OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES

Ignition Interlock Policy



FOREWORD

The Office of the Superintendent of Motor Vehicles regulates drivers to help ensure the safe and responsible operation of motor vehicles in British Columbia. To meet this mandate, policies are required in a variety of program areas.

The goal of the Ignition Interlock Program (IIP) Policy is to provide guidance and policy rationale for OSMV adjudicators for assigning drinking drivers to the program. The document is a central repository for policy information regarding the program.

The RDP Policy and Procedures will provide team leaders with a mechanism for training new staff and conducting performance evaluations and reviews.

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Steve Martin Superintendent of Motor Vehicles	Date	

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SECTION 2: IGNITION INTERLOCK POLICY

2.0 INTRODUCTION

The Ignition Interlock Program, introduced on June 15, 2005, is a provincial program designed to reduce drinking driving recidivism. People at risk or caught drinking and driving may be required to have an interlock device installed in their vehicle at their own expense to prevent the vehicle from being started or operated when the driver has been drinking.

An ignition interlock is a device that measures a driver's alcohol level and is linked to the vehicle's ignition system. The vehicle will not start unless the driver's alcohol concentration is below a pre-set BAC. Once the vehicle has been started, the interlock device requires the driver to provide breath samples at random intervals while the engine is running. If a breath sample is not provided or if alcohol is detected, the device will issue a warning, record the event and blood alcohol content (BAC) and activate an alarm until an acceptable sample is provided or the vehicle is turned off. They are highly accurate, using the same breath test technology as many evidential instruments used by law enforcement agencies.

Individuals who commit an impaired driving offence under the Criminal Code of Canada and are subsequently convicted are subject to this program. Other drivers may be subject to this program at the discretion of the Superintendent of Motor Vehicles, based on alcohol-related events on their driving records. At this time, the Program does not allow offenders to take advantage of the reduction in the period of driving prohibition allowed by federal law.

If a driver is referred to the interlock program, it will be a mandatory condition of licence reinstatement. Program participants will obtain a conditional driver's licence which will allow them to operate vehicles equipped with an interlock device only. They must ensure that the device is operated properly and not tampered with. Clients who violate the program conditions may be remove from the program and lose their driver's licence or may have the ignition interlock period extended. When someone registered in the program is apprehended for driving a vehicle without the device, police may issue a violation ticket and provide a report to the Superintendent which may result in a prohibition from driving.

2.1 IGNITION INTERLOCK PROGRAM

Policy Rationale

Drinking driving remains a leading cause of injuries and fatalities on British Columbia highways. Many jurisdictions in North America have enacted legislation that has created interlock programs for drinking driving offenders.

Interlock devices allow offenders to resume driving legally while substantially reducing their ability to drive drunk. Despite the differences in the various studies and programs, evaluations of interlock programs are remarkably consistent. The re-arrest rate among offenders with an interlock device has been found to be as much as 75% lower than those without the device (source Traffic Injury Research Foundation). Once the interlock is removed from the vehicle, recidivism returns to a rate similar to that among drinking drivers who did not participate in an interlock program.

The effectiveness of the interlock device was also recognized by the federal government during the 1999 Canadian Criminal Code amendments. The amendments added a provision supporting the early use of interlocks by provinces and territories to combat impaired driving. National organizations opposed to drinking and driving, such as Mothers Against Drunk Driving (MADD) and the internationally acclaimed Traffic Injury Research Foundation, support the use of interlock devices.

Policy

2.1.1 Eligibility

As of February 01, 2009 any driver referred to take the RDP must also participate in the Ignition Interlock Program. Prior to February 1, 2009 referral to the Ignition Interlock program was based on a risk assessment after completion of the RDP. The goal of the Interlock program is to prevent subsequent drinking driving problems and at the end of the program to have the driver become fully reinstated licensed driver with little risk of recidivism.

There are six possible "triggering events" which might result in OSMV making a referral into the Responsible Driver Program:

- An alcohol-related Criminal Code or Motor Vehicle Act conviction;
- One 90-day driving prohibition;
- Three separate administrative driving prohibitions;
- Any combination of three separate and unrelated administrative driving prohibitions or 90 day driving prohibitions;
- Drivers with 3 or more criminal code convictions who have served a minimum of 5 years in the Indefinite Licence Suspension program;
- At the discretion of the Superintendent of Motor Vehicles.

2.1.2 FACTORS TO CONSIDER

Some drivers referred to complete both the RDP and Ignition Interlock Programs may continue to drive with an interlock device, after serving any driving prohibitions, and while participating in the RDP. These drivers who are eligible to have their driver's licence reinstated will have an ignition interlock condition placed on their driver's licence for a minimum of 12 months. Drivers who do not install a device must not drive.

For clients who do not meet the post February 1/09 mandatory interlock criteria, program adjudicators must review each case individually to determine whether the interlock requirement will be required of the driver. In deciding whether a referral to the interlock program is necessary, the adjudicator will review the post-intervention assessment report, or education program report and the driving record of the client. Those drivers who have a higher than acceptable risk of reoffending should be referred to the program to facilitate a safe return to driving.

The following should be considered:

- Alcohol-related Driving record
 - History of drinking driving incidents that lead to the concern that the client has a high risk to re-offend (first or repeat offender);
 - Whether the drinking driving incident(s) were 24 hour prohibitions,
 Administrative Driving Prohibitions or a Criminal Code convictions;
 - BAC level and whether the drinking driving involved a crash (if available)
- A post-intervention assessment report from Stroh Health Care
 - Risk to re-offend;
 - Length of sobriety;
 - Evidence of alcohol abuse or misuse problem;
 - Participation scores;
 - Lifestyle changes and personal supports;
 - Demographic or economic factors;
 - Recognition of the potential harms of drinking driving.

- Education Program Report
 - Level of participation
 - Summary comments
- Any other relevant information
 - Medical reports (i.e., a physician's report of a drinking problem)
 - Unsolicited reports

Low risk offenders may receive full unrestricted driving privileges.

2.1.3 PROGRAM DURATION

Once the ignition interlock device has been installed, it must remain in the vehicle for a minimum ignition interlock period.

The recommended periods are:

- At least 12 months for a 1st criminal code driving offence (or combinations of administrative driving prohibitions);
- At least 24 months for a 2nd criminal code driving offence;
- At least 36 months for a third and subsequent criminal drinking driving offence.

The interlock must remain on the individual's vehicle(s) for a minimum of 12 months from the issue date on the Ignition Interlock Restricted Driver's licence. Individuals issued an Ignition Interlock Restricted Driver's licence may only operate a vehicle equipped with an interlock device until they are issued an unrestricted licence.

If the interlock device is removed before the ignition interlock period is completed, the conditional driver's licence will be cancelled.

2.1.4 PROGRAM VIOLATIONS

The driver is required to report to the interlock installer to have the ignition interlock device checked and the information recorded and provided to OSMV for monitoring purposes. Actions will be taken against participants who do not comply with the program's conditions or who incur violations. Program violations include but are not limited to:

- attempts to drive after drinking
- attempts to bypass or tamper with the device
- failing to report for monitoring checks
- failing to take a test or re-test when required
- a start violation
- having a high blood alcohol content level

- tampering with the device
- using an emergency override

Note: The applicant is accountable for the activities of other persons using the interlock-equipped vehicle

Participants with a record of repeated interlock fails (i.e., high BACs) are at higher risk of recidivism than those with few or no fails. Therefore, swift action should be taken by the adjudicator if a driver registers an unexplained fail or warn.

The action that may be applied to program violations range from a warning, to an extension of the interlock period to the most serious action which is removal of the driver from the interlock program and prohibition from driving. However, the type and severity of the sanctions imposed also depends on a number of factors, including the nature and circumstances of the violation, the number of previous warnings, the post-intervention assessment report, the driving record and any driver submissions.

2.1.5 REVIEW/APPEALS

The Interlock restricted driver may have a review of the decision to extend the interlock period. The review will be conducted by an adjudicator who was not involved in making the original decision.

2.1.6 SERVICE STANDARDS

The service standard for correspondence is 30 days.

2.1.7 PROCEDURES

- The adjudicator will consider all the factors outlined in policy above and, where an interlock assignment is not mandatory, they will determine whether to refer the driver to the interlock program.
- 2. If an ignition interlock device is recommended, the adjudicator will prepare a written decision letter notifying the client that they are required to have an ignition interlock device installed in their vehicle prior to obtaining a driver's licence.
- The decision letter must include:

- ➤ The decision and reasons (why the driver is required to participate in the program)
- Length of interlock requirement
- > Relevant law
- Ignition interlock Program Information for participants fact sheet (if the driver is being referred to the program)
- 4. If the client is not assigned to the Ignition Interlock Program upon completion of the RDP, the driver will be sent a letter advising them that they may proceed with their application for a driver's licence. If the client possesses a valid driver's licence they will be notified that they are fit to drive. In both cases, the letter to the client will also advise that their driving record will be monitored for a 5 year period and any re-offences will result in their having to re-take the RDP and may be subject to the ignition interlock program while they re-take the RDP.

2.1.8 REINSTATEMENT OF UNRESTRICTED DRIVING PRIVILEDGES

The reinstatement of unrestricted driving privileges depends on the driver's performance in the program.

In addition to completing the interlock period, the client will have to have demonstrated their ability to completely separate drinking from attempting to drive by showing no unexplained warns or fails on the interlock device installed in their vehicle for a consistent period of time. If the driver does receive warns or fails that can be attributed to alcohol consumption, their interlock period may be extended at the discretion of a Programs Adjudicator. The interlock term will continue to be extended if the client continues to receive unexplained or alcohol-related warns or fails. The client will be notified in writing of any extension to their interlock term and Guardian Interlock Systems will be notified of the client's new anticipated end date by email.

In order for the licence condition to be removed, an offender must complete the minimum period without any, or minimal, unexplained or alcohol-related warn or fail readings on the interlock device installed in their vehicle.

2.1.9 AUTHORITY

The authority for the ignition interlock program and the licence condition is found in section 25.1 and 25 (12) of the *Motor Vehicle Act.*



Responsible Driver Program Policy

JANUARY 2011

FOREWORD
The Office of the Superintendent of Motor Vehicles regulates drivers to help ensure the safe and responsible operation of motor vehicles in British Columbia. To meet this mandate, policies are required in a variety of program areas.
The goal of the Responsible Driver Program (RDP) Policy and Procedures is to provide guidance and policy rationale for OSMV adjudicators for assigning drinking drivers to the RDP. The document is a central repository for policy information regarding the program.
The RDP Policy and Procedures will provide team leaders with a mechanism for training new staff and conducting performance evaluations and reviews.
Approved by:
Steve Martin Date Superintendent of Motor Vehicles

DISCLAIMER The RDP Policy and Procedures are intended to provide guidance to adjudicators in the application of legislation, without fettering the discretion of adjudicators.	

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SECTION 1: INTRODUCTION

1.1 Purpose

The purpose of the RDP Policy and Procedures is to provide information about the policy and legislation supporting RDP and provide guidelines for adjudicators for assigning drivers into the program and adjudicating licencing decisions at program completion.

1.1.1 Program Overview and Rationale

Alcohol related traffic crashes claim more lives annually than homicides, fires and drowning combined. Every Canadian province, as well as many jurisdictions throughout the world, has a compulsory rehabilitation program for drinking drivers. Evaluations of these rehabilitation programs indicate that they reduce the risk of repeat driving while impaired accidents and convictions, especially when used in conjunction with other sanctions. Research indicates that remedial programs for drinking drivers reduces subsequent alcohol-related convictions and crashes, and positively influences attitudes, beliefs and, ultimately, alcohol use for drivers who attend them.

RDP is British Columbia's mandatory rehabilitation program for drivers with a record of impaired driving offences. RDP draws from best practices in substance abuse and focuses on increasing public safety on provincial roads and highways by providing drivers with an opportunity to change their drinking driving behaviour. Although other substance abuse programs and services may have some similarities to RDP, they are not considered to take the place of RDP.

RDP is designed to address problem driving behaviour associated with either alcohol or drug abuse. Depending on their specific needs, RDP participants will be screened individually in to an eight hour education component or a sixteen hour counselling component. RDP is delivered province-wide by Stroh Health Care (Stroh).

RDP was introduced in British Columbia on June 15, 2005. Section 25.1 of the *Motor Vehicle Act (MVA)* makes the program mandatory for drivers referred to it by the Superintendent of Motor Vehicles (the Superintendent). Section 117 of the *MVA* authorizes the Superintendent to delegate duties, functions and decision-making powers to appropriate employees of the OSMV.

Drinking drivers are routinely assigned to RDP when their driving record indicates a *Criminal Code of Canada (CC)* or *MVA* impaired driving conviction or multiple *MVA* drinking driving events occurring after the launch of the program on June 15, 2005. Other drivers may also be assigned to RDP if the Superintendent considers it to be in the public interest for the driver to participate.

Drivers may be allowed to drive while in RDP, but must complete the program in order to retain or obtain their driver's licence. When participants complete the program, they are assessed for their fitness to drive and may be referred to additional programs if the Superintendent considers it necessary.

Participants that are found unfit to drive and denied a driver's licence may apply for an administrative review of the Superintendent's decision.

1.2 Audience

The RDP Polices and Procedures are provided to all OSMV employees, who have delegated authority to make decisions under Section 25.1 and 233 of the *MVA*.

SECTION 2: GENERAL POLICY MATTERS

2.1 Legislative Authority

<u>Section 25.1</u> of the *MVA* authorizes the Superintendent to require a driver to take a driver training course, a remedial program or an ignition interlock program, when considered necessary. Under this legislation, the Superintendent can require the completion of a program as a condition of retaining an existing driver's licence, or as a condition of licence reinstatement for those who have lost driving privileges.

<u>Section 233(7)</u> of the *MVA* automatically extends a driving licence suspension resulting from a motor vehicle related *CC* offence when the suspension expires and the driver has not paid for, attended, participated in or satisfactorily completed RDP.

2.1.1 Other Relevant Legislation

The following is a list of sections of the MVA and CC commonly referred to in the application of RDP policy.

Motor Vehicle Act (MVA)

MVA s29	Examination of licences for fitness and ability to drive
MVA s90.3	12-hour licence suspension
MVA s92	Prohibition from driving relating to fitness or ability to drive
MVA s93	Prohibition from driving by Superintendent
MVA s94	Appeal of prohibition from driving
MVA s94.1	Notice of driving prohibition
MVA s94.2	Effect of notice of driving prohibition
MVA s94.3	Duties of peace officer
MVA s94.4	Review of driving prohibition
MVA s94.5	Considerations
MVA s94.6	Decision of the Superintendent
MVA s98	Court prohibition from driving
MVA s99	Automatic 12 month prohibition from driving on conviction
MVA s215	24-hour driving prohibition

MVA s215.1	Review of driving prohibition
MVA s215.2	Superintendent review of driving prohibition considerations
MVA s215.3	Decision of the Superintendent
MVA 215.43(1)	Effect of driving prohibition under section 215.41
MVA 215.46(2)	Effect of driving prohibition under section 215.41
MVA 215.5	Decision of superintendent after review under section 215.48
MVA s224	Driving with more than 80 milligrams of alcohol in blood
MVA s225	Demand for blood sample
MVA s226	Refusal to give blood sample
MVA s230	Report of psychologist, optometrist and medical practitioner
MVA s232	Automatic licence suspension
MVA s234	Driving while licence suspended

Criminal Code of Canada (CC)

CCC s220	Causing death by criminal negligence
CCC s221	Causing bodily harm by criminal negligence
CCC s236	Manslaughter involving a motor vehicle
CCC s249(1)(a)	Dangerous operation of a motor vehicle causing bodily harm
CCC s249.1(1)	Flight
CCC s249.1(3)	Flight causing bodily harm or death
CCC s249.2	Causing death by criminal negligence – Street Racing
CCC s249(3)	Dangerous operation of a motor vehicle causing death
CCC s249.3	Street racing causing bodily harm
CCC s249(4)	Dangerous operation of a motor vehicle causing death
CCC s249.4(1)	Dangerous operation of a motor vehicle while street racing
CCC s249.4(3)	Dangerous operation of a motor vehicle causing bodily harm – street racing
CCC s252(1)	Failure to stop at the scene of an accident
CCC s253(1)(a)	Operating a motor vehicle while impaired by drugs or alcohol
CCC s253(1)(b)	Operating a motor vehicle with more than 80 mg % alcohol in

	blood
CCC s254(5)	Failure/refusal to provide a sample of breath or blood
CCC s255(2)	Operating a motor vehicle while impaired causing bodily harm
CCC s255.21	Impaired over /08 causing accident resulting in bodily harm
CCC s255.22	Fail/refuse to provide sample – bodily harm
CCC s255(3)	Operating a motor vehicle while impaired causing death
CCC s255.31	Impaired over .08 causing accident resulting in
CCC s255.32	Refusal to provide breath/blood sample – causing death

2.2 Delegation of Authority

<u>Section 117</u> of the *MVA* gives the Superintendent authority to delegate any or all powers, duties or functions. Under this legislation the Superintendent delegates decisions related to RDP referrals to OSMV and Insurance Corporation of British Columbia (ICBC) employees.

2.3 Role of the Adjudicator

The role of the adjudicator is to make appropriate assignments to the RDP, taking into account the purpose of legislation, the facts of the case, the principles of administrative fairness, and the four pillars of OSMV: safety, service, fairness and mobility.

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SECTION 3: RDP ASSIGNMENT

3.1 Legislative Authority

The legislative authority for requiring driver participation in RDP is <u>Sections 25.1</u> and 233 of the *MVA*. This legislation came into effect on June 15, 2005.

25.1 Remedial courses and programs for drivers

- (1) This section applies if a person has a driving record that in the opinion of the superintendent is unsatisfactory or the superintendent considers that, with respect to the person's driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest for the person to attend or participate in one or more of the following:
 (a) a driver training course specified by the superintendent;
 - (b) a remedial program or a component of it specified by the superintendent;
 - (c) an ignition interlock program specified by the superintendent.
- (2) The superintendent may require a statement in, endorsement on or attachment to the person's driver's licence, adding as a condition of the driver's licence that the person must, in order to continue to hold the licence, attend or participate in and complete, to the satisfaction of the superintendent, a course or program referred to in subsection (1) if it is not, in the superintendent's opinion, contrary to the public interest to allow the person to hold a driver's licence while attending or participating in the course or program.
- (3) The superintendent may
 - (a) as part of a condition of a driver's licence under subsection (2), specify a date by which or a period of time during which the person must complete the program, and
 - (b) at any time extend, change or cancel a date or period of time specified under paragraph (a).
- (4) Section 25 (13) applies to a condition imposed in respect of a person's driver's licence under this section.
- (5) If it is, in the superintendent's opinion, contrary to the public interest to allow the person to hold a driver's licence while attending or participating in a course or program referred to in subsection (1), the superintendent may require that the person attend and complete, to the satisfaction of the superintendent, a course or program referred to in subsection (1) (a) or (b) before being eligible to apply for a driver's licence under section 25.
- (6) A person who is required to attend or participate in and complete a program referred to in subsection (1) must pay the prescribed fees.

The legislative authority for automatically extending driver's licence suspensions for drivers who do not complete RDP is Section 233 of the MVA.

233 Reinstatement of suspended licence

- (1) In this section, "program" means a remedial program or component of it or an ignition interlock program specified by the superintendent.
- (2) The superintendent must notify the Insurance Corporation of British Columbia of a person's right
 - (a) to have his or her suspended driver's licence reinstated or to apply for a new driver's licence, as the case may be, in the following circumstances:
 - (i) the person's driver's licence is suspended and the person's right to apply for or obtain a driver's licence is suspended under section 232 (2) and (3) (a) or (b);
 - (ii) the person has,
 - (A) to the satisfaction of the superintendent, attended or participated in and completed a program as required by the superintendent, and
 - (B) paid the prescribed fees, or
 - (b) to apply for a driver's licence at the end of a suspension period of 5 years in the following circumstances:
 - (i) the person's driver's licence is suspended and the person's right to apply for or obtain a driver's licence is suspended under section 232 (2) and (3) (c);
 - (ii) the person has.
 - (A) to the satisfaction of the superintendent, attended or participated in and completed a program as required by the superintendent, and
 - (B) paid the prescribed fees.
- (3) If it is, in the superintendent's opinion, in the public interest for a person in the circumstances referred to in subsection (2) (a) or (b) to participate in an ignition interlock program specified by the superintendent and the person pays the prescribed fees for the ignition interlock program, the superintendent may require a statement in, endorsement on or attachment to the person's driver's licence adding a condition of the driver's licence that the person participate in and complete the ignition interlock program, to the satisfaction of the superintendent.
- (4) The superintendent may
 - (a) as part of a condition of a driver's licence under subsection (3), specify a date by which or a period of time during which the person must complete the program, and
 - (b) at any time extend, change or cancel a date or period of time specified under paragraph (a).
- (5) Section 25 (13) applies to a condition imposed in respect of a person's driver's licence under this section.
- (6) If the superintendent notifies the Insurance Corporation of British Columbia (a) under subsection (2) (a), the corporation must,
 - (i) on the expiry of the suspension, reinstate the driver's licence if
 (A) the driver's licence has not expired or been cancelled.

- (B) the person is otherwise qualified to hold the licence, and
- (C) there is no other suspension, cancellation or prohibition under this Act in respect of the driver's licence or the person, or
- (ii) on receipt of the notification, allow the person to apply for a new driver's licence, subject to any other suspension, cancellation or prohibition under this Act, or
- (b) under subsection (2) (b), the corporation must, at the expiry of the suspension period, allow the person to apply for a new driver's licence, subject to any other suspension, cancellation or prohibition under this Act.
- (7) The suspension of a person's driver's licence and of the person's right to apply for or obtain a driver's licence is extended
 - (a) if, on the expiry of a suspension under section 232 (2) and (3) (a) or (b), the person has not
 - (A) attended or participated in and completed a program to the satisfaction of the superintendent, and
 - (B) paid the prescribed fees, and
 - (b) until the person has done the things referred to in paragraph (a).

3.2 Routine RDP Assignments

The Superintendent assigns drivers to RDP when their driving records indicate that it is in the public interest to do so. A drinking driving conviction or multiple alcohol-related prohibitions is evidence of the requirement for remedial intervention. As such, drivers with a record of alcohol related prohibition(s) on their driving record are routinely assigned to RDP and must complete the program in order to obtain or retain their drivers licence.

It is mandatory for drivers to attend RDP when assigned by the Superintendent. However, drivers who are convicted of *CC* or *MVA* offences may appeal their convictions through the judicial system. Drivers who receive an Administrative Driving Prohibition (ADP) or a 24-hour driving prohibition may request a review of the prohibition.

3.2.1 Alcohol-Related Criminal Code or Motor Vehicle Act Convictions

Sections 224 of the *MVA* and Sections 253 and 255 of the *CC* make it an offence for drivers to operate a vehicle when impaired or when the concentration of alcohol in the blood exceeds 80 milligrams of alcohol per 100 millilitres of blood. Section 226 of the *MVA* and Section 254 and 255 of the *CC* make it an offence for a driver to refuse to provide a blood or breath sample when requested by a police officer.

Drivers convicted of offences under Section 224 or 226 of the *MVA* or Section 253, 254 or 255 of the *CC* are required to complete RDP before they can re-apply for their driver's licence.

Drivers convicted of an offence under Section 224 or 226 of the *MVA* are prohibited from driving a motor vehicle for 12 months. Drivers convicted of offences under Section 253, 254 and 255 of the *CC* are prohibited from driving and their driver's licence is automatically suspended as follows:

- For the first conviction minimum of one year
- For the second conviction within a ten year period three years
- For three or more convictions indefinite licence suspension (ILS). Drivers in the ILS program must wait a minimum of five years and complete RDP before they can reapply for a driver's licence.

Although drivers may appeal their *MVA* or *CC* conviction, they do not have a right to appeal a suspension of their driver's licence.

3.2.2 Multiple Alcohol-Related MVA Prohibitions

There are multiple types of driving prohibitions issued to impaired drivers under the *MVA*, they are: 24-hour driving prohibitions, 90 day driving prohibitions; escalating immediate roadside prohibitions and administrative driving prohibitions. These prohibitions may be issued by police officers at the same time as one of the above noted *CC* or *MVA* charges.

90 Day Driving Prohibitions

A 90-day driving prohibition is issued by police officers to impaired drivers who have a blood alcohol level over the legal limit (80 mg/100 ml) or who fail or refuse to comply with a breath or blood alcohol test. Drivers who are issued this must surrender their driver's licence immediately.

When the prohibition period ends, drivers may obtain a new driver's licence from an ICBC driver licensing office. New driver's licences issued as a result of an ADP are for a two year term, instead of the five year term, and are subject to a reinstatement fee.

