

FEDERAL LAWS

SoberSmartDriving.tirf.ca



The Sober Smart Driving education program is produced by the **Traffic Injury Research Foundation** with funding from **Beer Canada**. It shares knowledge and science to answer common questions about alcohol, its effects on driving skills, and impaired driving.

Are there Federal impaired driving laws and penalties in Canada?

Yes. According to Federal law set out in the Criminal Code of Canada (CCC), it is illegal to drive with a blood alcohol concentration (BAC) or breath alcohol concentration (BrAC) of .08% or higher. The CCC contains several sections related to impaired driving charges and penalties which are described below.

Charges. Section 320.14 (1) of the CCC makes it a criminal offence to drive with a BAC greater than 0.08 milligrams in one's blood. The text of the legislation is below:

320.14 (1) Everyone commits an offence who

- a. operates a conveyance while the person's ability to operate it is impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;
- b. subject to subsection (5), has, within two hours after ceasing to operate a conveyance, a blood alcohol concentration that is equal to or exceeds 80 mg of alcohol in 100 mL of blood;
- c. subject to subsection (6), has, within two hours after ceasing to operate a conveyance, a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation; or
- d. subject to subsection (7), has, within two hours after ceasing to operate a conveyance, a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation for instances where alcohol and that drug are combined.



Operation causing bodily harm

(2) Everyone commits an offence who commits an offence under subsection (1) and who, while operating the conveyance, causes bodily harm to another person.

Operation causing death

(3) Everyone commits an offence who commits an offence under subsection (1) and who, while operating the conveyance, causes the death of another person.

Operation – low blood drug concentration

(4) Subject to subsection (6), everyone commits an offence who has, within two hours after ceasing to operate a conveyance, a blood drug concentration that is equal to or exceeds the blood drug concentration for the drug that is prescribed by regulation and that is less than the concentration prescribed for the purposes of paragraph (1)(c).

Exception – alcohol

(5) No person commits an offence under paragraph (1)(b) if

- a. they consumed alcohol after ceasing to operate the conveyance;
- b. after ceasing to operate the conveyance, they had no reasonable expectation that they would be required to provide a sample of breath or blood; and
- c. their alcohol consumption is consistent with their blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) and with their having had, at the time when they were operating the conveyance, a blood alcohol concentration that was less than 80 mg of alcohol in 100 mL of blood.

Exception – drugs

(6) No person commits an offence under paragraph (1)(c) or subsection (4) if

- a. they consumed the drug after ceasing to operate the conveyance; and
- b. after ceasing to operate the conveyance, they had no reasonable expectation that they would be required to provide a sample of a bodily substance.

Exception – combination of alcohol and drug

(7) No person commits an offence under paragraph (1)(d) if

- a. they consumed the drug or the alcohol or both after ceasing to operate the conveyance;
- b. after ceasing to operate the conveyance, they had no reasonable expectation that they would be required to provide a sample of a bodily substance; and
- c. their alcohol consumption is consistent with their blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) and with their having had, at the time when they were operating the conveyance, a blood alcohol concentration less than the blood alcohol concentration established under paragraph 320.38(c).

Penalties. Also outlined in the CCC are the punishments that can be applied to those persons convicted of impaired driving. The crime of impaired driving is unique in that it is classified as a hybrid offence (meaning it can be prosecuted as either a summary conviction or an indictable offence depending on how the Crown chooses to prosecute the case). Summary conviction offences are considered lesser in nature and are punishable by a fine of up to \$5,000, a period of six months in jail, or both. Indictable offences are considered more serious and as a result, carry greater penalties. Due to the fact that impaired driving is a hybrid offence, it is deemed to be indictable until the Crown makes their election on how they wish to proceed. The mandatory minimum penalties are found in section 320.19 (1) of the CCC:

Punishment

19(1) Every person who commits an offence under subsection 320.14(1) or 320.15(1) is guilty of

- a. an indictable offence and liable to imprisonment for a term of not more than 10 years and to a minimum punishment of,
 - i. for a first offence, a fine of \$1,000,
 - ii. for a second offence, imprisonment for a term of 30 days, and
 - iii. for each subsequent offence, imprisonment for a term of 120 days; or
- b. an offence punishable on summary conviction and liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than two years less a day, or to both, and to a minimum punishment of,
 - i. for a first offence, a fine of \$1,000,
 - ii. for a second offence, imprisonment for a term of 30 days, and
 - iii. for each subsequent offence, imprisonment for a term of 120 days.

CCC penalties are applied equally in all jurisdictions across Canada. An individual will be charged with a CCC impaired driving offence when they are found to be driving while impaired, while they have a BAC greater than .08%, or they cause bodily injury and/or death due to impaired driving.

It should be noted that the CCC driving prohibition is distinct from the administrative driver's licence suspensions that are applied in Canadian provinces and territories. The CCC requires a one-year driving prohibition for

an impaired driving offence. If granted by the Court, the offender may be able to drive during the period of prohibition if they participate in an alcohol interlock program. For a first offence the offender must serve three months of the driving prohibition; six months for a second offence; and, 12 months for a third offence.

If granted by the Court, the offender may be able to drive during the one-year driving prohibition if they participate in an alcohol interlock program.



What does the Sober Smart Driving Education Program (SSD) contain?

The Sober Smart Driving Education Program contains facts to help Canadians learn about the risks associated with drinking and driving and encourages everyone to speak up and talk about why they choose not to drink and drive.

Key topics discussed on this site include:

- > Drinking and its effects on driving
- > Magnitude & characteristics of drinking & driving
- > Basics of the impaired driving system
- > Impaired driver programs & penalties

- > Myths & misconceptions about drinking and driving

Each of these topics contains a series of fact sheets structured in a question and answer format which are available for free download and sharing (with attribution). These resources are designed to support the education and prevention efforts of communities, schools, health and road safety professionals and advocacy organizations.

To view more fact sheets, or to get more information about alcohol, its effects on driving skills, and impaired driving, visit SoberSmartDriving.tirf.ca.



Traffic Injury Research Foundation

The mission of the Traffic Injury Research Foundation (TIRF) is to reduce traffic-related deaths and injuries. TIRF is a national, independent, charitable road safety research institute. Since its inception in 1964, TIRF has become internationally recognized for its accomplishments in a wide range of subject areas related to identifying the causes of road crashes and developing programs and policies to address them effectively.

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ISBN: 978-1-989766-59-0

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Acknowledgements

Production of this fact sheet was made possible through the sponsorship of Beer Canada.

