highest per capita rate of impairment-related crash deaths and the second highest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Prince Edward Island made no sustained progress, as the following two tables illustrate. In MADD's view, of greatest concern has been the province's failure to reduce the per capita rate of impairment-related crash deaths which has consistently exceeded the national average. Given its record, the province needs to introduce major legislative reforms.

Table 18: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		PEI	Canada		PEI	Canada	PEI	Canada
2000	20	14.66	10.30	8	39%	37%	5.64	3.83
2001	19	13.90	9.74	15	81%	40%	11.27	3.91
2002	20	14.61	10.20	12	61%	36%	8.84	3.70
2003	17	12.39	9.87	12	71%	40%	8.82	3.97
2004	30	21.79	9.43	12	40%	38%	8.79	3.62
2005	17	12.31	10.00	3	19%	38%	2.39	3.75
2006	28	20.30	9.58	17	59%	41%	11.96	3.92
2007	9	6.52	9.25	7	73%	41%	4.78	3.76
2008	19	13.62	8.08	10	52%	43%	7.10	3.49
2009	12	8.51	7.63	8	64%	42%	5.46	3.18

Note: All calculations were done using non-rounded values.

Table 19: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Prince Edward Island	-3.20%	+128.48%	-23.07%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives⁶⁷

A Bill that received first reading in November 2010 proposed extending the .00% BAC limit to drivers under 21.⁶⁸

Licensing Recommendations

- **Strengthen the graduated licensing program.**
While there is a general ban on using handheld electronic devices,⁶⁹ drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.
- **Enact the Bill extending the .00% BAC limit to all drivers under 21 and enact a .00% BAC limit for all new drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**
The police should be authorized to demand an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction, and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.
- **Broaden and strengthen the administrative sanctions for new and young drivers who violate the graduated licensing program, the .00% BAC limit or the drug prohibition.**
New and young drivers who have at-fault collisions or commit serious territorial traffic violations should be subject to automatic administrative licensing sanctions. Drivers who violate the conditions of the graduated licensing program, the .00% BAC restriction or the proposed drug prohibition should be subject to 30 and 60-day ALSs for first and second violations, respectively.

⁶⁷ The province brought into force legislation in 2010, restricting the use of handheld electronic devices while driving, subject to specified exceptions. *Highway Traffic Act*, RSPEI 1988, c H-5, s 291.1(1)-(5) [HTA]. The HTA was also amended in 2010 to prohibit street racing and stunt driving. *Ibid*, s 231(1)(a) and (b).

⁶⁸ Bill 23, *Highway Traffic (Zero Tolerance) Amendment Act*, 4th Sess., 63rd Ass., Prince Edward Island, 2010, s 2 (first reading 24 November 2010).

⁶⁹ HTA, *supra* note 67 at s 291.1(1) and (2).

Drivers with a third violation should also be required to restart their current stage in the graduated licensing program.⁷⁰

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**
- **Strengthen the seven-day administrative licence suspension program.**
The program should be extended to drivers who are reasonably believed to be impaired by alcohol or drugs.

Drivers with a second or subsequent suspension within five years should be subject to mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an alcohol interlock on their vehicle for 12 months as a condition of relicensing.

All short-term ALSs should be recorded on the driver's "operating record" and included on all driver abstracts for 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for drug impairment.**
The province should create a parallel ALS program for drivers who the police reasonably believe, based on a SFST or DRE, are impaired by drugs.
- **Strengthen the 90-day administrative licence suspension program.**
Prince Edward Island should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.
Drivers with multiple 90-day suspensions should be subject to statutorily-mandated progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Strengthen the alcohol interlock program.**
Prince Edward Island should require first-time federal impaired driving offenders to participate in its mandatory alcohol interlock program.
Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

⁷⁰ It should be noted that new and young drivers are currently subject to onerous sanctions if they are convicted of a serious traffic offence, driving with a BAC above .00% or violating other conditions of the graduated licensing program. *Graduated Driver Licensing Regulation*, PEI Reg EC225/07, ss 3(4), 4(4) and 8(a); *Demerit Point System Regulations*, PEI Reg EC1216/08, ss 13(1.1) and 16; and *HTA*, *ibid*, s 227.9.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum period ends, the interlock order should remain in effect until the Registrar is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this process, the Registrar should carefully review the offender's interlock data log and participation in any required remedial programs.

Administrative Vehicle and Forfeiture Recommendations

- **Enact an administrative vehicle impoundment program for driving while uninsured, unlicensed, suspended, prohibited, or disqualified.**
The police should be required to impound for seven days any vehicle they have reasonable grounds to believe is uninsured, or is being driven by a person who is unlicensed, suspended, prohibited, or disqualified pursuant to provincial sanctions. The police should also be required to impound the vehicle of federal impaired driving offenders who subsequently drive while suspended, prohibited or disqualified. The impoundment period should be 45 days for a first occurrence and 90 days for a second occurrence within 5 years.
- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**
The police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.
- **Introduce a mandatory administrative vehicle forfeiture program.**
Prince Edward Island should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired driving or other *Criminal Code* traffic convictions within 10 years.

Remedial Program Recommendations

- **Strengthen the mandatory remedial programs.**
Prince Edward Island should enact legislation making participation in a comprehensive alcohol or drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders and drivers who have multiple 7, 30, 60, or 90-day suspensions.

QUÉBEC

Synopsis

Québec ranked ninth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. However, it has introduced some impaired driving initiatives in the interim.

Relative to the national average, Québec has had a very good record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related. Nevertheless, as indicated, the province's per capita rate of alcohol-related crash deaths in 2008 was more than 3½ times that of Germany, a country with a 20% higher rate of per capita alcohol consumption than Canada.⁷¹

Moreover, Québec's impairment-related crash statistics must be viewed with considerable caution. While the underreporting of impairment-related crashes is a problem across Canada, it is particularly concerning in Québec. As indicated, the province has a narrower definition of an "alcohol-related crash death" than the other jurisdictions, low post-mortem testing rates and restricted criteria for categorizing a crash as alcohol related.⁷² Finally, the reporting of alcohol-related crash deaths in Québec appears to be somewhat anomalous. For example, no explanation was provided when the reported number of motor vehicle deaths involving a drinking driver fell from 175 in 2006 to 111 in 2007.⁷³ Similarly, the CCMTA reported that the total of number of alcohol-related crash deaths in Québec for 2009 was 153,⁷⁴ whereas the Société de l'assurance automobile du Québec (SAAQ) reported the number in the same year to be 195 on its official website.⁷⁵ Based on the SAAQ data, Québec's per capita rate of alcohol-related crash deaths in 2009 would likely have been four times that of Germany.

The province needs to enact major reforms to its licensing provisions, short-term ALS program, and its alcohol interlock, administrative vehicle impoundment and forfeiture, and remedial programs.

Crash Deaths

In 2009, Québec had the third lowest per capita rate of impairment-related crash deaths and the third lowest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Québec appears to have made steady progress, as the following two tables illustrate. In MADD Canada's view, of greatest significance has been the reported decrease in the province's per capita rate of impairment-related crash deaths.

⁷¹ See text and accompanying notes at 23, above.

⁷² TIRE, *Alcohol-Crash Problem in Canada, 2009* (Ottawa: CCMTA, 2011) at 133, 6-7 and 10, respectively [*Crash Problem, 2009*].

⁷³ TIRE, *Alcohol-Crash Problem in Canada, 2008* (Ottawa: CCMTA, 2010) at 134.

⁷⁴ *Crash Problem, 2009*, *supra* note 72 at 126.

⁷⁵ Société de l'assurance automobile, "Road Safety: Driving While Impaired by Alcohol" online: Gouvernement du Québec < http://www.saaq.gouv.qc.ca/en/accident_prevention/alcohol/index.php > (accessed 29 March 2012).

Table 20: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Québec	Canada		Québec	Canada	Québec	Canada
2000	771	10.48	10.30	232	30%	37%	3.15	3.83
2001	634	8.57	9.74	212	33%	40%	2.87	3.91
2002	736	9.89	10.20	222	30%	36%	2.99	3.70
2003	692	9.24	9.87	252	36%	40%	3.37	3.97
2004	683	9.06	9.43	222	33%	38%	2.95	3.62
2005	761	10.04	10.00	218	29%	38%	2.87	3.75
2006	692	9.07	9.58	239	34%	41%	3.13	3.92
2007	604	7.86	9.25	161	27%	41%	2.09	3.76
2008	571	7.36	8.08	194	34%	43%	2.50	3.49
2009	530	6.77	7.63	168	32%	42%	2.15	3.18

Note: All calculations were done using non-rounded values.

Table 21: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Québec	-31.86%	-25.16%	-13.91%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives

In January 2010, Québec brought into force a 2007 amendment that extended the probationary stage of its graduated licensing program to new drivers over the age of 25.⁷⁶ A different provision in the amendment lowered the demerit point thresholds for drivers under the age of 25, and it came into force in June 2011.⁷⁷

In December 2010, Québec enacted an amendment which, when proclaimed in force, will prohibit those under the age of 22 from driving with a positive BAC.⁷⁸

⁷⁶ *Highway Safety Code*, RSQ c C-24.2, art 66 [HSC]. The amendment also required all new drivers to take a driving course. *Ibid*, art 66.1.

⁷⁷ *Ibid*, art 185; and *Regulation Respecting Demerit Points*, RSQ, c C-24, r 37, s 4.

⁷⁸ *An Act to Amend the Highway Safety Code and Other Legislative Provisions*, SQ 2010, c 34, art 28. These provisions and those listed below are currently scheduled to come into force on June 30, 2012. *Ibid*, art 108.