24-Hour Driving Prohibition

Under Section 215 of the MVA, police officers can prohibit drivers from driving for a period of 24 hours if the police officer has reasonable and probable grounds to believe that the driver's ability to operate a vehicle is affected by

alcohol or drugs. A 24-hour driving prohibition results in an immediate roadside prohibition of driving privileges. If considered necessary, police have the discretion to also impound the driver's vehicle.

Drivers may request an administrative review of their 24-hour driving prohibition if they apply to the Superintendent within seven days of receiving it. If the Superintendent revokes the 24-hour driving prohibition, it is removed from the driver's driving record and is not considered in any subsequent actions. Review decisions are final and binding, but subject to judicial review in BC Supreme Court.

Immediate Roadside Prohibitions (IRP)

As of September 20, 2010, drivers who provide a breath sample above 0.08 per cent BAC or refuse to provide a breath sample at the roadside will face an immediate, 90-day driving ban and a \$500 fine. As well, they will have their vehicle impounded for 30 days. They may also face criminal charges.

Drivers caught once in the "warn" range (between 0.05 and 0.08 per cent BAC) in a five-year period will face an immediate, three-day driving ban and a \$200 fine; a second time, a seven-day ban and a \$300 fine; and a third, a 30-day ban and a \$400 fine. Research shows that driving with a BAC in that range means a driver is seven times more likely to be in a fatal crash than if they have no alcohol in their body.

Drivers who have accumulated multiple ADPs, 24-hour driving prohibitions or Immediate Roadside Prohibitions since Section 25.1 of the *MVA* came into effect in June 2005 are also required to complete RDP before they can obtain or retain their driver's licence.

When a driving record indicates the following combination of *MVA* events occurring since the launch of the program on June 15, 2005, the driver is assigned to RDP:

- Three separate administrative driving events.
- Two separate 90 day prohibitions (only 1 is required if the event occurred after September 20, 2010)
- Any combination of three separate and unrelated 24-hour driving prohibition events or ADP / IRP events.

3.3 Discretionary RDP Assignments

Other drivers may be assigned to RDP based on their drinking and driving history. Discretionary assignments are evidence-based and result from a thorough review of the driver's driving history and other reliable reports from credible sources indicating drinking and driving. The following factors are considered:

Severity of Offences

- Is there evidence of significant alcohol or drug abuse/addiction from medical reports or unsolicited reports from reliable sources?
- Are there reports from medical professionals indicating significant alcohol addiction or a significant history of alcohol abuse?
- Is there evidence of other drinking driving incidents (i.e., 12 hour licence suspensions)?
- In addition to drinking driving incidents, is there evidence of other bad driving behaviour, for example, excessive speeding, street racing, driving while cancelled or prohibited, and driving without insurance?
- Has the driver participated in other alcohol assessment or remediation programs in the past?
- Has the driver complied with previous program requirements?
- Is there evidence of involvement in motor vehicle crashes, where alcohol or drugs was a factor?
- Is the driver inexperienced (i.e., in the Graduated Licensing Program)?

Frequency of Offences

- Is there evidence that the number of alcohol related driving incidents have reduced/increased in frequency?
- Is there evidence that the driver has been consistently drinking and driving over a long period of time?
- Does the driving record indicate that the driver was assigned to and recently completed RDP?

NOTE: These considerations are not intended to override the policy described in the routine assignments section. Rather, they are intended to capture drivers who may not be routinely assigned but have, in the opinion of the adjudicator, a significant drinking driving history.

3.4 Driving Restrictions While in RDP

Driving restrictions may be applied to RDP participants. Participants who are in possession of a driver's licence are generally allowed to retain it while completing RDP. Drivers who have had multiple prohibitions or severe drinking driving convictions may have already lost their driving privileges. In these cases, drivers must complete the driving prohibition and/or driver's licence suspension prior to applying for a reinstatement of their licence. When there is evidence that the driver is likely to continue drinking and driving, drivers are not allowed to obtain or retain their driver's licences.

For clients who received all their triggering events on or after February 1, 2009 they are subject to a mandatory minimum 12 month interlock term. These drivers can only retain their driving privileges while participating in RDP if they have an ignition interlock device installed in their vehicle. For post February 1, 2009 CCC clients, they must complete RDP and serve all driving prohibitions and licence suspensions before beginning their mandatory interlock term.

Decisions regarding whether or not to allow a driver to drive while participating in the RDP program are evidence-based and include:

- · A thorough review of the driving record.
- A thorough review of the driver fitness file, if any.
- A consideration of the length of time the driver has been accumulating alcohol related driving incidents and whether there has been any indication of change of frequency (i.e., reduction or increase).
- A consideration of unsolicited reports from reliable sources indicating significant alcohol addiction or a significant history of alcohol abuse.
- A consideration of previous participation in remedial or assessment programs and compliance with program requirements.

Factors to Consider:

- How did the driver enter RDP (ILS, CC conviction, MVA offences, other)?
- · Is the driver currently licenced?
- Has the driver re-offended following previous interventions?
- Is there a public safety risk as evidenced by recent medical/assessment reports and/or recent driving behaviour?
- Is there evidence of drinking and driving incidents while being involved in any alcohol rehabilitation or counselling programs, including the RDP?

• Is the driver an inexperienced driver, i.e., in the Graduated Licensing Program?

General Guidelines for Driver's Licence Decision

Driver's Licence Driver's Licence Not Allowed Allowed Driver would otherwise Driver is in the ILS Program. be allowed to apply for a Driver has recent multiple offences. driver's licence at the Driver has a current or previous alcohol-related MVA or Driver would otherwise Driver is in the ILS program Driver has multiple recent offences be allowed to apply for a drivers licence at the Driver has a CC conviction. end of a driving Driver has previously participated in RDP and was nonprohibition. At least one triggering compliant with program requirements. event occurred prior to Driver has recently completed RDP and re-offended. All triggering events occurred after Feb 1/09. Feb 1/09

3.5 Procedures for RDP Assignment

3.5.1 System Triggers

The Driver Licensing System (DLS) automatically triggers an RDP referral when the driving record indicates one of the following events¹:

Motor vehicle related Criminal Code Conviction (CCC) Triggers

• One CC conviction or one MVA Section 224 or 226 conviction

Administrative (ADM) Triggers

- One 90 day driving prohibition
- · Three administrative driving prohibitions
- One 90 day immediate roadside prohibition

3.5.2 Trigger(s) Review and Assessment

The driving record must be reviewed to determine whether system CCC and ADM triggers are appropriate for an assignment to RDP. *CC* convictions are reviewed to ensure that they are alcohol-related, and both *CC* and *MVA* convictions are reviewed to determine whether an appeal is in process. Administrative events are reviewed to ensure there is the appropriate number of events, events are not related, and events are not under review.

CCC and MVA Triggers (not under appeal)

- All Section 224 and 226 MVA convictions are assigned to RDP.
- CC convictions must be reviewed to determine whether they are alcohol-related.
 CC convictions under the following sections are clearly alcohol-related, and are assigned to RDP:
 - Section 253(a) and 1(a)
- Section 255(2)
- Section 253(b) and 1(b)
- Section 255(3)
- Section 254(5)

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• The following CC convictions which are not clearly alcohol-related will also result in a system generated CCC Trigger. In these cases the driving record must be reviewed to determine whether the conviction is linked to an alcohol-related event (i.e., 12 hour suspension, 24 hour driving prohibition or an ADP), and whether it is under appeal. CC convictions under the following sections which are linked to an alcohol-related event are assigned to RDP:

Section 220

Section 249(4)

Section 221

Section 249.1(1)

Section 236

Section 249.1(3)

Section 249(1)(a)

Section 249.4(1)

Section 249(3)

Section 249.4(3)

Section 252(1)

Cases that are triggered as a result of non-alcohol related *Criminal Code*Convictions are not assigned to the RDP.

ADM Triggers (that are not under review)

- All drivers with one 90 day driving prohibition or three separate administrative driving prohibitions within the appropriate time frame as noted previously are assigned to RDP.
- Driving records with a combination of events must be reviewed to ensure the
 events are unrelated to one another. If there is a combination of three separate
 and unrelated 24-hour driving prohibitions and ADP events within the appropriate
 time frame that are not under review, the driver is assigned to RDP.

Cases that are triggered and result in less than three separate events are not routinely assigned to RDP. If driving record indicates alcohol-related driving issues, discretion is applied to determine if an assignment is required.

SECTION 4: REGISTRATION COMPLIANCE

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4.1 RDP Registration Requirements

Drivers, who have been granted a driver's licence while they participate in RDP, are advised in writing that they have thirty days to register and twelve months to complete the program.

Exception

The requirement to participate in RDP is postponed to a later date when the driving record indicates the driver has appealed the *CC* or *MVA* conviction.

Drivers may contact Stroh through their toll free number for information about the registration process and RDP program components. Stroh will provide drivers with appropriate registration and consent forms. Stroh notifies OSMV when drivers have registered and paid for the program. Screening assessments are scheduled for fifteen calendar days after participants have registered and paid the program fee, if payment is made by cheque. Screening assessments are scheduled as soon as possible for all other methods of payment.

4.2 Non-Compliance

Drivers, who have been allowed to retain their driver's licence or obtain it when their prohibition period has ended, and subsequently fail to register for RDP and/or IIP within the appropriate time frame, will have their driver's licence cancelled. Drivers, who have been allowed to retain their licence, and who subsequently fail to complete RDP within twelve months may have their licence cancelled.

SECTION 5: POST-PROGRAM ASSESSMENT

5.1 Program Information

Stroh delivers RDP for the entire province. RDP consists of a screening interview, education or counseling session(s) and a post-intervention assessment. Stroh service delivery staff are trained professionals with experience and qualifications in addictions from an accredited university or college.

Registration in RDP includes the completion of a Registration and Informed Consent Form and payment of RDP fee. Participants consent to the release of driving-related information relevant to the driver's participation in the program between OSMV and Stroh.

Screening Interview

The purpose of the screening interview is to determine participants' reasons for drinking and driving and the level of risk they pose to continue to drink and drive. Stroh staff use the results of the screening interview to refer participants to the rehabilitation stream that is most appropriate. There are two rehabilitation streams – education and counselling.

The screening process includes an interview with Stroh staff. As a first step, participants are required to complete a Research Institute on Addictions Self Inventory ("RIASI"), a standardized evidence-based screening instrument in a prescreening telephone interview. At that time, the screening interview appointment is set up and Stroh staff share and discuss screening with each participant. During the screening interview, Stroh staff provide participants orientation and reassurance about the content and expectations of RDP, and provide information about the rehabilitation process.

Education Component

The purpose of the education component is to inform participants of the risks of drinking and driving, provide information on the legal consequences, provide strategies to deal with peer pressure, and help identify early warning signs of impairment.

Participants assigned to this stream have been assessed in the screening interview to be of relatively low risk to re-offend and typically do not have an alcohol dependency.

The education component is eight hours in length and addresses the following elements:

- legal issues around drinking and driving;
- alcohol consumption effects on blood alcohol concentration (BAC), how fast the body gets rid of alcohol;
- acute effects of alcohol and other drugs on driving skill (such as effects on perception, judgment, reaction time, motor skills, and the probability of accidents);
- consequences of drinking and driving (such as accidents, lives lost, and financial costs);
- physical, psychological and social effects of abusive drinking;
- effects of other drugs and combining drugs and alcohol on the body and driving skill:
- special issues of multiple offenders, e.g., causes of premature death in second offenders; and
- alternative transportation strategies before judgment is impaired.

Participants are considered to have completed the education component if they attend and participate in the course and complete a Personal Action Plan.

At the end of each education course, Stroh submits a report to the OSMV for each driver indicating they have completed the required program.

Counselling

The purpose of the counselling component is to provide participants with insight into their behaviour and their triggers, help them to accept responsibility, change their driving behaviour and reduce their risk of re-offending. The focus in the counselling component is to assist participants deal with emotional problems without resorting to alcohol, prevent relapses, and establish a healthier lifestyle. Participants also receive advice about where to look for further help in dealing with substance abuse issues.

Participants assigned to the counselling stream have been assessed by addictions counsellors to have more serious problems with their use of alcohol and generally exhibit high risk-taking behaviour.

The counselling component includes elements of the education component, as well as providing the following specific counselling elements:

- motivational enhancement (e.g., providing feedback on assessment, task assignments on personal costs of driving while impaired ("DWI"), victim impact messages);
- taking stock of current drinking habits (self-monitoring);
- assessing personal impact of alcohol;
- setting personal goals and developing strategies to reach them;
- identifying temptations and high-risk situations;
- developing strategies to deal with personal high-risk situations involving emotional upset, learning to use public transportation when necessary;
- practicing the strategies, (e.g., through role-playing, self-monitoring);
- · more attention to dealing with emotional problems;
- relapse prevention training (more emphasis on changing lifestyle);
- · finding social support for sobriety; and
- contact with self-help groups and other community resources.

Sessions consist of intensive, interactive counselling in small groups with a maximum of eight people. Sessions generally occur over a three month period and consist of eight 2-hour sessions for a total of 16 hours.

Participants are considered to have completed the counselling component when they have completed all the items on the counselling checklist, have attended all sessions and have completed a Personal Action Plan.

After completing the required counselling sessions, participants are directed to attend a post-intervention assessment (PIA) interview.

Post-Intervention Assessment (PIA)

The purpose of the PIA is to determine if there has been a change in attitude and/or behaviour of participants. Participants who successfully complete the education component are not required to complete a PIA.

The PIA includes an in-depth personal interview with a Stroh addictions counsellor, a review of the participant's driving record, and a review of the participant's treatment results. It also includes a review of the participant's personal action plan to eliminate drinking driving behaviour. Stroh's Program Manager then prepares a PIA Report indicating the program participant's risk of re-offending and submits it to OSMV.

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5.2 Conflicts Related to Program Delivery/Administration

Participants have access to a formal complaint resolution process through Stroh. Complaints or conflicts regarding any aspect of driver participation in the program or payment of fees follow a four step process, which is articulated in the province's contract with Stroh. The first step involves direct personal contact between conflicting people; the second step is providing a written submission to the Stroh Program Manager. The third step is providing a written submission to the CEO of Stroh, and the fourth and final step involves a referral to OSMV. Stroh and OSMV review the complaint at the appropriate stage and the participant is notified of the decision.

Participants who successfully complete the Education or Counselling Component of RDP are assessed by OSMV Adjudicators for their fitness to drive.

5.3.1 Assessing Fitness to Drive

When participants have completed RDP, OSMV staff review the RDP PIA Report and the participant's driving record to make a decision about their fitness to drive.

The factors delineated below are used to determine, on a case-by-case basis, whether the participant:

- Is allowed to retain their driving privileges
- Is allowed to apply for a full privilege driver's licence.
- Is required to have an ignition interlock device installed in their vehicle.
- Is found unfit to drive and not permitted to obtain a driver's licence.

Driving Record

- How did the driver enter RDP (i.e., ILS Program, CC conviction, MVA offences, other)?
- Has the driver re-offended following previous interventions?
- Is there a public safety risk as evidenced by recent medical/assessment reports and/or recent driving behaviour?
- Is there evidence of drinking and driving incidents while being involved in any alcohol rehabilitation or counselling programs, including the RDP?
- Is the driver an inexperienced driver (i.e., in the Graduated Licensing Program)?

Severity of Offences

- Is there evidence of significant alcohol or drug abuse/addiction from medical reports or unsolicited reports from reliable sources?
- Are there reports from medical professionals indicating significant alcohol addiction or a significant history of alcohol abuse?
- In addition to drinking driving incidents, is there evidence of other bad driving behaviour, for example, excessive speeding, street racing, driving while cancelled or prohibited, and driving without insurance?
- Has the driver participated in other alcohol assessment or remediation programs in the past?
- Has the driver complied with previous program requirements?
- Is there evidence of involvement in motor vehicle crashes, where alcohol or drugs was a factor?
- Is there evidence the client is attempting to drink and drive while participating in the Ignition Interlock Program.

Number of Offences

- Is there evidence that the number of alcohol related driving incidents have reduced/increased in frequency?
- Is there evidence that the driver has been consistently drinking and driving over a long period of time?

Post-Intervention Assessment Report

Does the report indicate:

- There was behaviour change as a result of RDP?
- The driver developed a meaningful action plan to eliminate drinking driving behaviour that demonstrates his/her understanding of the issues?
- The driver understands the importance of not drinking and driving?
- The driver accepts responsibility?

5.3.2 OSMV Decision Review

Participants, who are denied a driver's licence, or have a restriction or condition applied to their driver's licence, may have the decision reviewed by a different OSMV Adjudicator than the one who made the original decision.

SECTION 6: OUT-OF-PROVINCE TRANSFERS

6.1 Background

Most other jurisdictions in Canada have compulsory rehabilitation programs for drinking drivers. BC's RDP program is considered the most rigorous remedial program for drinking drivers in Canada. RDP draws on best practices from all jurisdictions and demands considerable commitment on the part of the program contractor and participants. The \$880 participation fee for RDP in BC - a higher fee than other provinces - reflects the fact that the program is user-pay in BC and not provincially subsidized as in other provinces.

6.2 Policy Rationale

The mobility of Canadians from one province to another must not be fettered by the requirement to attend a rehabilitation program in a previous province of residence. To facilitate freedom of movement and ensure driver fitness, drivers referred to remedial programs in other provinces will be required to demonstrate their fitness to drive prior to obtaining a driver's licence in BC. Alternatively, drivers who move to another province after being referred to RDP in BC may make application to have the BC requirement to attend RDP provisionally waived to allow for licensing in their new province of residence.

Drinking driving remedial programs are designed provincially to meet provincial goals and objectives. The out-of-province transfer policy is intended to discourage BC drinking drivers from moving temporarily to another province to avoid participation in BC's remedial program.

6.3 Policy

Outstanding Out of Province Requirements

Drivers with outstanding rehabilitation program requirements from their previous province of residence will be required to complete RDP prior to obtaining a drivers licence in BC.

Outstanding RDP Requirements

Drivers who move to another province after being referred to RDP in BC may apply to have the requirement to attend RDP waived so that they may apply for a drivers licence in their new province of residence. However, if the move to another jurisdiction is temporary and drivers return to BC within one year of being assigned to RDP, they will be required to complete RDP prior to obtaining a driver's licence in BC.

The following factors are considered when determining if the requirement to attend RDP may be waived for drivers with outstanding RDP assignments, when they return to BC from another jurisdiction and request a re-instatement of their driver's licence in BC:

- Driver can demonstrate satisfactory completion of a recognized provincial drinking driver program (or a required component of the program) in another province.
- Driver can demonstrate residence in other province or territory for at least 12 months after completing the rehabilitation program.
- Driver has maintained a "clean" driving history (i.e. no drinking driving offences).

OR

 If the other province does not have a recognized provincial drinking driver program, the driver can demonstrate residence in the other province for at least 10 years.

Drinking drivers who are unable to demonstrate residence and/or program completion requirements will be required to take the RDP or an assessment component of the RDP. If the assessment component indicates that drivers present a risk to other road users, they will be required to complete the entire RDP and/or participate in the Ignition Interlock Program prior to obtaining a drivers licence in BC.

SECTION 7: RDP FEES

7.1 Policy Rationale

The fee for RDP is based upon the principle of full user-pay. During the consultation process, the public indicated a high level of support for a user-pay rehabilitation program not subsidized by government. The user-pay principle ensures that ordinary taxpayers do not have to pay the cost of remedial programs for drinking drivers who choose to put other British Columbians at risk with their dangerous driving behaviour. The user-pay principle is consistent with other jurisdictions, and the fee is based on the cost of the program per individual.

7.2 RDP Fee Policy

The prescribed fee for participating in RDP is \$880 plus HST (\$105.60) = \$985.60. Fees must be paid in full prior to attending RDP. Fee exemptions are not made in cases of financial hardship, as there are no public funds available for financial assistance, or to reimburse the contractor for reduction or waiver of the fee.

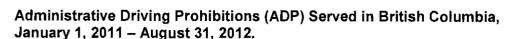
Participants who are required to repeat the program will be required to pay the full RDP fee. Participants are allowed to reschedule appointments for RDP participation if they provide a legitimate reason. Participants who do not attend or complete any of the RDP components without demonstrating a legitimate reason, may be allowed to re-take any component or individual session, and may be charged an additional "per component/session" fee. Participants who fail to attend the re-take component within a six month period will be required to pay the full RDP fee to continue in the program.

RDP Fee Refunds

The following are circumstances in which OSMV will consider refunding an RDP review fee:

- 1. Letter received from payee advising that fee was paid on the driver's behalf (proof must be provided); and,
- 2. The person who paid the fee provides a satisfactory explanation for why the driver will not be participating in the program; and,
- 3. Stroh has not delivered any services to the client (service is deemed to have been delivered once a client has undergone their initial pre-screening phone interview).

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An Administrative Driving Prohibition (ADP) is a 90 day driving prohibition served to impaired drivers, separate from criminal code charges. The ADP is a driving prohibition based on a refusal to provide a breath sample, or BAC greater than 0.08 that is administered at the police station. If an officer has reasonable probable grounds that a driver is affected by alcohol then they may request that the driver provide a breath sample for testing. If the driver refuses to provide a breath sample, or if they provide a breath sample at the station that is over 0.08 BAC, then the driver may be served with an ADP. Police officers may serve a 24 hour prohibition and/or proceed with impaired driving criminal charges in addition to an ADP.

Table 1: ADPs Served in B.C., January 1, 2011 - August 31, 2012.

Year	Month	ADPs Served
2011	Jan	180
	Feb	153
	Mar	163
	Apr	160
	May	160
	Jun	136
	Jul	159
	Aug	153
	Sep	134
	Oct	132
	Nov	100
	Dec	786
2012	Jan	589
	Feb	601
	Mar	701
	Apr	611
	Мау	610
	Jun	353
	Jul	164
	Aug	140

Source: Data extracted from ADP/VI on September 12, 2012.

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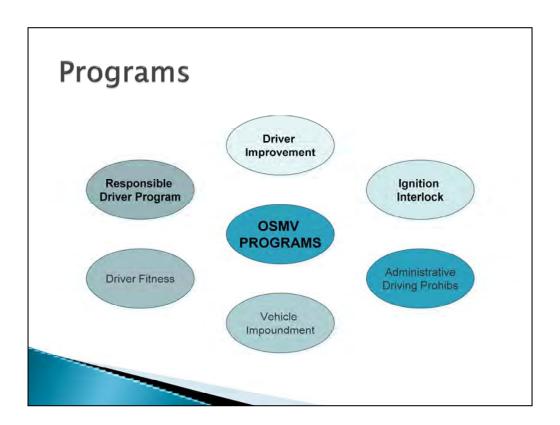
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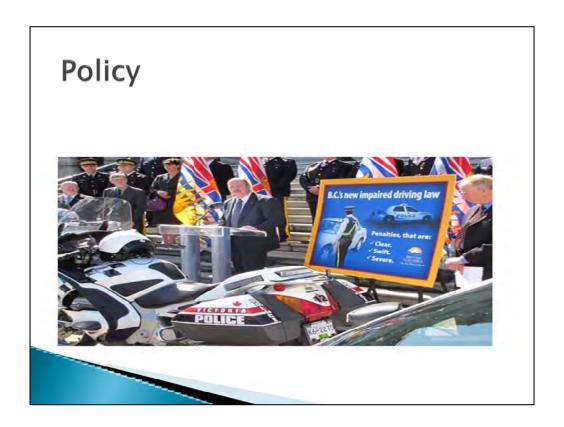


What is our role

- Leadership
 - Developing
 - Implementing
 - Administering
- Road Safety Policies and Initiatives









What We Do

- Intervene
- Regulate
- Adjudicate
- Generate
- Collaborate

Why We Do It

We are dedicated to making the roads in British Columbia as safe as possible.

INTRODUCTION TO ADMINISTRATIVE LAW FOR NEW TRIBUNAL MEMBERS

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RESOURCES

INTRODUCTION TO ADMINISTRATIVE LAW FOR NEW TRIBUNAL MEMBERS

1. BASIC CONCEPTS

1.1 Introduction

Boards, commissions, tribunals and agencies are created by the government to assist in administering the business of government.

Powers of decision are conferred upon these specialist administrative tribunals to provide an expeditious and fair method of resolving a variety of matters, with less formality than is found in court proceedings.

Tribunals are not obliged to follow strict court procedures. Rather, they are given discretion in fashioning their own procedures. Tribunals are expected to have more flexible procedures than courts, which can accommodate different needs.

Tribunals may not, however, ignore the basic tenets of fair procedure and act arbitrarily. Some procedural formality is necessary to ensure that people feel they have been treated fairly. Fairness is the essential purpose of all procedural rules. How much fairness is required will depend on the circumstances and the tribunal.

Some boards and agencies carry out functions very similar to courts and therefore must offer a high degree of procedural protection to those affected by their decisions. Such "quasi-judicial" bodies must strictly adhere to the principles of administrative fairness. Agencies that are mainly advisory and do not make decisions, but study and recommend actions to be taken, may be required to observe some lesser standard of fairness depending on the impact of their decisions. Between the two extremes, there are numerous decision-makers whose procedures must, to a greater or lesser extent, comply with the various principles of administrative law.

