

Voht, Angela E SG:EX

From: Blewett, Tyann M SG:EX
Sent: Thursday, October 21, 2010 2:37 PM
To: Brazier, Heather M SG:EX; Martin, Stephen C SG:EX; Melvin, Stephanie SG:EX
Subject: FW: Enforcement Effort Estimates - Old vs. New.xlsx

FYI – here's our estimates on the impact of the new sanctions (including 24 hrs)

Tyann Blewett

Director, Policy & Research
Office of the Superintendent of Motor Vehicles
phone: 250-953-3330

From: Kazmiruk, Dan SG:EX
Sent: Thursday, October 21, 2010 10:57 AM
To: Blewett, Tyann M SG:EX
Subject: Enforcement Effort Estimates - Old vs. New.xlsx



Enforcement
Effort Estimates -...

Tyann, here is an estimate of enforcement efforts in the old vs. New process. It's critical that we include criminal process time in any of these estimates. It seems (as we've said all along) that the huge savings are to be made by reducing reliance on the criminal process. My assumptions are underneath the tables. Let me know if they don't make sense or you need some clarification.

Dan Kazmiruk
A/Senior Policy Advisor | Policy & Research Branch
Office of the Superintendent of Motor Vehicles
Ministry of Public Safety and Solicitor General
Phone | 250.952.6922

Old Process	Volumes	Average Minutes/Case	Total Minutes/Case	Enforcement Hours/Case
24Hr (alcohol only)	32,800	40	1,312,000	21,867
ADP (on top of 24 hr)	12,000	110	1,320,000	22,000
Criminal Process	9,000	1500	13,500,000	225,000
Total				268,867

New Process	Volumes	Average Minutes/Case	Total Minutes/Case	Enforcement Hours/Case
IRP	48,000	60	2,880,000	48,000
24 Hour Prohibitions (Est)	2,400	10	24,000	400
ADP (est)	2,400	110	264,000	4,400
Criminal	1,800	1500	2,700,000	45,000
Total				97,800

*Effort estimates for IRP and 24-hour prohibitions per Marc Alexander

*82% of known 24-hour prohibitions are issued due to alcohol

*Estimate 2/3 of ADP flow through to criminal process

*200 ADPs issued in first month of program. Assume similar volume of 24 hour prohibitions due to alcohol

*Criminal process additional effort is 25 hours

*In 2007/08 there were 7347 criminal charges and approx. 9800 ADP. Criminal estimates in old process based on 12000 ADPs in 2009

CCC 220	Causing death by criminal negligence
CCC 221	Causing bodily harm by criminal negligence
CCC 236	Manslaughter involving a motor vehicle
CCC 249(1)(a)	Dangerous operation of a motor vehicle
CCC 249(3)	Dangerous operation of a motor vehicle causing bodily harm
CCC 249(4)	Dangerous operation of a motor vehicle causing death
CCC 249.1(1)	Flight
CCC 249.1(3)	Flight causing bodily harm or death
CCC 249.2	Causing death by criminal negligence (street racing)
CCC 249.3	Causing bodily harm by criminal negligence (street racing)
CCC 249.4(1)	Dangerous operation of a motor vehicle while street racing
CCC 249.4(3)	Dangerous operation causing bodily harm (street racing)
CCC 249.4(4)	Dangerous operation causing death (street racing)
CCC 252(1)	Failure to stop at the scene of an accident
CCC 253(A)	Operating a motor vehicle while impaired by drugs or alcohol
CCC 253 (1) (a)	Operation of motor vehicle while ability impaired by alcohol or drugs
CCC 253(B)	Operating a motor vehicle with more than 80 mg % alcohol in blood
CCC 253 (1) (b)	Operation of motor vehicle with more than 80 milligrams alcohol in blood
CCC 254(5)	Failure/refusal to provide a sample of breath or blood
CCC 255(2)	Operating a motor vehicle while impaired causing bodily harm
CCC 255(2.1)	Blood alcohol over legal limit - bodily harm
CCC 255(2.2)	Failure or refusal to provide sample - bodily harm
CCC255(3)	Operating a motor vehicle while impaired causing death
CCC 255(3.1)	Blood alcohol over legal limit – death
CCC 255(3.2)	Failure or refusal to provide sample – death
MVA 224	Driving with more than 80 milligrams of alcohol in blood
MVA 226	Refusal to give blood sample

Criminal Code Impaired Driving Cases Concluded (2007 / 08)	7,347	Percent of Total
Found Guilty	4,814	66%
Plead to Lesser Charge	1,453	20%
Found Not Guilty	396	5%
Charge Stayed	634	9%
Other	50	1%
		35%

Impaired Driving Statistics in British Columbia: Criminal Code of Canada charges¹

	Number of individuals sent to Crown for charge approval for impaired driving 2007	Number of charges approved by Crown for individuals for impaired driving 2007	Number of individuals whose cases were concluded for impaired driving 2007	Number of guilty convictions (by persons) for impaired driving 2007
January 2007	814	763	643	413
February 2007	578	541	658	412
March 2007	675	631	647	393
April 2007	638	590	605	375
May 2007	707	666	684	388
June 2007	673	630	596	373
July 2007	688	639	614	403
August 2007	800	750	545	357
September 2007	669	635	520	304
October 2007	751	708	729	460
November 2007	745	701	733	458
December 2007	596	559	514	361
2007 Total	8334	7813	7488	4697

	Number of individuals sent to Crown for charge approval for impaired driving 2008	Number of charges approved by Crown for individuals for impaired driving 2008	Number of individuals whose cases were concluded for impaired driving 2008	Number of guilty convictions (by persons) for impaired driving 2008
January 2008	760	698	658	478
February 2008	562	524	565	430
March 2008	592	535	548	402
April 2008	667	614	573	396
May 2008	598	559	616	441
June 2008	694	650	595	420
July 2008	703	652	571	427
August 2008	698	654	475	344
September 2008	704	642	550	406
October 2008	765	710	600	418
November 2008	700	651	579	418
December 2008	826	764	547	375
2008 Total	8269	7653	6877	4955

¹ Includes Criminal Code of Canada sections: CCC 253(1)(a) Care Or Control Vehicle Or Vessel While Impaired, CCC 253(1)(b) Care Or Control Vehicle/Vessel With Over .08, CCC 254(5) Failure Or Refusal To Provide Sample, CCC 255(2) Impaired Driving Causing Bodily Harm, CCC 255(2.1) Cause An Accident Resulting In Bodily Harm, and CCC 255(3) Impaired Driving Causing Death.

	Number of individuals sent to Crown for charge approval for impaired driving 2009	Number of charges approved by Crown for individuals for impaired driving 2009	Number of individuals whose cases were concluded for impaired driving 2009	Number of guilty convictions (by persons) for impaired driving 2009
January 2009	857	791	759	544
February 2009	661	614	638	421
March 2009	840	755	731	514
April 2009	767	694	662	460
May 2009	753	696	664	468
June 2009	836	776	696	464
July 2009	838	775	622	422
August 2009	809	738	546	411
September 2009	931	875	664	460
October 2009	904	844	771	545
November 2009	932	868	722	504
December 2009	915	857	672	499
2009 Total	10043	9283	8147	5712

	Number of individuals sent to Crown for charge approval for impaired driving	Number of charges approved by Crown for individuals for impaired driving	Number of individuals whose cases were concluded for impaired driving	Number of guilty convictions (by persons) for impaired driving
January 2010	923	881	710	503
February 2010	861	805	461	373
March 2010	869	800	889	611
April 2010	765	708	733	488
May 2010	839	778	721	474
June 2010	726	667	698	442
July 2010	871	790	559	402
August 2010	748	643	499	355
September 2010	740	508	596	393
October 2010	560	405	556	358
November 2010	Na	Na	Na	Na
December 2010	Na	Na	Na	Na
2010 Total	7902	6985	6422	4399

**IMPAIRED DRIVING
CCC 253 AND 254
Impaired Driving Causing Death or Bodily Harm Not Included
Adults plus Youths Included**

Data Source: JUSTIN

Report Created October 17, 2008

This report is limited to the "simple impaired driving charges" (CCC 253 and or CCC 254 - Impaired, over .08 and or refuse a sample) and does not include impaired causing bodily harm or death. The report provides an accounting of two somewhat disparate data within the same table below.