The amendment includes 24-hour licence suspensions for bus, minibus and taxi drivers with a positive BAC, and for drivers of heavy vehicles with a BAC over .05%. *Ibid*, art 29.

It will introduce 90-day administrative vehicle impoundment for drivers with a BAC above .08% or drivers

In 2008, Québec enacted legislation which, when proclaimed in force, will modestly broaden the circumstances in which the police may demand a SFST under provincial law.⁷⁹

As of December 2009, the licence disqualification periods and the length of the interlock orders imposed on specified categories of impaired driving offenders were increased.⁸⁰

As of December 2009, police were required to immediately impound for 30 days the vehicle of a driver who: has a BAC over .16%; refuses to give a breath sample; or has a BAC over .08% and has previously had his or her licence cancelled for a *Criminal Code* impaired driving-related offence within the last 10 years.⁸¹

Licensing Recommendations

- **Strengthen the graduated licensing program.**

Québec's graduated licensing program could be strengthened by: requiring new drivers to remain at the initial stage for 12 months, regardless of their participation in a driver education program; introducing passenger, high-speed roadway and nighttime driving restrictions; implementing a .00% BAC limit for supervising drivers; and requiring novice drivers to pass an "exit" test to obtain full driving privileges.

While there is a general ban on using handheld electronic devices,⁸² drivers in the graduated licensing program should be prohibited from using any such devices whether handheld or hands-free.

- **Immediately proclaim in force the pending .00% BAC limit for drivers under 22 and enact a .00% BAC limit for all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**

who refuse to provide a sample, but only if their licence had previously been cancelled in the past 10 years for an alcohol-related offence or failing to stop at the scene of an accident. *Ibid*, art 36.

The amendment will also increase the limited number of circumstances in which lifelong interlock orders may be imposed and will prohibit certain impaired driving offenders with multiple convictions from registering a vehicle. *Ibid*, arts 10 and 27, respectively.

Finally, the amendment imposes additional sanctions for street racing and other highly reckless behaviour. *Ibid*, art 60 and 61.

⁷⁹ The amendment would authorize the police to demand a SFST from any driver if they reasonably suspect that his or her ability to drive is impaired. However, this provision is narrower than that granted the police under the *Criminal Code*, which authorizes them to demand a SFST or ASD from a driver who they reasonably suspect has any alcohol or drugs in his or her body. The Québec amendment, if proclaimed in force, would require the police to suspend the driver's licence for 24 hours if he or she refuses to take the SFST or fails it. It has not been announced when this legislation will come into force. *Ibid*, art 19.

⁸⁰ The interlock order is two years for first-time impaired driving offenders who had a BAC above .16% or who had refused to provide a sample. The order is 3 years for these offenders if they had one or more prior cancellations in the preceding 10 years for an alcohol-related offence, unless their BAC exceeded .16% in the prior offence or the prior offence was for refusing to provide a sample. A lifetime interlock order is imposed on offenders if they had one or more cancellations in the preceding 10 years for refusing to provide a sample or where their BAC exceeded .16%. *HSC*, *supra* note 76, art 76.1.4-6.

⁸¹ *Ibid*, art 209.2.1.

⁸² *Ibid*, art 439.1.

- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

- **Broaden the administrative sanctions that apply to new and young drivers.**

The 90-day ALS that currently applies to drivers in the graduated licensing program who violate the .00% BAC limit⁸³ should be extended to all drivers who are under the age of 21 or who have less than 5 years driving experience. A parallel ALS should be enacted for new and young drivers who violate the proposed drug prohibition.

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**
- **Enact a comprehensive seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day ALS to a driver: if they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs; or if the driver registers a BAC of .05% or higher on a breath, blood or urine test.

Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of licence reinstatement.

Drivers who receive a short-term ALS should be required to pay a \$150-\$300 licence reinstatement fee. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Strengthen the 90-day administrative licence suspension program.**

Québec should enact legislation requiring the police to issue 90-day suspensions to drivers who they have reason to believe are, based on a DRE, impaired by drugs or drugs in combination with alcohol.

Drivers with multiple 90-day suspensions within 5 years should be subject to progressive sanctions, driving record reviews, and a mandatory assessment and other remedial measures.

Interlock Recommendations

- **Introduce a mandatory alcohol interlock program for all federal impaired driving offenders.** Participation in an interlock program should be a condition of relicensing for all federal impaired driving offenders. In order to encourage participation, drivers who enrol in the interlock program

⁸³ *Ibid*, art 202.4(2).

should be eligible for early licence reinstatement once the minimum federal driving prohibition ends. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum interlock period ends, the order should remain in effect until SAAQ is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem. As part of this decision-making process, SAAQ should carefully review the offender's interlock data log.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Strengthen the administrative vehicle impoundment program for suspected federal impaired driving offenders.**

Police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with any impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

Québec should enact legislation requiring the administrative forfeiture of the vehicle of any driver responsible for 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

Remedial Program Recommendations

- **Strengthen the mandatory remedial programs.**

Québec should enact legislation making participation in an alcohol or drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all *Criminal Code* impaired driving offenders and all drivers who accumulate multiple 7, 30, 60, or 90-day ALSs.

SASKATCHEWAN

Synopsis

Saskatchewan ranked fifth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. It has not introduced any significant impaired driving initiatives in the interim.

Relative to the national average, Saskatchewan has had a poor record in terms of per capita impairment-related crash deaths and the percentage of total crash deaths that were impairment related.

The province needs to enact major reforms to its licensing, short-term ALS, vehicle interlock, and vehicle impoundment and forfeiture legislation.

Crash Deaths

In 2009, Saskatchewan had the highest per capita rate of impairment-related crash deaths and was in the middle range in terms of the percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, Saskatchewan's record has worsened, as the following two tables illustrate. In MADD Canada's view, of greatest concern is the increase in the province's per capita rate of impairment-related crash deaths, which has been close to or more than double the national average. Given its poor record, it is troubling that Saskatchewan has not introduced any significant impaired driving initiatives in the last three years.

Table 22: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Sask.	Canada		Sask.	Canada	Sask.	Canada
2000	167	16.57	10.30	69	42%	37%	6.88	3.83
2001	172	17.20	9.74	99	58%	40%	9.90	3.91
2002	153	15.35	10.20	65	42%	36%	6.51	3.70
2003	159	15.96	9.87	80	51%	40%	8.06	3.97
2004	137	13.74	9.43	65	47%	38%	6.51	3.62
2005	163	16.41	10.00	66	40%	38%	6.64	3.75
2006	157	15.82	9.58	83	53%	41%	8.32	3.92
2007	161	16.10	9.25	83	51%	41%	8.25	3.76
2008	184	18.15	8.08	120	65%	43%	11.83	3.49
2009	175	16.99	7.63	87	50%	42%	8.44	3.18

Note: All calculations were done using non-rounded values.

Table 23: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Saskatchewan	+22.65%	+27.00%	-28.68%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives⁸⁴

Amendments to the regulations in 2011 paused a driver's progress in the graduated licensing program if he or she was convicted of almost any *Criminal Code* traffic or impaired driving offence.⁸⁵

Licensing Recommendations

- **Increase the minimum age for licensed driving on public roads to 16, regardless of whether the driver is enrolled in a driver education program.**

- **Strengthen the graduated licensing program.**

The program could be strengthened by: increasing stage one to 12 months and the combined length of stages 2 and 3 to 24 months; introducing high-speed roadway and nighttime restrictions; implementing a .00% BAC limit for supervising drivers; and requiring drivers to pass an "exit" test to obtain full driving privileges.

Moreover, the ban on the use of electronic devices by drivers in the graduated licensing program should be proclaimed in force.

- **Enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**

The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption.

⁸⁴ When proclaimed in force, 2009 legislation will prohibit the use of "electronic communication devices" while driving, subject to specified exceptions. Drivers, other than new drivers, will be allowed to use hands-free devices. *The Traffic Safety (Drivers' Licences and Hand-held Electronic Communications Equipment) Amendment Act, 2009*, SS 2009, c 35, s 11.

⁸⁵ *The Driver Licensing and Suspension Regulations, 2006*, RRS, c T-18.1, Reg 2, ss 13(2)(b)(iii) and (iv), 14(2)(b) and (b.1), and 15(2)(b) and (b.1).

- **Broaden the administrative sanctions that apply to new and young drivers.**

The ALS and other administrative sanctions that currently apply to drivers in the graduated licensing program who violate the .00% BAC limit⁸⁶ should be extended to all drivers who are under the age of 21 or who have less than 5 years driving experience. A parallel ALS program should be enacted for new and young drivers who violate the proposed drug prohibition.

Licence Suspension and Revocation Recommendations

- **Introduce a 24-hour administrative licence suspension for unfitness.**
- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day administrative licence suspension to a driver if: they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs; the driver fails or refuses to submit to an SFST or DRE; or registers a BAC of .05% or higher on a breath, blood or urine test.

Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day administrative licence suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an interlock on their vehicle for 12 months as a condition of licence reinstatement.

Drivers who receive a short-term ALS should be required to pay a \$150-\$300 licence reinstatement fee. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Strengthen the 90-day administrative licence suspension program.**
Saskatchewan should enact legislation requiring the police to issue 90-day suspensions to drivers who they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol.