1.2 What is Administrative Law?

Administrative law is created by the courts. Generally, administrative law deals with the organization and powers of the government and the role of law in controlling the exercise of those powers. The acts or decisions of government officials may be challenged by means of judicial review or an appeal to the court. In the context of judicial review, administrative law establishes the criteria which the courts will use when they review the exercise of government decision-making authority.

1.3 Who is Government?

"Government" consists of the Legislature, the Judiciary and the Executive. Administrative law applies primarily to the executive branch of government: the Cabinet, Ministers of the government and their Ministries, and provincial boards, commissions, tribunals and agencies.

1.4 The Notion of a "Decision"

Examples of decisions that a government, or its tribunals, may take include decisions as to the implementation or cancellation of programs, determination of entitlement to benefits, authorizations for indemnification or payment of compensation, the issuance or revocation of licenses or permits, etc.

Decisions are usually categorized as policy, legislative, administrative or quasi-judicial. Quasi-judicial decisions are those decisions made in a court-like manner and usually concern the rights of an individual. Generally, the courts will not impose the same procedural requirements on the making of policy and legislative decisions as they do on administrative and quasi-judicial decisions.

1.5 The Concept of "Jurisdiction"

All acts of government must be founded on legal authority. For boards, commissions, tribunals and agencies, this legal authority is found in their enabling statutes. The *Labour Relations Code* and the *Human Rights Act* are examples of enabling statutes.

An enabling statute creates the agency and defines its jurisdiction. An agency's jurisdiction includes:

- who it can make decisions about,
- what matters it can decide,
- what remedies it can provide,
- what procedures it will follow.

An enabling statute may be quite specific on some of these jurisdictional matters, but leave considerable discretion to the agency to determine other matters. For example, the enabling statute may say the agency has jurisdiction only over "children", but leave it to the agency to determine what procedures it will follow in making decisions about children.

1.6 Discretion

Discretion is an important part of jurisdiction. Generally, government has much discretion, or choice, in how it decides to operate. For example, a government may or

may not establish a *Freedom of Information* and *Protection of Privacy Act*. In exercising this discretion, the government is acting within its jurisdiction either way.

As well, most enabling statutes give much discretion to the agency, board, commission or tribunal they create. Often this discretion is indicated by the phrase, "the agency may" do something. It also arises if the enabling statute is silent on a particular point, for example, what procedures the agency will follow in making decisions. This gives the agency the discretion to decide how it will proceed, subject to the requirements of administrative law.

On the other hand, an enabling statute may say, "the agency <u>shall</u> (or <u>must</u>)" do something. In that case, the agency's jurisdiction is limited and it does not have discretion to choose how it will proceed.

1.7 The Rule of Law

All government agencies are subject to several sources of law. The primary source of law for all agencies is their enabling statute. Without that statute, they do not exist. However, the *Canadian Charter of Rights and Freedoms* is the supreme law in Canada and all enabling administrative statutes are subject to it. A section in an enabling statute will be declared null and void if it is in conflict with the *Canadian Charter of Rights and Freedoms*.

Finally, all administrative decision-makers are also subject to administrative law. This is not statute law, like the enabling statute and the *Charter*, but common law created by the courts. Courts too are bound by government legislation. Thus, clear language in an enabling statute will override court created administrative law, unless the court finds that part of the enabling statute is contrary to the *Charter*.

2. HOW DECISIONS ARE REVIEWED

Administrative, or government, decision-makers may have their decisions scrutinized to determine whether they are in accordance with the law and meet procedural standards. This can occur on a review or appeal within the administrative system, or on a review or appeal to the court.

2.1 Internal Reviews or Appeals

Many enabling statutes provide for internal reviews or appeals of decisions. For example, the *Workers Compensation Act* says the Workers' Compensation Board can rehear and re-determine any matter it has dealt with, and that *Act* also provides for appeals to the Workers' Compensation Review Board and the Appeal Division. These review and appeal bodies are tribunals created by the statute, and are internal to the workers' compensation system. Their jurisdiction on appeals is determined by the enabling statute (the *Workers Compensation Act*) and the requirements of administrative law.

2.2 The Courts: Appeals, Judicial Review, and Privative Clauses

A person who is aggrieved with an administrative decision can challenge it in court either by appeal or judicial review, depending on the enabling statute of the administrative body.

A person can appeal to the court only if the enabling statute specifically provides for an appeal to the court. For example, the *Securities Act* provides for an appeal to the court, but the *Human Rights Act* is silent on that point. Thus, a decision of the Securities Commission can be appealed to the court, but not a decision of the Human Rights Commission.

If the enabling statute does not provide for an appeal to the court, an aggrieved person can challenge the decision in court only by judicial review. Thus, a decision of a human rights tribunal can only be challenged in court by judicial review. Generally, a judicial review is more limited in scope than an appeal to the court.

Some enabling statutes specifically say the agency's decisions are not subject to appeal or judicial review. In those cases, the Legislature has tried to give the agency the final decision-making power, by excluding the courts. A clause in an enabling statute which tries to exclude the courts is called a "privative clause".

In spite of privative clauses, courts will still hear a judicial review from a decision of an administrative agency or tribunal. The courts have decided they have "inherent jurisdiction" to review the decisions of all inferior courts and tribunals, which includes all administrative agencies and tribunals.

2.3 Grounds for Appeal and Judicial Review

To be successful on an appeal to court or a judicial review, an aggrieved party usually must establish "grounds". Grounds are the ways in which a decision may be wrong or unlawful.

For appeals, the enabling statute will set out any grounds which apply; for example, an error of law or error of fact. If the court then finds an error of law in the agency's decision, it can allow the appeal. If the court allows the appeal, usually it will substitute its own decision for that of the agency.

For judicial review, the enabling statute never provides the grounds. That is because judicial review is used when the enabling statute makes no mention of an appeal and/or contains a privative clause which tries to exclude the courts. It would be incongruous if an enabling statute set out grounds for something it tried to prohibit.

The courts have decided that the basic grounds for any judicial review is an error of jurisdiction by the administrative agency. However, unlike an appeal, if the court finds

the agency's decision contains a jurisdictional error, the court will not substitute its decision for that of the agency. Rather, it will "quash" the decision and send it back to the agency to do it again.

2.4 Jurisdictional Error

In theory, on judicial review the courts can review a decision of an agency or tribunal only for an error of jurisdiction. If the agency's decision is within its jurisdiction, the court must let the decision stand. If the agency's decision is outside of its jurisdiction, the court will quash it. However, the practice is not as simple as the theory.

An agency can commit a jurisdictional error in several ways:

- i) it can misinterpret terms in its enabling statute which determine its jurisdiction over people, subject matter, and remedies;
- ii) it can fail to follow the appropriate rules of natural justice or administrative fairness; and
- iii) it can make a "patently unreasonable" decision.
- i) Misinterpret jurisdictional provisions in its enabling statute

When an agency misinterprets jurisdictional provisions in its enabling statute, it will either take on more jurisdiction than it was given in its enabling statute, or it will fail to exercise some of the jurisdiction it was given. Either is a jurisdictional error. For example, if the enabling statute gives the agency jurisdiction only over "children", the agency would commit a jurisdictional error if it either interprets that too broadly and makes decisions about people who are not children, or interprets it too narrowly and excludes people who are children. Similarly, an agency can commit a jurisdictional error if it gives a remedy which is beyond its authority in its enabling statute.

ii) Breach of natural justice/administrative fairness

As will be described below, administrative agencies and tribunals are subject to the requirements of administrative fairness (also called natural justice). In theory, a failure to follow act fairly is a jurisdictional error. However, often a court will not refer to a breach of natural justice as a jurisdictional error, but merely quash the decision of an agency because of the breach of administrative fairness or natural justice. That does not change the theory. On judicial review, courts only have jurisdiction to review for jurisdictional error. Therefore, on judicial review, if a court quashes a decision for a breach of natural justice, that must be a jurisdictional error. However, this theory does not apply to appeals.

iii) Patently unreasonable decision

This type of jurisdictional error is probably the most difficult to understand. In theory, if a tribunal is acting within its jurisdiction, a court cannot interfere with its decision on judicial review. Thus, if a tribunal has properly interpreted the jurisdictional words in its statute and has followed the principles of administrative fairness in making its decision, the court should not interfere with the merits of its decision.

However, even on judicial review, the courts will consider the merits of an agency's decision under the guise of jurisdictional review. They do this by saying that an agency can make such a bad decision that it exceeds its jurisdiction. Therefore, in those cases, the agency starts with jurisdiction, but exceeds it if the court later decides the agency's decision was patently unreasonable. The meaning of "patently unreasonable" can be confusing and problematic. Generally though, it means more than merely wrong.

2.5 Deference

In deciding whether an agency has erred, the courts usually have to decide how much deference, or respect, to give the agency's decisions. The degree of deference will depend on the enabling statute and on the agency.

If an enabling statute contains a privative clause, that indicates the court must give a high degree of deference to the decisions of the agency or tribunal. As set out above, the courts have developed the patently unreasonable test which applies in these circumstances. Decisions of the agency will only be quashed if they are patently unreasonable.

Traditionally, if the enabling statute said the decision of the agency could be appealed to the courts, that meant the court did not have to give special deference to the decisions of the agency. If the court thought a decision of the agency was wrong, it could overturn the decision without giving any deference to the expertise of the agency. However, recently, the Supreme Court of Canada has said that, even on an appeal, a court should give increased deference to the decisions of some agencies. For example, the Supreme Court of Canada has said, on appeals, courts must give considerable deference to the decisions of a Securities Commission, but not to decisions of a Human Rights Tribunal. This means a decision of the Securities Commission must be more than merely wrong before the court will overturn it on appeal. This has created controversy and uncertainty about which agencies will receive greater deference from the courts.

3. THE DUTY TO ACT FAIRLY (NATURAL JUSTICE)

3.1 Introduction

The most basic requirement of administrative law is the duty to act fairly. This duty applies to the procedures followed by tribunals in making decisions, not to the substance or merits of their decisions. The duty to act fairly is flexible in its interpretation and application. It applies to all government agencies, boards, commission and tribunals to a

varying degree. It is important to remember that clear statutory language to the contrary will override any of the elements of the duty of fairness, subject to the *Charter*.

The Supreme Court of Canada first articulated the duty of fairness in a 1978 case. Prior to that, the courts had used the principle of "natural justice" when reviewing administrative decisions. Natural justice put very high procedural requirements on some administrative decision-makers, but none on others. It was more of an "all or nothing" approach. The duty of fairness is more of a continuum which applies to a varying degree to most administrative decision- makers. Today, many people use the terms "natural justice" and "duty to act fairly" interchangeably.

The principles of natural justice and the duty to act fairly are context-specific and are therefore flexible in their meaning. That is, the requirements of natural justice and fairness vary from case to case.

The duty to act fairly has three basic components, although the first two are the most commonly cited:

- A person affected by an administrative decision has the right to know the case against him or her, and must be given an opportunity to reply to it;
- A person is entitled to a decision from an unbiased decision-maker; and
- The person who hears the case must decide the case.

3.2 The right to know the case and reply to it

This is also referred to as the audi alteram partem rule, or the right to be heard.

Whether a procedure will be considered fair will depend on the circumstances. Generally, in order to exercise the "right to be heard" in an effective and meaningful way, certain events must take place:

- i) the affected individual must be given notice that a decision is to be made:
- ii) the notice must be given in adequate time and in sufficient detail to enable the individual to respond;
- iii) the individual must be aware of the case to be met; i.e. information held by the decision-maker must be made available to those affected prior to the decision being made; no one should be taken by surprise;
- iv) the individual must be given an opportunity to present evidence and make an argument to the decision-maker.

Fairness does not always require that an oral hearing be held. In some cases, an opportunity to make written submissions will suffice. In others, a person cannot adequately answer the case against him or her without an oral hearing. The nature of the hearing required may vary from an informal interview with an agent of the decision-maker, to a round-table discussion with the tribunal, or a formal proceeding similar to a civil trial. The extent of written submissions may range from a single letter stating one's position, to an exchange of correspondence in which the issues are fully discussed, to a formal application supported by documentary evidence and the reports of experts. Generally, the more serious the potential consequences of a decision for an individual, the greater the procedural protections required. The question is what is fair in the circumstances (in the eyes of the court!).

If it is decided that an oral hearing is required, additional procedural rights may be appropriate, for example:

- i) the right to counsel
- ii) the right to have evidence considered
- iii) the right to cross-examine witnesses
- iv) the right to an adjournment

It is not of great assistance at this point to indicate how and when these factors apply, as that will vary greatly from situation to situation depending on the rights and interests at stake. What is important to know is that appropriate procedures must be followed when making decisions. The enabling statute and administrative law guide us in determining what is "appropriate" in the circumstances.

3.3 The right to an unbiased decision-maker

Bias is a lack of neutrality on the part of the decision-maker regarding the issue to be decided. Actual bias or a reasonable apprehension of bias is required to disqualify a decision-maker. Regardless of whether a member is consciously or unconsciously biased, or even unbiased, what matters is whether a reasonable, informed person looking at all the facts would conclude there is a real likelihood the decision-maker will favour one side over the other.

It need not be shown that the apprehended bias actually prejudiced one of the parties or affected the result. It is sufficient for disqualification if this might occur. Even decision-makers who are confident that they can act impartially notwithstanding the appearance of bias, must disqualify themselves from the case.

The test for bias varies depending on the position or functions of the administrative body. A body which is engaged in policy making or standard setting is subject to a less strict test for bias. People on these bodies can hold strong opinions about an issue, provided

they remain open to be persuaded otherwise. People who sit on quasi-judicial tribunals (which adjudicate cases) are subject to the stricter test of bias set out above.

3.4 What creates actual or an apprehension of bias?

Courts have identified four common situations in which a decision-maker will be perceived to be biased:

- i) where the decision-maker has a material interest in the outcome of the case (e.g. the decision-maker or a person related to the decision-maker may benefit or suffer financially because of the decision);
- ii) association or prior involvement with one of the parties (e.g. the decision-maker is related to or closely involved with one of the witnesses appearing in the case);
- iii) prior participation in the process or a related process (e.g. the decision-maker previously represented one of the parties now appearing before the tribunal on the same matter;
- iv) actual conduct that shows bias or hostility (e.g. a decision-maker who makes public statements which suggest the decision-maker has made up his or her mind on the outcome before having heard all of the parties.

Members of tribunals that deal with complex matters are often drawn from among the experts in the field who, before their appointment, may have appeared before a tribunal on behalf of a party. That prior professional association alone may not give rise to a reasonable apprehension of bias unless the decision-maker, before being appointed to the tribunal, had some involvement in the matter now before the tribunal.

Tribunal members should not prejudge a case. They should not make up their minds so strongly in advance that they cannot be influenced to decide another way at the hearing. They should not hold predetermined views of the issues that would be applied regardless of merits. Evidence of prejudgment is usually found in statements made by tribunal members. It is unwise for tribunal members to express opinions before or during a proceeding. A statement that the outcome of a proceeding is a foregone conclusion indicates the existence of impermissible bias. However, "unbiased" does not mean uninformed. It means only that the decision- maker should have an open mind. Members of a tribunal may hold tentative views on the matters at issue.

Improper conduct by tribunal members during the hearing may indicate bias. Flippant remarks or derogatory statements about parties or anyone else should never be made by tribunal members. Use of intemperate language or the display of feelings of antagonism and hostility toward a party may give rise to a reasonable apprehension of bias against that party. A tribunal member who repeatedly interferes with cross-examination or takes

part in the questioning of witnesses to such an extent as to appear to descend into the arena may be suspected of having bias for or against a party. A single impropriety may not give rise to a reasonable apprehension of bias, but a series of incidents might do so.

3.5 Ex Parte dealings

It is improper for a tribunal to meet privately with one party in the absence of other parties or to hold private interviews with witnesses. After a hearing has concluded and the decision reserved, parties may be tempted to write letters to the tribunal providing additional information or clarification. A tribunal in receipt of such letters ought not to consider them in the absence of the other party. If there is a need to present additional evidence or argument to the tribunal, a request should be made to re-open the hearing.

Although it may be tempting to socialize with witnesses and lawyers following a day of hearings, tribunal members should refrain from doing so. Such social camaraderie may give rise to a reasonable apprehension of bias in favour of those whose company was enjoyed. Also it may be assumed that the tribunal member, while socializing, heard evidence or submissions in the absence of other parties. In addition to being unfair to those other parties, this willingness to meet some parties in private may indicate favouritism. Many administrative hearings are conducted in office buildings in which tribunal members encounter parties and witnesses in the hallways and elevators. In these situations, discussion of the case should be avoided.

3.6 What happens when allegations of bias are made?

A party who suspects bias on the part of a decision-maker must first raise the issue with the tribunal, usually in the form of a preliminary objection. When an allegation of bias is made, the tribunal should immediately consider and rule on the allegations. If it rules that it is not biased, it may continue with the proceedings. A tribunal is not to be paralyzed every time someone alleges bias. If the tribunal decides that a reasonable apprehension of bias on the part of one of its members exists, that member should be replaced before the proceeding commences.

Bias may be waived by the parties. If a party was aware of bias during the proceeding but failed to object, it may not complain later if the decision goes against it. An objection must be stated when the bias first comes to the party's attention.

3.7 He/she who hears the case must decide it - fettering of discretion

The duty of fairness also requires that the person who hears the case must decide it. That person cannot delegate the decision-making to another person. While other people may assist in the drafting of the decision, the person who heard the case must make the decision. Problems can occur if some other person, a staff lawyer for example, has too much input into or control over the final decision.

This part of the duty of fairness has received attention most recently with what are called "plenary" or "full board" meetings. Many agencies and tribunals wish to achieve consistency in their decisions. They hope that similar cases will be decided in similar ways by different panels of the same agency. Otherwise, the outcome of decisions will appear to depend on who is on the panel, which will seem arbitrary and unfair. One of the methods used by tribunals to promote consistency is to have meetings of the whole tribunal on cases which raise policy or recurring difficult issues.

The courts have said a tribunal can meet as a whole to discuss a case, subject to certain limits. First, and most importantly, the panel who hears the case must remain free to make the decision it thinks is proper. It cannot be forced by the rest of the tribunal to make a different decision. This reinforces the principle that he/she who hears the case must decide it. In recognition of the potential pressure created by a plenary or full board meeting, the courts have set out some specific guidelines:

- plenary meetings must be voluntary;
- no attendance or vote can be taken at the meeting, no minutes should be kept;
- no new evidence should be introduced or considered;
- plenary meetings cannot discuss the facts or merits of the individual case;
- plenary meetings should be limited to a discussion of legal and policy issues and the implications of the decision;
- the panel cannot base its decision on any new grounds raised at the plenary meeting, unless the parties are informed and given an opportunity to make representations on the new grounds.

Another aspect of ensuring that "the person who hears the case decides it" is the appropriate use of policy in tribunal adjudication. In many tribunals there are detailed policy manuals which have been developed by an administrative body to assist it in applying a legislative scheme in a consistent manner. As stated in the Consolidated Bathurst case, consistency is an important aspect of administrative justice.

However, tribunals must ensure that their decisions are not simply a blind application of a policy laid down in advance. Policy which is used in this way is said to limit the necessary scope of a decision-maker to consider the particular case before the tribunal. In legal terms, the policy is "fettering the discretion" of the tribunal. By failing to keep it "mind ajar", or by "shutting its ears" to an application, the tribunal effectively forecloses its participation in the decision-making process, and so breaches the principles of natural justice that "he/she who

hears the case must decide the case". Therefore, while a policy or rule may be adopted which effectively decides "normal" cases, the tribunal must ensure, first, that the rule or policy is itself proper, and, second, that the tribunal retains a willingness to consider each case.

This principle that the person assigned as the decision-maker must be the person making the decision is also relevant in circumstances if inappropriate pressure is brought to bear on the decision-maker by others internal or external to the tribunal. The independence of quasi-judicial decision-makers to hear and decide cases that come before them requires that no outsider, be it government, pressure group, individual or another decision-maker should interfere in fact, or attempt to interfere with the way in which the decision-maker conducts the case or makes the decision (Consolidated Bathurst at 561).

INTRODUCTION TO ADMINISTRATIVE LAW

SUGGESTED READING

Sara Blake, *Administrative Law in Canada*, 2nd Edition (Butterworths 1997)

The Honourable Robert F. Reid, *Reid's Administrative Law* (Carswell)

Administrative Law Reports (Carswell)

Canadian Journal of Administrative Law (Carswell)

Andrew Roman, Effective Advocacy Before Tribunals (Carswell 1989)

John Evans et al., *Administrative Law: Cases, Text and Materials* (4th ed. Emond Montgomery 1995)

Robert Macaulay and James Sprague, *Practice and Procedure Before Administrative Tribunals* (2d ed. Carswell 1992)

Rene Dussault and Louis Borgeat, *Administrative Law - A Treatise* (2d ed. Carswell 1990)

David Jones and Anne de Villars, *Principles of Administrative Law* (2d ed. Carswell 1994)

T. Murray Rankin, *The Eyes Have It: Seeing Justice In The Law of Bias* (1998), 56 Advocate 681

Topical Texts - e.g. - on labour law, workers' compensation, human rights, etc.

Topical Case Reports - e.g. - Workers' Compensation Reporter, Canadian Human Rights Reporter, etc.

Pages 233 through 341 redacted for the following reasons:

S. 13

Chernoff, Lawrence SSBC:EX

From: Kirby, Christopher T SG:EX
Sent: Monday, June 21, 2010 12:14 PM

To: Wilkinson, Anita SG:EX

Cc: Anderson, Kathy E SG:EX; Esposito, Tony N SG:EX

Subject: FW: ADP amendments

Hi Anita,

Can you please add the attached document to the binders for tomorrow. It should go after the IRP section. Thanks.

Chris



Amendments to the ADP sections...

From: Anderson, Kathy E SG:EX

Sent: Monday, June 21, 2010 11:53 AM

To: Kirby, Christopher T SG:EX **Subject:** ADP amendments

Love it! Please send it to Anita to copy and ask her to add to the binder after the IRP section.

Kathy Anderson Manager, Adjudication and Training Office of the Superintendent of Motor Vehicles

Phone: (250) 356-8068 Fax: (250) 387-4891

Amendments to the Administrative Driving Prohibition sections of the Motor Vehicle Act

Please note that these amendments are not yet in force. This document is being provided for training purposes only. Adjudicators must continue to apply the existing legislation until these amendments are brought into force.

Notice of driving prohibition

- **94.1** (1) If a peace officer has reasonable and probable grounds to believe
 - (a) by reason of an analysis of the breath or blood of a person, that a person operated a motor vehicle or had care or control of a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in the person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after operating or having care or control of the motor vehicle, or
 - (b) that a person failed or refused, without a reasonable excuse, to comply with a demand made on the person to supply a sample of his or her breath or blood under section 254 of the *Criminal Code* in respect of the operation or care or control of a motor vehicle,

the peace officer or another peace officer must,

- (c) if the person holds a valid licence or permit issued under this Act to operate a motor vehicle,
 - (i) take possession of the person's licence or permit if the person has it in his or her possession, and
 - (ii) serve on the person a notice of driving prohibition, or
- (d) if the person
 - (i) holds a valid document issued in another jurisdiction that allows the person to operate a motor vehicle, or

(ii) does not hold a valid licence or permit to operate a motor vehicle,

serve on the person a notice of driving prohibition.

- (2) If a person referred to in subsection (1) (c) is not in possession of his or her licence or permit issued under this Act to operate a motor vehicle at the time the person is served with the notice of driving prohibition, the person must promptly send the licence or permit to the Insurance Corporation of British Columbia.
- (3) The notice of driving prohibition must be in the prescribed form and must contain
 - (a) a statement of the right to have the driving prohibition reviewed by the superintendent under section 94.4,
 - (b) s.13 instructions describing how to apply for that review, and
 - (c) a statement that if the person on whom the notice of driving prohibition is served does not apply for a review under section 94.4, the person will be prohibited from operating a motor vehicle for a period of 90 days.
- (4) A notice of driving prohibition must not be served on a person under this section if a notice of driving prohibition is served on the person under section 215.41.

Review of driving prohibition

- **94.4** (1) A person may, within 7 days of being served with a notice of driving prohibition under section 94.1, apply to the superintendent for a review of the driving prohibition by
 - (a) filing an application for review with the superintendent,
 - (b) paying to the superintendent the prescribed hearing fee, and
 - (c) if it has not been taken by the peace officer or sent to the superintendent under section 94.1, surrendering to the

Insurance Corporation of British Columbia his or her licence or permit to operate a motor vehicle unless the person completes and files with the superintendent a statutory declaration stating that the licence or permit has been lost, stolen or destroyed.