1. CROWN CHARGE ASSESSMENT decisions per accused person by the RECEIVED DATE.

The date that the RCC was received from the investigator is a fixed date of the charge assessment process. The related crown decision may take place some time after the receipt of the RCC. Hence the number and proportion (percentage) of person approved to court in the most recent months will be affected by the fact that a number of RCC's will be in the process of a Crown decision taking place.

2. COURT DISPOSITIONS per accused person by the DISPOSITION DATE.

The concluded date or the date of the court decision is a fixed date. The fixed dates represent the last court date in the trial courts.

		Impaired Driving										
		Charge Assessment			Concluded							
		Total Received	Approved to Court	% Approved to Court	Total Concluded	Guilty	% Guilty	Guilty of Lesser Included	% GLI	Not Guilty	Stayed	Other
BC Total	2002	6,402	6,148	96%	5,987	4,099	68%	1,083	18%	232	553	20
	2003	7,078	6,761	96%	6,286	4,125	66%	1,394	22%	273	472	22
	2004	7,531	7,161	95%	6,431	4,024	63%	1,563	24%	305	520	19
	2005	7,714	7,311	95%	6,715	4,148	62%	1,741	26%	302	500	24
	2006	8,023	7,617	95%	7,002	4,361	62%	1,784	25%	344	480	33
	2007	8,207	7,690	94%	7,454	4,605	62%	1,812	24%	343	653	41
	2008	6,027	5,120	85%	4,910	3,556	72%	588	12%	331	407	28
Lower Mainland	2002	2,628	2,527	96%	2,334	1,349	58%	531	23%	132	314	8
	2003	2,701	2,564	95%	2,422	1,284	53%	732	30%	153	248	5
	2004	2,841	2,680	94%	2,547	1,206	47%	887	35%	173	272	9
	2005	2,838	2,648	93%	2,520	1,240	49%	905	36%	149	215	11
	2006	3,018	2,840	94%	2,561	1,271	50%	946	37%	152	180	12
	2007	3,247	3,015	93%	3,066	1,540	50%	1,050	34%	154	309	13
	2008	2,353	1,919	82%	1,801	1,162	65%	305	17%	162	164	8
Island Interior and North	2002	3,774	3,621	96%	3,653	2,750	75%	552	15%	100	239	12
	2003	4,377	4,197	96%	3,864	2,841	74%	662	17%	120	224	17
	2004	4,690	4,481	96%	3,884	2,818	73%	676	17%	132	248	10
	2005	4,876	4,663	96%	4,195	2,908	69%	836	20%	153	285	13
	2006	5,005	4,777	95%	4,441	3,090	70%	838	19%	192	300	21
	2007	4,960	4,675	94%	4,388	3,065	70%	762	17%	189	344	28
	2008	3,674	3,201	87%	3,109	2,394	77%	283	9%	169	243	20

Total BC Provincial Court Impaired Driving Completed Cases ¹ with a Finding of Guilty, Not Guilty, or Other for Criminal Code of Canada Sections 253 and 254 for Calendar Year 2009

Criminal Code of Canada (CCC) Section	Calendar Year 2009		
	Number of Cases with a Finding of Guilty ²	Number of Cases with a Finding of Not Guilty ³	Number of Cases with a Finding of Other ⁴
253 ⁵	4,982	1,222	626
254 ⁶	521	211	63
TOTAL	5,503	1,433	689

Source: Court Services Branch Criminal Management Information System (CORIN)

- Notes:
1. A completed case is defined as one accused person with a final disposition recorded against all the charges on the information or ticket. Cases which are on outstanding bench warrants are not counted as completed cases.
 2. The number of completed cases where the finding was Guilty
 3. The number of completed cases where the finding was Not Guilty
 4. The number of completed cases where the finding was Other, e.g., Stay of Proceedings, Abated etc.
 5. CCC 253 - Care and Control of a vehicle/vessel impaired/Over 80 milligrams of alcohol in one hundred millilitres of blood
 6. CCC 254 - Failure or Refusal to provide sample
 7. CCC 255 - impaired driving causing bodily harm/death is not included in these data
 8. All data is preliminary and subject to change

**Total BC Provincial Court Impaired Driving Completed Cases¹ with a Finding of Guilty²
for Criminal Code of Canada Sections 253 and 254 for Calendar Years 2003 - 2009**

Criminal Code of Canada (CCC) Sections	Calendar Year					
	2003	2004	2005	2006	2007	2008
253 ³	3,640	3,591	3,699	3,817	3,940	4,314
254 ⁴	254	250	295	329	385	419
TOTAL	3,894	3,841	3,994	4,146	4,325	4,733

Source: Court Services Branch Criminal Management Information System (CORIN)

- Notes: 1. A completed case is defined as one accused person with a final disposition recorded against all the charges on the information or ticket. Cases which are on outstanding bench warrants are not counted as completed cases.
2. The number of completed cases where the finding was Guilty
3. CCC 253 - Care and Control of a vehicle/vessel impaired/Over 80 milligrams of alcohol in one hundred millilitres of blood
4. CCC 254 - Failure or Refusal to provide sample
5. CCC 255 - impaired driving causing bodily harm/death is not included in these data
6. All data is preliminary and subject to change

Criminal Code Sections 253 and 254 Guilty Findings re impaired driving 2003 to 2009

(Prepared by Court Services Branch, Ministry of Attorney General, October 30, 2009)

<u>Convictions pursuant to Criminal Code sections:</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009 (Jan 1 to June 30)</u>
<u>253a</u>	2927	2969	3079	3084	3106	2474	1605
<u>253b</u>	2041	2098	2228	2356	2431	2564	1706
<u>254</u>	299	299	381	424	490	469	337
Total	5267	5366	5688	5864	6027	5507	3648

253a – Operates while impaired – Operating vehicle while the person's ability to operate the vehicle is impaired by alcohol or a drug.

253b – Operates while impaired – Operating vehicle while having consumed alcohol in such quantity that their blood alcohol exceeds .08 millilitres.

254 – Refusing to comply with demand of peace officer for breath and other samples or participating in physical coordination tests.

