



June 13, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition ("IRP") No. s.22

On January 27, 2011, a peace officer served you with a Notice of Driving Prohibition because a sample of your breath on an approved screening device registered a FAIL and your ability to drive was affected by alcohol. You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and Adjudicator Quarry confirmed the IRP. You subsequently filed a petition for judicial review of that decision.

I have received a Consent Order to re-hear your IRP application. I have considered the evidence and I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may continue to drive with the driver's licence you obtained from the Insurance Corporation of British Columbia.

Records at this office indicate that the vehicle associated with this IRP has been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including February 27, 2011. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

This decision does not change any other prohibitions from driving or licensing requirements.

s.15

Adjudication and Training



June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied for this review on three grounds, some of which are not applicable to your situation because of the reason you were prohibited. For your benefit, I have considered all of the grounds appropriate to your situation.

At the beginning of the oral hearing you confirmed that full disclosure of all of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Katerenchuk, I find there is one determinative issue in this review.

Did you fail or refuse to comply with an ASD demand?

After reviewing the evidence before me, I am not satisfied that you failed or refused to comply with an ASD demand.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including July 2, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator



June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 18, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, you confirmed that you received all of the documents that are before me. I confirm receipt of your letter dated June 23, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you advised of your right to request a second analysis?

Based on a review of all of the evidence before me, I am not satisfied that I have been provided with sufficient evidence to persuade me that you were advised of your right to a second ASD test.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on 10 grounds, not all of which are applicable to your situation because of the reason you were prohibited. However, for your benefit, I will consider all grounds that are applicable to your situation.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy G. Carr. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

Based on the evidence before me, I am satisfied that your BAC was less than 80 mg% even though the ASD registered a "FAIL".

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15

Adjudicator

cc: Jeremy G. Carr
Fax: 250-388-7327



June 24, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 4, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you advised of your right to request a second analysis?

Having considered the evidence before me, I am not satisfied the officer advised you of your right to request a second analysis.

Having made this finding, there is no need to address the other issues in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 24, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator



June 4, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the oral hearing your lawyer, Kyla Lee confirmed that full disclosure of the documents before me was provided to her. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

Was the second analysis performed on a different ASD?

I am not satisfied that the second analysis was performed on a different ASD.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 4, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Kyla Lee (by fax)
(604) 685-8308

June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 1, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On your application for review you selected all of the grounds. For your benefit, I have considered all of the grounds available to you in this review that relate to the reason for which you were prohibited.

At the beginning of the oral hearing your lawyer, Kyla Lee confirmed that she had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

- The following are the issues in this review:
- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?

- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?

After reviewing all of the evidence before me, I cannot be satisfied that the "FAIL" was a result the of your BAC exceeding 80 mg%

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence. Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle

Adjudicator s.15

pc: Kyla Lee, Acumen Law Corporation
Fax: 604-685-8308



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 22, 2014, a peace Officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device (ASD) registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds available to you in this review that are appropriate to the circumstances for which you were served with the Notice.

Records at this office confirm that you were provided full disclosure of the documents that are before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the Officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you a driver within the meaning of section 215.41(1) of the Act?

Based on a consideration of the evidence, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Jamie Butler confirmed that full disclosure of the documents before me was provided to him. I have proceeded with this review based on that confirmation.

Having reviewed all of the evidence before me, I find that the Report to Superintendent is not properly before me. I find I have insufficient evidence to make the necessary findings required to confirm the prohibition.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 30, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Jamie Butler (by fax)
(604) 739-9888



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?

- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

As it is determinative of this review, I will only address the following ground:

Were you a driver within the meaning of section 215.41(1) of the Act?

Having considered all of the evidence before me, I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 20, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



June 11, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the oral hearing, your lawyer John Green confirmed that full disclosure of the documents before me was provided to her.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having reviewed the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 11, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: John Green
Green & Helme
Fax: (250) 361-9181



June 5, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

Having considered the evidence before me, I am not satisfied that samples you provided at roadside registered reliable results on the ASDs.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 5, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc. Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308



June 6, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the ASD registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”)
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different approved screening device (“ASD”);
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On your application for review you only selected the ground that you were not driving or in care or control of the motor vehicle. For your benefit, I have considered all of the grounds available to you in this review that relate to the reason for which you were prohibited.