- (2) An application for review must be in the form, contain the information and be completed in the manner required by the superintendent.
- (3) An applicant may attach to the application for review any sworn statements or other evidence that the applicant wishes the superintendent to consider.
- (4) The filing of an application for review does not stay the driving prohibition.
- (5) The superintendent is not required to hold an oral hearing unless the applicant
 - (a) requests an oral hearing at the time of filing the application for review, and
 - (b) pays the prescribed oral hearing fees.
- (6) If a person requests an oral hearing and fails to appear on the date and at the time and place arranged for the hearing, without prior notice to the superintendent, the right to an oral hearing is deemed to have been waived by the person.

Considerations

- **94.5** (1) In a review of a driving prohibition under section 94.4, the superintendent must consider
 - (a) any relevant sworn or solemnly affirmed statements and any other relevant information,
 - (b) the report of the peace officer forwarded under section 94.3 (d),

- (c) a copy of any certificate of analysis under section 258 of the *Criminal Code* with respect to the person served with the notice of driving prohibition, and
- (c.1) any other relevant documents and information forwarded to the superintendent, including peace officers' reports that have not been sworn or solemnly affirmed and the copy of the notice of prohibition, and
- (d) if an oral hearing is held, in addition to the matters referred to in paragraphs (a) to (c), any relevant evidence given or representations made at the hearing.
- (2) The superintendent may consider a copy of the certificate referred to in subsection (1) (c) without proof
 - (a) of the identity and official character of the person appearing to have signed the certificate, or
 - (b) that the copy is a true copy.
- (2.1) Despite subsection (1), the superintendent may, in the superintendent's discretion, proceed with a hearing whether or not the superintendent has received at the time of the hearing all those documents required to be forwarded to the superintendent under section 94.3.
- (2.2) The superintendent may determine the weight to be given to any document or other information referred to in subsection (1) (c.1), including any document or information that is not sworn or solemnly affirmed.
- (3) In a review of a driving prohibition under section 94.4, no person may be cross examined.

Chernoff, Lawrence SSBC:EX

From: Kirby, Christopher T SG:EX
Sent: Friday, June 18, 2010 12:30 PM
To: Esposito, Tony N SG:EX

Subject: leg

Follow Up Flag: Follow up Completed

Tony, here is the link to the legislation that needs to go in the binders. Thanks. Chris

http://www.leg.bc.ca/39th2nd/1st_read/gov14-1.htm

Chernoff, Lawrence SSBC:EX

From: Kirby, Christopher T SG:EX Sent: Friday, June 18, 2010 12:27 PM Esposito, Tony N SG:EX To:

Materials Subject:

Follow Up Flag: Follow up Flag Status: Completed

Tony, this also needs to go in the binders.

From: Kazmiruk, Dan SG:EX

Sent: Friday, June 18, 2010 10:12 AM

To: Kirby, Christopher T SG:EX Cc: Anderson, Kathy E SG:EX

Subject: RE: training

Here are the most current versions...they have not been updated yet from your earlier comments:







olication - EcoComplication - Regularplication - Draft 1.



VEHICLE IMPOUNDMENT APPLICATION FOR REVIEW REQUEST FOR ECONOMIC HARDSHIP/COMPASSIONATE REVIEW SECTIONS 262, 263 – MOTOR VEHICLE ACT

The personal information on this form is collected under the authority of the *Motor Vehicle Act (RS British Columbia 1996 s. 262, 263)* and the *Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c)).* The personal information collected will be used by the Office of the Superintendent of Motor Vehicles in reviewing the vehicle impoundment. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

	VI No.							
APPLICANT'S NAME					APPLICANT'S DRIVER'S LICENCE NUMBER			
ADDRESS	ADDRESS CITY/TOWN							
PROVINCE	POSTAL CODE		HOME PHONE NUMBE	ER	OTHER PHONE NUMBER(S)			
Owner's consent to the release of the motor vehicle to the applicant: I consent to the Superintendent releasing the motor vehicle to the applicant upon a successful request for release. SIGNATURE OF OWNER OF MOTOR VEHICLE								
REQUEST FOR RELEASE FOR ECONOMIC HARDSHIP I am the owner or authorized representative of the owner, and I am attaching information that shows that: 1. The impounded vehicle is used in an active sole proprietorship, partnership or company (business). 2. The business has a reasonable prospect for generating income that is dependent on the impounded vehicle, and the prospective income dependent on the impounded vehicle represents a substantial amount of the anticipated income to be earned by the business during the period of impoundment, or otherwise imposes an economic hardship on the business. 3. The impoundment of the motor vehicle will result in the loss of a substantial amount of the anticipated income to be earned by the business, or will otherwise pose an economic hardship to the business.								
I request either:		DATE		TIME	TELEPHONE NUMBER			
a written review	WRITTEN REVIEW	DATE		TIIVIE	()			
an oral hearing	ORAL HEARING	DATE		TIME	TELEPHONE NUMBER			
Applicant's signature								
REQUEST FOR COMPASSIONATE RELEASE I am a co-habitant of the vehicle owner, and: the impoundment of the motor vehicle will cause me to suffer a loss or curtailment of employment or educational opportunities, and I have no reasonable alternative form of transportation including public transportation; and/or the impoundment of the motor vehicle will prevent me or someone under my care from obtaining medical treatment and I have no reasonable form of transportation including public transportation.								
I request either:								
a written review	WRITTEN REVIEW	DATE		TIME	TELEPHONE NUMBER ()			
an oral hearing	ORAL HEARING	DATE		TIME	TELEPHONE NUMBER ()			
Applicant's signature								
OFFICE USE ONLY								
SIGNATURE OF CUSTOMER SERVICE REPRES	SENTATIVE O	FFICE	DATE		RECEIPT NUMBER			



VEHICLE IMPOUNDMENT APPLICATION FOR REVIEW SECTION 256 – MOTOR VEHICLE ACT

The personal information on this form is collected under the authority of the *Motor Vehicle Act (RS British Columbia 1996 s. 256)* and the *Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c))*. The personal information collected will be used by the Office of the Superintendent of Motor Vehicles in reviewing the vehicle impoundment. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

		VI No						
OWNER'S NAME						BC DRIVER'S LICENCE/CLIENT NUMBER		
ADD	ADDRESS CITY/TOWN							
PROVINCE POSTAL CODE		HOME PHONE NUMBER				OTHER PHONE NUMBER(S)		
APPLICATION FOR REVIEW Check all applicable box(es):								
	Whe	ere Owner was the Drive	r			Where O	wner wa	as not the Driver
	At the time the motor vehicle was impounded I was not prohibited from driving or my driver's licence and my right to apply for or obtain a driver's licence was not suspended under any of the provisions referred to in section 251 (1) (a) or (b) of the <i>Motor Vehicle Act</i> .			The driver was in the possession of the motor vehicle without my knowledge or consent. I exercised reasonable care and diligence in entrusting the motor vehicle to the person who was, at the time of the impoundment, in possession of the				
	Before I drove the motor vehicle I had no reason to believe that I was prohibited from driving a motor vehicle or that my driver's licence and my right to apply for or obtain a driver's licence was suspended under any of the provisions referred to in section 251 (1) (a) or (b) of the <i>Motor Vehicle Act</i> .				motor vehicle. At the time the motor vehicle was impounded, the driver was not prohibited			
	At the time the motor vehicle was impounded I held a subsisting driver's licence issued under the <i>Motor Vehicle Act</i> or I was exempt under section 34 of the <i>Motor Vehicle Act</i> from holding a driver's licence.			At the time the motor vehicle was impounded, the driver held a subsisting driver's licence issued under the <i>Motor Vehicle Act</i> or was otherwise exempt under section 34 of the <i>Motor Vehicle Act</i> from holding a driver's licence.				
	Before I drove the motor vehicle I had a reasonable belief that I held a subsisting driver's licence issued under the <i>Motor Vehicle Act</i> or I was otherwise exempt under section 34 of the <i>Motor Vehicle Act</i> from holding a driver's licence under the <i>Motor Vehicle Act</i> .			A notice for the purposes of vehicle impoundments under section 251 (1) (c) of the <i>Motor Vehicle Act</i> should not have been placed on the driving record of the driver under section 252 of the <i>Motor Vehicle Act</i> .				
A notice for the purposes of the vehicle impoundments under section 251 (1) (c) of the <i>Motor Vehicle Act</i> should not have been placed on my driving record under section 252 of the <i>Motor Vehicle Act</i> .				Owner Disputes Period of Impoundment The impoundment period should not have been increased to 30 or 60 days due to my ownership of vehicle(s) impounded within two years before the day of this impoundment.				
l ro	quest either:							
	a written review	WRITTEN REVIEW	DATE			TIME	(ELEPHONE NUMBER)
	an oral hearing	ORAL HEARING	DATE		TIME	(ELEPHONE NUMBER)	
Attachments Owner's signature								
OFF	ICE USE ONLY							
DISCLOSURE Applicant has been provided all the evidence the Superintendent will consider during the review If evidence is not disclosed, it will be faxed to the applicant at the following fax number: ()								
SIG	NATURE OF CUSTOMER SERVICE	REPRESENTATIVE C	DFFICE		DATE			RECEIPT NUMBER



IMMEDIATE ROADSIDE PROHIBITION (IRP) APPLICATION FOR REVIEW SECTION 215.48 - MOTOR VEHICLE ACT

The personal information on his form is collected under the authority of the *Motor Vehicle Act (RS British Columbia 1996 s. 215.48)* and the *Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c)).* The personal information collected will be used by the Office of he Superintendent of Motor Vehicles in reviewing the vehicle impoundment. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

		IRP Number									
DRIVER'S NAME			BC DRIVER'S LICENCE/CLIENT NUMBER								
ADDRESS			CITY/TOWN								
PROVINCE	CE POSTAL CODE HOME PHONE NUMBER OTHER PHONE NUMBER(S)										
APPLICATION FOR REVI	EW (Check all applicable boxes):										
☐ I was not the driver withi	n the meaning of section 215.41(1) of	the Motor Vehicle Act*									
☐ An approved screening of	An approved screening device did not register a warn*										
☐ An approved screening of	device did not register a fail*										
☐ I did not fail or refuse to	comply with a demand made as descr	ibed in section 215.41(4) of the	e Motor Vehicle Act*								
☐ I had a reasonable excu	se for failing to comply with the demar	nd as described in section 215.	41(4) of the Motor Vehicle Act*								
☐ My 7-day or 30-day proh	nibition should be reduced because I d	id not have the required numb	er of previous IRP(s)								
*See section 215.41 of Motor Vehicl	e Act on reverse (includes relevant de	finitions)									
DISCLOSURE											
☐ A copy of the following in	nformation the Superintendent will con	sider during the review has be	en provided to the applicant:								
□ Notice of Prohib	oition Driving Reco	rd									
☐ Report to Supe	rintendent	y)									
Application has available Fax number no	ot available at time of application OR provided a fax number to which inform t provided; applicant has arrangement Name of representative (if applicable	to pick up information, or have	()								
Signature of Customer Service			Signature Acknowledging Receipt								
REQUEST FOR REVIEW I request either:	to ensure that addresses, phone numbers, contact	x names, etc. are up to date									
☐ a written review ☐ a	n oral review (30-day and 90-day prof	nibitions only)									
Review scheduled for			()								
Date Time Telephone Number Note: If you are to be represented in your review, you are responsible to ensure your representative is available for that date and time. All written information you wish to be considered should be provided to the Superintendent in advance of the review. Reviews will not be rescheduled, except in extraordinary circumstances.											
Attachments Number of Pac	 ges	Applicant's Signature									
OFFICE USE ONLY	,										
Driver's Licence: Seized by Po	olice Surrendered to ICB	C Cash	☐ Credit Card (where accepted)								
Never Licens			Interac (where accepted								
SIGNATURE OF CUSTOMER SERVICE REPRESI	ENTATIVE OFFICE	DATE	RECEIPT NUMBER								

Chernoff, Lawrence SSBC:EX

From: Kirby, Christopher T SG:EX
Sent: Friday, June 18, 2010 12:27 PM
To: Esposito, Tony N SG:EX

Follow Up Flag: Follow up Completed

Hi Tony, this material needs to go in the binders for next week. Chris

From: Kazmiruk, Dan SG:EX

Sent: Friday, June 18, 2010 9:59 AM

Sent: Friday, June 18, 2010 9:59 **To:** Kirby, Christopher T SG:EX

Subject:

Hi Chris...here they are....by the way I fixed those errors that you noticed the other day.

Adobe





Notice of Notice of Notice of rohibition - IRP Fi.poundment - Finarohibition (UL) Fin



NOTICE OF DRIVING PROHIBITION Section 215.41 (MVA) CERTIFICATE OF SERVICE Section 215.47 (MVA)

IRP No. 00 - 000000

NOTICE OF DRIVING PROHIBITION Section 215.41 (MVA)

	SURNAME		GIVE	N NAMES		BIRTH DATE (YY	(YY/MM/DD)	GENDER
TO:	COMB T	O FILL				COME	3X8	
D	ADDRESS (STREET)		CITY/TOWN	N	PROV/STATE	POSTAL CO	ODE/ZIP
R	COMB T	COMB TO FILL						3X6
V	BC DRIVER'S LICEN	ENCE NUMBER CLASS EXPIRY YR OUT-OF-PROVINCE DRIVER'S				LICENCE NUMBER		PROVINCE/STATE
Ė	COMB x	7			COMB TO FIL	_L		
R	SEIZED DRIVER'S L	ICENCE		VEHICLE IMPOUND	ED?	VEHICLE IMPOUN	IDMENT NUMBE	:R
	YES	□ NO □ P	ното	☐ YES	□ NO	combX8		
The u	ındersigned pea	ace officer has reaso	onable ground	s to believe that o	on CO	MM DD MBX8		
at	hours, on				at or near	(CITY/TOWN)	, Briti	sh Columbia,
		rol of a motor vehicl you from driving for	e on a highwa	y or industrial roa	d and for the reason set	out below has reas	sonable gro	unds to
	PROHIBITION PERIOD			REASON FO	R PROHIBITION			MONETARY PENALTY*
	3 days	because a sample of affected by alcohol.	of your breath on	an approved scree	ning device registered WAF	₹N and your ability to	drive is	\$200
	7 days				ning device registered <u>WAF</u> n due to a WARN reading w			\$300
	30 days				ning device registered WAF ent prohibition due to a WA			\$400
	90 days	because a sample of affected by alcohol.	of your breath on	an approved scree	ning device registered FAIL	and your ability to di	rive is	\$500
	90 days		because you failed or refused, without a reasonable excuse, to comply with a demand made under the Criminal Code to provide a sample of breath for analysis by means of an approved screening device. \$500					
PEACE	OFFICER'S NAME (PF	RINT)	PEACE OFFIC	ER'S SIGNATURE		PIN/BADGE	NUMBER	
ENFOR	CEMENT AGENCY NA	ME (PRINT)			AGENCY FILE NUM	IBER		
		. ,						

IMMEDIATE EFFECT OF PROHIBITION AND RIGHT OF REVIEW

You are immediately prohibited from driving for he period set out in this no ice of prohibi ion. You have the right to have this driving prohibition reviewed by the Superintendent of Motor Vehicles (the "Superintendent") under section 215.48 of the Motor Vehicle Act. An oral hearing is available only if the prohibition specified above is for 30 days or longer, and only if you specifically request one at the time you apply for a review. Filling an application for review does not stay the driving prohibition.

REVIEW INSTRUCTIONS

Within 7 days of the date of service of this Notice of Driving Prohibition you may apply to the Superintendent to review the prohibition. If you apply for a review you must: (1) file an application with he Superintendent at any Driver Licensing Centre, in the required form and manner, and containing all the required informa ion; (2) pay all required fees; and (3) if the peace officer did not take your driver's licence or permit to operate a motor vehicle, surrender it to the Insurance Corporation of British Columbia, or if applicable, file the required statutory declaration stating that the licence has been lost, stolen or destroyed.

When you apply for a review, the date and time for the review will be scheduled. If you intend to have a lawyer represent you, it is your responsibility to ensure the lawyer is available for the scheduled review. The scheduled review date will not be changed except in extraordinary circumstances.

When you apply for a review, copies of all available evidence concerning this prohibi ion will be disclosed to you unless you refuse the disclosure. If all relevant information is not available at the time of application, you must provide a fax number to which the documents can be sent, or make arrangement to collect the information or have it collected on your behalf from a Driver Licensing Centre.

You may attach to your review application any statements or other evidence that you wish the Superintendent to consider. You may also provide it separately to the Superintendent. In order to ensure that all of your written evidence is considered, you must provide the material to the Superintendent in advance of the scheduled review.

If you request an oral hearing and, without prior notice to the Superintendent, fail to appear on the date and at the time and place arranged for he hearing, your right to an oral hearing is deemed to have been waived.

*NOTICE OF MONETARY PENALTY

Under section 215.44 of the Motor Vehicle Act the monetary penalty as indicated above must be paid no later than 30 days from the date this notice is served. Under section 26 of the Motor Vehicle Act, ICBC may, without a hearing, refuse to issue you a driver's licence if the penalty is not paid, and any licence in your possession may be cancelled under sec ion 26.1 of the Motor Vehicle Act.

SEE REVERSE FOR OTHER IMPORTANT NOTICES

changed ex	sept iii extraorai	iary circumstant	.03.	OLE NEVEN	102 1 011 0 1					
CERTIFICATE OF SERVICE Section 215.47 (MVA)										
					Y	ſΥΥ	MM	DD		
I,				, a peace officer, certify that on		COMBx8				
		PRINT								
I persona	lly served			W	vith a cop	of the	e Notice of [Oriving Pr	ohibition.	
•	-			(NAME OF DRIVER)	•	,		J		
Dated:	YYYY	MM	DD	D O#:		DI	N/D = d = a Ni			
COMBx8				Peace Officer's SignaturePIN/Badge Number			mber			

IMPORTANT NOTICES TO DRIVER

MEANING OF WARN AND FAIL

Section 215.41 of the Motor Vehicle Act defines "WARN" and "FAIL" as follows:

"warn" means an indication on an approved screening device that the concentration of alcohol in a person's blood is not less than 50 milligrams of alcohol in 100 millilitres of blood.

"fail" means an indication on an approved screening device that the concentration of alcohol in a person's blood is not less than 80 milligrams of alcohol in 100 millilitres of blood.

PROHIBITION LENGTH

You are prohibited from driving immediately upon service of this notice for the period indicated. Your prohibition from driving is counted in full days. Partial days including the day you were served with this notice of prohibition are not included in the count of full days.

PROHIBITION REVIEW

Your right of review is outlined on the front of this notice of prohibition. The driving prohibition will be revoked if the Superintendent of Motor Vehicles is satisfied of one of the following, as applicable:

- that you were not the driver or in care or control of a motor vehicle,
- In the case of a 3, 7 or 30 day prohibition an approved screening device did not register a WARN,
- In the case of a 90-day prohibition the device did not register a FAIL, or
- In the case of a 90-day prohibition you did not fail or refuse to comply with a demand to provide a breath sample, or you had a reasonable excuse for failing to comply with a demand

The driving prohibition will be varied if the Superintendent of Motor Vehicles is satisfied of one of the following, as applicable:

- > You did not have the required number of previous WARN range prohibitions for a 7 or 30 day prohibition
- Your 90-day prohibition was erroneously issued due to a WARN reading a 3, 7 or 30 day prohibition as applicable will be substituted

If a prohibition is revoked or varied, the associated monetary penalty will be cancelled or varied as appropriate.

REMEDIAL PROGRAM REQUIREMENTS - 30 DAY AND 90 DAY PROHIBITIONS

Under the provisions of sections 215.45 and 25.1 of the Motor Vehicle Act, it is in the public interest for you to attend and participate in the Responsible Driver Program and the Ignition Interlock Program. In addition to the requirements already specified, you must do the following:

- Register for the Responsible Driver Program and pay the prescribed program fee
- > Register for the Ignition Interlock Program and have an ignition interlock device installed in any vehicle you intend on driving, and pay the prescribed program fee

These requirements must be met <u>before</u> you can apply for a driver's licence after your prohibition from driving. If you have received a 3 or 7 day prohibition from driving, the Superintendent of Motor Vehicles will review your past driving history. One or both of these programs may be required following this review.

Information concerning both of these programs, including contact information for the service providers, is available at the Superintendent of Motor Vehicles website at www.pssq.qov.bc.ca/osmv.

DRIVING RECORD REVIEW - GRADUATED LICENSING PROGRAM DRIVERS

Drinking and driving is a serious violation of the conditions of the Graduated Licensing Program. If you are a participant in the program, you should be aware that your driving record will be reviewed by the Superintendent of Motor Vehicles, and you can expect a further driving prohibition. For further details concerning the Driver Improvement Program policies and guidelines with respect to drinking and driving by Graduated Licensing Program participants visit www.pssg.gov.bc.ca/osmv.

DRIVING RECORD REVIEW - EXPERIENCED DRIVERS

This driving prohibition will be considered by the Superintendent of Motor Vehicles anytime your driving record is reviewed. If, in the opinion of the Superintendent of Motor Vehicles, you have an unsatisfactory driving record, a further driving prohibition may be ordered. For further details concerning the Driver Improvement Program policies and guidelines for experienced drivers visit www.pssg.gov.bc.ca/osmv.

DRIVER'S LICENCE REINSTATEMENT REQUIREMENTS - ALL DRIVERS

After your prohibition has ended, you must attend a Driver Licensing Centre to apply for a new driver's licence. You will need to pay a \$250 licence reinstatement fee, the fee for a short-term driver's licence, your monetary penalty as described on the front of this notice of prohibition, as well as any outstanding fines or debts that may be owing to the government, the courts or to ICBC. For the location of your nearest Driver Licensing Centre, visit ICBC's website at www.icbc.com.

Superintendent of Motor Vehicles



REPORT TO SUPERINTENDENT Immediate Roadside Prohibition

Section 215.47 MVA

IRP No. 00 - 000000

REPORT ON			A	GENCY FILE	NUMBER		
DRIVER'S LICENCE NU	(NAME OF DRIVE) MBER	₹)	DAT	E OF REPORT	-		
				□ PRIME REPORT ATTACHED:page(s)			
1. Evidence of Driving				_			
How was the person identifi					-		
☐ Witnessed by investigating	ng officer 🛮 Adm	ission/statement by dri	iver □ Witness				
☐ Other (explain how you est	ablished care or cor	ntrol, time of driving):					
Evidence driver was in care	or control of vehic	cle (e.g. location of vehic	le, location of driver, v	vehicle keys, wheth	ner vehicle was opera	ble, etc):	
2. Reasonable Suspicio	on for Demand	· (Evidence of consumpt	ion, alcohol in vehicle	nhysical sympton	ne etc.)		
2. Reasonable Suspicio	on for Demand	. (Evidence of consumpli	on, alconor in venicle,	priysicai symptom	is, etc.)		
Time reasonable suspicion f	ormed:	Time of last dri	nk:		on of consumption:		
How have you established the time the sample(s) was t					/care or control of t	he vehicle and	
3. Approved Screening Did the driver understand de							
Explain any delays if sample	is not taken forth	with after demand:					
4. Approved Screening	Device - Test R	Result: Showed ASE	reading(s) to drive	er: □ Yes □ No	1		
ASD Type	Serial No.	Calibration Expiry	Service Expiry	Time of Test	Result		
☐ Alco-Sensor IV DWF ☐ Alco Sensor FST		000000000000000000000000000000000000000	000044400		□ WARN	□ FAIL	
5. Was a second test pe	rformed? 🗆 Ye	es, at driver's request ((If yes, complete grid	below) □ No,	driver did not requ	est a second test	
☐ No, driver withdrew reque	est (explain)						
ASD Type	Serial No.	Calibration Expiry	Service Expiry	Time of Test	Result		
☐ Alco-Sensor IV DWF					□ WARN	□ FAIL	
☐ Alco Sensor FST		(YYYYMMDD)	(YYYYMMDD)		L WAIN	LI AIL	
6. Failure or Refusal to	Comply with D	emand: Date:		Time: _			
How did the driver fail or refu	use to provide bre	ath sample? (describe i	n detail, including any	statements, reque	ests, action, etc. made	e by driver):	
SIGNATURE OF PEACE	OFFICER			PIN/B <i>A</i>	DGE		

NOTICE OF IMPOUNDMENT

BRITISH COLUMBIA

Section 215.46/251 (MVA)

00-00000 VI No.