**Provincial Criminal Adult 253 & 254 New Cases, Concluded Cases, Findings & Lesser
Included Findings for the Period January 1, 2008 to Dec 31, 2008**

Act	Section	Subsection	Para ⁹	Total New Cases ¹	Total Concluded Cases ²	Guilty ³	Not Guilty ⁴	Other ⁵
CCC	253			3	2	2	0	0
CCC	253		a	2,513	1,187	785	172	230
CCC	253		b	1,863	1,244	1213	16	15
CCC	253	1	a	1,157	287	182	16	89
CCC	253	1	b	730	368	362	3	3
CCC	254	5		679	227	179	26	22
Total				6,945	3,315	2,723	233	359

Act	Section	Subsection	Para ⁹	Lesser Act	Lesser Subsection	Guilty ³	Not Guilty ⁴	Other ⁵
CCC	253		a	CCC	180	1	0	0
CCC	253		a	CCC	249	5	0	0
CCC	253		b	CCC	129	1	0	0
CCC	254	5		CCC	129	3	0	0
						10	0	0

Source: Barney_Courthouse, Barney_Case, Barney_Case_Count, Barney_Case_Count_Appearance

- Notes: 1. The total number of New Cases January 1, 2008 to Dec 31, 2008 with the charge types CCC 253, 254 and all their associated subsections, paragraphs and sub-paragraphs
2. Of the New Cases the total number of Concluded Cases January 1, 2008 to Dec 31, 2008 with the charge types CCC 253, 254 and all their associated subsections, paragraphs.
3. The number of concluded cases where the finding was Guilty
4. The number of concluded cases where the finding was Not Guilty
5. The number of concluded cases where the finding was Other i.e. Stay of Proceedings, Abated, Acquitted etc.
6. All data is preliminary and subject to change
7. Provincial Court Criminal Completed Case: One accused person with a final disposition recorded against all of the charges on the information or ticket. Cases which are on outstanding bench warrants are not counted as completed cases.
8. Provincial Court Criminal New Case: One accused person with one or more charges on an information that has resulted in a first appearance in Provincial Court.
9. Paragraph
10. Data is not for distribution without the expressed permission of Court Services Branch Strategic Information and Business Applications
11. Lesser included findings; of the Concluded Cases the number that were found convicted of a lesser included offense.

Adult Provincial Criminal for the Calendar Year 2008

Provincial New Cases ²		Provincial Concluded Cases ²				
Total New Cases	Total Cases Charged under Sec. 144 1a MVA	% Charged under Sec. 144 1a MVA	Total Concluded Cases	Total Cases Charged under Sec. 144 1a MVA	% Charged under Sec. 144 1a MVA	% of Cases Concluded for Sec. 144 1a MVA when the Original Charge was not Sec. 144 1a MVA
97737	1524	2%	98648	1126	1%	634
					4%	1%

Table 1

ACT	SECTION	SUBSEC	PARA	Total
MVA	128	1	a	1
MVA	144	1	b	15
MVA	144	1	c	6
MVA	146	1		3
MVA	146	3		1
MVA	150	1		1
MVA	151		a	2
MVA	151		c	1
MVA	155	1	a	2
MVA	155	1	b	1
MVA	162	1		5
MVA	193			1
MVA	220	4		1
MVR	4.01		a	1
			Total	41

Table 2

ACT	SECTION	SUBSEC	PARA	Total
CCC	249	1	a	38
CCC	249	3		4
CCC	249	4		3
CCC	249.1	1		3
CCC	253		a	501
CCC	253		b	37
CCC	253	1	a	5
CCC	253	1	b	1
CCC	254	5		33
CCC	255	2		2
CCC	259	4		1
CCC	355		a	1
CCC	430	4		1
MVA	144	1	a	1
MVA	73	1		1
MVA	95	1		2
			Total	634

Source: Barney_Case, Barney_Case_Count, Barney_Case_Count_Appearance

Notes: 1. Data is preliminary and subject to change

2. Provincial Court Criminal New Case: One accused person with one or more charges on an information that has resulted in a first appearance in Provincial Court. These charges can be Criminal Code, Young Offender Act, other federal statutes or provincial statutes. This does not include traffic or municipal bylaw which are reported separately.

3. Provincial Court Criminal Completed Case (Adult, Youth, Traffic and Bylaw): One accused person with a final disposition recorded against all of the charges on the information or ticket. Cases which are on outstanding bench warrants are not counted as completed cases.

4. Data is not for distribution without the expressed permission of Court Services Branch Strategic Information and Business Applications

Voht, Angela E SG:EX

From: Jones, Angella N. SG:EX
Sent: Monday, December 21, 2009 10:46 AM
To: Armstrong, Cathy E AGRI:EX; Sims, Brian S NRO:EX; Sproule, Spencer CSCD:EX; Vermaning, Tiny SG:EX
Cc: Gilmour, Lori SG:EX
Subject: BN - SG's meeting with s. 22 December 21, 2009 Cliff 382024

Importance: High

The attached Briefing Note is for the Minister's meeting with s. 22 today, it has not been approved by Wes Shoemaker. I will let you know if there are any concerns.



382024 Info for SG
re Dec 21 0...

Angella Jones
Office of the Deputy Minister, Public Safety
Ministry of Public Safety and Solicitor General
Telephone: 953-4006
Facsimile: 953-4081
E-mail: Angella.Jones@gov.bc.ca

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British Columbia Canada

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**MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL
OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES**

BRIEFING NOTE

PREPARED FOR: The Honourable Kash Heed, **For Information**

ISSUE: Update on recent discussions with s. 22 in preparation for Minister's meeting with the s. 22 on December 21, 2009.

BACKGROUND

- On May 17, 2008, four-year-old Alexa Middelaer was feeding her favourite horse at the side of a road in Ladner, B.C., when she was struck by a vehicle and killed.

s.22

- The trial for the accused in this case is expected to start in May 2010.

-

-

s.22

-

DISCUSSION

In a recent e-mail exchange with the OSMV, the s.22 asked specific questions about impaired driving and our proposed changes. Here are the responses that were sent to the s.22 on these issues. The s.22 was particularly interested in the difference between charge and conviction rates of impaired vs. non-impaired (e.g. other crimes) cases.

Anticipated Volumes to Modified Approach

We are still working through those details and don't expect to have them for a couple of months.