Records at this office confirm that full disclosure of the documents before me was provided to you prior to the date and time of your hearing. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “WARN”, and was it as a result of your BAC exceeding 50 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed with a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

After reviewing the evidence before me, I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition and monetary penalty, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

s.15

Adjudicator



June 17, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On March 11, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that your lawyer, Jennifer Currie, received full disclosure. I have proceeded with the review based on this confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter.

Adjudicator

cc: Jennifer Currie
604-590-5626



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 30, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

You have provided evidence which calls the reliability of the first ASD test result into question. I am not satisfied that the first ASD result was reliable at the time the officer obtained a sample of your breath into it.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 20, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

CC. Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308



JUNE 4, 2014

s.22

REVIEW DECISION - Immediate Roadside Prohibition ("IRP") No. s.22

Introduction

On May 14, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Some of the grounds on which you applied for this review are not applicable to your situation because the officer alleged that you were being prohibited from driving 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 ASD. For your benefit, I will consider all of the grounds available to you in this review that are appropriate to those circumstances.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy Carr. I have proceeded with this review based on that confirmation.

I acknowledge receipt of Mr. Carr's submissions.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Were you a driver within the meaning of section 215.41(1) of the Act?

Based on a consideration of the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator

Cc: Jeremy Carr
By Fax 388-7327



June 11, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

In the oral review of June 16, 2014, I confirmed with your lawyer, Ms. Kyla Lee, that she had full disclosure of file material. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence of Cst. Wright, I find there is one determinative issue in this review.

Did you fail or refuse to comply with an ASD demand?

I am not satisfied the officer had reasonable grounds to form a demand when he encountered you as the driver on May 25, 2014. Therefore, I find the demand to be invalid.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 11, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308

June 25, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the oral hearing your lawyer, Albert Berns confirmed that full disclosure of the documents before me was provided to him. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

Was the ASD reliable?

After considering the evidence before me, I am not satisfied the ASD was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15

Adjudicator

cc: Albert Berns (by fax)
(250) 388-9406

June 4, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 18, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied for this review by checking all grounds listed on the application form; however, not all grounds are applicable to your situation, because of the reason for which you were prohibited. For your benefit, I have considered all grounds that apply in your case.

At the beginning of the oral hearing your lawyer, Kyla Lee confirmed that full disclosure of the documents before me was provided to her. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?

- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

After reviewing the evidence before me, I am not satisfied that the "FAIL" was a result of your BAC exceeding 80 mg%

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 4, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator s.15

cc: Kyla Lee (by fax)
(604) 685-8308



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Michael T. Mulligan. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of it.

Adjudicator

cc: Michael T. Mulligan (by fax)
250 480-0004



June 3, 2014

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On March 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the ASD registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”)
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different approved screening device (“ASD”);
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Upon review of the officer’s evidence, I find that the Report to Superintendent is not properly sworn.

s.22

IRP Review Decision
Page 2

Decision

As a result of my findings, I revoke your driving prohibition, and monetary penalty as required by section 215.5(4) of the Act.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

s.15

Adjudicator



June 11, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 22, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that your lawyer, Jeremy Carr, was provided full disclosure of the documents before me. I have proceeded with this review based on that confirmation.

You applied on all thirteen review grounds, some of which are not applicable to your situation because of the reason for which you were prohibited from driving. For your benefit, I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

Was the ASD reliable?

After reviewing all of the evidence before me, I cannot be satisfied the ASD used to perform your ASD test was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence. Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Jeremy Carr
fax: 250-388-7327



June 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the *Act* requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all information provided to me.

Preliminary Matters

Upon review of the evidence, I find that the Report to Superintendent has not been properly sworn. As a result, there is insufficient evidence before me to support the charge against you.

Having made this finding, there is no need to address the issues in this review.

DECISION

As a result of my finding, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have already paid for the release of your vehicle, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including **June 23, 2014**, the date our office previously ordered the release of your vehicle. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

s.15

Adjudicator



JUNE 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy G. Carr. I have proceeded with this review based on that confirmation.

I acknowledge receipt of Mr. Carr's submissions dated June 9, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Did you fail or refuse to comply with an ASD demand?

I am not satisfied that there is sufficient evidence before me on which I can find that you failed or refused to comply with an ASD demand.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator

Cc: Jeremy G. Carr
By Fax 250-388-7327



June 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 19, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you advised of your right to request a second analysis?

Having considered the evidence before me, I am not satisfied the officer advised you of your right to request a second analysis.