Drivers with multiple 90-day suspensions within 5 years should be subject to progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Introduce a mandatory alcohol interlock program for all federal impaired driving offenders.**
Participation in an interlock program should be a mandatory condition of licence reinstatement for all federal impaired driving offenders. In order to encourage participation, drivers who enroll in an interlock program should be eligible for early licence reinstatement once the minimum federal driving prohibition ends. Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program

⁸⁶ On a first occurrence, the ALS is 30 days and the graduated licensing stage must be restarted. If a driver receives a second 30-day suspension, the Administrator must suspend his or her licence for 90 days. *Traffic Safety Act*, SS 2004, c T-81, ss 150(1), (2)(a) and (7), and 151(5)(b) and (6).

as a condition of relicensing. The minimum interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order should be impounded. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Once the minimum interlock period ends, the order should remain in effect until Saskatchewan Government Insurance is satisfied that the offender does not pose a significant risk of re-offending and has overcome any underlying alcohol problem.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Enact an administrative vehicle impoundment program for suspected federal impaired driving offenders.**

The police should be required to impound for seven days the vehicle of any driver who: (i) fails to submit to any impairment test required by federal or provincial law; (ii) they reasonably believe, based on a breath, blood or urine sample, has a BAC at or above .08%; (iii) they reasonably believe, based on a DRE, is impaired by drugs or drugs in combination with alcohol; or (iv) is charged with an impaired or other *Criminal Code* driving offence.

- **Introduce a mandatory administrative vehicle forfeiture program.**

Saskatchewan should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more impaired or other *Criminal Code* traffic convictions within 10 years.

YUKON

Synopsis

The Yukon ranked tenth in MADD Canada's 2009 assessment of the provincial and territorial legislation across Canada. Nevertheless, it has not introduced any impaired driving initiatives in the interim.

Relative to the national average, the Yukon has a very poor record in terms of per capita impairment-related crash deaths and has been in the middle range in terms of the percentage of crash deaths that were impairment related.

The territory needs to enact major reforms to its licensing provisions, short-term ALS legislation, and its interlock, vehicle impoundment and forfeiture, and remedial programs.

Crash Deaths

In 2009, the Yukon had the third highest per capita rate of impairment-related crash deaths. The territory also had the second lowest percentage of total crash deaths that were impairment related.

During the 10-year period from 2000 to 2009, the Yukon's impaired driving record has fluctuated considerably, as the following two tables illustrate. Despite the progress made in 2009, the territory's record remains weak. In MADD Canada's view, of greatest concern is the territory's per capita rate of impairment-related crash deaths, which has often been triple the national rate. Given its poor record, it is troubling that the territory has not introduced any new impaired driving initiatives in the past three years.

Table 24: Total and Impairment-Related Crash Deaths, 2000-2009

Year	Total Crash Deaths			Impairment-Related Crash Deaths				
	Number	Per 100,000 pop.		Number	As a % of total crash deaths		Per 100,000 pop.	
		Yukon	Canada		Yukon	Canada	Yukon	Canada
2000	9	29.58	10.30	7	73%	37%	21.69	3.83
2001	4	13.26	9.74	0	0%	40%	0.00	3.91
2002	14	46.12	10.20	7	51%	36%	23.44	3.70
2003	8	25.84	9.87	4	55%	40%	14.21	3.97
2004	6	19.06	9.43	1	22%	38%	4.19	3.62
2005	6	18.81	10.00	4	73%	38%	13.79	3.75
2006	13	40.28	9.58	6	42%	41%	17.04	3.92
2007	5	15.34	9.25	2	44%	41%	6.75	3.76
2008	9	27.13	8.08	4	49%	43%	13.26	3.49
2009	7	20.80	7.63	2	31%	42%	6.54	3.18

Note: All calculations were done using non-rounded values.

Table 25: Percentage Changes in Impairment-Related Crash Deaths Per 100,000, 2000-2009

	2000-09: 10-year Change	2005-09: 5-year Change	2008-09: 1-year Change
Yukon	-69.86%	-52.60%	-50.71%
Canada	-16.96%	-15.20%	-8.71%

Recent Impaired Driving Initiatives

The Yukon has not enacted any impaired driving initiatives since 2009.⁸⁷

Licensing Recommendations

- **Increase the minimum age for licensed driving on public roads to 16, regardless of whether the driver is enrolled in a driver education program.**
- **Strengthen the graduated licensing program.**
The program could be improved by: lengthening stage one to 12 months and stage 2 to 24 months; enhancing the passenger restrictions for novice drivers; and requiring novice drivers to pass an “exit” test to obtain full driving privileges.
- **Enact a .00% BAC limit for all drivers under 21 and all drivers during their first 5 years of driving.**
- **Prohibit all drivers under 21 and all drivers during their first 5 years of driving from being positive for drugs.**
- **Broaden police powers to enforce the graduated licensing program, and the proposed .00% BAC limit and drug prohibition for new and young drivers.**
The police should be authorized to demand: identification from supervising drivers; an ASD test from all drivers and supervisors who are subject to a .00% BAC restriction; and a SFST from all new and young drivers. Moreover, the police should be authorized to demand these ASD tests and SFSTs, even in the absence of a reasonable suspicion of alcohol or drug consumption
- **Broaden and strengthen the administrative sanctions for drivers who violate the graduated licensing program, the .00% BAC limit and the drug prohibition.**
Learners and novice drivers who have at-fault collisions or commit serious territorial traffic violations should be subject to automatic administrative licensing sanctions. Learner and novice drivers who violate the .00% BAC limit or the proposed drug prohibition should be subject to 30 and 60-day ALSs for a first and second occurrence, respectively.⁸⁸

⁸⁷ In 2011, regulations came into force prohibiting those in the graduated licensing program from driving while using electronic devices, whether handheld or hands-free. *Motor Vehicle Act Regulations*, YOIC 1978/120, ss 6.2(1)(d) and 6.5(1)(d) [MVAR]. Fully-licensed drivers are also prohibited from using electronic devices, subject to an exception for hands-free devices. *Motor Vehicles Act*, RSY 2002, c 153, s 210.1(2) and (3) [MVA].

⁸⁸ It should be noted that drivers are currently subject to onerous sanctions if they are convicted of a serious traffic offence or violating any condition of the graduated licensing program. *MVA*, *ibid*, s 31(b); and *MVAR*, *ibid*, ss 6.7, 6.8(2), 6.4(3)(a) and 6.9(3).

Licence Suspensions and Revocations

- **Introduce a 24-hour administrative licence suspension for unfitness unrelated to alcohol or drugs, such as in the case of fatigue or mental illness.**
- **Introduce a seven-day administrative licence suspension and vehicle impoundment program for alcohol/drug impairment.**

The police should be required to issue a seven-day administrative licence suspension to a driver if: they reasonably believe that the driver's ability to drive is impaired by alcohol or drugs; the driver fails or refuses to submit to an SFST or DRE; or the driver registers a BAC of .05% or higher on a breath, blood or urine test.

Drivers with a second or subsequent suspension within 5 years should be subject to 30 and 60-day suspensions, respectively, and mandatory alcohol/drug assessments. Drivers with 3 or more short-term, alcohol-related suspensions within 5 years should be required to install an alcohol interlock on their vehicle for 12 months as a condition of licence reinstatement.

Drivers who receive a short-term licence suspension should be required to pay \$150-\$300 licence reinstatement fees. These suspensions should be recorded on the driver's record and included on all driver abstracts for 10 years.

The vehicle of a driver who receives a short-term ALS should be impounded for the duration of the suspension.

- **Strengthen the 90-day licence suspension program.**

The Yukon should enact legislation requiring the police to issue 90-day suspensions to drivers who: they have reason to believe, based on a DRE, are impaired by drugs or drugs in combination with alcohol; or fail to submit to a SFST or DRE, without a reasonable excuse.

Drivers with multiple 90-day suspensions within 5 years should be subject to progressive sanctions, driving record reviews, and mandatory assessments and other remedial measures.

Interlock Recommendations

- **Introduce a mandatory alcohol interlock program for all federal impaired driving offenders.**

Participation in an interlock program should be a condition of relicensing for all federal impaired driving offenders. In order to encourage participation, drivers who enrol in an interlock program should be eligible for early licence reinstatement once the minimum federal driving prohibition ends. Moreover, even offenders who do not apply or are not eligible for early reinstatement of their driving privileges should be required to participate in the interlock program as a condition of relicensing. The minimum statutory interlock period should be 1 year for a first offence, 3 years for a second offence within 10 years, and 5 years for a third offence within 10 years.

The police should be required to impound the vehicle of a driver who is driving an unequipped vehicle in breach of his or her interlock order. The impoundment period should be 7 days if the interlock order was imposed pursuant to provincial sanctions and 45 days if the interlock order resulted from a *Criminal Code* impaired driving offence.

Administrative Vehicle Impoundment and Forfeiture Recommendations

- **Make the administrative vehicle impoundments for suspected federal impaired driving offenders mandatory.**
- **Introduce a mandatory administrative vehicle forfeiture program.**
The Yukon should enact legislation requiring the administrative forfeiture of the vehicle of any driver with 3 or more *Criminal Code* impaired driving convictions within 10 years.

Remedial Program Recommendations

- **Enact mandatory remedial programs.**
The Yukon should enact legislation making participation in an alcohol or drug assessment and the successful completion of any recommended treatment, conditions of relicensing for all federal impaired driving offenders, and drivers who accumulate multiple 7, 30, 60, or 90-day ALSs.