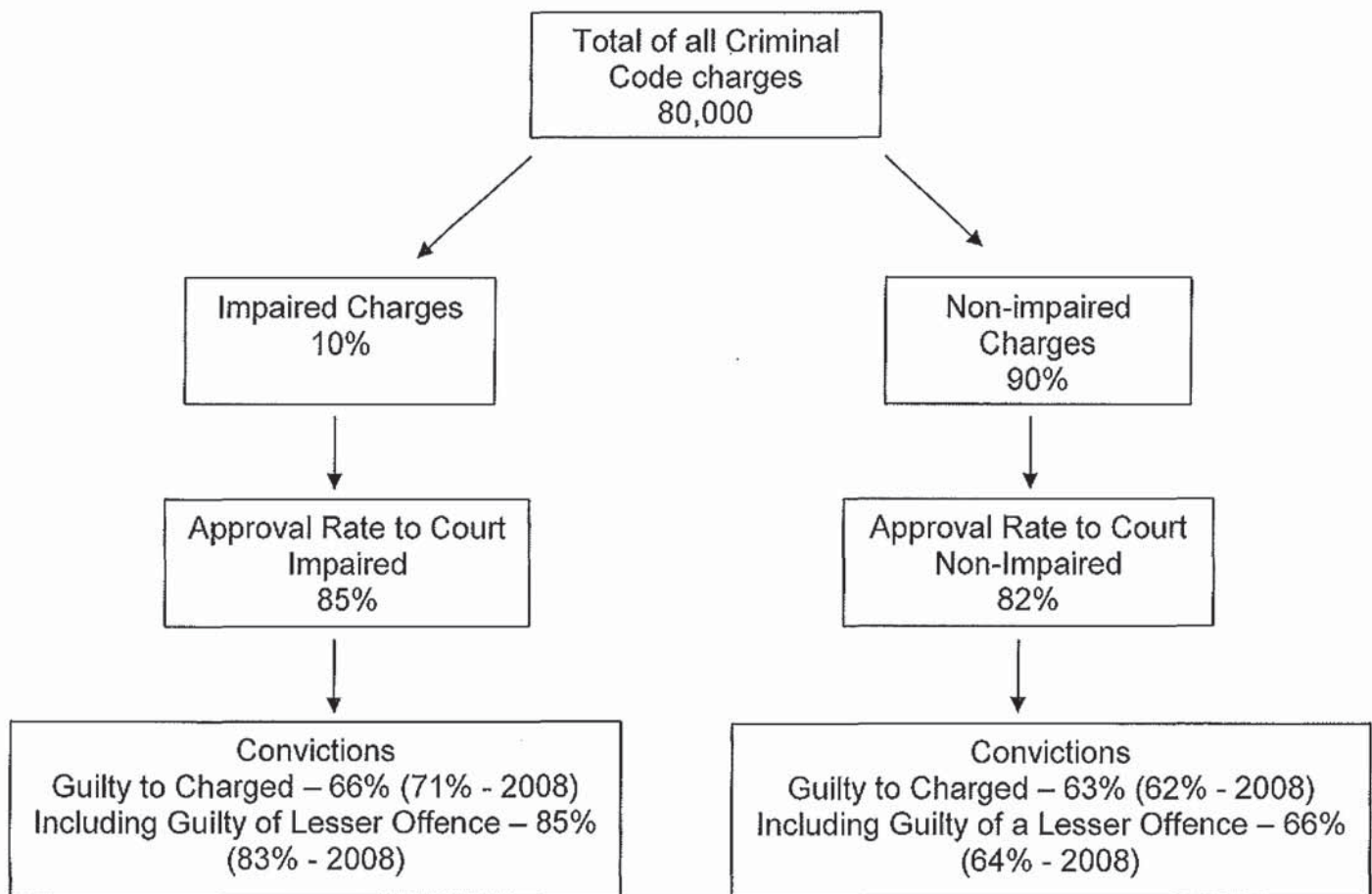
Direction to Police on dealing with first time offenders with BAC levels over .10

Police discretion is the foundation of the justice system. While we won't be giving police specific direction, we are confident that police will make optimal use of new roadside sanctions and continue to pursue *Criminal Code* convictions for repeat offenders, injury/fatality cases and any other cases where it is warranted.

Responsible Driver Program - Effectiveness

The Responsible Driver Program is still a relatively new program and to effectively evaluate we need enough "graduates". We expect that by 2011/12 we will be in a position to properly evaluate this program.

Statistics – conviction rates and charge rates (2007/08)



Communications Plan

An extensive communications plan will be developed both for the public and for police in explaining the new roadside model once we have approval and are closer to implementation. We agree this is a crucial element of the success of this model.

Once the policy is approved, we would like to sit down to discuss further

s. 22

Prepared by: Tyann Blewett

Date: December 16, 2009

CLIFF: 382024

CONFIDENTIAL

Voht, Angela E SG:EX

From: Mazzei, Linda D SG:EX
Sent: Thursday, January 7, 2010 3:30 PM
To: Martin, Stephen C SG:EX
Cc: Melvin, Stephanie SG:EX; Letkeman, Nancy S SG:EX; Blewett, Tyann M SG:EX; Gilmour, Lori SG:EX
Subject: IMPAIRED DRIVING2 - BC as leader

Here is the final draft with the dinner scenario.



IMPAIRED
IVING2 - BC as lea

IMPAIRED DRIVING

Potential Improvements (to bring BC into a leadership position in Canada):

Not Responsive

s.13

s.13

s.13

Voht, Angela E SG:EX

From: Melvin, Stephanie SG:EX
Sent: Friday, May 14, 2010 6:14 PM
To: Gerhart, Bradley SG:EX; Gilmour, Lori SG:EX
Cc: Blewett, Tyann M SG:EX
Subject: RE: Issues from OSMV

Will do. Thanks Brad.

From: Gerhart, Bradley SG:EX
Sent: Friday, May 14, 2010 3:30 PM
To: Melvin, Stephanie SG:EX; Gilmour, Lori SG:EX
Cc: Blewett, Tyann M SG:EX
Subject: RE: Issues from OSMV

Thanks Stephanie. We'll work ahead at rounding out the options for you and take your cue as to which one to recommend.

s. 13(1), s. 14

Cheers,
Brad.

From: Melvin, Stephanie SG:EX
Sent: Friday, May 14, 2010 2:41 PM
To: Gilmour, Lori SG:EX
Cc: Blewett, Tyann M SG:EX; Gerhart, Bradley SG:EX
Subject: RE: Issues from OSMV

I had to take it with me so that I could answer questions in case Wes called me while I was out of the office. Good thing I did. I'll get it back to you

From: Gilmour, Lori SG:EX
Sent: Friday, May 14, 2010 12:09 PM
To: Melvin, Stephanie SG:EX
Subject: FW: Issues from OSMV

FYI – I couldn't find. L.

From: Gerhart, Bradley SG:EX
Sent: Friday, May 14, 2010 11:54 AM
To: Gilmour, Lori SG:EX
Cc: Blewett, Tyann M SG:EX
Subject: FW: Issues from OSMV

Lori, can you fish the DF BN out of Stephanie's office so that we can further develop the options?

Voht, Angela E SG:EX

From: Mazzei, Linda D SG:EX
Sent: Friday, May 7, 2010 2:11 PM
To: Martin, Stephen C SG:EX
Cc: Wilkinson, Anita SG:EX; Gilmour, Lori SG:EX; Brazier, Heather M SG:EX; Blewett, Tyann M SG:EX
Subject: Not Responsive

Hi Steve, Tyann asked me to forward this for your meeting with Wes this afternoon.

Not Responsive

FYI Melanie provided a few comments and these are reflected in the note. Also, I am sending you the original opinion (in case you don't have it handy) and Tyann's BN summarizing that opinion.



Not Responsive

Original Opinion:

s. 14

s. 14

Let me know if you need anything else.

Linda Mazzei, Senior Policy Advisor
Office of the Superintendent of Motor Vehicles
Ministry of Public Safety and Solicitor General
Tel: 250-356-5952 | Fax: 250-356-5568

 Please consider the environment before printing this email

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

Overview Briefing Note

LEGISLATION

Motor Vehicle Act (Impaired Driving)

NATURE OF THE AMENDMENTS

There is a compelling need to implement a modified approach to deal with drinking and driving. The prevalence of drinking and driving is increasing over time and the justice system is not working effectively or efficiently to address this problem. The ultimate goal is increased road safety through reduced fatalities and serious injuries from impaired driving.

Legislative amendments are required to provide police with more effective tools to deal with impaired drivers at the roadside and introduce tougher administrative sanctions.

The amendments also address outstanding legislative issues which create barriers to the enforcement of existing penalties and sanctions.

Without swift, severe and certain consequences for impaired drivers, the prevalence of drinking and driving will continue to rise, putting lives at risk.