Having made this finding, there is no need to address the other issues in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 9, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc. Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308



June 5, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on the ground that you were not driving or in care or control of the motor vehicle; however, for your benefit, I will consider all grounds that are applicable to your situation.

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

According to our records, this office attempted to contact you on May 30, 2014, and again on June 3, 2014, to conduct prehearing with you prior to this review. However, this office could not reach you or leave a voicemail message for you as your voicemail has not been initialized. As I have not received a written submission from you to date, I will proceed with the evidence I have before me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having reviewed the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 5, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



June 13, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the ASD registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”)
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different approved screening device (“ASD”);
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On the IRP Application for Review, you indicated four grounds for review, one of which is not applicable to your situation because of the reason for which you were prohibited. However, I have considered all grounds available to you in this review.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Cathryn Waker. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "WARN", and was it as a result of your BAC exceeding 50 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed with a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Was your BAC less than 50 mg% even though the ASD registered a "WARN"?

I am satisfied that your BAC was less than 50 mg%.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including May 29, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

Adjudicator

cc: Cathryn Waker (by fax)
604 637-1617



June 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Kyla Lee, confirmed that she had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As it is determinative of this review, I will only address the following ground:

Did you fail or refuse to comply with an ASD demand?

Having considered all of the evidence before me, I am satisfied that you did not fail or refuse to comply with the ASD demand.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of it.

s.15

Adjudicator

cc: Kyla Lee
Acumen Law Corporation
fax: 604-685-8308



June 27, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On June 6, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As it is determinative of this review, I will only address the following issue:

Did you fail or refuse to comply with an ASD demand?

There are two matters for me to determine in this issue. I must determine whether the peace officer made a valid demand, and whether you failed or refused to comply with that demand.

Having carefully considered the evidence before me, I do not find that the officer had the requisite grounds to make the ASD demand. Therefore, I am satisfied that the peace officer did not make a valid ASD demand.

Having made this finding, I do not need to consider any further issues

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

Adjudicator

June 17, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (ASD); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that you received all the documents that are before me. I have proceeded with the review based on this confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having considered the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including June 4, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



June 24, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On February 26, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (“ASD”) registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you at the time you completed the application on March 5, 2014. I have proceeded with this review based on that confirmation.

The officer did not indicate the number of pages he provides and attaches as part of the sworn Report to Superintendent (the “Report”). I exclude the ‘Narrative Text Hardcopy – Occurrence Report’ on this basis, finding the officer did not properly include the Occurrence Report, and I therefore give it no consideration in this review.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a “WARN”, and was it as a result of your BAC exceeding 50 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative in this review.

Were you advised of your right to a second analysis?

Based on the evidence you provided in your submissions, I am not satisfied that the officer informed you of your right to request a second analysis. I find your statement and description of the administration of the second test on this issue outweighs the evidence provided by the officer.

Decision

As a result of my findings, I confirm your 3-day driving prohibition and monetary penalty. Your prohibition took effect on February 21, 2014.

As a result of my findings, I revoke your driving prohibition as required by s. 215.5(4) of the Act. A refund of the reinstatement and penalty fees has been initiated.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am reimbursing the costs of towing and storage of the vehicle.

s.15

Adjudicator



June 27, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No s.22

Introduction

On June 8, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a "FAIL" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

Records at this office confirm that full disclosure of the documents before me was provided to your representative, Philip W. Cote. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

After reviewing the evidence before me, I am satisfied that your BAC was not less than 80 mg%.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15

Adjudicator

cc: Philip W. Cote
fax: 778 395-6226



JUNE 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, David Milburn, confirmed that he had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you advised of your right to request a second analysis?

Based on a review of all of the evidence before me, I am not satisfied that I have been provided with sufficient evidence to persuade me that you were advised of your right to a second ASD test.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings I revoke your driving prohibition, monetary penalty and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator s.15

CC David Milburn
By fax 604-526-8056



June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 12, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing your lawyer, Kyla Lee, confirmed that she received full disclosure. I have proceeded with the review based on this confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having considered the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 30, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator

cc: Kyla Lee
604-685-8308



June 17, 2014

s.22

IRP RECONSIDERATION

REVIEW DECISION **Immediate Roadside Prohibition ("IRP") No.** s.22

Introduction

On April 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

On May 1, 2014, I completed a review of your IRP and mailed you a decision letter indicating that you did not make any submissions, as they were not before me at the time of the review. However, it has come to my attention that you did in fact make a submission which was dated April 15, 2014. As such, I have re-opened your hearing and will render a new decision based on all of the evidence before me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and AnalysisDid you fail or refuse to comply with an ASD demand?