APPENDIX I: TECHNICAL NOTES AND SOURCES FOR GRAPHS 4 AND 5

Sources of Crash Data

- Canadian alcohol-related crash data are taken from Traffic Injury Research Foundation (TIRF), *Alcohol-Crash Problem in Canada: 2008* (Ottawa: Canadian Council of Motor Transport Administrators (CCMTA), 2010) at 14.
- European alcohol-related crash data are taken from G Jost *et al*, *Road Safety Target In Sight: Making up for lost time – 4th Road Safety PIN Report*, online: European Transport Safety Council <<http://www.etsc.eu/documents/ETSC%20PIN%20Report%202010.pdf>> at 97 (Table 15).
- Australian alcohol-related crash data are taken from Australian Transport Council, *National Road Safety Strategy: 2011-2020*, online: Australian Transport Council <http://www.atcouncil.gov.au/documents/files/NRSS_2011_2020_15Aug11.pdf> at 4, 11 and 25. The Australian crash data is for the year 2010.
- Japanese alcohol-related crash data are taken from Facts and Details, *Automobile Accidents in Japan*, online: Facts and Details <<http://factsanddetails.com/japan.php?itemid=850&catid=23&subcatid=153>>. The Japanese crash data are for the year 2007.
- New Zealand alcohol-related crash data are taken from Ministry of Transport, *Road Toll*, online: Ministry of Transport, New Zealand <<http://www.transport.govt.nz/research/Pages/Road-Toll.aspx>>.
- American alcohol-related crash data are taken from the Fatality Analysis Reporting System (FARS), *Persons Killed, by STATE and Highest Driver Blood Alcohol Concentration (BAC) in Crash – State: USA, Year: 2009*, online: National Highway Traffic Safety Administration <<http://www-fars.nhtsa.dot.gov/States/StatesAlcohol.aspx>>. The American crash data are for the year 2009.

Sources of Population Data

- Canadian population data are taken from Statistics Canada, *CANSIM Table 051-0001, Estimates of population, by age group and sex for July 1, Canada, provinces and territories, annual (persons)* (Ottawa: Statistics Canada, 2011). The population data are for 2008.
- Population data are taken from the United Nations, Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2010 Revision – File 1: Total Population ... 1950-2100 (thousands)*, online: United Nations, Department of Economic and Social Affairs <<http://esa.un.org/unpd/wpp/Excel-Data/population.htm>>. Unless otherwise specified, population data are for 2008.
- Irish population data are for 2005.
- Japanese population data are for 2007.

Classifying Crashes as “Alcohol-Related”

- In Denmark, Finland and France, the term “alcohol-related” crash was defined as a crash in which any active participant was found to have a BAC above .05%.
- In Canada, the term “alcohol-related” crash was defined in terms of one or more of the parties having a positive BAC.
- In Great Britain, an “alcohol-related fatality” was defined as a traffic death in which a driver or rider blew over 35 micrograms of alcohol per 100 millilitres of breath, refused a breath test, or died and was found to have had a BAC in excess of .08%. Department for Transport, *Reported Road Casualties Great Britain: 2008 Annual Report*, online: Department for Transport <<http://www.dft.gov.uk/statistics/series/road-accidents-and-safety/>>.
- In Sweden, the term “alcohol-related fatality” was limited to fatally-injured drivers who tested positive for alcohol in postmortem testing.
- In Ireland, the term “alcohol-related” crash was defined in terms of a driver having a BAC of .02% or more. In some circumstances, the BACs of pedestrians may have been obtained and considered in the total alcohol-related fatalities. D Bedford, *Drink Driving in Ireland*, online: Alcohol Ireland < <http://alcoholireland.ie/wp-content/uploads/2011/02/drink-driving-in-ireland-dr-declan-bedford-oct-2008.pdf> >, Table: Deaths in Alcohol Related Crashes.
- In The United States, the term “alcohol-related” crash was defined in reference to a driver having a BAC of .01% or more.
- In New Zealand, the term “impairment-related” fatality referred to a death resulting from a crash in which at least one driver was affected by alcohol/drugs. Research and Statistics, Ministry of Transport, *Alcohol/drugs: Crash Statistics for the Year Ended 31 December 2009*, online: Ministry of Transport, New Zealand <<http://www.transport.govt.nz/research/Documents/Alcohol-drugs-crash-fact-sheet-2010.pdf>>.
- In Australia, “drink-driving” fatalities, as they are called, appear to refer to crash deaths in which one of the drivers had a BAC above .05%.
- In Germany and the Netherlands, drivers killed “on the spot” might not have been tested.

APPENDIX II:

TECHNICAL NOTES AND SOURCES FOR GRAPH 6

- Per capita alcohol consumption was measured in litres of pure alcohol consumed by those who were 15 years of age or older. Organization for Economic Co-operation and Development (OECD), *Non-Medical Determinants of Health: Alcohol Consumption*, online: OECD <http://stats.oecd.org/index.aspx?DataSetCode=HEALTH_STAT>.
- Per capita alcohol consumption for Great Britain included the entire United Kingdom.

APPENDIX III: GRADUATED LICENSING PROGRAMS (GLPs)

Chart 1: Features of Stage 1

Prov./ Terr.	Minimum Driving Age	Minimum Length of Stage 1	Restrictions ¹		
			Nighttime	Passengers (excluding supervisor)	High-speed Roadways
AB	14	12 months & until 16	12 a.m. - 5 a.m.	Number of belts	None
BC	16	12 months	12 a.m. - 5 a.m.	1 passenger	None
MB	15½ ²	9 months	None	Number of belts in back	None
NB	16	12 months (8 with driver ed.)	12 a.m. - 5 a.m.	Only supervisor	None
NL	16	12 months (8 with driver ed.)	12 a.m. - 5 a.m.	Only supervisor	None
NT	15	12 months	11 p.m. - 6 a.m.	Only supervisor	None
NS ³	16	6 months (3 with driver ed.)	None	Only supervisor	None
NU	15	No GLP. Beginning drivers must be supervised for 12 months, but there are no BAC limits or other restrictions.			
ON	16	12 months (8 with driver ed.) ⁴	12 a.m. - 5 a.m.	Number of belts in back	Prohibited
PE	16	12 months (9 with driver ed.)	1 a.m. - 5 a.m. (unless ≥ 21)	Supervisor's family & number of belts	None
QC	16	12 months (8 with driver ed.)	None	None	None
SK	15 ²	9 months & until 16	None	Number of belts & additional limits ⁵	None
YK	15	6 months & until 16	12 a.m. - 5 a.m.	1 passenger, other than family	None

1. Unless otherwise stated, all stage-1 drivers are subject to a .00% BAC restriction.
2. These minimum driving ages apply to those who are in, or have graduated from, a driver education program.
3. Legislation enacted in 2007, when proclaimed in force, would lengthen Stage 1 to 1 year or 9 months for those with driver education. Among other things, the legislation would also tighten passenger and supervising driver restrictions.
4. The Ontario government announced that it intends to lengthen stage 1 to 18 months, or 12 months for those with driver education.
5. There can be no passengers other than family members from 12 a.m. to 5 a.m., and no passenger in the front if there is a backseat.

Chart 2: Features of Stage 2

Prov./ Terr.	Minimum Length of Stage 2	Restrictions ¹		
		Nighttime	Passengers	High-speed Roadways
AB	24 months	None	Number of belts	None
BC	24 months (18 with driver ed.)	None	1 passenger, other than family, unless supervised	None
MB	15 months	None	1 passenger in front, number of belts in back and additional night restrictions ²	None
NB	12 months ³	12 a.m. - 5 a.m., with exceptions ⁴	3 passengers	None
NL	12 months	12 a.m. - 5 a.m., unless supervised	Number of belts	None
NT	12 months	None	1 passenger in front	None
NS	24 months	12 a.m. - 5 a.m., with exceptions ⁵	1 passenger in front and number of belts ⁶	None
NU	No GLP. Drivers can be fully licensed at 16 & are not subject to any BAC or other restrictions.			
ON	12 months ⁷	None	Number of belts and additional night restriction if the driver is under 20 ⁸	None
PE	24 months stages 2 & 3	1 a.m. - 5 a.m., with exceptions ⁹	Number of belts	None
QC	24 months	None	None	None
SK	18 months ¹⁰	None	Number of belts and additional restrictions in the first 6 months ¹¹	None
YK	18 months	12 a.m. - 5 a.m., unless supervised ¹²	Number of belts	None

1. Unless otherwise stated, all stage-2 drivers are subject to a .00% BAC restriction.
2. Stage-2 drivers cannot have more than 1 passenger from 12 a.m. to 5 a.m., unless there is a supervisor in the front and all the passengers in the back seat have a belt.
3. Drivers must spend a total of 24 months in stage 1 and 2 combined, with at least 12 months spent in stage 2.
4. This restriction does not apply to drivers who are 21 or older, drivers accompanied by a supervisor and no other passenger, those driving for educational or employment purposes, or drivers who are exempted by the Registrar.
5. This restriction does not apply to drivers who are supervised or drivers who have obtained an employment exemption.
6. Legislation, when proclaimed in force, will prohibit carrying more than 1 passenger unless supervised, or unless the passengers are family members.
7. The Ontario government announced that it intends to lengthen stage 2 to 18 months.
8. During the first 6 months stage-2 drivers cannot have more than 1 passenger under 20, other than family members, from 12 a.m. to 5 a.m. After 6 months, stage-2 drivers can have only 3 passengers under 20. These restrictions do not apply if the driver is supervised, in which case the number of passengers is limited to the number of belts.

9. This restriction does not apply to drivers who are 21 or older, drivers accompanied by a supervisor, or drivers who have obtained a work or other exemption.
10. Saskatchewan has a 2-part stage 2, which lasts a total of 18 months. The novice-1 part is 6 months and the novice-2 part is 12 months.
11. During the 6-month novice-1 part, drivers may only carry 1 passenger other than family members.
12. This supervision requirement does not apply to stage-2 drivers who are commuting directly between work and home.