KEY AMENDMENTS

- The amendments will introduce escalating prohibitions (3 day, 7 day and 30 day prohibitions) for drivers who have blood alcohol concentration (BAC) levels in the “warn range” of an approved screening device. A new 90 day roadside prohibition is created for drivers with BAC levels in the “fail range” as detected by an approved screening device or who fail or refuse to provide a breath sample.
- The “warn” and “fail” ranges will be explicitly defined in the legislation as being not less than 50 milligrams of alcohol in 100 millilitres of blood (0.05 BAC), and not less than 80 milligrams of alcohol in 100 millilitres of blood (0.08 BAC), respectively.
- A new section is added to require drivers who are prohibited under the new amendments to pay a monetary penalty and to attend a remedial program (counselling and ignition interlock). Failure to pay a monetary penalty is being added as a type of indebtedness for which the Insurance Corporation of British Columbia may choose to refuse to issue a permit or licence or to cancel a licence. As well, police will be required to impound the vehicle of any driver receiving a roadside prohibition.

- New sections are created to outline the review process for drivers who receive a roadside prohibition. The amendments outline the grounds for review and require the driver to pay the prescribed application and hearing fees to initiate that review.
- A new section will introduce a licence reinstatement amount of \$250 for all prohibited drivers that must be paid before a new licence is issued.
- Currently, drivers who receive 24 Hour Prohibitions for drug use are not permitted to have the prohibition reviewed. The amendments will enable drivers to request that a peace officer perform a standard field sobriety test to determine if the driver is affected by drugs. If the driver passes the test, the prohibition must be terminated. If the officer refuses or is unable to perform the test, the driver may seek a review of the prohibition.
- The amendments add new regulation-making powers to prescribe the approved screening devices, the standard field sobriety tests, the form of notice of a driving prohibition, and the schedule of monetary penalties.
- Currently, convicted drivers must serve mandatory fixed-length prohibitions and suspensions under the Motor Vehicle Act (MVA), while the Criminal Code allows convicted impaired drivers to reduce their prohibition periods if they agree to register and participate in an ignition interlock program. The amendments will align the MVA with the Criminal Code by allowing drivers to reduce their suspension periods if they install an interlock device in their vehicle and register in a remedial program.
- Lastly, these amendments address several provisions in the MVA which have allowed prohibitions to be overturned for technical reasons. For example, the amendments will allow another peace officer, other than the officer who had reasonable and probable grounds to believe a driver was impaired, to issue an Administrative Driving Prohibition. As well, the superintendent will be able to consider unsworn reports when reviewing a prohibition as a result of these amendments.

NEXT STEPS

- After the legislation is passed, regulatory amendments will be made to specify the amount of the administrative penalties for the roadside prohibitions. Although still subject to approval, the proposed monetary penalties are \$100 for a 3 day prohibition, \$200 for a 7 day prohibition, \$400 for a 30 day prohibition, and \$750 for a 90 day prohibition.
- The regulatory amendments will also increase the written review fees from \$50 to \$100 and the oral review fees from \$100 to \$200.

Contact: Tyann Blewett, A/ Director, 250-953-3330

Date: April 15, 2010

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

Section Notes

Motor Vehicle Act Amendments (Impaired Driving Initiative)

Motor Vehicle Act (MVA)

SECTION 1

Under section 26 (1), the Insurance Corporation of British Columbia (ICBC) can refuse to issue a licence or permit to a person for several reasons. Changes to this section add failure to pay a monetary penalty resulting from an automatic roadside driving prohibition and failure to pay towing and storage charges relating to a vehicle impoundment as grounds for ICBC to refuse to issue a licence or permit.

OSMV Notes:

- This section allows ICBC to refuse to issue a licence if someone doesn't pay their administrative penalty or towing & storage fees.

SECTION 2

Under section 26.1, ICBC may cancel a person's driver's licence if the person is indebted to ICBC or the government for a fine indebtedness. Changes to this section add monetary penalties owed to government as grounds for ICBC to cancel a person's driver's licence.

OSMV Notes:

- This section allows ICBC to cancel a licence if someone doesn't pay their administrative penalty.

SECTION 3

Under section 93.2, the superintendent is required to notify ICBC about the imposition, cancellation or stay of various prohibitions under the *Motor Vehicle Act*. Changes to this section add the new automatic roadside driving prohibitions and driving prohibitions for unlicensed drivers to the list of applicable prohibitions.

OSMV Notes:

- Including the new prohibitions in the list of things that we need to notify ICBC about.

SECTION 4

Under section 94.1, a peace officer is required to seize a person's driver's licence or permit to operate a motor vehicle and serve the person with a notice of driving prohibition if the peace officer has reasonable and probable grounds to believe the person operated the vehicle with more a blood alcohol concentration of over 80 milligrams per 100 millilitres or if the person refuses to comply with a demand for a sample of his or her breath or blood. In some cases, the peace officer who performs the duties at the roadside is not the same peace officer who serves the notice of driving prohibition to the driver after the breathalyser is administered. Changes to this section allow for another peace officer to serve the notice of driving prohibition.

This section deletes an unnecessary reference to review application instructions being prescribed, and also adds a provision so that a person cannot be prohibited from driving both under section 94.1 and section 215.41 of the *Motor Vehicle Act*.

OSMV Notes:

- This closes the loophole established by the Newman decision which said the same officer who formed the R&P grounds had to also serve the notice. Drivers won't be able to use this case to argue that the prohibition should be overturned. This will apply to prohibitions under the old section 94 so won't likely be used very much. We've also included this provision in the new prohibitions.

SECTION 5

Section 94.4 describes the review application process. This change deletes an unnecessary reference to payment of an application fee, as no application fee is payable.

OSMV Notes:

- This outlines the process to apply for a review – there are no changes. We've also taken out the old reference to an application fee.

SECTION 6

Section 94.5 lists the documents, reports and evidence the superintendent is required to consider in a review of a driving prohibition. Changes to this section add a provision permitting the superintendent to consider additional relevant documents and information, including those that have not been sworn or solemnly affirmed, to determine the weight that is given to those documents, and to proceed with the hearing

in the absence of receiving all the documents required to be forwarded under section 94.3.

OSMV Notes:

- *This is to fix the loopholes created by court decisions (Hicks, Hart, Mitchell) around what types of information can be considered in a review. This section relates to s. 94 prohibitions but is also repeated in the new prohibitions.*

SECTION 7

Section 95 (1) makes it an offence to drive while prohibited and sets out the consequences. This section has been amended to add cross-references to section numbers for the new automatic roadside prohibitions and the driving prohibition for unlicensed drivers.

OSMV Notes:

- *This section ensures that the "driving while prohibited" offence includes the new roadside prohibitions.*

SECTION 8

Section 97.1 describes circumstances where the superintendent is required to forward a driver's licence to ICBC. This section adds a cross-reference consequential to other amendments made by this Bill.

OSMV Notes:

- *This is just adding in the new prohibitions into related sections of the MVA.*

SECTION 9

Section 97.2 is a new provision that sets out the amount payable to reinstate a driver's licence. The amount is set at \$250 and is payable at the time of a first driver's licence application following a driving prohibition or driver licence suspension under the *Motor Vehicle Act*, the *Criminal Code* as well as federal and provincial young offender statutes. The amount is, in addition to any other prescribed fees.

OSMV Notes:

- *This section introduces the licence reinstatement fee and applies it to all prohibitions.*
- *Due to the lack of clarity around whether this fee would be characterized as a fee or a tax, the recommendation was to include it in the legislation (rather than by regulation).*
- *OSMV is liaising with the Tax Policy Branch of Ministry of Finance to get appropriate approvals (from Minister of Finance) for this provision.*

SECTION 10

Section 99 (2) places an automatic one year driving prohibition on persons who are convicted of various *Motor Vehicle Act* and *Criminal Code* Offences. Changes to this section allow for reductions to driving prohibitions for persons criminally convicted of impaired driving if they agree to the new provisions set out in section 232, including participating in an ignition interlock program as required by the superintendent.