SUF	RNAME GIVEN NAMES	B RTH DATE (YY	YY/MM/DD) GENDER
R C	OMB FIELD to fill		
-	VER'S LICENCE NUMBER PROV NCE/STATE CLA	ASS E	XPIRY DATE
R (COMB TO FILL		
	NER 1 (SURNAME – GIVEN NAMES OR OTHER ENTITY NAME) SURNAME – GIVEN NAMES (OWNER 2 OR LESSEE)		B RTH DATE (YYYY/MM/DD)
o W N			
	DRESS(STREET) CITY/TOWN	PROVINCE/STAT	E POSTAL CODE/ZIP
LIC	ENCE PLATE NUMBER PROV/STATE MAKE MODEL	YEAR	COLOUR
V E H			
1	GISTRATION NUMBER NSC VEHICLE DENT FICATION (SERIAL) NUMBER		
E			
		DD L	1 1 1 1
The	ndersigned peace officer has reasonable grounds to believe that on		
	hours, on ,at or near	,	. British Columbia.
at	(CITY/TO)	WN)	, Dritish Columbia,
	iver was operating a motor vehicle and for one or more of the reason(s) specified below the vehicle	cle is impound	ed for the period set
out be			
CHEC	K ALL APPLICABLE IMPOUNDMENT REASONS A 2.7 OR 20 DAY IMPOUNDMENT FOR THE FOLLOWING REASON SECTION 245.46.4	OF THE MOTO	OD VEHICLE ACT.
_	A. 3, 7 OR 30 DAY IMPOUNDMENT FOR THE FOLLOWING REASON – SECTION 215.46		OR VEHICLE ACT:
Ц.	3-DAY IMPOUNDMENT pursuant to a 3-day prohibition under section 215.43(1)(a) of the Motor Vehicle Act		
Щ	7-DAY IMPOUNDMENT pursuant to a 7-day prohibition under section 215.43(1)(b) of the Motor Vehicle Act	t	
Ц	30-DAY IMPOUNDMENT pursuant to a 30-day or 90-day prohibition under section 215.43(1)(c) or 215.43(2)	·	
į	B. 7 DAY IMPOUNDMENT FOR THE FOLLOWING REASON(S) – SECTION 251 OF THE N	OTOR VEHIC	SLE ACT:
	Driving while proh bited or suspended under the Motor Vehicle Act, Criminal Code, Youth Justice Act or You	uth Criminal Just	ice Act (Canada)
	Driving without a valid driver's licence and with a notice on the driving record indicating a previous conviction	n for driving whil	e unlicensed
	Committing an offence under section 148 of the Motor Vehicle Act		
	Driving or operating a motor vehicle in a race or in a stunt as defined in the Motor Vehicle Act and the office	r intends to char	ge with an offence
	Committing an offence under section 194 (1) or (2) of the Motor Vehicle Act		
	Committing an offence under section 25(15) of the Motor Vehicle Act relating to a restriction or condition of a motor	rcycle learner or r	novice driver's licence
PEACE	OFFICER'S NAME (PRINT) PEACE OFFICER'S SIGNATURE	PIN/BADGE	NUMBER
ENFOR	CEMENT AGENCY NAME (PRINT) AGENCY FILE NUMBER	<u> </u>	
	ACTION I'LL NOMBLY	=	
	YYYY MM DD	(IMPOUND LO	OT)
The n	notor vehicle was impounded on COMBX8 , and is stored at		
	(STREET ADDRESS) (CITY/TOWN)		CODE - TELEPHONE NUMBER)
	, British Columbia	COMBX	(XX-XXX-XXXX

REVIEW INSTRUCTIONS

No review is available when a vehicle is impounded for 3 or 7 days. Under section 256 of the Motor Vehicle Act, the owner of a motor vehicle impounded for 30 days or longer may, within 15 days of the impoundment, apply to the Superintendent of Motor Vehicles (the "Superintendent") for a review. The owner must: (1) file an application with the Superintendent at any Driver Licensing Centre, and (2) pay the prescribed hearing fee. Before filing the application for review, the owner may request a copy of all the evidence the superintendent will consider during the review. The owner may also attach any written statement or other evidence they wish the Superintendent to consider. To ensure all written evidence is considered, the Superintendent must receive it before the scheduled review date.

The owner may request an oral hearing at the time of application by paying the prescribed oral hearing fee. If the applicant requests an oral hearing and fails to appear on the date, and at the time and place arranged for the hearing without prior notice to the Superintendent, the applicant's right to an oral hearing is deemed to have been waived, and the review will be conducted based on any written evidence that is available. The filing of an application for review does not stay the impoundment of the motor vehicle.

PERIOD OF IMPOUNDMENT

If an eligible owner does not apply for a review under section 256, the vehicle will remain impounded until it is eligible for release. The vehicle will be impounded for 30 days or 60 days if the records of the Superintendent indicate that the owner has, within the two years before the date of this impoundment, owned one or more vehicles that have been subject to impoundment. The Superintendent will notify the owner and the impound lot operator when the impoundment term is 30 or 60 days.

DISPOSAL OF UNCLAIMED VEHICLES

If the owner of a motor vehicle does not pay the towing and storage charges associated with the impoundment, the vehicle may be disposed of after the expiry of the impoundment under the Warehouse Lien Act, or under section 255(7) of the Motor Vehicle Act. If an owner does not claim a vehicle, the Superintendent may direct the Insurance Corporation of British Columbia to refuse to issue the owner a driver's licence, a vehicle licence and corresponding number plates, or any permit until payment has been made to the impound lot operator (ILO) that stored the vehicle.

SEE REVERSE FOR MORE INFORMATION

INFORMATION FOR DRIVERS

REASONS FOR IMPOUNDMENT

The notice of impoundment indicates the reason(s) the vehicle you were driving was impounded. Under the Motor Vehicle Act, these reasons are:

- Driving while prohibited or with a suspended driver's licence
- Driving without a valid licence having been previously convicted for the same offence
- Committing an excessive speeding offence (more than 40 km/h over the speed limit)
- Being involved in a street race (see section 250 of the Motor Vehicle Act at www.bclaws.ca for a full definition)
- Stunt driving, which includes activities such as lifting any or all of a vehicle's tires off the road surface, causing a vehicle to lose traction, causing the vehicle to spin, driving in an oncoming lane longer than necessary to pass, blocking other vehicles or driving too close to another vehicle, pedestrian or fixed object (see section 250 of the Motor Vehicle Act at www.bclaws.ca for a full definition)
- Failing to ride properly astride a motorcycle
- Failing to obey learner/novice motorcycle restrictions and conditions
- Being served with an immediate roadside prohibition for drinking and driving.

EARLY RELEASE

If the vehicle was impounded because you were "Driving without a valid driver's licence, and with a notice on the driving record indicating a previous conviction for driving while unlicensed", and for no other reason, the vehicle can be released immediately if you obtain a valid British Columbia driver's licence. Bring a copy of the notice of impoundment with you to a Driver Licensing Centre when you apply for a driver's licence. If you do not own the vehicle you were driving, the owner should attend with you or provide written authorization for you or another person to retrieve the vehicle from the impound lot. For the location of your nearest Driver Licensing Centre visit www.icbc.com.

DUTY OF DRIVER

Under section 251(8) of the Motor Vehicle Act, a driver who is not the owner of the vehicle must make all reasonable efforts to notify the owner of the impounded vehicle of the impoundment as soon as practicable.

INFORMATION FOR VEHICLE OWNERS

HOW ARE IMPOUNDMENT DAYS CALCULATED?

Vehicle impoundment terms are calculated in full days. Partial days, including the day the vehicle was impounded do not count.

EARLY DISPOSAL AGREEMENT

If you do not intend to claim your vehicle following an impoundment you may enter into an early disposal agreement with the impound lot operator (ILO). Under this agreement you transfer ownership of the vehicle to the ILO and in exchange do not accumulate the full costs and charges that normally apply to a full length impoundment. Any vehicle transferred under such an agreement cannot be registered again for use on a highway.

WHO CAN APPLY FOR A REVIEW AND ON WHAT GROUNDS?

A review is not available for a 3-day or 7-day impoundment

An owner who was not the driver may apply for a review on the following grounds:

- · Reasonable care and diligence was taken in entrusting the vehicle to another driver
- The driver took the vehicle without the owner's knowledge or consent
- The person driving the vehicle was not prohibited or suspended
- The person driving the vehicle held a valid driver's licence or was exempt from the requirement to hold a licence
- A notice to impound the vehicle of an unlicensed driver should not have been on his or her driving record

An owner who was the driver may apply for a review on the following grounds:

- He or she was neither prohibited nor suspended, or had no reason to believe they were prohibited or suspended
- He or she held a valid driver's licence or was exempt from the requirement to hold a licence
- A notice to impound the vehicle of an unlicensed driver should not have been on his or her driving record

A cohabitant of a owner, who also holds a valid driver's licence and with no reasonable alternative form of transportation may apply for a review on the following grounds:

- He or she will suffer a loss or curtailment of employment or educational opportunities
- The impoundment will prevent the cohabitant, or a person under their care, from obtaining medical treatment

Business owners may apply for early release of a vehicle if they can demonstrate that:

- The vehicle is used in an active sole proprietorship, partnership or company (i.e. a business),
- · There is a reasonable prospect of earning income that is dependent on the impounded vehicle, and
- That the continued impoundment would impose an economic hardship on the business

More information on the various review grounds, including review and applicable vehicle release fees is available at www.pssg.gov.bc.ca/osmv.

CLAIMING YOUR VEHICLE AFTER THE IMPOUNDMENT

At the end of a 3 or 7 day impoundment the vehicle may be claimed directly from the impound lot. If the impoundment is for 30 or 60 days, you will need to attend a Driver Licensing Centre to request release of the vehicle. The Driver Licensing Centre will fax an order of release to the impound lot, and the owner, or someone authorized by the owner, will be able to claim the vehicle. The vehicle owner is responsible for paying all towing and storage fees to the impound lot operator. For the location of your nearest Driver Licensing Centre visit www.icbc.com.

JAG-2013-00401



REPORT TO SUPERINTENDENT **Vehicle Impoundment** Section 254 MVA

VI No. 00 - 000000

REPORT ON(NAME OF DRIVER)	AGENCY FILE NUMBER
	DATE OF REPORT
	□PRIME REPORT ATTACHED:page(s)
1. Prohibited/Suspended Driver Details (Complete only fo	
Source of driver status: ☐ CPIC ☐ PRIME Prohibition/Suspension Reason: ☐ MVA Section	_ □ CCC Section □ Other: (YJA/YCJA)
Details of incident:	
2. Unlicensed Driver Details (Complete only for unlicensed of	Vrivers)
□ VI Flag on Driving Record □ Out of province DL produced	
D VI Flag on Driving Record D Out of province DE produced	i (ir yes, explain why driver is not exempt under section 34)
Details of incident:	
3. Details – All other Impoundments (Provide details of beh	
Charges ☐ MVA Section(s): ☐ CC	CC Section(s)
4. Vehicle Owner Information (Complete if owner was not the	e driver)
Was the owner in the vehicle? ☐ Yes ☐No	
Did the owner know the driver is in possession of the vehicle'	? (statements of driver or owner if contacted)
SIGNATURE OF PEACE OFFICER	PIN/BADGE
SIGNATURE OF FEAGE OFFICER	FIIWDADGE



NOTICE OF DRIVING PROHIBITION Section 251(1) (MVA) CERTIFICATE OF SERVICE Section 251(3) (MVA)

UL No. 00 - 000000

NOTICE OF DRIVING PROHIBITION Section 251(1) (MVA)

	SURNAME	GIVEN NAMES		B RTH DATE (YYYY/MM/DD) GEND				
TO:	COMB TO FILL			COMBX6				
D	ADDRESS (STREET)	CITY/TOWN	PR	OV/STATE POSTAL COL	DE/Z P			
R I V	COMB TO FILL			COMB	X6			
	BC DRIVER'S LICENCE NUMBER	CLASS EXPIRY YR OUT-	OF-PROVINCE DRIVER'S LICEN	CE NUMBER P	ROVINCE/STATE			
Ě	COMB x7	CC	OMB TO FILL					
R	SEIZED DRIVER'S LICENCE	VEHICLE IMPOUNDED?		VEHICLE MPOUNDMENT NUMBER				
	YES NO F	ното	□ NO	combX8				
			YYYY	MM DD				
The u	indersigned peace officer has reas	onable grounds to believe that on	COMB C	COMB COMB				
at	hours, on	,at	or near	, Britis	h Columbia,			
athours, on, at or near, at or near, British Columbia,, you drove or operated a motor vehicle on a highway while you did not hold a subsisting driver's licence under the Motor Vehicle Act, you were not exempt under section 34 of the Motor Vehicle Act from holding a driver's licence, and a notice under section 252 of the Motor Vehicle Act was in place on your driving record indicating that you are liable to be prohibited from driving under section 251(4) of the Motor Vehicle Act.								
	As a result, you are hereby notified that you are prohibited from driving a motor vehicle under section 251(4) of the Motor Vehicle Act. This prohibition commences immediately upon service of this notice.							
PEACE	OFFICER'S NAME (PRINT)	PEACE OFFICER'S SIGNATURE		PIN/BADGE NUMBER				
ENFOR	CEMENT AGENCY NAME (PRINT)		AGENCY FILE NUMBER					

IMMEDIATE EFFECT OF PROHIBITION

This prohibition from driving begins immediately and will continue until you are issued a driver's licence under the Motor Vehicle Act, or the prohibition is revoked in a review under section 261 of the Motor Vehicle Act.

RIGHT OF REVIEW

You have the right to have this driving prohibition reviewed by the Superintendent of Motor Vehicles (the "Superintendent") under section 259 of the Motor Vehicle Act. The Superintendent must conduct the review on the basis of written submissions. Oral hearings are not permitted. Filing an application for review does not stay the driving prohibition.

REVIEW INSTRUCTIONS

You may apply to the Superintendent to review the prohibition. If you apply for a review you must: (1) file an application with the Superintendent in the required form and manner, and include all the required information, and (2) pay the required hearing fee. There is no time limitation on making this review application.

In the review, the Superintendent may only consider your driving record and relevant information that you provide.

The prohibition will be revoked if you can satisfy the Superintendent through your written materials that (1) at the time the prohibition was served, you were exempt under section 34 of the Motor Vehicle Act from holding a driver's licence; (2) you have become exempt under section 34 since the prohibition was served; or (3) a notice under section 252 should not have been placed on your driving record.

You may attach any statements or other evidence that you wish the Superintendent to consider to your review application. The review fee, along with the application form and supporting evidence must be sent to:

Superintendent of Motor Vehicles PO Box 9254, STN PROV GOVT Victoria, BC V8W 9J2

You will be notified in writing once your application has been reviewed. Further information concerning the review fee and process and a review application form are available at www.pssg.gov.bc.ca/osmv.

CERTIFI	CATE OF	SERVICE Sec	tion 251(3	B) (MVA)				
			(YYYY	MM	DD	
l,				, a peace officer, certify that on		COMB		
		PRINT						
I personally served				with	h a copy of th	ne Notice of D	riving Pro	hibition.
-				(NAME OF DRIVER)			_	
Dated:	YYYY	′ MM	DD					
		COMB		Peace Officer's Signature	P	IN/Badge Nur	nber	
MV2725 (09	9/10)		SUPE	RINTENDENT'S COPY/PEACE OFFICER'S	COPY			

IMPORTANT NOTICES TO DRIVER

LIABILITY FOR IMPOUNDMENT AND PROHIBITION

- 252 (1) The Insurance Corporation of British Columbia, for the purposes of motor vehicle impoundments in accordance with section 251 (1) (c) and driving prohibitions under section 251 (4), must place a notice on the driving record of the following persons indicating that, if the person drives or operates a motor vehicle on a highway, the motor vehicle is liable to be impounded and the person prohibited from driving under those sections:
 - (a) a person who has been convicted of an offence under section 24 (1) since the expiry or cancellation of the most recent driver's licence issued to the person under this Act;
 - (b) a person who has been convicted of an offence under section 24 (1) and who has never held a driver's licence under this Act.
- (2) If the Insurance Corporation of British Columbia issues a driver's licence under this Act to a person referred to in subsection (1) (a) or (b),
 - (a) the corporation must remove a notice placed on the driving record of the person under subsection (1), and
 - (b) the superintendent must terminate any prohibition served under section 251 (1) (h) as a result of the notice.

EXEMPTION OF NON-RESIDENT DRIVERS

- 34 (1) The exemptions provided by this section apply only while a person is driving or operating any of the following vehicles in British Columbia:
 - (a) a motor vehicle registered under section 3:
 - (b) a motor vehicle registered under section 21 during the period named in the certificate of registration issued under that section;
 - (c) a motor vehicle operated under a permit issued pursuant to a regulation made under section 11 (2) (d) of the Commercial Transport Act;
 - (d) a motor vehicle operated under a reciprocal arrangement or agreement made under section 10 of the Commercial Transport Act;
 - (e) a commercial vehicle registered and licensed under the Commercial Transport Act;
 - (f) a motor vehicle or trailer in respect of which the owner is exempted under section 21 (1), but only for the period limited by that subsection.
 - (g) a motor vehicle operated under a permit granted under a regulation under section 210 (2) (j).
- (1.1) Subject to subsection (1.2), the following persons are exempt, for the period specified, from the requirements respecting the holding of a driver's licence issued to him or her under this Act:
 - (a) a person who has a validly issued and subsisting driver's or operator's licence or permit issued according to the laws where he or she is ordinarily resident, for 6 months from the date he or she last entered British Columbia;
 - (b) a person who has become ordinarily resident in British Columbia and who has a validly issued and subsisting driver's or operator's licence or permit issued according to the laws of the jurisdiction where he or she was most recently ordinarily resident, for 90 days after he or she became ordinarily resident in British Columbia;
 - (c) a person who has a validly issued and subsisting driver's or operator's licence or permit issued according to the laws where he or she is ordinarily resident, for the period that the person is registered as a full time student at and attends any of the educational institutions listed in section 21 (2) (b).
 - (i) to (viii) [Repealed 2003-7-42.]
 - (d) a person who
 - (i) has a validly issued and subsisting driver's or operator's licence or permit issued according to the laws where he or she is ordinarily resident,
 - (ii) has entered into an agreement under which the person will work in British Columbia, as part of a program or in the circumstances specified by regulation, for a period longer than 6 months but shorter than one year, and
 - (iii) is in a prescribed class of persons, for the period during which the person works in British Columbia under the agreement.
- (1.2) A person claiming an exemption under subsection (1.1) must carry a valid and subsisting driver's or operator's licence or permit on his or her person while operating a motor vehicle referred to in subsection (1) and must produce that driver's or operator's licence or permit to a peace officer on demand.
- (2) A person exempt under subsection (1.1) is also exempt for the same period, while driving or operating in British Columbia a motor vehicle set out in subsection (1) (b), (c) or (d), from the requirements respecting the holding of a motor vehicle liability insurance card or a financial responsibility card, subject, in every case, to his or her giving the Insurance Corporation of British Columbia proof of financial responsibility under sections 106 to 113.

ENDING THE PROHIBITION

The Motor Vehicle Act requires that anyone who operates a motor vehicle possess a valid driver's licence. Subject to the review process described on your notice, you will be prohibited from driving until you are issued a new BC driver's licence. To apply for a driver's licence you must attend a Driver Licensing Centre to apply for a British Columbia driver's licence. You will need to pay a \$250 licence reinstatement fee, the fee for a short-term driver's licence, as well as any outstanding fines or debts that may be owing to the government, the courts, or to ICBC. For the location of your nearest Driver Licensing Centre, visit ICBC's website at www.icbc.com.

If you apply for a review of the prohibition as described on the notice of prohibition, you must be able to provide evidence that you were exempt from the requirement to hold a driver's licence under section 34 of the Motor Vehicle Act. The exemptions are outlined in section 34 (1.1).

Chernoff, Lawrence SSBC:EX

From: Duncan Kent [kent@techcommunicators.com]

Sent: Tuesday, June 15, 2010 2:14 PM

To: Esposito, Tony N SG:EX

Subject: Kathy's PPTs

Attachments: Day 1 Orientation - 4 Jun 10.ppt; Unlicensed Driver Prohibition - 14 June 10.ppt; Vehicle

Impoundment Program - 14 June 10.ppt; ASD Fail or Refusal PPT.ppt; OSMV -

Administrative Justice.pptx; ASD Warn.ppt

Follow Up Flag: Follow up Completed

Thanks!

Duncan

Duncan Kent & Associates Ltd. 1581 Jefferson Ave West Vancouver, BC V7V 2A2

Tel: 604-683-3136

Email: <u>kent@techcommunicators.com</u>
Web: <u>www.techcommunicators.com</u>

Which program do I belong to?

- Immediate Roadside Prohibition
- Vehicle Impoundment
- Team Leader Chris Kirby
- Team Leader [name]

Lunch

How did we get here?

- Where did we come from?
- Why did we want to go in this direction?
- What does out future hold?
- Brad Gerhart, Dan Kazmiruk, Kyle Murray

Role of the Adjudicator

- Chris Kirby
- [name]

1

Welcome to the

OSMV

Stephanie Melvin

Director of Hearings and Fair Practices

2 Your manager and

supervisor team

- Manager of Adjudication and Training Kathy Anderson
- Manager of Adjudication [name]
- Team Leader, Adjudication Chris Kirby
- Team Leader, Adjudication [name]
- Team Leader, Adjudication [name]
- Team Leader, RDP Fred Lee

3 Facilities

- Ladies room down the hall to your right, through the door and up the stairs
- Gents room same except you go down stairs

4 Fridge and coffee

- No fridge on site
- Coffee places on Broughton and Blanshard streets

5 Who are you?

- Introduce your partner:
 - What is their favourite movie?
 - If Hollywood made a movie of their life, who would they want to play the lead?
 - What super-power would they most like to have?
- You have 15 minutes

6 Coffee break

7 Why are we here?

- We'll be together for the next 6 8 weeks
- You'll have a variety of trainers
- You'll will be actively involved
- Get comfy!