Chart 3: Additional .00% BAC Limits Extending Beyond the GLP

Prov./ Terr.	.00% BAC Limit Beyond GLP	Minimum Age at which .00% BAC Limit Ends	Legal Drinking Age
AB	None	18	18
BC	None	18½	19
MB	3 years	20½	18
NB	3 years	21	19
NL	None	17⅔	19
NT	None	17	19
NS ¹	None (pending – 2 years)	18¼ (pending – 21 or 20¾ with driver ed.)	19
NU	None	No BAC limit	19
ON	Yes	22	19
PE ²	¼ year	19 (proposed 21)	19
QC ³	None (pending 2½ years)	18⅔ (pending 22)	18
SK	None	17½	19
YK	None	17½	19

1. Legislation, when proclaimed in force, will require drivers to have a .00% BAC for 2 years after completing stage 2. Thus, the minimum length of the .00% BAC restriction will be 4¾ years for drivers who completed the driver education course in stage 1 and 5 years for those who did not.
2. Prince Edward Island introduced legislation which, if enacted, will prohibit those under the age of 21 from driving with a BAC above .00%.
3. Québec enacted legislation which, when proclaimed in force, will prohibit those under the age of 22 from driving with a BAC above .00%. The legislation is currently scheduled to come into force on June 30, 2012.

APPENDIX IV: SHORT-TERM (7-DAY) ADMINISTRATIVE LICENCE SUSPENSIONS (ALSs) FOR ALCOHOL AND DRUG IMPAIRMENT

Chart 1: Grounds for Imposing Short-Term ALSs and the CCMTA Model

Prov./ Terr.	Alcohol-Related Grounds	Other Grounds
AB	Reasonably suspect driver's physical or mental ability is affected by alcohol ¹	Reasonably suspect driver's physical or mental ability is affected by a drug ²
BC ³	Reasonable grounds to believe driver's ability affected by alcohol (24 hours); BAC \geq .05% and reasonable belief that driver's ability affected by alcohol (3 days)	Reasonable grounds to believe driver's ability is affected by a drug (24 hours)
MB	BAC \geq .05%; or fails to provide a sample	Based on SFST, believe driver is unable to drive safely; refuses SFST; or is so impaired by alcohol or drugs as to be unable to provide a sample or take SFST
NB	BAC \geq .05%; or charged with either an impaired driving offence or refusing to provide a sample	No
NL	BAC \geq .05%; or charged with an impaired driving offence or refusing to provide a sample	Reasonable grounds to believe driver's ability is impaired by a drug or combination of drugs and alcohol
NT	BAC \geq .05%; or reasonable grounds to believe driver's ability is impaired by alcohol	Reasonable grounds to believe driver's ability is impaired by drugs or fatigue
NS	BAC \geq .05%; or charged with an impaired driving offence or refusing to provide a sample	No
NU	Reasonable grounds to believe driver's ability is impaired by alcohol	Reasonable grounds to believe driver's ability is impaired by drugs or fatigue
ON	BAC \geq .05%	No
PE	BAC \geq .05%; or refuses to provide a sample	No
QC ⁴	No Short-Term ALS.	
SK	Reasonable grounds to believe driver's BAC exceeds .04%	A refusal to undergo, or failure of, a SFST
YK	Reasonable grounds to believe driver is impaired by alcohol	Reasonable grounds to believe driver's ability is impaired by drugs or another substance
CCM TA	BAC \geq .05%	Reasonable grounds to suspect driver's ability is impaired by drugs

1. When proclaimed in force, November 2011 amendments would require the police to impose an immediate roadside suspension on drivers with BACs of .05% or more. The suspensions will be for 3, 15 and 30 days for first, second, and subsequent infringements, respectively. The lookback period for prior occurrences will be 10 years.

2. When proclaimed in force, November 2011 amendments will authorize the police to suspend for 24 hours the licence of any driver who they reasonably suspect has a medical or physical condition that affects his or her physical or mental ability. The police will also be required to impound the driver's vehicle for 24 hours.
3. The 24-hour ALS (reasonable belief affected by alcohol/drugs), 3-day ALS (BAC \geq .05%) and 90-day ALS (BAC \geq .08% or fail to provide a sample) imposed at roadside are referred to as "immediate roadside prohibitions" (IRPs). An ASD is used to determine the BAC of a driver who is subject to an IRP. The IRPs apply immediately, unlike the 90-day ALSs imposed on drivers who register a BAC \geq .08% or fail to provide a sample for analysis on an evidentiary breathalyzer when processed at the police station.

A court rejected all but one challenge to the IRP legislation. The 90-day IRP based on registering a fail on an ASD was found to infringe s. 8 of the *Charter of Rights and Freedoms*, and this infringement was held not to be justifiable under s. 1. In the court's view, the onerous consequences of the 90-day IRP and the limited means of challenging the ASD result on which it was based rendered the provision unreasonable. The court subsequently suspended the declaration of invalidity until June 30, 2012.

4. If proclaimed in force, a June 2008 amendment would authorize the police to demand a SFST from any driver if they reasonably suspect that his or her ability to drive is impaired. However, this provision is narrower than that granted the police under the *Criminal Code*, which authorizes them to demand a SFST or ASD from a driver who they reasonably suspect has any alcohol or drugs in his or her body. The Québec amendment, if proclaimed in force, would require the police to suspend the driver's licence for 24 hours if he or she refuses to take the SFST or fails it.

Further amendments and a 2010 legislative report called for the introduction of a 24-hour ALS program for drivers who had BACs \geq .05%. However, the government announced in December 2010 that it was postponing introduction of the program for 2 or 3 years.

Chart 2: Duration of Short-Term ALSs and the CCMTA Model

Prov./ Terr.	First Occurrence	Second Occurrence	Third Occurrence	Fourth or Subsequent Occurrence
AB ¹	24 hours	24 hours	24 hours	24 hours
BC ²	24 hours if reasonable grounds driving ability affected by alcohol/drugs; 3 days for .05% ³ or refusal	As per first occurrence.	As per first occurrence.	As per first occurrence.
MB ⁴	24 hours	15 days	30 days	60 days
NB	7 days	7 days	7 days	7 days
NL ⁵	7 days	14 days	2 months	4 months
NT ⁶	24 hours	30 days	30 days	30 days
NS ⁴	7 days	15 days	30 days	30 days
NU	4 to 24 hours	4 to 24 hours	4 to 24 hours	4 to 24 hours
ON ²	3 days	7 days	30 days	30 days
PE ⁶	7 days	30 days	90 days	90 days
QC ⁷	No Short-Term ALS.			
SK ²	24 hours	15 days	90 days	90 days
YK	24 hours	24 hours	24 hours	24 hours
CCMTA ⁸	7-14 days	30 days	45 days	60 days

1. When proclaimed in force, November 2011 amendments would require the police to impose immediate roadside suspensions on drivers with BACs \geq .05%. The suspensions would be 3, 15 and 30 days for first, second and subsequent infringements, respectively. The lookback period for prior occurrences will be 10 years.
2. The lookback period for prior occurrences is 5 years.
3. The police must also believe that the driver's ability to drive is "affected" by alcohol.
4. The lookback period for prior occurrences is 10 years.
5. The lookback period for prior occurrences is only 2 years. A 6-month licence suspension is imposed for a fifth or subsequent short-term ALS within 2 years.
6. The lookback period for prior occurrences is only 2 years.
7. Proposed amendments and a government report called for a 24-hour ALS program for drivers with BACs \geq .05%, but the government subsequently announced that it was postponing introduction of the program for 2 or 3 years.
8. The CCMTA Model provides for a lookback period of 3 years for prior occurrences.

Chart 3: Records, Fees and Fines in Short-Term ALSs, and the CCMTA Model

Prov./ Terr.	Police Record Kept	Registrar Informed	Suspension on Abstract	Reinstatement Fee	Fine
AB	Yes	Yes	Yes	No	No
BC	Yes	Yes (Insurance Corporation of British Columbia)	Yes	\$250	Not more than \$500 ¹
MB	Yes	Yes	Yes	\$50	No
NB	Yes	No	No ²	No	No
NL	Yes	Yes	No	\$100	No
NT	Yes	Yes	Yes	No	No
NS	Yes	Yes ³	Yes ⁴	\$89.63	No
NU	Yes	Yes ³	No	\$25	No
ON	Yes	Yes	Yes	\$150 ⁵	No
PE	Yes	Yes	No	\$75	No
QC ⁶	No Short-Term ALS.				
SK	Yes	No	Yes	No	No
YK	Yes	Yes ³	No	No	No
CCMTA	Yes	Yes	Yes ⁷	\$150-\$300 ⁸	No

1. The Superintendent has set the fine at \$200 for a first occurrence, \$300 for a second occurrence within 5 years, and \$400 for a third and subsequent occurrence within 5 years.
2. Although s. 287(1)(c) of the *Motor Vehicle Act* requires the Registrar, upon request, to provide a certified abstract which includes among other things “any suspension or reinstatement of the person’s motor vehicle privilege,” information on short-term ALSs is not included.
3. The law does not require the Registrar to be informed, but the police do so as a matter of administrative policy.
4. The law does not require the suspension to be recorded on the driver’s abstract, but the Registrar does so as a matter of administrative policy.
5. The legislation refers to the \$150 charge as an “administrative monetary penalty” that must be paid prior to licence reinstatement.
6. Proposed amendments and a government report called for a 24-hour ALS program for drivers with BACs $\geq .05\%$, but the government subsequently announced that it was postponing introduction of the program for 2 or 3 years.
7. The CCMTA Model provides that ALSs should remain on the driver’s abstract for 10 years.
8. The CCMTA Model provides that drivers with a second, third or subsequent ALS within 3 years should be required to pay increased licence reinstatement fees.