OSMV Notes:

- This section aligns the MVA with the Criminal Code which allows provinces to reduce prohibitions if the driver installs an ignition interlock on their vehicle. This is based on research that indicates longer driving prohibitions increase the probability that the driver will "opt out" of the system and continue to drive despite being prohibited.

SECTION 11

Section 215 allows peace officers to issue a 24 hour driving prohibition to drivers when they believe the person's ability to drive a motor vehicle is affected by alcohol or drugs. Changes to this section permit a person to request a prescribed standard field sobriety physical coordination test and if the person satisfies the peace officer that his or her ability to drive is not affected by a drug, the peace officer is required to terminate the 24 hour driving prohibition. These changes align with similar provisions in this section for alcohol. The section is also updated to ensure that peace officers are not required to report 24 hour driving prohibitions to ICBC if they are terminated under this section. The changes also allow for prescribing standard field sobriety tests for determining drug impairment.

OSMV Notes:

- We have been criticized for not allowing drivers impaired by drugs to have a review of their prohibition. While the prohibition is only 24 hrs, multiple prohibitions could trigger a driver into the Driver Improvement Program and he/she could be subject to a longer prohibition. This section sets up the ability to conduct reviews for drugs by requiring the officer to conduct a Standard Field Sobriety Test (SFST physical coordination test) if the driver requests it.
- NOTE: The sections related to drug impaired driving reviews will not be proclaimed until after the new provisions for impaired driving are fully operational.

SECTION 12

Section 215.1 allows a person to apply to the superintendent for a review of a 24 hour driving prohibition related to alcohol and sets out the provisions. This section is updated to include driving prohibitions related to drugs and to distinguish the grounds for revoking a driving prohibition depending on whether the prohibition was based on impairment due to alcohol or due to a drug other than alcohol.

OSMV Notes:

- This section allows a driver to request a review for a drug impaired prohibition.

SECTION 13

Section 215.3 describes the review considerations for revoking a 24 hour driving prohibition. The section is updated to add review considerations for impairment by drugs to the existing review considerations for impairment by alcohol. The review considerations for drugs are that the driver requested the peace officer to administer a standard field sobriety physical coordination test but the peace officer failed to do so or the person was not the driver of the motor vehicle.

OSMV Notes:

- This section sets out the review grounds for drug-impaired prohibitions – not the driver or the driver requested a SFST physical coordination test but was refused.

SECTION 14

Section 215.41 sets out definitions for terms used in the new sections related to automatic roadside driving prohibitions. This section allows a peace officer, to take possession of a person's driver's licence and serve a notice of prohibition when a breath sample measured on an approved screening device indicates a "fail" or "warn" (blood alcohol content of no less than 50 or 80 milligrams in 100 millilitres of blood respectively), or when the person fails or refuses to provide a breath sample. The section also requires the person to submit his or her driver's licence directly to ICBC if it is not in their possession at the time the notice is served. The notice of driving prohibition is prescribed and contains the following information:

- A statement that the prohibition commences immediately and continues for the period set out in the notice of prohibition
- That a monetary penalty is imposed and that it must be paid no later than 30 days after the notice of prohibition is served
- That the person has a right to have the prohibition reviewed by the superintendent, and instructions describing how to apply for a review

This section also prohibits the imposition of a driving prohibition under this section to a person who is subject to a driving prohibition under section 94.1.

OSMV Notes:

- This section introduces the new roadside sanctions based on a "warn" or "fail" on a roadside screening device.
- It outlines what will be on the Notice of Prohibition:
 - The prohibition starts immediately;
 - The driver is also subject to administrative penalties;
 - The driver can request a review of the prohibition;
- Because we will have two types of prohibitions at .08 (roadside and under s.94), the legislation will be clear that you can only get one or the other (not both).

Section 215.42 sets out the driver's right to require a peace officer to perform a second ASD test after being served with a notice of prohibition under section 215.41. The request must be forthwith, and a different ASD must be used for the second test. The results of this second test will lead to the prohibition being continued, varied or terminated depending on the result.

OSMV Notes:

- This section protects drivers who believe the ASD registered a "warn" or "fail" result in error.
- Requiring the second test on a different ASD will allow prohibitions to be terminated in the unlikely circumstance that erroneous readings were provided.
- Since blood alcohol contents are often rising due to unabsorbed alcohol, drivers who abuse the right face the possibility of a 90-day prohibition if the second test indicated a "fail" after the first test indicated a "warn".

Section 215.42-43 sets out the length of the automatic roadside driving prohibition. If the person's breath sample registers a "warn" on the approved screening device and it is their first driving prohibition under this section, the person is immediately prohibited from driving for a period of three days. If it is the person's second prohibition under this section within a five year period, the person is immediately prohibited from driving for seven days. If the person receives a third or subsequent driving prohibition under this section within a five year period, the person is prohibited from driving for thirty days. For the purposes of determining the length of the prohibition for repeat offenders, no previous prohibitions under this section are considered if the review period of seven days has not expired; or in the case of a driver who applies for a review, until the review has been conducted by the superintendant and the driver has been advised of the review decision.

If the person's breath sample registers a "fail" on the approved screening device or the person refuses to provide a breath sample, the person is immediately prohibited from driving for a period of 90 days.

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OSMV Notes:

- Roadside Prohibitions for a "warn" are 3, 7 and 30 days based on whether it is a first, second or subsequent prohibition.
- Drivers who register a "fail" or refuse to provide a sample are automatically subject to a 90 day prohibition.
- Based on legal advice (Lord Cokes rule) it also includes a provision that says you can't get a second prohibition until you've had time to have the first one reviewed. For someone who gets multiple prohibitions in a weekend, they may end up with 2 - 3 day prohibitions instead of a 3 day and a 7 day. This would only happen in rare situations and is needed to protect the scheme from legal challenge.

Sections 215.434, 215.445 allow for additional consequences to be applied when a person is prohibited under section 215.41. Section 215.434 allows for escalating monetary penalties, not exceeding \$750, as prescribed by the regulation. Section 215.445 requires that a persons who receives a 30 day (i.e. multiple repeat offences) or 90 day prohibition (breath sample registered a "fail" on an approved screening device) must also register in and attend remedial programs as required by the superintendent (counselling and ignition interlock programs).

OSMV Notes:

- This introduces the administrative penalties (amounts will be in regulation) that accompany the new roadside prohibitions. A maximum limit is consistent with other administrative penalty schemes and is intended to help protect these provisions from legal challenge.
- It also introduces the mandatory remedial programs (Responsible Driver Program and ignition interlock) that accompany the 30 and 90 day prohibitions.

Section 215.46 allows for a peace officer to impound a motor vehicle when someone is served with a driving prohibition under section 215.41. The impoundment is discretionary for 3 and 7 day prohibitions, and police will exercise the authority to impound in circumstances where they believe the impoundment is necessary to prevent the person from operating a motor vehicle during the prohibition. The impoundment is mandatory for 30 and 90 day prohibitions, and the impoundment term matches the driving prohibition to a maximum of 30 days.