8 Ministry of Public Safety and Solicitor General

- Mandate of the Office of the Superintendent of Motor Vehicles
- OSMV programs
- Catherine Minvielle

9 Which program do I belong to?

- Immediate Roadside Prohibition
- Vehicle Impoundment
- Team Leader Chris Kirby
- Team Leader [name]

10 Lunch

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Unlicensed Driver Prohibition

S.251(1)(h)

Police to issue prohibition

- Police must serve a prohibition on a driver where the driver didn't hold a valid DL, or wasn't exempt from holding a BC DL, and a notice was on the driving record
- Police must also impound the vehicle under s.251

Driver applies for a BC DL

 Under s.251(4), if the driver is issued a BC DL from ICBC, the prohibition is revoked

Review of prohibition

- If the driver chooses not to apply for a DL, but wishes to have a review of the prohibition, the driver must apply by:
 - Filing an application for review and paying the \$100 review fee (on our website or in writing) - no time limit applies
 - Providing a written submission (no oral reviews)

Considerations

- You may consider:
 - Driving record of the driver
 - Relevant information provided by the driver

Decision

- You must revoke the prohibition and direct ICBC to remove the notice if you're satisfied that:
 - At the time prohibition notice was served, driver was exempt under s.34
 - Driver has, since the prohibition was served, become exempt
 - Notice shouldn't have been placed on the record

1 Unlicensed Driver Prohibition

■S.251(1)(h)

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Vehicle Impoundment Program

3-, 7-, 30-, and 60- day impoundments

Grounds for impoundment

- Prohibited driver
- Suspended driver
- Right to apply is suspended
- Unlicensed, and not exempt, and notice under s.252 on driving record
- Excessive speed MVA s.148
- Driven in a race or a stunt, and police intend to charge criminally or under s.144(1), 146, or 148
- Committed an offence under MVA s.194(1) or (2) or
- MVA s. 25(15) by violating a requirement, restriction, or condition under s.25 relating to motorcycle licence

MVA sections

Police must impound

- If officer has reasonable and probable grounds to believe any of the previous activities have occurred, officer MUST impound the vehicle
- Also, if person did not hold a valid DL, officer must issue a prohibition under s.251(1)(h) indefinite prohibition
- If prohibition is served, driver may apply for a review of prohibition under s.259 or be issued a DL

Personal property

 Personal property present in the vehicle must be returned to the owner on request

Stolen vehicle

 Any time before a review is conducted police are satisfied a vehicle was stolen, police must release vehicle and advise OSMV

Driver must notify owner

If person driving vehicle wasn't the owner, as soon as practicable, the driver must make all reasonable efforts to notify the owner that the vehicle was impounded

Period of impoundment

- 1st impoundment 7 days
- 2nd impoundment within 2 years (was the owner) 30 days
- 3rd or more impoundments within 2 years (was the owner) - 60 days

OSMV must notify owner

Office Support will notify the owner

Review of impoundment

 Owners of vehicles impounded for 30 or 60 days may apply for a written or oral review within 15 days after the impoundment begins

Considerations

You <u>must</u> consider the officer's report You <u>may</u> consider:

- The driving record of the driver
- Previous impoundments

Decision - owner was <u>not</u> driver

Revoke impoundment and release vehicle if you're satisfied:

- Driver was in possession of the vehicle without the owner's knowledge or consent
- Owner exercised reasonable care and diligence
- Driver wasn't prohibited
- Driver wasn't suspended, or right to apply for a DL wasn't suspended
- Driver held a valid DL or was exempt
- Notice shouldn't have been placed on the driver's record

Decision - owner was driver

Revoke impoundment and release the vehicle if you're satisfied:

- Owner wasn't prohibited
- Before driving, owner had no reason to believe prohibited
- Owner's DL or right to apply for a DL wasn't suspended
- Owner had no reason to believe DL or right to apply for DL was suspended
- Owner held a valid BC DL
- Owner was exempt
- Owner held a reasonable belief owner held a valid BC DL
- Owner held a reasonable belief owner was exempt
- Notice should not have been placed on the owner's record

Period of impoundment adjusted

• If you're satisfied that the period of impoundment determined in s.253 isn't supported by the facts, adjust the period, or if the impoundment has expired, release the vehicle

Send your decision

 Your decision including reasons, must be sent to the applicant within 7 days of the oral hearing, or the date the written review was considered

Economic hardship

- Owner, or person authorized by the owner, may apply for a written or oral review within 15 days after impoundment
- Reviews are only for 30 and 60 day impoundments

Grounds

- Grounds haven't changed, although the owner needs to establish, to the superintendent's satisfaction, that:
 - The vehicle is used in an active sole proprietorship, partnership, or company
 - The prospective income dependent on the vehicle is a substantial proportion of the income to be earned by the company during the impoundment, **or**
 - Impoundment otherwise imposes an economic hardship on the company

Decision

• If you're satisfied that the grounds have been met, you may release the vehicle provided you have the owner's consent and we receive payment of the fees

Compassionate early release

- Applicant can only apply where vehicle is impounded for 30 or 60 days
- Applicant may apply within 15 days after vehicle has been impounded
- Applicant must:
 - Hold a valid DL
 - Not be prohibited from driving
 - Co-habited with the owner during the time the vehicle was impounded

Grounds

Nothing's changed on the grounds

Decision

If you're satisfied that the grounds have been met, you may release the vehicle provided you have the owner's consent and we receive payment of the fees

Wrongful impoundment

- No application needs to be made
- If the vehicle was wrongfully impounded under s. 215.46 or 251(1), the Superintendent may order the vehicle's release, waive fees, and indemnify the owner

Vehicle Impoundment Program

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3-, 7-, 30-, and 60- day impoundments

2 Grounds for impoundment

- Prohibited driver
- Suspended driver
- Right to apply is suspended
- Unlicensed, and not exempt, and notice under s.252 on driving record
- Excessive speed MVA s.148
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- Also, if person did not hold a valid DL, officer must issue a prohibition under s.251(1)(h) indefinite prohibition
- If prohibition is served, driver may apply for a review of prohibition under s.259 or be issued a DL

5 Personal property

Personal property present in the vehicle must be returned to the owner on request

6 Stolen vehicle

 Any time before a review is conducted police are satisfied a vehicle was stolen, police must release vehicle and advise OSMV

7 Driver must notify owner

If person driving vehicle wasn't the owner, as soon as practicable, the driver must make all
reasonable efforts to notify the owner that the vehicle was impounded

8 Period of impoundment

- 1st impoundment 7 days
- 2nd impoundment within 2 years (was the owner) 30 days
- 3rd or more impoundments within 2 years (was the owner) 60 days

9 OSMV must notify owner

Office Support will notify the owner

10 Review of impoundment

 Owners of vehicles impounded for 30 or 60 days may apply for a written or oral review within 15 days after the impoundment begins

11 Considerations

You must consider the officer's report

You may consider:

- The driving record of the driver
- Previous impoundments

12 Decision – owner was <u>not</u> driver

Revoke impoundment and release vehicle if you're satisfied:

- Driver was in possession of the vehicle without the owner's knowledge or consent
- Owner exercised reasonable care and diligence
- Driver wasn't prohibited
- Driver wasn't suspended, or right to apply for a DL wasn't suspended
- Driver held a valid DL or was exempt
- Notice shouldn't have been placed on the driver's record

13 Decision – owner <u>was</u> driver

Revoke impoundment and release the vehicle if you're satisfied:

- Owner wasn't prohibited
- Before driving, owner had no reason to believe prohibited
- Owner's DL or right to apply for a DL wasn't suspended
- Owner had no reason to believe DL or right to apply for DL was suspended
- Owner held a valid BC DL
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 Your decision including reasons, must be sent to the applicant within 7 days of the oral hearing, or the date the written review was considered

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- Owner, or person authorized by the owner, may apply for a written or oral review within
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17 Grounds

- Grounds haven't changed, although the owner needs to establish, to the superintendent's satisfaction, that:
 - The vehicle is used in an active sole proprietorship, partnership, or company
 - The prospective income dependent on the vehicle is a substantial proportion of the income to be earned by the company during the impoundment, or
 - Impoundment otherwise imposes an economic hardship on the company

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 - Not be prohibited from driving
 - Co-habited with the owner during the time the vehicle was impounded

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Nothing's changed on the grounds

21 Decision

 If you're satisfied that the grounds have been met, you may release the vehicle provided you have the owner's consent and we receive payment of the fees

22 Wrongful impoundment

- No application needs to be made
- If the vehicle was wrongfully impounded under s. 215.46 or 251(1), the Superintendent may order the vehicle's release, waive fees, and indemnify the owner

Immediate Roadside Prohibition

- ASD Fail
- ASD Refusal
- ■90-day Prohibition
- -30-day Vehicle Impoundment
- Section 215.41 MVA

ASD fail

"Fail" means an indication on an approved screening device (ASD) that concentration of alcohol in person's blood is not less than 80 milligrams of alcohol in 100 millilitres of blood.

ASD refusal

"Refusal" means an officer has reasonable grounds to believe that a driver failed or refused, without reasonable excuse, to comply with a demand made under the Criminal Code to provide a sample of breath for analysis by means of an ASD"

Traffic stop

Operation or care or control:

215.41 "driver" includes a person having care or control of a motor vehicle on a highway or industrial road whether or not motor vehicle was in motion

Forming reasonable suspicion

Add reasonable suspicion

ASD demand

- If peace officer makes a demand to a driver under Criminal Code to provide a sample of breath for analysis by means of an approved screening device and the approved screening device registers a warn, and officer has reasonable grounds to believe the person's ability to drive is affected by alcohol, officer must:
 - Take DL from driver
 - Serve the 90-day Notice of Prohibition on driver
 - Impound vehicle for 30 days

Opportunity for 2nd sample

- If ASD is served and person requests second test, officer must perform second test using different ASD
- The second test governs and any prohibition from first test continues, terminates, or is varied

ASD demand and refusal

- If a peace officer makes a demand to a driver under the Criminal Code to provide a sample of breath for analysis by means of an approved screening device and driver refuses to provide a sample, or fails to provide an appropriate sample, without a reasonable excuse, into an approved screening device, officer must:
 - Take the driver's DL
 - Serve 90-day Notice of Prohibition on driver
 - Impound vehicle for 30 days

Can police continue with a breath demand?

- Police can continue down the path towards criminal charges
- 215.41(7) prohibits the officer from serving an ADP if they've already served them with an IRP

Immediate prohibition

90-day prohibition begins immediately

Ticking boxes on notice

- Police must check <u>one</u> of the boxes—if <u>no</u> box is checked, prohibition is a "nullity"
- If wrong box is checked, the matter will be resolved on review

Report to Superintendent

- No need to swear report
- No certificate of qualified technician

90-day prohibition

- The vehicle will be impounded for 30 days
- The monetary penalty is \$500 and payable within 30 days of the prohibition being served

90-day prohibition is subject to RDP

 215.45 states that driver must register for Responsible Driver Program (RDP) and have an ignition interlock device installed in vehicle before re-applying for a DL

Driver can apply for a review

- Driver can apply at a DLC
- Written or oral review
- Written reviews \$100, oral reviews \$200
- Driver must apply within 7 days of being served
- Late applications dealt with like Segers
- Review criteria same as ADP

Considerations

You must consider:

- Relevant statements and evidence from applicant
- Officer's report
- Notice of Driving Prohibition
- Any other relevant evidence from police
- Oral representations
- The driving record of the driver if the ASD registered a WARN instead of a FAIL
- Adjudicator may proceed with hearing even if police haven't sent all required documents

Decision: Confirm, Revoke, or Vary

- You must first decide whether person was a driver under 215.41(1)
- Then you must decide whether the ASD registered a "FAIL" or a "WARN", or
- You must decide whether driver failed or refused without a reasonable excuse

Varying a prohibition when prohibition is confirmed

- If officer issues a 90-day prohibition when the ASD registered a WARN, substitute a 3-, 7- or 30-day prohibition, as appropriate, depending on person's driving record
- Also:
 - Vary monetary penalty and corresponding impoundment
 - Issue refund for difference of penalty
 - Request owner provide copy of impoundment invoice
 - Update driving record of driver
- If officer issues a 3-, 7- or 30-day prohibition on a FAIL result, you must still confirm prohibition but prohibition term won't increase to 90 days.

Updating Drivers system when varying the prohibition

Update Drivers:

- XS
- SUS
- FUD
- CAN
- PRE

Since you won't be able to update the entire record, you'll need to fill out a Systems Update Sheet

System Update Sheet

New System Update Sheet

Refund Form

New refund form

Confirming a prohibition

- If you're satisfied that person was a "driver" as defined in section 215.41, and
- You're satisfied the ASD registered a FAIL, or
- You're satisfied driver failed or refused, and
- Driver did not have reasonable excuse, then
- You must confirm prohibition, penalty, and impoundment period
- There is no DRIVERS system work to do

Revoking

- If you're <u>not</u> satisfied that person was the driver, revoke prohibition—you don't need to consider any other issues
- If you <u>are</u> satisfied person was the driver, then you need to be satisfied of ASD result, unless it's a refusal
- If there's <u>no</u> evidence that ASD registered WARN or FAIL, revoke prohibition
- If you're satisfied that ASD result was WARN, not FAIL, substitute correct prohibition (check DRIVERS to see length of prohibition warranted), vary penalty and impoundment, and update DRIVERS system and ADP/VI system
- When revoking corresponding impoundment, consider all the reasons vehicle was impounded because the impoundment could be a result of multiple issues
- Refund the necessary penalty amount and impoundment fees
- No refund of the application fee

Impound due solely to prohibition

- If owner has retrieved vehicle from impound, write to owner and ask for invoice for direct costs (towing and storage) paid for legislated impoundment term
- Don't pay costs beyond final impoundment term

Multiple reasons for impoundment

- If impoundment was for multiple reasons, vary impoundment if required
- Letter will be sent to owner on change to impoundment term

Extensions

- Send decision within 21 days of date prohibition was issued
- You may extend that period, but you're not obligated to stay prohibition
- In 90-day prohibition, Superintendent determines whether to stay prohibition (where adjudicator or appeal registry determines that applicant has contributed to delay of decision, no need to stay)
- If prohibition stayed, order release of impounded vehicle. Costs and charges may be reimbursed if prohibition is later overturned on review
- Write up extension just as you do now with ADP

Regulations

The following items are prescribed:

- ASD(s) used for purposes of IRP program
- Notice of Prohibition under section 215.41
- Monetary penalty schedule under section 215.44
- Written and oral hearing fees under section 215.48

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- You're satisfied the ASD registered a FAIL, or
- You're satisfied driver failed or refused, and
- Driver did not have reasonable excuse, then
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- There is no DRIVERS system work to do

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- When revoking corresponding impoundment, consider all the reasons vehicle was impounded because the impoundment could be a result of multiple issues
- · Refund the necessary penalty amount and impoundment fees
- No refund of the application fee

24 Impound due solely to prohibition

- If owner has retrieved vehicle from impound, write to owner and ask for invoice for direct costs (towing and storage) paid for legislated impoundment term
- Don't pay costs beyond final impoundment term

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- If impoundment was for multiple reasons, vary impoundment if required
- Letter will be sent to owner on change to impoundment term

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- Send decision within 21 days of date prohibition was issued
- You may extend that period, but you're not obligated to stay prohibition
- In 90-day prohibition, Superintendent determines whether to stay prohibition (where adjudicator or appeal registry determines that applicant has contributed to delay of decision, no need to stay)
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The following items are prescribed:

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Overview of Administrative Justice

What is administrative law?

- "Administrative law deals with the organization and powers of the government, and the role of law in the exercise of those powers"
- All acts of public officials must be founded on a legal authority
- Acts or decisions of government may be challenged by judicial review, non-judicial review, or appeal

Types of challenges

- Judicial review a judge examines the decision
- Non-judicial review investigative bodies, such as Auditor General, Ombudsman, or Privacy Commissioner, reviews the decision
- Appeal appeal to the courts when an provided for in the enabling legislation

Grounds for review

- Grounds for review the ways a decision may be unlawful
- Administrative tribunals must:
 - Act within their jurisdiction
 - Ensure correct application / adherence to relevant laws
 - Follow the rules of natural justice and administrative fairness

Courts may look at:

- Intention of the decision maker
- Adequacy of evidence before the decision maker
- Reasonableness of the decision
- Errors of law

What does the "right to be heard" imply?

For meaningful exercise of "right to be heard," individual must:

- Be given notice that decision to be made (in adequate time and in sufficient detail)
- Be aware of the case and have access to available information
- Be given opportunity to present evidence and make an argument to decision maker

What is bias?

- Lack of neutrality on the part of the decision maker
- "Actual" and "perceived" bias are both unacceptable
- Appearance or "reasonable apprehension" of bias is sufficient to disqualify
- What would a reasonable and informed person looking at the facts conclude?

Situations where decision maker perceived to be biased:

- Decision maker has a material interest in the outcome
- Association or prior involvement with one of the parties
- Prior participation in the process or related process
- Conduct that shows bias or hostility

Handling allegations of bias

- Allegation usually made as preliminary objection
- Tribunal must immediately consider and rule
- If it rules <u>no bias</u>, tribunal proceeds; if it rules <u>bias</u>, member is replaced
- Tribunals should not be paralyzed by allegations of bias

Rules for rendering decision

- Person making decision must have heard all the evidence and representations
- All relevant evidence and information must be considered, but undisclosed evidence must not
- Decision maker must have reasoned basis for decision

Evidence

- "Evidence" includes all the means of proving or disproving the matter (oral testimony, written records, demonstrations, etc.)
- Does not include arguments on behalf of parties (submissions or presentations)
- Tribunals are not bound by court rules of evidence
- Obtain all the evidence required to make a reasoned rational decision

Types of evidence

- Direct evidence
- Hearsay evidence
- Circumstantial evidence
- Self-serving evidence
- Relevant evidence
- Expert evidence

Admissibility of evidence

- Tribunals must accept all forms of evidence
- Evidence is "admissible" if there is no law or custom preventing it
- Evidence may have "high" or "low" probative value
- "Probative value" refers to how much reliance should be placed on the evidence

Assessing credibility

- No uniform set of rules apply
- Decision maker must assess:
 - Integrity and intelligence of witness and overall accuracy of statements
 - Witness's powers of observation and capacity for remembering
 - Is the witness "frank and sincere" or "biased, reticent, and evasive"?

Relevance of evidence

- Law has no set rule for relevance
- Evidence is generally relevant if it has high probative value
- Relevance is left up to decision maker
- Tendency is to admit evidence and decide later what weight, if any, should be assigned to it

Hearsay evidence

- Written or oral statements made by persons who are not at the hearing (second-hand accounts)
- Problems with hearsay evidence:
 - Person was not under oath
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- Adjournments continuation of an in-progress hearing to another date
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- Use short words and sentences
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"As our legal system abhors whatever is arbitrary, it must be based on a degree of consistency, equality and predictability in the application of the law.

Consistency is a desirable feature in administrative decision-making. It enables regulated parties to plan their affairs in an atmosphere of stability and predictability. It impresses upon officials the importance of objectivity and acts to prevent arbitrary or irrational decisions. It fosters public confidence in the integrity of the regulatory process."

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I PASDEWARNIE Roadside Psection 2150415MVA

ASD "WARN"

 "Warn" means an indication on an approved screening device (ASD) that the concentration of alcohol in a person's blood is not less than 50 milligrams of alcohol in 100 millilitres of blood.

Traffic stop

- Operation or care or control
- 215.41 "driver" includes a person having the care or control of a motor vehicle on a highway or industrial road whether or not the motor vehicle in is motion

Forming reasonable suspicion

Add reasonable suspicion

ASD demand

- If peace officer makes a demand to a driver under the Criminal Code to provide a sample of breath for analysis by means of an approved screening device and the approved screening device registers a warn, and the officer has reasonable grounds to believe the person's ability to drive is affected by alcohol, the officer must:
 - Take the driver's licence
 - Serve a Notice of Prohibition on the driver

Opportunity for 2nd sample

- If the ASD is served and the person requests a second test, the officer must perform a second test using a different ASD
- The second test governs and any prohibition from the first test continues, terminates, or is varied

Immediate prohibition

The prohibition begins immediately

Ticking boxes on notice

- Police must check <u>one</u> of the boxes—if <u>no</u> box is checked, prohibition is a "nullity"
- If wrong box is checked, the matter will be resolved on review

Report to Superintendent

- No need to swear report
- No certificate of qualified technician

3-day prohibition

- For a 1st prohibition, driver receives 3-day prohibition and police may impound vehicle
- No review of the impoundment
- Monetary penalty is \$200 and must be paid within 30 days of prohibition being issued

7-day prohibition

- Depending on number of previous "warn" prohibitions within the previous 5 years (215.43[4])
- Prohibition isn't considered for escalation until 7-day review limitation has expired and review decision has been made (215.43[5])

215.43(4) and (5) MVA

7-day prohibition continued

- For 2nd prohibition, driver receives 7-day prohibition and police may impound vehicle
- Monetary penalty \$300 and payable within 30 days of prohibition being served

30-day prohibition

- Subsequent prohibitions are 30 days
- Vehicle impounded for 30 days
- Monetary penalty \$400 and payable within 30 days of prohibition being served

30-day is subject to RDP

 215.45 says driver must register for Responsible Driver Program (RDP) and have an ignition interlock device installed in their vehicle before they can re-apply for DL

Driver can apply for review

- Driver can apply at DLC for:
 - 3 days written review
 - 7 days written review
 - 30 days written or oral review
- Written reviews \$100, oral reviews \$200
- Driver must apply within 7 days of being served
- Late applications dealt with like Segers
- Review criteria same as ADP

Considerations

You must consider:

- Relevant statements and evidence from applicant
- Officer's report
- Notice of Driving Prohibition
- Any other relevant evidence from police
- Oral representations
- Driving record for 2nd or subsequent prohibition
- Adjudicator may proceed with hearing even if police haven't sent all required documents

Decision: Confirm, revoke, or vary

- You must first decide whether person was a 'driver' under 215.41(1)
- Then you must decide whether ASD registered a "WARN"

Varying prohibition when prohibition is confirmed

 Once you've determined that prohibition is confirmed, you must decide whether appropriate prohibition term was applied

Confirming prohibition

 If you decide that prohibition should be confirmed, and you're satisfied prohibition term was correct by reviewing driving record, you must confirm prohibition, penalty, and impoundment period

Confirm but vary

- If you confirm prohibition, but after reviewing driving record you are not satisfied that term of prohibition was correctly escalated, update driving record in DRIVERS
- If shorter prohibition should have been given, substitute appropriate prohibition
- (As a policy we don't increase a prohibition length if police make an error in favour of driver)
- Change monetary penalty if already paid, authorize refund of difference
- Last, vary corresponding impoundment

Updating Drivers system

Update Drivers:

- XS
- SUS
- FUD
- CAN
- PRE

Since you won't be able to update the entire record, you'll need to fill out a *Systems Update Sheet*

System Update Sheet

New System Update Sheet

Refund Form

New refund form

Revoking

- If you're not satisfied person was the driver, revoke prohibition
- You don't need to consider any other issues
- If you <u>are</u> satisfied person was the driver, then you need to be satisfied of ASD result
- If there's no evidence that ASD registered a WARN or FAIL, revoke prohibition
- Revoke corresponding impoundment could be result of multiple issues
- No refund of application fee

Impound due solely to prohibition

- If owner has retrieved vehicle from impound, write to owner and ask for invoice for direct costs (towing and storage) paid for legislated impoundment term
- Don't pay costs beyond final impoundment term

Multiple reasons for impoundment

- If impoundment was for multiple reasons, vary impoundment if required
- Letter to owner on change to impoundment term will be sent

Extensions

- Send decision within 21 days of date prohibition issued
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IMMEDIATE ROADSIDE PROHIBITIONS ORAL REVIEW HEARINGS



Administrative Justice
Office of The Superintendent of Motor₂ Vehicles

JAG-2013-00401

IMMEDIATE ROADSIDE PROHIBITIONS WRITTEN REVIEWS



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VEHICLE IMPOUNDMENT ORAL REVIEW HEARINGS

Hey OSMV! Git - R- Done!



Administrative Justice
Office of The Superintendent of Motor₂ Vehicles

JAG-2013-00401

VEHICLE IMPOUNDMENT WRITTEN HEARINGS



Administrative Justice
Office of The Superintendent of Motor₂ Vehicles

JAG-2013-00401

- \$150.00 installation fee (Guardian)
- \$105.00 monthly monitoring fee (Guardian) (\$3.50 per day)

18 Interlock Facts

•

- · Participants are not required to own a vehicle

• The device requires 1.5 litres of breath.

19 Interlock

- 12 month term
- Data download every 30/60 days (date, time, BAC)
- BAC violations = extended interlock term
- · Most BAC violations occur in am.

20 Guardian Interlock

21 Interlock Occurrence Reports

Drivers with interlock violations are required to complete an occurrence report which is reviewed at OSMV.

Explanations include:

- I drank too much the night before (BAC 107)
- I have no idea what happened (BAC 202)
- It was caused by Mouthwash (BAC 109)
- Working in oil-patch with methanol (BAC 071)
- I slept for 8 hours and felt completely sober (BAC 095)
- I had a couple of beers the day before (BAC 101)
- I kissed my drunk girlfriend (BAC 065)

22 What's New!

- Prior to February 1, 2009 drinking drivers were assigned to the Ignition Interlock Program at the discretion of the Superintendent of Motor Vehicles
- After February 1, 2009 drinking drivers receive a mandatory ignition interlock term

23 Mandatory Interlock Terms

1 year Interlock Term for:

- 1 Alcohol-related *Criminal Code* or *Motor Vehicle Act* conviction
- 3 24 hour prohibitions
- 2 Administrative Driving Prohibitions
- 1 -- 90 day IRP

_

2 year Interlock Term for:

- Second Alcohol-related Criminal Code or Motor Vehicle Act conviction
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 - Third Alcohol-related Criminal Code or Motor Vehicle Act conviction

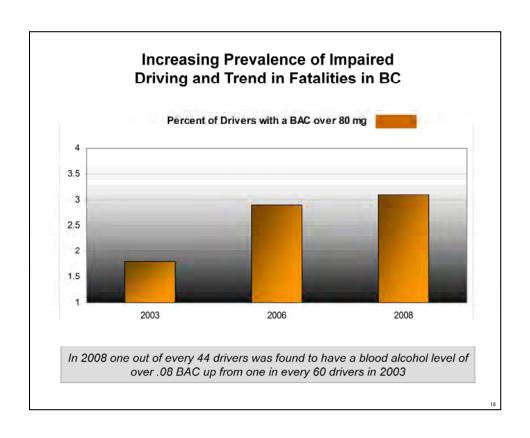
24 Interlock Term

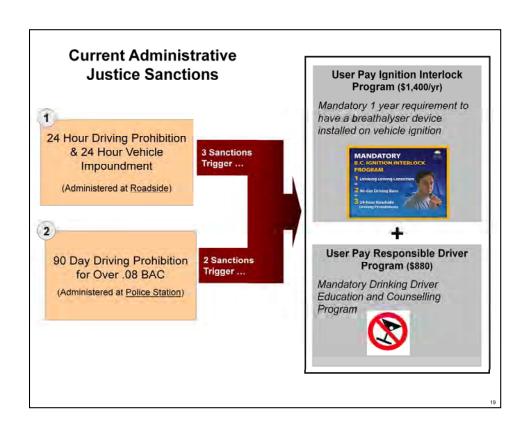
- Convicted drivers still have to complete RDP prior to beginning ignition interlock term
- Clients with administrative alcohol violations may participate in the RDP and the ignition interlock program at the same time, if they are otherwise eligible for licensing

25 Interlock Participation Review

After 10 months, OSMV Adjudicators will review client's interlock occurrence and RDP

participation reports to determine if extension to interlock term is warranted.