There are three matters for me to determine in this issue. I must determine whether the peace officer made a valid demand, whether you failed or refused to comply with that demand, and whether you intended to produce that failure or refusal.

After reviewing the evidence before me, I find that you did not fail to comply with the ASD demand.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter.



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

Records at this office confirm that full disclosure of the documents before me was provided to your representative, Dilraj Gosal. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Did you fail or refuse to comply with an ASD demand?

There are three matters for me to determine in this issue. I must determine whether the peace officer made a valid demand, whether you failed or refused to comply with that demand, and whether you intended to produce that failure or refusal.

Having considered the evidence before me, I am satisfied that the peace officer did not make a valid ASD demand.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Dilraj Gosal
fax: 604 510-5195



JUNE 27, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 6, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, you confirmed that you received a copy of all of the documents that are before me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand? If so, did you intend to produce that failure?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Did you fail or refuse to comply with an ASD demand?

I am not satisfied that there is sufficient evidence before me on which I can find that you failed or refused to comply with an ASD demand.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator



June 13, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 24, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (the “ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that your legal counsel, Vincent Guo, received full disclosure of the documents before me. I have proceeded with the review based on this confirmation.

Issues

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”?
- Were you advised of your right to request a second analysis?
- If requested, was the second analysis provided by the officer and performed using a different ASD?

- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was the ASD “FAIL” a result of your BAC exceeding 80 mg%?

Facts, Evidence and Analysis

Was the ASD analysis a result of your BAC exceeding 80 mg%?

In considering the documents before me, I find that Officer Parker has failed to provide evidence sufficient to establish that the ASD “FAIL” was a result of your BAC exceeding 80 mg%.

Having made this finding, there is no need to consider the other issues in this review.

Decision

Based on the evidence, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If the owner has have not already done so, she may go directly to the location where her vehicle is impounded for the immediate release of the vehicle. The Superintendent will pay towing and storage costs up to and including June 13, 2014. The owner is responsible for any storage costs beyond that date and should be aware that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent to dispose of the vehicle.

Adjudicator s.15

pc: Vincent Guo via fax

June 18, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On January 20, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device (ASD) registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you a driver within the meaning of section 215.41(1) of the Act?

After reviewing the evidence before me, I am not satisfied that the Report to Superintendent has been properly sworn. As such, I cannot be satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. Because your prohibition has been cancelled, the Superintendent of Motor Vehicles will pay the towing and storage costs that you have incurred up to the date that it was eligible for release. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle. **Original receipts and invoices with proof of payment must be attached.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

s.15
Adjudicator

cc: Anthony Robinson
By fax 604-608-9137



JUNE 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 31, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Jennifer Currie, confirmed that he had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the ASD reliable?

Based on a review of all of the evidence before me, I am not satisfied that the ASD used to conduct your second analysis was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings I revoke your driving prohibition, monetary penalty and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator s.15

cc: Jennifer Currie
By fax 604-590-5626



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 30, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you advised of your right to request a second analysis?

Having considered the evidence before me, I am not satisfied the officer advised you of your right to request a second analysis.

Having made this finding, there is no need to address the other issues in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 23, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator



June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 10, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied for this review on eight grounds, some of which are not applicable to your situation because of the reason you were prohibited. For your benefit, I have considered all of the grounds appropriate to your situation.

At the beginning of the oral hearing you confirmed that full disclosure of all of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence of Cst. Lerhe-Thomas, I find there is one determinative issue in this review.

Did you fail or refuse to comply with an ASD demand?

After reviewing the evidence before me, I am not satisfied that you failed or refused to comply with an ASD demand.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including May 29, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

s.15

Adjudicator



June 19, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

On May 30, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”) because you failed or refused 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 (“ASD”).

Upon review of the evidence before me, I find that I do not have before me a properly sworn Report to Superintendent. As a result, there is insufficient evidence before me to support the driving prohibition indicated on the Notice you were served with on May 30, 2014.