OSMV Notes:

- Vehicle impoundment is an important road safety measure that prevents drivers from continuing the offence.
- The police officer can use their discretion for first and second offenders in the "warn" range.
- Multiple offenders and those with high blood alcohol levels will lose their vehicle for 30 days.

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Section 215.475 requires that the peace officer who serves the notice of driving prohibition to forward all documents related to the prohibition to the superintendent, including the seized driving licence, a copy of the notice of driving prohibition, the certificate of service, and a report of the incident.

OSMV Notes:

- This closes the loophole established by the Newman decision which said the same officer who formed the R&P grounds had to also serve the notice. Drivers won't be able to use this case to argue that the prohibition should be overturned. (see 94.1)

Section 215.4846 allows a person to apply for a review of the driving prohibition issued under section 215.41 and sets out the conditions for making an application. The person must file an application for review with the superintendent within seven days of being served the notice of prohibition, submit the prescribed hearing fee and surrender his or her driver's licence to ICBC if it was not seized by the police officer. The person must file a statutory declaration if the driver's licence was lost, stolen or destroyed. The person must use the form required for an application and provide the information required by the superintendent, along with any other sworn statements or other evidence that the person would like the superintendent to consider. The driving prohibition is not stayed if the person files an application for review. In addition, the section allows the superintendent to conduct an oral hearing for a 30 or 90 day driving prohibition, if the person requests an oral hearing at the time of review application and pays the prescribed fee. Persons who fail to appear on prescheduled dates without prior notice waive their right to an oral hearing.

OSMV Notes:

- This sets out the rules for reviews.
- The prohibition is not stayed pending the review
- For the 3 and 7 day prohibitions, only written reviews are available
- For the 30 and 90 day prohibitions, the driver can ask for an oral review

Section 215.4749 sets out the information, documents and evidence that the superintendent must consider in a review of a driving prohibition issued under section 215.41, including any relevant written statements submitted by the applicant, the notice of driving prohibition and any other relevant documents, information and reports of peace officers, and relevant evidence provided at oral hearings. The superintendent must also consider the person's driving record in the case of repeat offenders under section 215.41. This section also allows the superintendent to determine the weight to given to the documents or information submitted in the review considerations. This section forbids persons from being cross-examined.

OSMV Notes:

- This section outlines what is considered during the review and includes provisions to close loopholes established by case law under the existing ADP program by specifying what information may be considered.
- It also allows the Superintendent to review the driving record in situations where the driver is disputing whether it was a first, second or subsequent prohibition.

Section 215.548 sets out superintendent's considerations for confirming or revoking prohibitions issued under section 215.41. In every case, the superintendent must be satisfied that the person was a driver as defined in section 215.41 in order to confirm a prohibition. In addition, for 3, 7 and 30 day driving prohibitions, if the superintendent is satisfied that the approved screening device test resulted in a "warn" reading, and that the length of the driving prohibition was accurately calculated, the superintendent is required to confirm the driving prohibition and the monetary penalty for which the person is liable. This section allows the superintendent to reduce the length of the driving prohibition and vary the monetary penalty, as appropriate, in cases where the prohibition was incorrectly calculated at the roadside. In the case of a 90 day driving prohibition, if the superintendent is satisfied that the person's approved screening device test resulted in a "fail" reading, or that the person failed or refused, without reasonable excuse, to comply with a demand for a breath sample, this section requires that the superintendent confirm the driving prohibition and the monetary penalty. This section also allows the superintendent to substitute a 3, 7 or 30 day prohibition and vary the monetary penalty as appropriate, when the 90-day prohibition issued at the roadside was incorrectly based on a "warn" reading from the approved screening device.

Under this section the superintendent is required to revoke the driving prohibition when satisfied that the person was not the driver. Otherwise, 3, 7 or 30 day prohibitions are revoked if the superintendent is satisfied the approved screening device did not register a "warn". A 90 day prohibition must be revoked if the superintendent is satisfied that the approved screening device test did not register a "fail", or that the person did not fail or refuse to comply with the breath demand. The superintendent is also required to cancel the monetary penalty and direct ICBC to return any seized licence or permit.

This section requires that the superintendent send the review decision and reasons in writing to the applicant within 21 days of the notice of driving prohibition under section 215.41. In cases when the superintendent is unable to meet this timeline, the superintendent may extend the review period as required and stay the driving prohibition and direct ICBC to issue a temporary driver's licence for the period of the extension.

OSMV Notes:

- This section sets out the review grounds –
 - I wasn't the driver
 - I did not register a "warn" or "fail" on an ASD
 - It wasn't my second or subsequent prohibition (for the escalating sanctions)
- It also allows the Superintendent to vary the prohibition and the accompanying monetary penalty (e.g. from a 7 day to a 3 day) if the incorrect length was issued at roadside.

Section 215.5149 gives the Lieutenant Governor in Council power to make regulations for prescribing the form of the notice of prohibition, and for prescribing an approved screening device for the purposes of taking a breath sample. This section also allows the Lieutenant Governor in Council power to make regulations for prescribing the schedule of monetary penalties and the time and manner for payment of monetary penalties.

OSMV Notes:

- Regulation will outline the specific penalty amounts (\$100, \$200 and \$400) and specify they must be paid within 30 days;
- Review fees will be set at \$100 for a written review and \$200 for an oral review;
- The Approved Screening Device will also be specified in regulation.

SECTION 15

Section 232 allows for automatic escalating licence suspensions for drivers convicted of motor vehicle related *Criminal Code* offences. The section is amended to align with provisions in the *Criminal Code* which allow for a specified reduction in the court ordered prohibition if the person convicted of an alcohol-related motor vehicle offence complies with the conditions of a provincial ignition interlock program. Changes to this section will allow a the person to apply to the superintendent for a reduction to their licence suspension to three months in the case of a first conviction, six months in the case of a second conviction and twelve months in the case of a subsequent conviction. Approval of the superintendent is subject to the person equipping the motor vehicle that they operate

with an ignition interlock device, and registering for and participating in a remedial program and the ignition interlock program to the satisfaction of the superintendent for the remainder of the prohibition period set out by the courts and the suspension period established in section 232. At a minimum, this would be nine months for a first conviction, 30 months for a second conviction and indefinitely for a subsequent conviction.

OSMV Notes:

- *This will allow the Superintendent to reduce a mandatory prohibition issued by the courts in situations where the driver installs an ignition interlock on their car.*
- *The Superintendent will have discretion and will review each situation on a case by case basis.*
- *This is based on research that says longer driving prohibitions increase the risk that the driver will continue to drive while prohibited. Ignition interlock devices reduce that risk.*
- *First conviction: Rather than 1 yr prohibition, it will be 3 months prohibition + 9 months interlock;*
- *Second conviction: Rather than 3 yr prohibition, it will be 6 months prohibition + 2.5 yrs interlock;*
- *Third conviction : Rather than indefinite prohibition, it will be 12 months prohibition + indefinite interlock*

SECTION 16

Section 233 sets out the provisions for reinstating licences suspended under section 232. This section is amended to require the superintendent to notify ICBC of a driver's right to apply for a driver's licence after serving the minimum required court-order prohibition set out in section 232. The section is further amended to allow the superintendent to require a condition to be placed on the person's driver's licence that the person is required to participate in the ignition interlock program.

OSMV Notes:

- *This allows us to apply s. 232 to reduce the prohibitions*

SECTION 17

This section sets out that the Act comes into force by regulation.