VEHICLE IMPOUNDMENT APPLICATION FOR REVIEW SECTION 256 – MOTOR VEHICLE ACT

The personal information on this form is collected under the authority of the Motor Vehicle Act (RS British Columbia 1996, c. 318 s. 256) and the Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c)). The personal information collected will be used by the Office of the Superintendent of Motor Vehicles in reviewing the vehicle impoundment. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

			VI No.	-
OWNE	R'S NAME			BC DRIVER'S LICENCE/CLIENT NUMBER
ADDRI	ESS			CITY/TOWN
PROVI	NCE	POSTAL CODE	HOME PHONE NUMBER	OTHER PHONE NUMBER(S)
APP	LICATION FOR REVIEW* (C	heck all applicable boxes):		
		Where Owner	was the Driver	
			ed from driving nor was my driver's lie	
	Before I drove the motor vehic right to apply) was suspended		as prohibited from driving a motor vel	nicle or that my driver's licence (or
	At the time the motor vehicle v	was impounded I either held a valid E	BC driver's licence or I was exempt fro	m holding a BC driver's licence.
	Before I drove the motor vehic licence.	cle I had a reasonable belief that I he	d a valid BC driver's licence or I was	exempt from holding a BC driver's
	My driving record should not h	nave identified me as an unlicensed of	Iriver.	
		Where Owner v	vas not the Driver	
	The driver was using the motor	or vehicle without my knowledge or co	onsent.	
	impoundment.	-	ehicle to the person in possession of	
	suspended.	was impounded the driver was heithe	r prohibited from driving nor was their	unver's licerice (or right to apply)
	At the time of the impoundmen	nt the driver held a valid BC driver's I	icence or was exempt from the requir	ement to hold a BC driver's licence.
	The driver should not have be	en identified on their driving record a		
		•	riod of Impoundment	
	The impoundment period shou	uld not have been increased to 30 or	60 days due to a previous impoundm	ent(s).
		ve are authorized under section 25 an be reviewed at www.bclaws.ca .	8 of the <i>Motor Vehicle Act</i> and have	e been simplified for readability.
I req	uest either (check one):			
	a written review	an oral hearing		
Revi	ew scheduled for			()
		Date	Time	Telephone Number
Atta	chments		Owner's signature	
OFFI	CE USE ONLY			
DISC	CLOSURE			
	Applicant has been provide	d all the evidence the Superintende	ent will consider during the review	
	If evidence is not disclosed,	, it will be faxed to the applicant at	the following fax number: ()
SIG	NATURE OF CUSTOMER SERVICE REPRE	ESENTATIVE OFFICE	DATE	RECEIPT NUMBER



VEHICLE IMPOUNDMENT APPLICATION FOR REVIEW REQUEST FOR ECONOMIC HARDSHIP/COMPASSIONATE REVIEW SECTIONS 262, 263 – MOTOR VEHICLE ACT

The personal information on his form is collected under the authority of the *Motor Vehicle Act (RS British Columbia 1996, c. 318, s. 262, 263)* and the *Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c)).* The personal information collected will be used by he Office of the Superintendent of Motor Vehicles in reviewing the vehicle impoundment. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

					VI No.	-	
APPLICANT'S	NAME					APPLICANT'S	DRIVER'S LICENCE NUMBER
ADDRESS					CITY/TOWN		
PROVINCE		POSTAL CODE		HOME PHONE NUMBER		OTHER PHON	NE NUMBER(S)
I consent to			e to the applicant: hicle to the applicant up	on	SIGNATURE	OF OWNER OF M	IOTOR VEHICLE
REQUEST	FOR RELEASE FO	OR ECONOMIC HARDS	SHIP*				
I am the ow	ner or authorized re	epresentative of the own	ner, and I am attaching in	nformation that shows	s that:		
1.	The impounded ve	chicle is used in a busing	ess;				
2.	The business has	a reasonable prospect f	or generating income that	at depends on the imp	oounded vehicle; a	and	
3.		st income represents a	substantial amount of the				otherwise pose an
I request (c	heck one):						
	a written review	WRITTEN REVIEW	DATE		TIME	TELEPHON	E NUMBER
	an oral hearing	ORAL HEARING	DATE		TIME	TELEPHON (E NUMBER
Applicant's	signature						
REQUEST	FOR COMPASSIO	NATE RELEASE*					
I live with th	ne vehicle owner, ar	nd the impoundment wil	l:				
	Cause me to lose	or limit my employment	or educational opportuni	ties; and/or			
	Prevent me or som	neone under my care fro	om obtaining medical trea	atment;			
and I have	no reasonable alter	native form of transport	ation, including public tra	ansportation.			
I request (c	heck one):			_ _			
	a written review	WRITTEN REVIEW	DATE		TIME	TELEPHON	E NUMBER
	an oral hearing	ORAL HEARING	DATE		TIME	TELEPHON	E NUMBER
			•			,	
Applicant's	signature						
	v grounds descr bed www.bclaws.ca.	d in this application are a	authorized under section	s 262(3), 263(1) and	263(2) of the <i>Moto</i>	or Vehicle Ac	These sections can be
OFFICE US	SE ONLY						
SIGNATURE	OF CUSTOMER SERVI	CE REPRESENTATIVE	OFFICE	DA1	TE (YYYY/MM/DD)	_	RECEIPT NUMBER



MV2726 (2010/09)

IMMEDIATE ROADSIDE PROHIBITION (IRP) APPLICATION FOR REVIEW SECTION 215.48 – MOTOR VEHICLE ACT

226

JAG-2013-00401

The personal information on this form is collected under the authority of the Motor Vehicle Act (RS British Columbia 1996, c. 318, s. 215.48) and the Freedom of Information and Protection of Privacy Act (RS British Columbia 1996, c. 165, s. 26 (a) and (c)). The personal informa ion collected will be used by the Office of the Superintendent of Motor Vehicles to facilitate the review of the driving prohibition referred to herein. If you have any questions about the collection, use and disclosure of the information collected, contact the Office of the Superintendent of Motor Vehicles, at PO Box 9254 Stn Prov Govt, Victoria BC V8W 9J2, phone (250) 387-7747.

							IF	RP No	p. 2 0		
DRIVER'S NAI	ME									BC DRI	VER'S LICENCE/CLIENT NUMBER
ADDRESS										CITY/T	OWN
DDOVINGE				DOCTAL CODE		T	LIOME DITC	ONIT NII	IMPED	OTUE	DUONE NUMBER(C)
PROVINCE				POSTAL CODE			HOME PHO	JNE N	JIVIBER	OTHER	PHONE NUMBER(S)
APPLICAT	ION FOI	R RE	EVIEW* (check a	all applicable b	oxes)					
	I was no	t driv	ing or in care or co	ontrol of the motor	r vehic	le					
	An appro	oved	screening device of	did not register a	WARN	reading (50+ m	nilligrams of	alcoh	ol in 100 mil	lilitres of	blood).
	An appro	oved	screening device of	did not register a	FAIL re	eading (80+ mill	igrams of a	Icohol	in 100 millili	tres of bl	ood).
	I did not	fail o	r refuse to comply	with the peace of	fficer's	demand to prov	vide a breat	h sam	ple.		
	I had a re	easo	nable excuse for fa	ailing to comply w	ith the	peace officer's	demand to	provid	le a breath s	ample.	
	My 7-day	y or 3	80-day prohibition s	should be reduce	d beca	use I did not ha	ve the requ	ired n	umber of pre	evious IR	P(s)
These are th	ne only g	roun	ds for review. Th	e Superintende	nt can	not consider h	ardship in	this re	eview.		
			ed above are authe		tion 21	5.5 of the <i>Motor</i>	r Vehicle Ac	t and	have been s	implified	for readability. This and other
DISCLOSU											
	A copy o	of the	following informati	ion the Superinte	ndent v	will consider dur	ing the revi	ew ha	s been prov	ided to th	e applicant:
		Not	ice of Prohibition]	Driving Record					
		Rep	port to Superintend	dent []	Other (specify)_					
	Disclosu	re inf	formation not availa	able at time of ap	plication	on OR					
		App	olication has provid	led a fax number	to which	ch information w	vill be sent a	as it be	ecomes avai	lable	()
						gement to pick	up informat	tion, o	r have inforn	nation pio	ked up by a representative.
		Nar	me of representativ	ve (if applicable):							
	Signature	of Cu	ıstomer Service Repr	esentative		-	_		Applica	nt's Signat	ure Acknowledging Receipt
NOTE: It is the	J		of the applicant to ens		, phone	numbers, contact	t names, etc.	are up		n o orginal	are remembers, in grand and a second
REQUEST I request eith	_										
☐ a writ	tten reviev	w	an	oral hearing (30-	day an	d 90-day prohib	itions only)				
Review sche	duled for								<u>-</u> ,	()
Note: If you	are to be	renre		Date iew, vou are resn	onsible		ime r representa	ativo is	available fo	r that da	Telephone Number
	oe conside										te and time. All written information duled, except in extraordinary
Attachment	s _										
OFFICE USE	= ONI V		Number of Pages				Applicant's	Signat	ure		
Driver's Licer		П	Seized by Police	П	Surre	endered to ICBC	, J	П	Cash	П	Credit Card (where accepted)
DUACE 2 FICE	110 0 .		Never Licensed			itory Declaration			Cheque		Interac (where accepted)
				_		,	I	_	•	_	, , , , , , , , , , , , , , , , , , , ,
SIGNATURE (OF CUSTON	MER SE	ERVICE REPRESENTAT	ΓΙVE	C	FFICE			DATE		RECE PT NUMBER

VEHICLE IMPOUNDMENT (VI)

Notice of Impoundment MV2721

Report to Superintendent MV2722 (09/10)

POLICE PROCEDURES

VEHICLE IMPOUNDMENT (VI)

Completing the Notice of Impoundment

- 1. Record the name and DL number of driver
- 2. f the vehic e is registered to more than one person, or a lessee is listed record both names.
- 3. Police must record the license p ates attached to vehicle at the time of the traffic stop.
- 4. Ensure the VIN# is taken from the vehicle and compare to any registration documents produced by driver.
- 5. Registration number is located on the insurance papers and on CPIC query.
- 6. Record the date, time and location of impoundment.

Comp eting the mpoundment Reasons

Sect on A: <u>Use on y if an mmed ate Roa s de Proh bit on (RP) otice serve</u> mpoundment is discretionary for 3 or 7 day R s, and mandatory for 30 or 90 day RPs. **Check ONE box on y f RP issued.**

Sect on B Use fo any of the impoundment reasons isted in sect on B Po ice MUST mpound the vehice for any of the ac ions/offen es section May be used in add ti o Sect on A. Po ice MAY nd ca e mu i e of ence in sec on B (e g i a roh b ted r ver commit an offence u er ec ion 148 MVA) Po ce are no res on b e for ca cu ating the da es o ehic e ease or you n i veh e mpoundment terms are ca cu ated in fu days. Pa t a days nc ud ng the day he veh c e was impounded o no oun

Record the ocation where the vehic e was towed to and he phone number of mpound Lot Operator (LO).

Completing the Report to Superintendent

Complete basic information at the top of the form. Complete other sections as described below:

- 1. <u>Prohibited/Suspended Driver Details</u> How did you determine the driver was prohibited/suspended? (e.g. CPIC query- DL status; PRIME report where the driver had not made it to the DL CPIC system yet). Record the reason/section for the prohibition or suspension in the space provided. Provide incident details.
- 2. <u>Unlicensed Driver Details</u> VI flag must be on CPIC. If YES, then issue MV2725 and impound vehicle for 7 days. Provide incident details.

NOTE: If the driver produces a valid Out of Province DL and <u>meets</u> the exemptions under Sec 34 MVA do not impound the vehicle. See the Sec 34 MVA exemptions on the unlicensed driver report (MV2725).

- 3. <u>Details All other Impoundments</u> Unless the impoundment is due to IRP, MVA requires that you charge driver with an offence. Indicate charge section(s). Use space provided to document evidence to support the charge and describe driver actions that led to impoundment. If impoundment due to an IRP, cross-reference IRP number.
- 4. <u>Vehicle Owner Information</u> Was the owner in the vehicle? Investigate with driver to determine if the owners knew they were in possession of the vehicle. These questions are important because the owner can apply for a review on grounds that:
 - a. Reasonable care and diligence were exercised by the owner
 - b. The driver was in possession of the vehicle without the owner's knowledge or consent.

Any additional information that can be provided in this area will assist the Superintendent in assessing the vehicle owner's review application.

If you have any questions contact the OSMV Police Liaison @250-356-6502.

Immediately fax copies of ALL reports to the Office of the Superintendent (OSMV) @ 250-978-8079.







NOTICE OF IMPOUNDMENT

Section 215.46/251 (MVA)

;	SURNAME		GIVEN NAMES		BIRTH DATE (YYYY/MM/DD)	GENDER
D R						
V E	DRIVER'S LICEN	CE NUMBER			PROV/ST	CLASS EXPIRY YR
R	1 1 1 1					
0	OWNER 1 (SURN	IAME – GIVEN NAMES OR OTHER ENTITY	NAME)	SURNAME – GIVEN NAMES (OV	VNER 2 OR LESSEE) BI	RTH DATE (YYYY/MM/DD)
W						
R	ADDRESS(STRE	EI)		CITY/TOWN	PROVINCE/STATE	POSTAL CODE/ZIP
	ICENCE PLATE	NUMBER PROV/ST MAKE	MODEL		YEAR	COLOUR
E H		TOWNS THE TOWN THE TO				
	REGISTRATION	NUMBER NSC VEHICLE I	DENTIFICATION (SERIAL) NUMBER			
E						
The	undersign	ed peace officer has reasonabl	e grounds to believe that or	n Lili		
				YYYY	MM DD	
at_	ho	urs, on		_,at or near		, British Columbia,
		(STREET)	(HIGHWAY)	(CITY/TOWN)	,	
		perating a motor vehicle and for PLICABLE IMPOUNDMENT REA		specified below the vehic	ie is impounded for the pe	Priod set out below:
011		OR 30 DAY IMPOUNDMENT		ASON - SECTION 215	46 OF THE MOTOR VE	HICI E ACT.
	-	POUNDMENT pursuant to a 3-day				TICLE ACT.
		<u>-</u>				
		POUNDMENT pursuant to a 7-day				
Ш		MPOUNDMENT pursuant to a 30-c				
		AY IMPOUNDMENT FOR THE				
	Driving wh	nile prohibited or suspended under	the Motor Vehicle Act, Crimina	al Code, Youth Justice Act or	Youth Criminal Justice Act	(Canada)
Ш	Driving wi	thout a valid driver's licence and w	ith a notice on the driving reco	rd indicating a previous conv	viction for driving while unli	censed
Щ	Committin	g an offence under section 148 of	the Motor Vehicle Act			
Ш	Driving or	operating a motor vehicle in a race	e or in a stunt as defined in the	Motor Vehicle Act and the o	officer intends to charge wit	h an offence
	Committin	g an offence under section 194 (1)	or (2) of the Motor Vehicle Act	t		
	Committing	g an offence under section 25(15) of	the Motor Vehicle Act relating to	a restriction or condition of a r	motorcycle learner or novice	driver's licence
PE	ACE OFFICER'S	NAME (PRINT)	PEACE OFFICER'S SIGNATU	JRE	PIN/BADGE NUMB	ER
EN	FORCEMENT AC	GENCY NAME (PRINT)			AGENCY FILE NUI	 VBER
_					ı	
The	motor vehi	icle was impounded on		, and is stored at		
		•	YYYY MM DD		(IMPOUND LC)T)
				, British Colu		
DE	VIEW INSTRUC	(STREET ADDRESS)	(CITY/TOWN)	PERIOD OF IMPOUNDMENT	(AREA CODE - 1	TELEPHONE NUMBER)
		le when a vehicle is impounded for 3 or 7 days		If an eligible owner does not apply for	r a review under section 256, the vel	nicle will remain impounded

Vehicle Act, the owner of a motor vehicle impounded for 30 days or longer may within 15 days of the impoundment, apply to the Superintendent of Motor Vehicles (the "Superintendent') for a review. The owner must: (1) file an application with the Superintendent at any Driver Licensing Centre, and (2) pay the prescribed hearing fee. Before filing the application for review, the owner may request a copy of all the evidence the superintendent will consider during the review. The owner may also attach any written statement or other evidence they wish the Superintendent to consider. To ensure all written evidence is considered, the Superintendent must receive it before the scheduled review date

The owner may request an oral hearing at the time of application by paying the prescribed oral hearing fee. If the applicant requests an oral hearing and fails to appear on the date, and at the time and place arranged for the hearing without prior notice to the Superintendent, the applicant's right to an oral hearing is deemed to have been waived, and the review will be conducted based on any written evidence that is available. The filling of an application for review does not stay the impoundment of the motor vehicle.

until it is eligible for release. The vehicle will be impounded for 30 days or 60 days if the records of the Superintendent indicate that the owner has, within the two years before the date of this impoundment, owned one or more vehicles that have been subject to impoundment. The Superintendent will notify the owner and the impound lot operator when the impoundment term is 30 or 60 days.

DISPOSAL OF UNCLAIMED VEHICLES

If the owner of a motor vehicle does not pay the towing and storage charges associated with the impoundment, the vehicle may be disposed of after the expiry of the impoundment under the Warehouse Lien Act, or under section 255(7) of the Motor Vehicle Act. If an owner does not claim a vehicle, the Superintendent may direct the Insurance Corporation of British Columbia to refuse to issue the owner a driver's licence, a vehicle licence and corresponding number plates, or any permit until payment has been made to the impound lot operator (ILO) that stored the vehicle.

OSMV / POLICE COPY









NOTICE OF IMPOUNDMENT

Section 215.46/251 (MVA)

	SURNA	AME	GIVEN NAI	MES			BIRTH D	ATE (YYYY/MM/DD)	GENDER
D R									
V E	DRIVE	R'S LICENCE NUMBER						PROV/ST (CLASS EXPIRY YR
R									
0	OWNE	R 1 (SURNAME – GIVEN NAMES OR OTHER E	NTITY NAME)		¬ s	URNAME – GIVEN NAMES (OWN	IER 2 OR LE	SSEE) BIRTI	H DATE (YYYY/MM/DD)
W N	A D D D D	-00(07DEET)				NTV/TOWN	DDO!/IN/		DOOTAL CODE/ZID
E R	ADDRE	ESS(STREET)				HTY/TOWN	PROVING	CE/STATE	POSTAL CODE/ZIP
v	LICEN	CE PLATE NUMBER PROV/ST MAKE		MODE	EL.			YEAR	COLOUR
E H									
C	REGIS	TRATION NUMBER NSC VEH	IICLE IDENTIFICATION	I (SERIAL) NUMBER					
Ē									
The	e unc	dersigned peace officer has reaso	onable grounds	to believe that	on				
						YYYY	MM	DD	
at_		hours, on			2	at or near			, British Columbia,
		(S	TREET/HIGHWAY)	(1)		(CITY/TOWN)			
		er was operating a motor vehicle ar ALL APPLICABLE IMPOUNDMENT		e of the reason	ı(s) sp	ecified below the vehicle	is impou	inded for the peri-	od set out below:
CII					DEAG	CON SECTION 245 4	e OE TU	E MOTOR VEHI	CLE ACT.
	_	. 3, 7 OR 30 DAY IMPOUNDM						E WOTOK VEHI	CLE ACT.
	_	DAY IMPOUNDMENT pursuant to a							
	_	DAY IMPOUNDMENT pursuant to a							
	30	D-DAY IMPOUNDMENT pursuant to a	a 30-day or 90-day	y prohibition und	der sed	ction 215.43(1)(c) or 215.4	3(2) of the	e Motor Vehicle Ad	t
	В	. 7 DAY IMPOUNDMENT FOR	THE FOLLOWI	NG REASON	(S) –	SECTION 251 OF THE	MOTOR	R VEHICLE ACT	:
	Dı	riving while prohibited or suspended	under the Motor V	ehicle Act, Crim	inal C	ode, Youth Justice Act or Y	outh Crim	ninal Justice Act (C	anada)
	Dı	riving without a valid driver's licence	and with a notice of	on the driving re	cord in	ndicating a previous convid	ction for d	riving while unlice	nsed
	C	ommitting an offence under section 1	48 of the Motor Ve	ehicle Act					
	Dı	riving or operating a motor vehicle in	a race or in a stur	nt as defined in t	the Mo	otor Vehicle Act and the off	icer inten	ds to charge with a	an offence
	Co	ommitting an offence under section 1	94 (1) or (2) of the	e Motor Vehicle	Act				
	Co	ommitting an offence under section 25(15) of the Motor Ve	hicle Act relating	to a re	estriction or condition of a mo	otorcycle l	earner or novice dri	ver's licence
PF	ACE O	FFICER'S NAME (PRINT)	I PEAC	CE OFFICER'S SIGN	IATURE			PIN/BADGE NUMBER	
1	AGE O	THOLKS WINE (FRINT)		DE OTTTOER O'OTOR	, a ora			T IIV BALD OF ITOMBER	
EN	FORCE	EMENT AGENCY NAME (PRINT)						AGENCY FILE NUMB	=R
-''	ORO	EMENT AGENOT NAME (FRINT)						AGENOT THE NOWID	-11
Th	n ma	tor vehicle was impounded on	1 1 1	1 , 1		and is stored at			
1110	e IIIO	tor verticle was impounded on	YYYY	MM	DD	, and is stored at		(IMPOUND LOT)	
						. British Colum	hia		
		(STREET ADDRESS)		(CITY/TOW	/N)	, Dinion Coluit	u	(AREA CODE - TEL	EPHONE NUMBER)
		INSTRUCTIONS v is available when a vehicle is impounded for 3 c	r 7 days. Under section	256 of the Motor		RIOD OF IMPOUNDMENT eligible owner does not apply for a	review unde	er section 256, the vehicl	e will remain impounded
Ve im	hicle A poundr	ct, the owner of a motor vehicle impounded for 3 ment, apply to the Superintendent of Motor Vehiclust: (1) file an application with the Superintendent	0 days or longer may, wi les (the "Superintendent	ithin 15 days of the '') for a review. The	until Supe	it is eligible for release. The vehicle erintendent indicate that the owner ed one or more vehicles that have	e will be imp has, within t	ounded for 30 days or 60 he two years before the	days if the records of the date of this impoundment,

the prescribed hearing fee. Before filing the application for review, the owner may request a copy of all the evidence the superintendent will consider during the review. The owner may also attach any written statement or other evidence they wish the Superintendent to consider. To ensure all written evidence is considered, the Superintendent must receive it before the scheduled review date

The owner may request an oral hearing at the time of application by paying the prescribed oral hearing fee. If the applicant requests an oral hearing and fails to appear on the date, and at the time and place arranged for the hearing without prior notice to the Superintendent, the applicant's right to an oral hearing is deemed to have been waived, and the review will be conducted based on any written evidence that is available. The filling of an application for review does not stay the impoundment of the motor vehicle.

the owner and the impound lot operator when the impoundment term is 30 or 60 days.

DISPOSAL OF UNCLAIMED VEHICLES

If the owner of a motor vehicle does not pay the towing and storage charges associated with the impoundment, the vehicle may be disposed of after the expiry of the impoundment under the Warehouse Lien Act, or under section 255(7) of the Motor Vehicle Act. If an owner does not claim a vehicle, the Superintendent may direct the Insurance Corporation of British Columbia to refuse to issue the owner a driver's licence, a vehicle licence and corresponding number plates, or any permit until payment has been made to the impound lot operator (ILO) that stored the vehicle.

SEE REVERSE FOR MORE INFORMATION

DRIVER COPY







INFORMATION FOR DRIVERS

REASONS FOR IMPOUNDMENT

The notice of impoundment indicates the reason(s) the vehicle you were driving was impounded. Under the Motor Vehicle Act, these reasons are:

- Driving while prohibited or with a suspended driver's licence
- Driving without a valid licence having been previously convicted for the same offence
- Committing an excessive speeding offence (more than 40 km/h over the speed limit)
- Being involved in a street race (see section 250 of the Motor Vehicle Act at www.bclaws.ca for a full definition)
- Stunt driving, which includes activities such as lifting any or all of a vehicle's tires off the road surface, causing a vehicle to lose traction, causing the vehicle to spin, driving in an oncoming lane longer than necessary to pass, blocking other vehicles or driving too close to another vehicle, pedestrian or fixed object (see section 250 of the Motor Vehicle Act at www.bclaws.ca for a full definition)
- Failing to ride properly astride a motorcycle
- Failing to obey learner/novice motorcycle restrictions and conditions
- Being served with an immediate roadside prohibition for drinking and driving.

EARLY RELEASE

If the vehicle was impounded because you were "Driving without a valid driver's licence, and with a notice on the driving record indicating a previous conviction for driving while unlicensed" and for no other reason, the vehicle can be released immediately if you obtain a valid British Columbia driver's licence. Bring a copy of the notice of impoundment with you to a Driver Licensing Centre when you apply for a driver's licence. If you do not own the vehicle you were driving, the owner should attend with you or provide written authorization for you or another person to retrieve the vehicle from the impound lot. For the location of your nearest Driver Licensing Centre visit www.icbc.com.

DUTY OF DRIVER

Under section 251(8) of the Motor Vehicle Act, a driver who is not the owner of the vehicle must make all reasonable efforts to notify the owner of the impounded vehicle of the impoundment as soon as practicable.

INFORMATION FOR VEHICLE OWNERS

HOW ARE IMPOUNDMENT DAYS CALCULATED?