Chart 4: Impoundment, Interlock and Remedial Programs in Short-Term ALSs, and the CCMTA Model

Prov./ Terr.	Vehicle Impound.	Mandatory Interlock	Mandatory Legislated Remedial Programs
AB	No ¹	No	No ²
BC	Yes ³	No	No, but Superintendent requires drivers to take a remedial program if they have a 30 or 90-day IRP or a 90-day ALS, or any combination of three 24-hour, 3-day or 7-day IRPs within 5 years. Super. also imposes a 1-year interlock order on these drivers.
MB	No	No	Drivers with 2 or more suspensions within 3 years must undergo an impaired driver's assessment and may be required to complete an education or treatment program.
NB	No	No	No
NL	No	No	Drivers with 2 suspensions within 2 years must complete an education program. Drivers with 3 or more suspensions within 2 years must complete an alcohol dependency assessment and rehabilitation program.
NT	No	No	No
NS	No	No	No
NU	No	No	No
ON	No ⁴	No	No, but Registrar requires drivers with 2 suspensions within 5 years to participate in an alcohol education program. Drivers with 3 or more suspensions within 5 years must participate in an alcohol treatment program and are subject to a 6-month interlock order. Drivers with 4 or more suspensions within 5 years must undergo a medical examination.
PE	No	No	No
QC ⁵	No Short-Term ALS.		
SK	No	No	Drivers with 2 suspensions within 5 years must complete the "Driving Without Impairment" course.
YK	No	No	No
CCMTA	No	Yes on 3rd occurrence ⁶	Drivers with 2 suspensions within 3 years should be required to complete an impaired driver's assessment.

1. When proclaimed in force, November 2011 amendments would require the police to impound for 3 days the vehicle of a driver who is subject to a 3-day suspension for having a BAC \geq .05%. Second and subsequent .05% BAC infractions within 10 years would result in a 7-day vehicle impoundment. The police would also be required to impound for 24 hours the vehicle of a driver subject to a 24-hour licence suspension based on reasonable suspicion that their physical or mental ability has been affected by alcohol, drugs, or a medical or physical condition.
2. When proclaimed in force, November 2011 amendments would require drivers with a second .05% infringement within 10 years to take the "Planning Ahead" course and they might be subject to a licence review. Drivers with a third .05% infraction within 10 years would be required to take the "Impact" course and would be subject to a mandatory licence review.

3. Police officers may impound the vehicle of a driver who receives a 24-hour, 3-day or 7-day IRP if they believe that doing so is necessary to prevent a breach of the driving prohibition. If a driver receives a 30-day IRP (a third or subsequent BAC $\geq .05\%$), a 90-day IRP, or a 90-day ALS (a BAC $\geq .08\%$ or failure to provide a sample), the police would be required to impound the driver's vehicle for 30 days.
4. There are no mandatory impoundments for drivers with BACs in the .05% to .08% BAC range. However, the police must impound for 7 days the vehicle of a driver if they are satisfied that the driver: has a BAC $>.08\%$, based on a breath or blood sample; failed to provide a required breath or blood sample; or failed to submit to a SFST or DRE test.
5. Proposed amendments and a government report called for a 24-hour ALS program for drivers with BACs $\geq .05\%$, but the government subsequently announced that it was postponing introduction of the program for 2 or 3 years.
6. The CCMTA Model provides that drivers with 3 suspensions within 3 years should be subject to a 6-month alcohol interlock order.

APPENDIX V: ALCOHOL INTERLOCK PROGRAMS FOR FEDERAL IMPAIRED DRIVING OFFENDERS

Chart 1: Mandatory Programs: Inclusion Criteria, Suspension Reductions & Duration¹

Prov./ Terr.	Inclusion Criteria	Reduced Suspension	Minimum Duration		
			1st	2nd	3rd
AB ²	Driving with a BAC \geq .16%; refusing a test; or repeat .08% BAC within 10 years ³	Discretionary	6 months		
BC	Any alcohol-related <i>Criminal Code</i> offence ³	No	1 year	2 years	3 years
MB	Impaired driving causing death or bodily harm; impaired with a passenger < 16; or repeat impaired and/or refusing a test ^{4,5}	No	1 year	1 year	3 years
NB	No Mandatory Interlock Program.				
NL	No Mandatory Interlock Program.				
NT	No Mandatory Interlock Program.				
NS	“High-risk first offenders,” ⁶ drivers convicted of impaired driving causing death or bodily harm; ⁷ or offenders with a prior impaired driving, refusing a test or driving while disqualified conviction	Yes	1 year	2 years	3 years
NU	No Interlock Program.				
ON	Impaired driving; or refusing a test	Yes ⁸	1 year	3 years	Lifetime
PE	Offenders with a prior impaired driving or refusing conviction	Yes	1 year		
QC ⁹	Offenders convicted of impaired driving who did not apply or were ineligible for the voluntary program	No	1 year	2 years	3 years
SK	Judges can order offenders convicted of impaired driving or refusing a test to participate in alcohol interlock program	Yes	1 year	2 years	3 years
YK	No Mandatory Interlock Program.				

1. In addition, the traffic authorities typically have broad discretionary power which can be used to impose an interlock order on any federal impaired driving offender.
2. When proclaimed in force, November 2011 amendments would impose 1, 3 and 5-year interlock orders on impaired driving offenders for a first, second and subsequent federal conviction, respectively. The provincial suspension that would otherwise apply would be reduced to the length of the minimum *Criminal Code* driving prohibition. The lookback period for a prior conviction would remain 10 years. The Registrar would have discretion both to extend the length of these interlock orders and to refrain from imposing an interlock order on a first offender whose BAC was below .16%.
3. Participation is currently mandated by administrative policy.

4. Although the Manitoba website describes the program as being “mandatory,” the legislation indicates that these offenders can sit out the “prescribed period” and apply for a full licence without an interlock.
5. The lookback period for prior convictions is 10 years. The prescribed interlock period is the driver's lifetime for a fourth conviction, but a driver can apply to have an interlock order longer than 3 years removed at the end of the third year.
6. A “high-risk” offender is a driver who has been assessed in an alcohol rehabilitation program as being “high risk.”
7. The minimum participation period for these drivers is 2 years if they are first offenders and 5 years if they are repeat offenders.
8. The reduction only applies to first offenders. Drivers who plead guilty have their licence suspension reduced to a minimum of 3 months, followed by a minimum 9-month interlock order. Drivers who did not plead guilty have their licence suspension reduced to a minimum of 6 months, followed by a minimum 12-month interlock order. No reduction is available to offenders: who were impaired by drugs, or a combination of alcohol and drugs; or who were convicted of impaired driving causing death or bodily harm.
9. The lookback period for prior convictions is 10 years. The interlock order is 2 years for a first offender who had a BAC above .16% or refused to provide a sample. The order is 3 years for these offenders if they had 1 or more prior cancellations in the preceding 10 years for an alcohol-related offence, unless their BAC exceeded .16% in the prior offence or the offence was for refusing to provide a sample. A lifetime interlock order is imposed on offenders if they had 1 or more cancellations in the preceding 10 years for refusing to provide a sample or for any alcohol-related offence in which their BAC exceeded .16%.

Chart 2: Mandatory Programs: Remedial and Relicensing Measures

Prov./ Terr.	Mandatory Remedial Programs	BAC-Based Relicensing
AB ¹	Prior to the interlock program, first offenders must complete the “Planning Ahead Program” and repeat offenders must complete the “Impact Program.” ²	Last 3 months must have no unexplained “warns” or “fails.”
BC	Drivers must complete all elements of the “Responsible Driver Program” (RDP) before the interlock order will be removed. ³	Interlock “activity reports” are reviewed, and the final report must be “violation-free.”
MB	Offenders must successfully complete an alcohol assessment and any required education or treatment program.	Interlock order may be extended for breaching program “rules” or for having a positive BAC.
NB	No Mandatory Interlock Program.	
NL	No Mandatory Interlock Program.	
NT	No Mandatory Interlock Program.	
NS	Offenders must submit to an assessment and may be assigned to an education, counselling or treatment program. Following the interlock program, the driver must attend a follow-up meeting with Addiction Services.	The service provider’s reports must be reviewed to determine if the order should be lifted.
NU	No Interlock Program.	
ON	Offenders must participate in a “Conduct Review” and are assigned to an education or treatment program. ⁴	No ⁵
PE	Offenders must take the “Driver Rehabilitation Program” prior to relicensing. Repeat offenders must have an assessment, and “high-risk” offenders may be required to have treatment.	Unclear. Program violations ⁶ will result in extensions of the interlock order.
QC	First offenders must complete an education program and a cursory alcohol/ drug assessment. Repeat offenders must have a more intensive assessment that may result in an individualized treatment program.	No ⁷
SK	Offenders must undergo an addiction assessment and any prescribed recovery or education program prior to the interlock program.	A positive BAC or other program violation in the last 3 months results in a 3-month interlock order extension.
YK	No Mandatory Interlock Program.	

1. When proclaimed in force, November 2011 amendments would impose 1, 3 and 5-year interlock orders on impaired driving offenders for a first, second and subsequent federal conviction, respectively. The provincial suspension that would otherwise apply would be reduced to the length of the minimum *Criminal Code* driving prohibition. The lookback period for a prior conviction would remain 10 years. The Registrar would have discretion both to extend the length of these interlock orders and to refrain from imposing an interlock order on a first offender whose BAC was below .16%.