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act. You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Albert King
fax: 1-250-753-6123



June 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

One of the grounds you chose for this review – that your 7 or 30 day prohibition should be reduced – is not applicable to the circumstances under which you were issued the Notice. You are prohibited because the officer alleged that an ASD test resulted in a "fail". I will consider all of the grounds available to you in this review that are appropriate to those circumstances.

Records at this office indicate that you are in receipt of the documents that are before me. I confirm receipt of your letter received on May 30, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the second analysis provided by the officer on a different ASD?

Based on the evidence before me, I cannot be satisfied that the second analysis was provided on a different ASD.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator



June 26, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 7, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a "FAIL" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

Records at this office confirm that full disclosure of the documents before me was provided to your representative, Sarah Leamon. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and AnalysisWere you a driver within the meaning of section 215.41(1) of the Act?

After reviewing the evidence before me, I find that you were not a driver, or in care or control of a motor vehicle at a relevant time.

I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Sarah Leamon
fax: 604 370-2505

June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On March 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on the grounds that you were not the driver or in care or control of a motor vehicle and you did not refuse or fail to comply with the officer’s demand to provide a breath sample. For your benefit, I will consider all grounds that are applicable to your situation.

At the beginning of the oral hearing, I confirmed that full disclosure of the documents before me was provided to your lawyer, Sarah E. Leamon. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with the ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

I find that there is one issue that is determinative in this review.

Did you fail or refuse to comply with the ASD demand?

Based on the evidence, I am not satisfied that you failed or refused to comply with the ASD demand.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including April 11, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

Adjudicator

cc: Sarah E. Leamon

Fax: 604-370-2505



June 16, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 24, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing you confirmed that you received all the documents that are before me. You applied on five grounds, three of which are not applicable to your situation because of the reason for which you were prohibited. For your benefit, I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 16, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



June 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 1, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device ("ASD") registered a "FAIL" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood ("80 mg%");
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Was the second analysis provided by the officer?

After reviewing the evidence before me, I find that you were not provided with an opportunity to provide a second sample of breath for analysis.

I am satisfied that the second analysis was not provided by the officer.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Craig Sicotte
Sicotte & Henry
fax: 604-585-8964



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 1, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Sarah E. Leamon, confirmed that she had received all of the disclosure documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Was the ASD reliable?

I am not satisfied that the ASD used to administer the first ASD test was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Sarah E. Leamon (by fax)
604-370-2505



June 10, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 21, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

You have provided evidence which addresses the reliability of the ASD result taken by the officer. I am not satisfied that the ASD result was reliable after the officer obtained a sample of your breath at the time indicated.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 10, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

June 5, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Kevin Filkow. I have proceeded with the review based on that confirmation.

Issues

- The following are the issues in this review:
- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Was the ASD reliable?

Having carefully considered the evidence and your lawyer's submissions, I am not satisfied that the ASD used to conduct your first breath test was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the *Motor Vehicle Act*.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle was notified by Mr. Filkow that I am releasing the vehicle.

Adjudicator s.15

cc: Kevin Filkow by fax: 604 370 2505



June 6, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 18, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing your lawyer, Kyla Lee, confirmed that she received full disclosure.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 6, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator

cc: Kyla Lee
604-685-8308



June 13, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (the “ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that you received full disclosure of the documents before me. I have proceeded with the review based on this confirmation.

Issues

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL” and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the ASD result reliable?

- Was the Notice served on the basis of the lower analysis result?

Facts, Evidence and Analysis

Were the ASD results reliable?

In reviewing the documents before me, I find that Officer Attwell has failed to provide evidence sufficient to establish that the ASD with serial number 101305 was reliable on May 23, 2014.

Based on the evidence, I am not satisfied that the ASD results were reliable.

Having made this finding, there is no need to consider the other issues in this review.

Decision

Based on the evidence, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent will pay towing and storage costs up to and including June 13, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent to dispose of the vehicle.



June 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing you confirmed that you received all the documents that are before me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was your BAC less than 80 mg% even though the ASD registered a “FAIL”?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 30, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator



JUNE 19, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jennifer Currie. I have proceeded with this review based on that confirmation.

I acknowledge receipt of Ms. Currie's submissions dated June 11, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Did you fail or refuse to comply with an ASD demand?

Based on a consideration of the evidence before me, I am not satisfied that you failed or refused to comply with an ASD demand.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator

Cc: Jennifer Currie
By Fax 604-590-5626

June 10, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a "FAIL" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me. Records in this office confirm that disclosure of the police evidence has been provided to you. I proceed with this review on that assertion.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?

- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Were the ASDs reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

The officer has not provided information on the calibration of the first ASD he used to analyze a sample of your breath on May 25, 2014. Therefore, I am not satisfied it was reliable on that date.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 10, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 25, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on 10 grounds, not all of which are applicable to your situation because of the reason you were prohibited. However, for your benefit, I will consider all grounds that are applicable to your situation.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy G. Carr. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

Based on the evidence before me, I am satisfied that your BAC was less than 80 mg% even though the ASD registered a "FAIL".

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

Adjudicator

cc: Jeremy G. Carr
Fax: 250-388-7327



June 6, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that you received full disclosure. I have proceeded with the review based on this confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 6, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



June 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 18, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, your lawyer Bryan Fitzpatrick, confirmed that he was in receipt of full disclosure of the documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the ASD reliable?

After considering the evidence before me, I am not satisfied the ASD was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator

cc: Bryan Fitzpatrick
By fax 250-785-4346



June 3, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, your lawyer, Cathryn Waker, confirmed that she was in receipt of the documents before me. I confirm receipt of Ms. Waker's letter on April 29, 2014, together with your Affidavit and the expert opinion of Wayne Jeffery.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the ASD reliable?

Based on the evidence before me, I cannot be satisfied that the first ASD was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator

cc: Cathryn Waker
Via Fax 604-637-1617



June 5, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No s.22

Introduction

On May 15, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, your lawyer, Kyla Lee, confirmed that she was in receipt of the documents before me. I confirm receipt of Ms. Lee's letter on June 2, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you advised of your right to request a second analysis?

Based on a review of all of the evidence before me, I am not satisfied that I have been provided with sufficient evidence to persuade me that you were advised of your right to a second ASD test.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator

cc: Kyla Lee
Via Fax 604-685-8308



June 11, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on 11 grounds, not all of which are applicable to your situation because of the reason you were prohibited. However, for your benefit, I will consider all grounds that are applicable to your situation.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Kevin Filkow. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were the ASDs reliable?

Having reviewed the evidence before me, I am not satisfied that the ASDs were reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

Adjudicator

cc: Kevin Filkow
Fax: 604-370-2505



June 6, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No s.22

Introduction

On May 18, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a "FAIL" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that your lawyer, Dil Gosal, received full disclosure. I have proceeded with the review based on this confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having considered the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 6, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator

cc: Dil Gosal
604-510-5195



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 22, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing your lawyer, Sarah Leamon, confirmed that she received full disclosure.

I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was your BAC less than 80 mg% even though the ASD registered a “FAIL”?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

Adjudicator

cc: Sarah Leamon
604-370-2505



June 5, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on all 13 grounds, not all of which are applicable to your situation because of the reason you were prohibited; however, for your benefit, I will consider all grounds that are applicable to your situation.

At the beginning of the oral hearing, your lawyer Kyla Lee confirmed that full disclosure of the documents before me was provided to her.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Having reviewed the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 5, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc: Kyla Lee
Fax: (604) 685-8308



June 27, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On June 14, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "fail", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the ASD reliable?

Based on the evidence before me, I cannot be satisfied that the first ASD was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator

cc: Kyla Lee
Via Fax 604-685-8308



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On September 24, 2013, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, John Green, confirmed that he had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

The investigating officer provided 9 pages of disclosure to this office on September 25, 2013. After reviewing the Report to Superintendent (the “RTS”), I note that the jurat in section 15 is dated September 24, 2013. On the bottom of the two pages of the Narrative Text Hardcopy – Synopsis – 1 (the “Synopsis”), it indicates that the document was printed on “Wednesday, 2013-

Sep-25.” Therefore, I find it reasonable to conclude that the Synopsis was not before the commissioner when the RTS was sworn. Accordingly, I find that this document cannot be considered under section 215.49(1)(d) of the Act. As such, I have not referred to the Synopsis when writing this review decision.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Was the second analysis provided by the officer?

I am satisfied that you did not withdraw your request for a second analysis. As such, I find that the investigating officer should have provided the second analysis but failed to do so.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

Records at this office indicate that a duplicate, class 5 driver’s licence was issued to you on November 20, 2013, with an expiry date of May 22, 2018.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

A separate letter has been sent to the vehicle owner advising them of the revocation.