Vehicle impoundment terms are calculated in full days. Partial days, including the day the vehicle was impounded do not count.

EARLY DISPOSAL AGREEMENT

If you do not intend to claim your vehicle following an impoundment you may enter into an early disposal agreement with the impound lot operator (ILO). Under this agreement you transfer ownership of the vehicle to the ILO and in exchange do not accumulate the full costs and charges that normally apply to a full length impoundment. Any vehicle transferred under such an agreement cannot be registered again for use on a highway.

WHO CAN APPLY FOR A REVIEW AND ON WHAT GROUNDS?

A review is not available for a 3-day or 7-day impoundment

An owner who was not the driver may apply for a review on the following grounds:

- Reasonable care and diligence was taken in entrusting the vehicle to another driver
- The driver took the vehicle without the owner's knowledge or consent
- The person driving the vehicle was not prohibited or suspended
- The person driving the vehicle held a valid driver's licence or was exempt from the requirement to hold a licence
- A notice to impound the vehicle of an unlicensed driver should not have been on his or her driving record

An owner who was the driver may apply for a review on the following grounds:

- He or she was neither prohibited nor suspended, or had no reason to believe they were prohibited or suspended
- He or she held a valid driver's licence or was exempt from the requirement to hold a licence
- · A notice to impound the vehicle of an unlicensed driver should not have been on his or her driving record

A cohabitant of a owner, who also holds a valid driver's licence and with no reasonable alternative form of transportation may apply for a review on the following grounds:

- He or she will suffer a loss or curtailment of employment or educational opportunities
- The impoundment will prevent the cohabitant, or a person under their care, from obtaining medical treatment

Business owners may apply for early release of a vehicle if they can demonstrate that:

- The vehicle is used in an active sole proprietorship, partnership or company (i.e. a business),
- There is a reasonable prospect of earning income that is dependent on the impounded vehicle, and
- That the continued impoundment would impose an economic hardship on the business

More information on the various review grounds, including review and applicable vehicle release fees is available at www.pssg.gov.bc.ca/osmv.

CLAIMING YOUR VEHICLE AFTER THE IMPOUNDMENT

At the end of a 3 or 7 day impoundment the vehicle may be claimed directly from the impound lot. If the impoundment is for 30 or 60 days, you will need to attend a Driver Licensing Centre to request release of the vehicle. The Driver Licensing Centre will fax an order of release to the impound lot, and the owner, or someone authorized by the owner, will be able to claim the vehicle. The vehicle owner is responsible for paying all towing and storage fees to the impound lot operator. For the location of your nearest Driver Licensing Centre visit www.icbc.com.









NOTICE OF IMPOUNDMENT

Section 215.46/251 (MVA)

	SUR	NAME GI	VEN NAMES		BIRTH DATE (YYYY/MM/DD)	GENDER
D R						
V E	DRI\	/ER'S LICENCE NUMBER			PROV/ST	CLASS EXPIRY YR
R						
0	۱WC	NER 1 (SURNAME – GIVEN NAMES OR OTHER ENTITY NAME)		SURNAME – GIVEN NAMES (OWN	ER 2 OR LESSEE) BIR	TH DATE (YYYY/MM/DD)
N	4 DD	PRESS(STREET)		CITY/TOWN	PROVINCE/STATE	POSTAL CODE/ZIP
E R	ADD	RESS(STREET)		CITT/TOWN	PROVINCE/STATE	POSTAL CODE/ZIF
v	LICE	NCE PLATE NUMBER PROV/ST MAKE	MODEL		YEAR	COLOUR
Ë						
C	REG	SISTRATION NUMBER NSC VEHICLE IDENTIF	ICATION (SERIAL) NUMBER			
Ē						
The	ıu e	ndersigned peace officer has reasonable gro	ounds to believe that on	YYYY	MM DD	
o t		hours on		ot or noor		British Columbia
at _		hours, on (STREET/HIGHV		_,at or near(CITY/TOWN)		_, British Columbia,
		ver was operating a motor vehicle and for one	` ,	specified below the vehicle	is impounded for the per	riod set out below:
СН		K ALL APPLICABLE IMPOUNDMENT REASON			0 0 THE MOTOR VEH	UOL E AOT
		A. 3, 7 OR 30 DAY IMPOUNDMENT FOR				IICLE ACT:
H		3-DAY IMPOUNDMENT pursuant to a 3-day proh	ibition under section 215.4	3(1)(a) of the Motor Vehicle	Act	
F		7-DAY IMPOUNDMENT pursuant to a 7-day proh	ibition under section 215.4	3(1)(b) of the Motor Vehicle /	Act	
	;	30-DAY IMPOUNDMENT pursuant to a 30-day or	90-day prohibition under s	ection 215.43(1)(c) or 215.4	3(2) of the Motor Vehicle A	ct
		B. 7 DAY IMPOUNDMENT FOR THE FOL	LOWING REASON(S)	- SECTION 251 OF THE	MOTOR VEHICLE AC	Γ:
		Driving while prohibited or suspended under the N	Motor Vehicle Act, Criminal	Code, Youth Justice Act or Y	outh Criminal Justice Act (Canada)
		Driving without a valid driver's licence and with a	notice on the driving record	dindicating a previous convic	ction for driving while unlice	ensed
		Committing an offence under section 148 of the M	lotor Vehicle Act			
	Ī	Driving or operating a motor vehicle in a race or ir	a stunt as defined in the I	Motor Vehicle Act and the off	icer intends to charge with	an offence
		Committing an offence under section 194 (1) or (2	e) of the Motor Vehicle Act			
		Committing an offence under section 25(15) of the M	otor Vehicle Act relating to a	restriction or condition of a mo	otorcycle learner or novice d	river's licence
PE	ACE	OFFICER'S NAME (PRINT)	PEACE OFFICER'S SIGNATUR	RE	PIN/BADGE NUMBE	R
EN	FOR	RCEMENT AGENCY NAME (PRINT)			AGENCY FILE NUM	BER
			1 1	T		
The	e m	notor vehicle was impounded on		, and is stored at	(IMPOUND LOT)
				Dritiah Calum	hio I I I	
_		(STREET ADDRESS)	(CITY/TOWN)	, British Colum		ELEPHONE NUMBER)
		W INSTRUCTIONS iew is available when a vehicle is impounded for 3 or 7 days. Unde		ERIOD OF IMPOUNDMENT an eligible owner does not apply for a	review under section 256, the vehi	cle will remain impounded
Ve	hicle	e Act, the owner of a motor vehicle impounded for 30 days or longer and the Act, the owner of a motor vehicle impounded for 30 days or longer and the Act, apply to the Superintendent of Motor Vehicles (the "Superintendent of Motor Vehicles (the "Superintendent of Motor Vehicles).	r may, within 15 days of the u	ntil it is eligible for release. The vehicle uperintendent indicate that the owner	e will be impounded for 30 days or	60 days if the records of the

the prescribed hearing fee. Before filing the application for review, the owner may request a copy of all the evidence the superintendent will consider during the review. The owner may also attach any written statement or other evidence they wish the Superintendent to consider. To ensure all written evidence is considered, the Superintendent must receive it before the scheduled review date

The owner may request an oral hearing at the time of application by paying the prescribed oral hearing fee. If the applicant requests an oral hearing and fails to appear on the date, and at the time and place arranged for the hearing without prior notice to the Superintendent, the applicant's right to an oral hearing is deemed to have been waived, and the review will be conducted based on any written evidence that is available. The filling of an application for review does not stay the impoundment of the motor vehicle.

owned one or more vehicles that have been subject to impoundment. The Superintend the owner and the impound lot operator when the impoundment term is 30 or 60 days.

DISPOSAL OF UNCLAIMED VEHICLES

If the owner of a motor vehicle does not pay the towing and storage charges associated with the impoundment, the vehicle may be disposed of after the expiry of the impoundment under the Warehouse Lien Act, or under section 255(7) of the Motor Vehicle Act. If an owner does not claim a vehicle, the Superintendent may direct the Insurance Corporation of British Columbia to refuse to issue the owner a driver's licence, a vehicle licence and corresponding number plates, or any permit until payment has been made to the impound lot operator (ILO) that stored the vehicle.

I.L.O. COPY











REPORT TO SUPERINTENDENT Vehicle Impoundment Section 254 MVA

REPORT ON	AGENCY FILE NUMBER
	C Section
REPORT ON	· · · · · · · · · · · · · · · · · · ·
	xplain why driver is not exempt under section 34)
Details of incident:	
3. Details – All other Impoundments (Provide details of behaviour that	at led to impoundment)
Charges ☐ MVA Section(s): ☐ CCC Section	on(s)
4. Vehicle Owner Information (Complete if owner was not the driver)	
Was the owner in the vehicle? ☐ Yes ☐ No	
Did the owner know the driver is in possession of the vehicle? (statem	nents of driver or owner if contacted)
SIGNATURE OF PEACE OFFICER	PIN/BADGE

OSMV / POLICE COPY







IMMEDIATE ROADSIDE PROHIBITION (IRP)

Notice of Driving Prohibition MV2723

Report to Superintendent MV2724 (09/10)

POLICE PROCEDURES

IMMEDIATE ROADSIDE PROHIBITION (IRP)

IRP may only be issued when using an ASD

Completing the Notice of Driving Prohibition

- Record name either from the DL produced or from the CPIC query
- 2. Ensure that the address that you record is the most current address
- 3. If the driver produces an Out of Province DL but has a BCDL number also record both
- 4. Record if vehicle impounded and cross reference the VI form number so they can be linked at OSMV.

Completing the Reason for Prohibition

- 1. Check the applicable box for the period of prohibition. (Only check ONE box).
- 2. Only escalate penalty if CPIC query, under ACTION entry shows:
 - a. IRP CANDIDATE: ASD WARN-SERVE 7 DAY PROHIB, or
 - b. IRP CANDIDATE: ASD WARN-SERVE 30 DAY PROHIB
- 3. ASD FAIL issue 90 day IRP and MUST impound the vehicle for 30 days
- 4. ASD DEMAND REFUSAL issue 90 day IRP and MUST impound vehicle for 30 days
- 5. Complete the Certificate of Service and serve 'blue' copy on the driver

Completing the Report to Superintendent

ALL fields MUST be completed on the Report – If you leave anything blank then the IRP will revoked in a review

- <u>Evidence of Driving or Care or Control</u> Explain how you know the person to be the driver or in care or control. This is a ground for appeal so you need to explain in detail how you know the person was the driver.
- 2. <u>Reasonable Suspicion for Demand</u> Evidence of consumption, admission, odour of alcohol. Record the time you had reasonable suspicion and the time of last drink.
- 3. <u>Approved Screening Device Demand Read</u> Record date and time you READ the ASD Demand. Explain any delay in taking breath sample (e.g. evidence of drinking within 15 minutes of traffic stop wait 15 minutes before the administering ASD test).
- 4. <u>Approved Screen Device Test Results</u> If driver complies with demand, complete the ASD results grid, including serial number, calibration and service expiry dates and check appropriate boxes. Inform driver of right to second test as follows:

IRP AND 2ND ASD DEMAND

I have reasonable grounds to believe that your ability to drive is affected by alcohol. I therefore direct you to surrender your driver's licence, and I am issuing you a Notice of Driving Prohibition under section 215.41 of the Motor Vehicle Act.

You have a right to request, forthwith, a second breath test to determine your blood alcohol level. By legislation, your second breath test will prevail. Do you wish to provide a second sample?

IF DRIVER ANSWERS "YES" AND FIRST TEST = WARN add:

You should know that if your second test shows blood alcohol level is in the FAIL range, you will be prohibited from driving for 90 days and your vehicle will be impounded for 30 days. Do you still wish to provide a second sample?

- 5. Second Test One of these boxes MUST to be ticked. ONLY administer a second ASD test if requested by the driver. If driver withdraws request for a second test, tick this box and record why the driver changed their mind. Second ASD test MUST be administered on a different ASD. If a second ASD is not available then issue the 24 hr prohibition only. If a second test is performed, the result of that test determines the enforcement action. If the driver passes the second test do NOT issue a prohibition.
- 6. <u>Failure or Refusal to Comply with Demand</u>: Record date time of ASD refusal. Explain in detail how the driver refused or failed to provide a breath sample upon demand.

Complete the Vehicle Impoundment (MV2721) if the vehicle is impounded – See detailed instructions for police on cover of VI booklet.

Police MUST complete a minimum of 4 forms when issuing an IRP: IRP (MV2723); Report to Superintendent (MV2724); Vehicle Impoundment (MV2721) and Report to Superintendent (MV2722). Forms have been designed for police by police and **ALL** the fields **MUST** be completed to ensure that the supporting evidence is reported by police to OSMV.

If you have any questions contact the OSMV Police Liaison @250-356-6502.

Immediately fax copies of ALL reports to the Office of the Superintendent (OSMV) @ 250-978-8079.





Dated:



					CERTIF		OF SERVICE Se		(M)
T	IAME	GIV	/EN NAMES			BIRTH DA	ALE (AAAAWW/DD)	GENDER	
0:						DDO//IN/	DE (OTATE	DOSTAL CODE (
D	E55(STREET)			CITY/TOWN		PROVING	DE/STATE	POSTAL CODE/2	ZIP
	RIVER'S LICENCE NO	CLASS EXPIRY VR O	LIT-OF-PROVINCE DRIVER	'S LICENCE NUMBER			PROV/STATE]	
1	AVER 3 EIGENGE NO.	CLASS EXPINITIN O	OI-OI -FROVINGE DRIVER	3 LICENCE NOMBER			PROVISIALE		
V E _{SEIZE}	D DRIVER'S LICENCE		VEHICI E IMPO	OUNDED?			VEHICI E IMPO	DUNDMENT NUMBER	R
R –		_			NO			<u> </u>	Ï
		NO DEFICIO		·	NO				
The u	ndersigned pea	ce officer has reasonable gr	ounds to believe th	at on	YYYY	l l	M DD		
at	hours, or	1		. at or nea	ar			British Columb	oia.
		(S [*]	TREET/HIGHWAY)	,		(CITY/TOWN)) ,		,
				road and for the r	eason set o	out below	has reasonable	grounds to	
<u>ımme</u>		<u>ou from driving</u> for the perio	d set out below:						
	PROHIBITION PERIOD		REASON	N FOR PROHIB	TION				
	3 days	because a sample of your bre affected by alcohol.	eath on an approved s	screening device reg	istered WAR	and you	ur ability to drive is	\$200	0
	7 days							**************************************	0
	30 days								0
	90 days	because a sample of your bre affected by alcohol.	eath on an approved s	screening device reg	istered <u>FAIL</u>	and your	ability to drive is	\$500	0
	90 days						under the Criminal	\$500	0
PEACE (OFFICER'S NAME (PRI	NT)	PEACE OFFICER'S SIGN	NATURE			PIN/BADGE NUMBER		
		,	. 27.02 07.102,100 0.01						
ENFORC	CEMENT AGENCY NAM	IE (PRINT)					AGENCY FILE NUMBE	∃R	
IMMED	IATE EFFECT OF PR	OHIBITION AND RIGHT OF REVIEW		When you apply for a	review, copies o	of all availabl	e evidence concerning	this prohibition will	be
You hav	e the right to have this (the "Superintendent	driving prohibition reviewed by the Su ") under section 215.48 of the Motor Ve	perintendent of Motor chicle Act. An oral	disclosed to you unles the time of application	s you refuse the , you must prov	e disclosure. ide a fax nur	If all relevant informat mber to which the docu	tion is not available a uments can be sent,	at , or
			ng an application for						
REVIEW	V INSTRUCTIONS			to ensure that all of yo	ur written evide	nce is consi	dered, you must provid		
				•				ident fail to annear	
				on the date and at the	time and place				is
peace o	fficer did not take you	driver's licence or permit to operate a	motor vehicle, surrender						
declarat	tion stating that the lice	ence has been lost, stolen or destroyed	d.						
intend to	o have a lawyer represe e for the scheduled re	ent you, it is your responsibility to ensu	ure the lawyer is	Vehicle Act, ICBC may	y, without a hea	ring, refuse t	o issue you a driver's I	icence if the penalty	y is
CERTI	FICATE OF SE	RVICE Section 215.47 (MVA	4)			Y	YYY MM	DD	
l,			, a pea	ce officer, certify t	hat on		.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
-	ADDRESS/TREET CITYTOWN PROVINCESTATE POSTAL CODESZP POSTAL								
Iners	onally served				with a	a copy of	the Notice of Dr	iving Prohibitic	on
	onany our vou		(NAME OF DRIVER)			a copy of	1401100 OI DI	g i Tornollio	J11.

OSMV / POLICE COPY

Peace Officer's Signature_



PIN/Badge Number







IRP No. 20-1510010

NOTICE OF DRIVING PROHIBITION Section 215.41 (MVA) CERTIFICATE OF SERVICE Section 215.47 (MVA)

SURNA		PROHIBITION Section	215.41 (MVA) GIVEN NAMES	<u> </u>	BIRTH DATE (YYYY/MM/DD)	`
ADDRE	SS(STREET)			CITY/TOWN	PROVINCE/STATE	POSTAL CODE/ZIP
	VER'S LICENCE NO.		OUT-OF-PROVINCE DRIVER		PROV/STATE	
	1 -	NO PHOTO	VEHICLE IMPO		VERICLE I	IMPOUNDMENT NUMBER
he ur	ndersigned pea	ice officer has reasonab	le grounds to believe th	at on I I		
t	hours, o	n		, at or near		_ , British Columbia
ou ha	d care or contr		a highway or industrial	road and for the reason se		
_	PROHIBITION PERIOD		REASON	FOR PROHIBITION		MONETARY PENALTY*
	3 days	because a sample of you affected by alcohol.	ur breath on an approved s	screening device registered W.	ARN and your ability to driv	se is \$200
	7 days			screening device registered W .e to a WARN reading within a		affected \$300
	30 days			screening device registered Windows		
	90 days	because a sample of you affected by alcohol.	ur breath on an approved s	screening device registered <u>FA</u>	and your ability to drive	is \$500
	90 days			e excuse, to comply with a der means of an approved screen		inal \$500
ACE O	FFICER'S NAME (PR		PEACE OFFICER'S SIGN	· · · · · · · · · · · · · · · · · · ·	PIN/BADGE NUMI	3ER
IFORCE	EMENT AGENCY NAM	ME (PRINT)			AGENCY FILE NU	MBER
ou are in the purchase of the last of the	mmediately prohibite the right to have this (the "Superintenden's available only if the ecifically request one pes not stay the drivi INSTRUCTIONS days of the date of s rintendent to review on with the Superinte and containing all the ficer did not take you nesurance Corporatio on stating that the licu u apply for a review, have a lawyer repre-	OHIBITION AND RIGHT OF RE add from driving for the period set is driving prohibition reviewed by it only under section 215.48 of the Mile prohibition specified above is for at the time you apply for a reviering prohibition. Bervice of this Notice of Driving Price the prohibition. If you apply for a sendent at any Driver Licensing Cear required information; (2) pay all ur driver's licence or permit to open of British Columbia, or if applicance has been lost, stolen or destined the date and time for the review sent you, it is your responsibility wiew. The scheduled review dates	out in this notice of prohibition. the Superintendent of Motor otor Vehicle Act. An oral r 30 days or longer, and only w. Filing an application for rohibition you may apply to review you must: (1) file an entre, in the required form and I required fees; and (3) if the erate a motor vehicle, surrender able, file the required statutory stroyed. will be scheduled. If you to ensure the lawyer is	When you apply for a review, copie disclosed to you unless you refuse the time of application, you must p make arrangement to collect the in Licensing Centre. You may attach to your review appl Superintendent to consider. You m to ensure that all of your written ev Superintendent in advance of the slif you request an oral hearing and, on the date and at the time and ple deemed to have been waived. *NOTICE OF MONETARY PENAL Under section 215.44 of the Motor be paid no later than 30 days from Vehicle Act, ICBC may, without a h not paid, and any licence in your povenicle Act.	the disclosure. If all relevant inforovide a fax number to which the office of the formation or have it collected on y lication any statements or other every also provide it separately to the idence is considered, you must procheduled review. Without prior notice to the Superince arranged for the hearing, your TY Vehicle Act the monetary penalty the date this notice is served. Unearing, refuse to issue you a drive	rmation is not available at documents can be sent, or your behalf from a Driver vidence that you wish the e Superintendent. In order rovide the material to the intendent, fail to appear right to an oral hearing is as indicated above must der section 26 of the Motoer's licence if the penalty is
		RVICE Section 215.47	(MVA)	SEE REVERS	SE FOR OTHER IMPORTANT NO	TICES
		PRINT		ce officer, certify that on	YYYY	MM DD
nerso	onally served			wit	h a copy of the Notice of	Driving Prohibition
ated:	YYYY	MM DD	(NAME OF DRIVER)		a copy of the fredice of	
	1 1		Peace Officer's Signa	ture	PIN/Badge N	umber
			DRIVE	R COPY		



IMPORTANT NOTICES TO DRIVER

MEANING OF WARN AND FAIL

Section 215.41 of the Motor Vehicle Act defines "WARN" and "FAIL" as follows:

"warn" means an indication on an approved screening device that the concentration of alcohol in a person's blood is not less than 50 milligrams of alcohol in 100 millilitres of blood.

"fail" means an indication on an approved screening device that the concentration of alcohol in a person's blood is not less than 80 milligrams of alcohol in 100 millilitres of blood.

PROHIBITION LENGTH

You are prohibited from driving immediately upon service of this notice for the period indicated. Your prohibition from driving is counted in full days. Partial days including the day you were served with this notice of prohibition are not included in the count of full days.

PROHIBITION REVIEW

Your right of review is outlined on the front of this notice of prohibition. The driving prohibition will be revoked if the Superintendent of Motor Vehicles is satisfied of one of the following, as applicable:

- > That you were not the driver or in care or control of a motor vehicle,
- > In the case of a 3, 7 or 30 day prohibition an approved screening device did not register a WARN,
- > In the case of a 90-day prohibition the device did not register a FAIL, or
- > In the case of a 90-day prohibition you did not fail or refuse to comply with a demand to provide a breath sample, or you had a reasonable excuse for failing to comply with a demand

The driving prohibition will be varied if the Superintendent of Motor Vehicles is satisfied of one of the following, as applicable:

- > You did not have the required number of previous WARN range prohibitions for a 7 or 30 day prohibition
- > Your 90-day prohibition was erroneously issued due to a WARN reading a 3, 7 or 30 day prohibition as applicable will be substituted

If a prohibition is revoked or varied, the associated monetary penalty will be cancelled or varied as appropriate.

REMEDIAL PROGRAM REQUIREMENTS - 30 DAY AND 90 DAY PROHIBITIONS

Under the provisions of sections 215.45 and 25.1 of the Motor Vehicle Act, it is in the public interest for you to attend and participate in the Responsible Driver Program and the Ignition Interlock Program. In addition to the requirements already specified, you must do the following:

- > Register for the Responsible Driver Program and pay the prescribed program fee
- > Register for the Ignition Interlock Program and have an ignition interlock device installed in any vehicle you intend on driving, and pay the prescribed program fee

These requirements must be met <u>before</u> you can apply for a driver's licence after your prohibition from driving. If you have received a 3 or 7 day prohibition from driving, the Superintendent of Motor Vehicles will review your past driving history. One or both of these programs may be required following this review.

Information concerning both of these programs, including contact information for the service providers, is available at the Superintendent of Motor Vehicles website at www.pssg.gov.bc.ca/osmv.

DRIVING RECORD REVIEW - GRADUATED LICENSING PROGRAM DRIVERS

Drinking and driving is a serious violation of the conditions of the Graduated Licensing Program. If you are a participant in the program, you should be aware that your driving record will be reviewed by the Superintendent of Motor Vehicles, and you can expect a further driving prohibition. For further details concerning the Driver Improvement Program policies and guidelines with respect to drinking and driving by Graduated Licensing Program participants visit www.pssg.gov.bc.ca/osmv.

DRIVING RECORD REVIEW - EXPERIENCED DRIVERS

This driving prohibition will be considered by the Superintendent of Motor Vehicles anytime your driving record is reviewed. If, in the opinion of the Superintendent of Motor Vehicles, you have an unsatisfactory driving record, a further driving prohibition may be ordered. For further details concerning the Driver Improvement Program policies and guidelines for experienced drivers visit www.pssg.gov.bc.ca/osmv.

DRIVER'S LICENCE REINSTATEMENT REQUIREMENTS - ALL DRIVERS

After your prohibition has ended, you must attend a Driver Licensing Centre to apply for a new driver's licence. You will need to pay a \$250 licence reinstatement fee, the fee for a short-term driver's licence, your monetary penalty as described on the front of this notice of prohibition, as well as any outstanding fines or debts that may be owing to the government, the courts or to ICBC. For the location of your nearest Driver Licensing Centre, visit ICBC's website at www.icbc.com.

Superintendent of Motor Vehicles