2. When proclaimed in force, November 2011 amendments would permit the Registrar to require drivers with a second or subsequent *Criminal Code* impaired driving conviction within 10 years to submit to “Addictions Assessment and Monitoring.” First and repeat offenders would still be required to complete the “Planning Ahead” and “Impact” programs, respectively.
3. Elsewhere on the government website, it states that federal offenders must complete the Responsible Driver Program before an interlock can be installed.
4. Offenders with 2 prior impaired driving convictions are assigned to the treatment program.
5. The regulations state that a conviction for tampering, missing an appointment or driving an unequipped vehicle will result in the order being extended. In contrast, the website states that a violation of these provisions will result in an extension. As of July 2011, mandatory 7-day vehicle impoundments were imposed for driving in breach of an interlock condition or a “conduct review program” condition.
6. The website defines “program violations” to include tampering or driving an unequipped vehicle, but it is unclear whether the term also includes registering a positive BAC.
7. A breach of the program conditions, which includes registering a positive BAC and driving an unequipped vehicle, may result in a 3-month licence suspension or revocation.

Chart 3: Voluntary Programs: Inclusion Criteria, Suspension Reductions and Duration

Prov./ Terr.	Inclusion Criteria	Reduced Suspension	Minimum Duration	
			1st	2nd
AB ¹	Except for those convicted of impaired causing death or bodily harm, all impaired driving offenders not in the mandatory program may apply.	Discretionary	6 months	
BC	No Voluntary Interlock Program.			
MB	Impaired driving offenders who can establish exceptional hardship and that their participation is not contrary to the public interest.	No	1 year	1 year ²
NB	Impaired driving offenders other than novice drivers may apply.	Yes	Length of original suspension.	
NL	Impaired driving offenders and those convicted of refusing a test may apply. ³	Yes	Length of original suspension.	
NT	No Voluntary Interlock Program.			
NS	First impaired driving offenders can apply.	Yes	Time left in 1-year suspension.	2 years
NU	No Interlock Program.			
ON	No Voluntary Interlock Program.			
PE	Impaired driving offenders not in mandatory program.	Yes	No fixed minimum periods.	
QC	Impaired driving offenders not in mandatory program.	Yes	Length of original suspension.	
SK	Impaired driving offenders and those convicted of refusing a test may apply.	Yes for impaired, no for refusing.	1 year	2 years
YK	Drivers who receive a mandatory territorial licence disqualification for a federal impaired driving offence.	Yes	1 year	3 years

1. When proclaimed in force, November 2011 amendments would impose 1, 3 and 5-year interlock orders on impaired driving offenders for a first, second and subsequent federal conviction, respectively. The provincial suspension that would otherwise apply would be reduced to the length of the minimum *Criminal Code* driving prohibition. The lookback period for a prior conviction would remain 10 years. The Registrar would have discretion both to extend the length of these interlock orders and to refrain from imposing an interlock order on a first offender whose BAC was below .16%.
2. The minimum duration is 3 years for a third conviction and the driver's lifetime for a fourth conviction within 10 years. However, drivers with an interlock order longer than 3 years can apply to have it removed at the end of the third year.

3. Drivers subject to a lifetime driving suspension for impaired driving causing death or a 10-year suspension for impaired driving causing bodily harm may apply after 10 and 5 years, respectively. Their interlock order will be for the length of the original suspension.

Chart 4: Voluntary Programs: Remedial and Relicensing Measures

Prov. / Terr.	Mandatory Remedial Programs	BAC-Based Relicensing
AB ¹	Prior to interlock program, the applicant must complete the “Planning Ahead Program.” ²	There must be no unexplained “warns” or “fails” in the last 3 months.
BC	No Voluntary Interlock Program.	
MB	Offenders must successfully complete an alcohol assessment and any required education or treatment program.	Interlock order may be extended for breach of program “rules” or a positive BAC.
NB	Offenders must complete a “drinking driver re-education course.”	Interlock order may be extended based on “program” (<i>i.e.</i> data log) reports.
NL	First offenders must complete an education course, and drivers with a second offence within 10 years must undergo an alcohol/drug dependency assessment.	Interlock order may be extended based on driver’s program performance, data log and driving record.
NT	No Voluntary Interlock Program.	
NS	Offenders must participate in an assessment and may be assigned to an education, counselling or treatment program. Following inter-lock program, drivers must meet with Addiction Services.	The service provider’s reports must be reviewed to determine if the order should be lifted.
NU	No Interlock Program.	
ON	No Voluntary Interlock Program.	
PE	Offenders must take the “Driver Rehabilitation Program” prior to relicensing. Repeat offenders must have an assessment and, if considered high-risk, may be required to have treatment.	Unclear. Program violations ³ will result in extensions of the interlock order.
QC	First offenders must complete an education program and cursory alcohol/drug assessment. Repeat offenders must have a more intensive assessment that may result in an individualized treatment program.	No ⁴
SK	Offenders may be required to complete a remedial, addiction assessment or treatment program prior to the interlock program.	A positive BAC or other program violation in the last 3 months will result in a 3-month interlock order extension.
YK	Offenders must complete any prescribed remedial or assessment programs, but no regulations setting out these programs have been made. In practice, most repeat offenders must have an alcohol assessment and take the “Driving Without Impairment” course.	Drivers must have 6 months without a program violation or having “interlock points” imposed (<i>i.e.</i> a positive BAC).

1. When proclaimed in force, November 2011 amendments would impose 1, 3 and 5-year interlock orders on impaired driving offenders for a first, second and subsequent federal conviction, respectively. The provincial suspension that would otherwise apply would be reduced to the length of the minimum *Criminal Code* driving prohibition. The lookback period for a prior conviction would remain 10 years. The Registrar would have

discretion both to extend the length of these interlock orders and to refrain from imposing an interlock order on a first offender whose BAC was below .16%.

2. When proclaimed in force, November 2011 amendments would permit the Registrar to require drivers with a second or subsequent *Criminal Code* impaired driving conviction within 10 years to submit to “Addictions Assessment and Monitoring.” First and repeat offenders would still be required to complete the “Planning Ahead” and “Impact” programs, respectively.
3. The website defines “program violations” to include tampering or driving an unequipped vehicle, but it is unclear whether the term also includes registering a positive BAC.
4. A breach of the program conditions, which includes registering a positive BAC and driving an unequipped vehicle, may result in a 3-month licence suspension or revocation.

APPENDIX VI: ADMINISTRATIVE VEHICLE IMPOUNDMENT AND FORFEITURE PROGRAMS

**Chart 1: Mandatory Administrative Impoundment for Driving While Unauthorized/
Unlicensed or Uninsured**

Prov./ Terr.	Unauthorized/Unlicensed	Uninsured
AB	No, but police may impound for 30 days the vehicle of a driver who is charged with driving while unauthorized.	No, but if police reasonably believe that a driver is uninsured, they may seize his or her vehicle pending any <i>TSA</i> prosecution.
BC	No, but police must impound for 7 days the vehicle of a driver they reasonably believe is unlicensed and has had a notice placed on his or her driving record for a previous unlicensed driving conviction.	No
MB	No, but police may detain a vehicle for 5 days that they reasonably believe was involved in a federal or provincial offence.	No
NB	No	No, but police may impound the vehicle of an uninsured driver who has a prior uninsured driving conviction in the past 2 years.
NL	No	No, but police may impound for 90 days the vehicle of a driver who is convicted of driving uninsured.
NT	No	No
NS	No, but pending legislation will permit police to impound the vehicle of a driver who is reasonably believed to have committed any <i>MVA</i> offence which would include unauthorized/unlicensed driving. ¹	No
NU	No	No
ON	No	No, but a judge may impose a 3-month impoundment on an owner convicted of driving uninsured. ¹
PE	No, but a judge may impose a 3-week impoundment on a driver convicted of driving without a valid licence.	No
QC	If police reasonably believe that a driver is unlicensed, they may impound his or her vehicle for 30 days.	No
SK	Police must impound for 90 days the vehicle of a driver who they reasonably believe is “unauthorized”, which would include unlicensed, driving.	No
YK	If police reasonably believe driver is unlicensed or uninsured, they may impound the vehicle for 30 days.	

1. The impoundment period is 30 days for a second occurrence within 2 years, and 60 days for a third or subsequent occurrence within 2 years.

Chart 2: Mandatory Administrative Impoundment for Driving While Suspended, Prohibited or Disqualified

Prov./ Terr.	Driving While Suspended, Prohibited or Disqualified Under Provincial Law
AB	No, but police may impound for 30 days the vehicle of a driver who is charged with driving while disqualified. ¹
BC ²	Police must impound for 7 days, subject to certain exceptions, the vehicle of a driver who they reasonably believe has driven while prohibited under the <i>MVA</i> , <i>Youth Criminal Justice Act</i> or <i>Criminal Code</i> , or while suspended for a <i>Criminal Code</i> conviction. ³
MB ⁴	Police must impound for 30 days the vehicle of a driver they reasonably believe is prohibited or disqualified.
NB	No
NL	Police must impound for 30 days the vehicle of a driver they reasonably believe is disqualified or prohibited.
NT	No, but police may impound for 30 days the vehicle of a driver charged with driving while prohibited, suspended or disqualified for a prior <i>Criminal Code</i> impaired driving offence.
NS	Police must impound for 90 days the vehicle of a driver whose licence has been revoked under the <i>MVA</i> for a <i>Criminal Code</i> offence. ⁵
NU	No
ON	Police must impound for 45 days the vehicle of a driver who is driving while subject to a provincial suspension or a federal driving prohibition for a <i>Criminal Code</i> traffic, impaired driving, or driving while disqualified offence. Police must impound for 7 days the vehicle of a driver who they are satisfied is driving while suspended under any provincial law, ⁶ subject to specified exceptions, ⁷ or in breach of an ignition interlock condition or “conduct review program” condition.
PE	Police may impound for 30 days the vehicle of a driver who is driving with a suspended or cancelled licence, if he or she had been convicted in the past 2 years of driving while suspended or cancelled under <i>MVA</i> or while disqualified under <i>Criminal Code</i> .
QC	Police may impound for 30 days the vehicle of a driver they reasonably believe is driving while suspended or cancelled, but only if that suspension or cancellation had been imposed on certain specified grounds. ⁸
SK ⁹	Police must impound for 30 days the vehicle of a driver they reasonably believe is driving while “unauthorized” (includes prohibited, suspended and disqualified).
YK ¹⁰	Police may impound for 30 days the vehicle of a driver they reasonably believe is suspended or disqualified.