Adjudicator

cc: John Green (by fax)
250 361-9181



June 17, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 28, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of RoadSafetyBC for a review of your prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that your legal counsel, Cory Armour, received full disclosure of the documents before me. I have proceeded with the review based on this confirmation.

Issues

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

I will begin with the second issue.

Did you fail or refuse to comply with an ASD demand?

The issue of whether you failed or refused to comply with a demand is twofold. First, the evidence must establish that an officer made a demand on you pursuant to section 254 of the *Criminal Code*. Second, the evidence must establish that you failed or refused to comply with the demand.

Mr. Armour submits that Officer Walker did not make the ASD demand on you pursuant to section 254 of the *Criminal Code*. Consequently, the demand is unlawful and your driving prohibition should be revoked.

I concur.

Having made this finding, there is no need to consider the other issues in this review.

Decision

Based on the evidence, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent will pay towing and storage costs up to and including June 17, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent to dispose of the vehicle.

Adjudicator s.15

pc: Cory Armour via fax

June 13, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I acknowledge receipt of a letter from Jeremy Carr on May 30, 2014, saying that he is no longer acting on your behalf. I confirm receipt of your letter dated June 9, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "fail", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the Officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Were you a driver within the meaning of section 215.41(1) of the Act?

Based on a consideration of the evidence, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15
Adjudicator

cc: Colby Johnson
by fax 250-868-3080



June 6, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On the IRP Application for Review, you indicated five grounds for review, three of which are not applicable to your situation because of the reason for which you were prohibited. However, I have considered all grounds available to you in this review.

At the beginning of the hearing, you confirmed that you had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Did you fail or refuse to comply with an ASD demand?

I am not satisfied that you failed or refused to comply with the ASD demand.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator



June 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On April 27, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the ASD registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”)
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different approved screening device (“ASD”);
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied four grounds, not all of which are applicable to your situation because of the reason you were prohibited. However, for your benefit, I will consider all grounds that are applicable to your situation.

On May 13, 2014, a Notice of Adjournment of Hearing was sent to you advising you that the Act requires the peace officer who served the Notice to promptly forward to the Superintendent of Motor Vehicles a sworn or solemnly affirmed Report to Superintendent (the “Report”) together with any attached narrative. The letter also advised you that this office had attempted to obtain the Report from the officer; however, had not received it by May 13, 2014. As a result, your hearing was adjourned until the Report was received.

On May 13, 2014, this office received a solemnly affirmed Report and Narrative Text Hardcopy.

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "WARN", and was it as a result of your BAC exceeding 50 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed with a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative in this review.

Were the ASDs reliable?

Having reviewed the evidence before me, I am not satisfied that the ASDs were reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including May 1, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

June 2, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On April 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Don Skogstad. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Buschen, I find there is one determinative issue in this review.

Did you fail or refuse to comply with an ASD demand?

After reviewing the evidence before me, I am not satisfied that you failed or refused to comply with an ASD demand.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including May 6, 2014. ***Original receipts and invoices with proof of payment must be submitted for reimbursement.*** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

Adjudicator

cc: Don Skogstad (by fax)
(250) 487-4309



JUNE 11, 2014

s.22

REVIEW DECISION - Immediate Roadside Prohibition ("IRP") No. s.22

Introduction

On May 21, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused 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 ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Brock Edwards, confirmed that full disclosure of the documents before me was provided to him. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Did you have a reasonable excuse for failing or refusing to comply with the ASD demand?

After reviewing the evidence in its totality, I am satisfied that you had a reasonable excuse for failing to comply with the ASD demand.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator

Cc: Brock Edwards
By Fax 604-433-8209



June 16, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

You have provided evidence which addresses the reliability of the first ASD result taken by the officer. I am not satisfied that the first ASD result was reliable at the time the officer obtained a sample of your breath into it.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 16, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.22

Adjudicator

CC. Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308

June 2, 2014

s.22

RECONSIDERATION DECISION

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On April 27, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the ASD registered a “WARN” as a result of your blood alcohol concentration (“BAC”) being not less than 50 milligrams of alcohol in 100 millilitres of blood (“50 mg%”)
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different approved screening device (“ASD”);
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy Carr. I have proceeded with this review based on that confirmation.