1. When proclaimed in force, November 2011 amendments would require the police to impound for: 24 hours the vehicle of a person who is driving while subject to a 24-hour disqualification for suspected alcohol or drug consumption; 3 days the vehicle of a person who is driving while disqualified for a *Criminal Code* impaired driving offence; and 7 days the vehicle of a novice driver who is driving while subject to a disqualification for violating the .00% BAC prohibition.

2. The period of impoundment is 30 days for a second occurrence within 2 years, and 60 days for a third or subsequent occurrence within 2 years.
3. The police may also impound the vehicle of a driver who receives a 24-hour, 3-day or 7-day IRP, if they believe that doing so is necessary to prevent a breach of the prohibition. Moreover, the police must impound for 30 days the vehicle of a driver who receives a 30 or 90-day IRP, or a 90-day ALS.
4. The police may also detain any vehicle for 5 days if they reasonably believe that it was involved in a federal or provincial offence.
5. Pending legislation enacted in 2008 would permit the police to impound a vehicle if they reasonably believe that the driver's licence is suspended or revoked, or that the driver has committed an *MVA* offence.
6. For example, a mandatory 7-day vehicle impoundment must be imposed on drivers who are driving while suspended under provincial law for: driving while suspended; an administrative driver licence suspension; driving with a BAC of .05% to .08%; failure to complete any remedial measure; street racing; a novice driver violation; demerit points; and careless driving or other provincial offences.
7. The exceptions include: suspensions which are subject to a 45-day impoundment; suspensions for failing to pay a fine issued under certain stipulated acts; and suspensions issued by the Registrar for misconduct, inability to drive safely, and a conviction under other federal, provincial or municipal laws.
8. The specified grounds include a suspension or cancellation resulting from: a *Criminal Code* offence; an accumulation of demerit points; a breach of an interlock program requirement; a 90-day administrative suspension order for driving with a BAC above .08% or failing to provide a sample; and a suspension order imposed by SAAQ due to medical unfitness to drive.
The police must impound for 30 days the vehicle of a driver who has a BAC above .08% and a prior licence cancellation for specified federal driving offences within the past 10 years.
9. Moreover, the police may seize any vehicle they reasonably believe is being driven contrary to the *TSA* or its regulations.
10. Moreover, the police may detain until the conclusion of a case the vehicle of a driver they reasonably believe has committed specified *MVA* offences.

**Chart 3: Mandatory Short-Term (7-Day) Administrative Impoundment for
Federal Impaired Driving Suspects**

Prov. / Terr.	Impaired Driving Suspects
AB	No, but police may impound for 24 hours the vehicle of a driver charged with a <i>Criminal Code</i> impaired driving offence. ¹
BC	The police must impound for 30 days the vehicle of a driver who receives a 90-day IRP or a 90-day ALS.
MB ²	If police reasonably believe that a driver has a BAC > .08% they must impound the vehicle for 30 days. However, if the driver has failed to provide a sample or take a SFST, or has a BAC ≥ .16%, the police must impound the vehicle for 60 days.
NB	No
NL	No, but police may detain a vehicle until the end of the case, if it has been involved in a federal or provincial offence, or if its owner or driver has been arrested under the <i>HTA</i> or <i>Criminal Code</i> .
NT	No, but police may seize for 15 days the vehicle of a driver found committing an offence under the <i>MVA</i> or its regulations if the vehicle is required for evidence. ³
NS	No, but pending legislation will permit police to impound a vehicle if they reasonably believe that the driver has committed a <i>MVA</i> or a vehicle-related <i>Criminal Code</i> offence. ⁴
NU	No, but police may seize for 15 days the vehicle of a driver found committing an offence under the <i>MVA</i> or its regulations if the vehicle is required for evidence. ⁵
ON	The police must impound for 7 days a vehicle if they are satisfied that a driver: failed to submit to a breath, blood or DRE test, or a SFST; or had a BAC ≥ .08%, based on a breath or blood test. ⁶
PE	No, but a judge may issue a 3-week impoundment order if a driver is convicted of a federal impaired driving offence.
QC	Police must impound for 30 days the vehicle of a driver who: has a BAC > .16%; has a BAC > .08% and has had a prior licence cancellation for specified federal driving offences within the past 10 years; or fails to provide a sample. ⁶
SK	No, but police may seize any vehicle they reasonably believe is driven contrary to the <i>TSA</i> or its regulations.
YK	No, but police may impound for 30 days a vehicle if they reasonably believe that the driver committed an impaired driving offence or failed to remain at an accident scene. ⁶

1. When proclaimed in force, November 2011 amendments would require the police to impound for 3 days the vehicle of a driver who is charged with a *Criminal Code* impaired driving offence. The vehicle of a person who has a second or subsequent charge within 10 years would be impounded for 7 days.
2. The police may also detain any vehicle for 5 days if they have reason to believe that it was involved in a federal or provincial offence.
3. The police may also seize for 24 hours a vehicle involved in a *MVA* offence, if the seizure is in the public interest.
4. The pending legislation does not include information on the duration of the impoundment. Currently, the police may detain a vehicle involved in a *MVA* or vehicle-related *Criminal Code* offence until the end of the case.

5. A judge may also issue a 3-month impoundment order if a driver is convicted of a federal impaired driving offence, the provincial offence of driving while suspended, or a second federal offence for failing to stop at the scene of an accident.
6. A second and subsequent occurrence within 3 years may result in a 30 and 120-day impoundment, respectively. The police may also detain to the end of a case the vehicle of a driver they reasonably believe has committed specified *MVA* offences.

Chart 4: Mandatory Administrative and Other Vehicle Forfeiture Programs

Prov. / Terr.	Administrative	Other ¹
AB	No	No
BC	No	No. <i>Civil Forfeiture Act</i> ²
MB	No. However, vehicles involved in the most serious federal driving offences, ³ or in 3 or more specified offences ⁴ committed by the same offender within 3 years, may be subject to forfeiture.	No
NB	No	No
NL	No	No
NT	No	No
NS	No	No
NU	No	No
ON	No	No. <i>Civil Remedies Act</i> ⁵
PE	No	No
QC	No	No. <i>An Act Respecting the Forfeiture, Administration and Appropriation of Proceeds and Instruments of Unlawful Activity</i> ⁶
SK	No	No
YK	No	No

1. Section 490.1(1) of the *Criminal Code* permits a provincial Attorney General to seek the forfeiture of “offence-related property,” which may include the vehicles of impaired drivers, but only if they were tried by indictment and convicted. Driving while impaired, driving with a BAC > .08% and failing to take a breath, blood or other required test may be tried by summary conviction or indictment. However, these offences are rarely tried by indictment.

Moreover, judges have broad discretion to deny a forfeiture application if they are satisfied that it would be disproportionate in terms of the “nature and gravity” or “circumstances” of the offence, or the offender’s criminal record.

2. The Crown may seek forfeiture of an “instrument of unlawful activity,” which may include the vehicle of an impaired driving offender. However, the court has broad discretion under the Act to deny the application if ordering forfeiture is “contrary to the interests of justice.”
3. These offences include: impaired driving causing death or bodily harm; driving with a BAC > .08% and causing death or bodily harm; refusing to provide a sample and causing death or bodily harm; criminal negligence causing death or bodily harm; manslaughter; and willfully attempting to evade police pursuit causing death or bodily harm.
4. These offences include: impaired driving; driving with a BAC > .08%; failing to provide a sample; driving while prohibited; and willfully attempting to evade police pursuit.

5. The Attorney General may apply to a Superior Court seeking the forfeiture of a vehicle: if it was or is likely to be used in a “vehicular unlawful activity;” and the licence of the owner or driver has been suspended for a “vehicular unlawful activity” on 2 or more previous occasions within 10 years. However, the court has broad discretion under the Act to deny the application if ordering forfeiture is “clearly not in the interests of justice.”
6. The Attorney General may apply to a court seeking the forfeiture of any “proceeds or an instrument of unlawful activity,” which may include the vehicle of an impaired driver. The court must grant the order if it is convinced that the property is proceeds or an instrument of unlawful activity.

APPENDIX VII: THE PROVINCIAL AND TERRITORIAL HIGHWAY TRAFFIC LEGISLATION

Alberta, *Traffic Safety Act*, RSA 2000, c T-6.

British Columbia, *Motor Vehicle Act*, RSBC 1996, c 318.

Manitoba, *The Highway Traffic Act*, CCSM, c H60.

New Brunswick, *Motor Vehicle Act*, RSNB 1973, c M-17.

Newfoundland & Labrador, *Highway Traffic Act*, RSNL 1990, c H-3.

Northwest Territories, *Motor Vehicles Act*, RSNWT 1988, c M-16.

Nova Scotia, *Motor Vehicle Act*, RSNS 1989, c 293.

Nunavut, *Motor Vehicles Act*, RSNWT (Nu) 1988, c M-16.

Ontario, *Highway Traffic Act*, RSO 1990, c H.8.

Prince Edward Island, *Highway Traffic Act*, RSPEI 1988, c H-5.

Québec, *Highway Safety Code*, RSQ c C-24.2.

Saskatchewan, *The Traffic Safety Act*, SS 2004, c T-18.1.

Yukon, *Motor Vehicles Act*, RSY 2002, c 153.