Your written review was scheduled for 9:30am on May 12, 2014. I had not received a written submission from you or Mr. Carr by the rescheduled review time so I proceeded with the evidence I had before me. The original decision was made on May 20, 2014, which resulted in a revocation of your IRP and was faxed to Mr. Carr’s office at 8:01am that day. At 1:15pm on May 20, 2014, I received correspondence from Mr. Carr’s office advising that they had in fact made

submissions on your behalf and provided a fax transmission report confirming 13 pages were faxed to this office at 8:14am on May 12, 2014. Mr. Carr asked that I immediately correct this and provide written correspondence to both yourself and his office. As the 13 pages Mr. Carr had faxed into this office on May 12, 2014, were not in your file and subsequently, were not before me when the original decision was rendered Mr. Carr's office was advised that I would provide a reconsideration decision considering his submissions. He was advised that all written submissions were to be submitted by 4:30pm on Wednesday May 21, 2014. Mr. Carr has provided his written submissions for my consideration and therefore, I will proceed with this review accordingly.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "WARN", and was it as a result of your BAC exceeding 50 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed with a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Hartl, I find there is one determinative issue in this review.

Was the ASD reliable?

After considering the evidence before me, I am not satisfied the ASD was reliable.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

s.15

Adjudicator

cc: Jeremy Carr (by fax)
(250) 388-7327



June 19, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 1, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

As it is determinative of this review, I will only address the following issue.

Did you fail or refuse to comply with an ASD demand?

Upon review of the evidence, I am not satisfied that the peace officer made a valid demand.

Based on the evidence before me, I am not satisfied that you failed or refused to comply with the demand.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act. You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

June 2, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On May 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the oral hearing your lawyer, Robert Claus confirmed that full disclosure of the documents before me was provided to him. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

Were you advised of your right to a second analysis?

I am not satisfied that you were advised of your right to a second analysis.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia (ICBC). Please contact the ICBC to determine your eligibility to apply for a BC driver's licence or to arrange for your foreign driver's licence to be returned to you. You must call ICBC Customer Contact at 250 978-8300, or toll free at 1-800-950-1498.

This decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15

Adjudicator

cc: Robert Klaus (by fax)
(250) 381-9240



June 20, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On May 30, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Were the ASDs reliable?

You have provided evidence which calls the reliability of the first ASD test result into question. I am not satisfied that the first ASD result was reliable at the time the officer obtained a sample of your breath into it.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 20, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

CC. Kyla Lee
Acumen Law Corporation
Fax: 604-685-8308



JUNE 3, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On March 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused 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 (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the *Motor Vehicle Act* requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you prior to your hearing. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the *Motor Vehicle Act*?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

s.22

IRP Review Decision

Page 2

Facts, Evidence and Analysis

As there is one issue that is determinative in this review I will only address that issue.

Were you a driver within the meaning of section 215.41(1) of the *Motor Vehicle Act*?

Having carefully considered the evidence submitted by the police and your submissions, I am satisfied that you were not a driver within the meaning of section 215.41(1), of the *Motor Vehicle Act*.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the *Motor Vehicle Act*.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

s.15

Adjudicator



June 26, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 7, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the second analysis provided by the officer?

I find the officer has provided no evidence that your request for a second analysis was withdrawn. I therefore find the officer did not provide the second analysis on your request.

Having made this finding, there is no need to address the other issues in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including June 26, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

s.15

Adjudicator

cc. Brian Jackson
604-682-7750



June 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On May 18, 2014, a peace officer served you with a Notice of Driving Prohibition ("Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device (ASD) registered a "fail" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Cory Armour. I acknowledge receipt of Mr. Armour's written submission dated May 28, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Did the ASD register a “fail”?

Upon consideration, I find there is no evidence before me that a sample of your breath registered a “fail” reading on an ASD.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.

s.15
Adjudicator

cc: Cory Armour
By Fax 250-762-3163



June 23, 2014

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 6, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

When you applied for this review, you checked all grounds listed on the application form; however, not all grounds are applicable to your situation, because of the reason for which you were prohibited. For your benefit, I have considered all grounds that apply in your case.

At the beginning of the hearing, your lawyer, Kyla Lee, confirmed that full disclosure of the documents before me were provided to her.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

As there is one issue that is determinative in this review, I have only addressed that issue.

Was the ASD reliable?

Having carefully considered the evidence and your lawyer’s submissions, I am not satisfied that the ASD used to conduct your first breath test was reliable.

Decision

As a result of my findings I revoke your driving prohibition, monetary penalty and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator s.15

cc. Kyla Lee
604-685-8308 (fax)