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

Section Notes

Motor Vehicle Act Amendments (Impaired Driving Initiative)

Motor Vehicle Act (MVA)

SECTION 1

Under **section 26 (1)**, the Insurance Corporation of British Columbia (ICBC) can refuse to issue a licence or permit to a person for several reasons. Changes to this section add failure to pay a monetary penalty resulting from an automatic roadside driving prohibition and failure to pay towing and storage charges relating to a vehicle impoundment as grounds for ICBC to refuse to issue a licence or permit.

OSMV Notes:

- *This section allows ICBC to refuse to issue a licence if someone doesn't pay their administrative penalty or towing & storage fees.*

SECTION 2

Under **section 26.1**, ICBC may cancel a person's driver's licence if the person is indebted to ICBC or the government for a fine indebtedness. Changes to this section add monetary penalties owed to government as grounds for ICBC to cancel a person's driver's licence.

OSMV Notes:

- *This section allows ICBC to cancel a licence if someone doesn't pay their administrative penalty.*

SECTION 3

Under **section 93.2**, the superintendent is required to notify ICBC about the imposition, cancellation or stay of various prohibitions under the *Motor Vehicle Act*. Changes to this section add the new automatic roadside driving prohibitions and driving prohibitions for unlicensed drivers to the list of applicable prohibitions.

OSMV Notes:

- *Including the new prohibitions in the list of things that we need to notify ICBC about.*

SECTION 4

Under section 94.1, a peace officer is required to seize a person's driver's licence or permit to operate a motor vehicle and serve the person with a notice of driving prohibition if the peace officer has reasonable and probable grounds to believe the person operated the vehicle with more a blood alcohol concentration of over 80 milligrams per 100 millilitres or if the person refuses to comply with a demand for a sample of his or her breath or blood. In some cases, the peace officer who performs the duties at the roadside is not the same peace officer who serves the notice of driving prohibition to the driver after the breathalyser is administered. Changes to this section allow for another peace officer to serve the notice of driving prohibition.

This section deletes an unnecessary reference to review application instructions being prescribed, and also adds a provision so that a person cannot be prohibited from driving both under section 94.1 and section 215.41 of the *Motor Vehicle Act*.

OSMV Notes:

- *This closes the loophole established by the Newman decision which said the same officer who formed the R&P grounds had to also serve the notice. Drivers won't be able to use this case to argue that the prohibition should be overturned. This will apply to prohibitions under the old section 94 so won't likely be used very much. We've also included this provision in the new prohibitions.*

SECTION 5

Section 94.4 describes the review application process. This change deletes an unnecessary reference to payment of an application fee, as no application fee is payable.

OSMV Notes:

- *This outlines the process to apply for a review – there are no changes. We've also taken out the old reference to an application fee.*

SECTION 6

Section 94.5 lists the documents, reports and evidence the superintendent is required to consider in a review of a driving prohibition. Changes to this section add a provision permitting the superintendent to consider additional relevant documents and information, including those that have not been sworn or solemnly affirmed, to determine the weight that is given to those documents, and to proceed with the hearing

in the absence of receiving all the documents required to be forwarded under section 94.3.

OSMV Notes:

- *This is to fix the loopholes created by court decisions (Hicks, Hart, Mitchell) around what types of information can be considered in a review. This section relates to s. 94 prohibitions but is also repeated in the new prohibitions.*

SECTION 7

Section 95 (1) makes it an offence to drive while prohibited and sets out the consequences. This section has been amended to add cross-references to section numbers for the new automatic roadside prohibitions and the driving prohibition for unlicensed drivers.

OSMV Notes:

- *This section ensures that the "driving while prohibited" offence includes the new roadside prohibitions.*

SECTION 8

Section 97.1 describes circumstances where the superintendent is required to forward a driver's licence to ICBC. This section adds a cross-reference consequential to other amendments made by this Bill.

OSMV Notes:

- *This is just adding in the new prohibitions into related sections of the MVA.*

SECTION 9

Section 97.2 is a new provision that sets out the amount payable to reinstate a driver's licence. The amount is set at \$250 and is payable at the time of a first driver's licence application following a driving prohibition or driver licence suspension under the *Motor Vehicle Act*, the *Criminal Code* as well as federal and provincial young offender statutes. The amount is, in addition to any other prescribed fees.

OSMV Notes:

- *This section introduces the licence reinstatement fee and applies it to all prohibitions.*
- *Due to the lack of clarity around whether this fee would be characterized as a fee or a tax, the recommendation was to include it in the legislation (rather than by regulation).*
- *OSMV is liaising with the Tax Policy Branch of Ministry of Finance to get appropriate approvals (from Minister of Finance) for this provision.*

SECTION 10

Section 99 (2) places an automatic one year driving prohibition on persons who are convicted of various *Motor Vehicle Act* and *Criminal Code* Offences. Changes to this section allow for reductions to driving prohibitions for persons criminally convicted of impaired driving if they agree to the new provisions set out in section 232, including participating in an ignition interlock program as required by the superintendent.

OSMV Notes:

- *This section aligns the MVA with the Criminal Code which allows provinces to reduce prohibitions if the driver installs an ignition interlock on their vehicle. This is based on research that indicates longer driving prohibitions increase the probability that the driver will "opt out" of the system and continue to drive despite being prohibited.*

SECTION 11

Section 215 allows peace officers to issue a 24 hour driving prohibition to drivers when they believe the person's ability to drive a motor vehicle is affected by alcohol or drugs. Changes to this section permit a person to request a prescribed standard field sobriety test and if the person satisfies the peace officer that his or her ability to drive is not affected by a drug, the peace officer is required to terminate the 24 hour driving prohibition. These changes align with similar provisions in this section for alcohol. The section is also updated to ensure that peace officers are not required to report 24 hour driving prohibitions to ICBC if they are terminated under this section. The changes also allow for prescribing standard field sobriety tests for determining drug impairment.

OSMV Notes:

- *We have been criticized for not allowing drivers impaired by drugs to have a review of their prohibition. While the prohibition is only 24 hrs, multiple prohibitions could trigger a driver into the Driver Improvement Program and he/she could be subject to a longer prohibition. This section sets up the ability to conduct reviews for drugs by requiring the officer to conduct a Standard Field Sobriety Test (SFST) if the driver requests it.*
- *NOTE: The sections related to drug impaired driving reviews will not be proclaimed until after the new provisions for impaired driving are fully operational.*

SECTION 12

Section 215.1 allows a person to apply to the superintendent for a review of a 24 hour driving prohibition related to alcohol and sets out the provisions. This section is updated to include driving prohibitions related to drugs and to distinguish the grounds for revoking a driving prohibition depending on whether the prohibition was based on impairment due to alcohol or due to a drug other than alcohol.

OSMV Notes:

- *This section allows a driver to request a review for a drug impaired prohibition.*

SECTION 13

Section 215.3 describes the review considerations for revoking a 24 hour driving prohibition. The section is updated to add review considerations for impairment by drugs to the existing review considerations for impairment by alcohol. The review considerations for drugs are that the driver requested the peace officer to administer a standard field sobriety test but the peace officer failed to do so or the person was not the driver of the motor vehicle.

OSMV Notes:

- *This section sets out the review grounds for drug impaired prohibitions – not the driver or the driver requested a SFST but was refused.*

SECTION 14

Section 215.41 sets out definitions for terms used in the new sections related to automatic roadside driving prohibitions. This section allows a peace officer, to take possession of a person's driver's licence and serve a notice of prohibition when a breath sample measured on an approved screening device indicates a "fail" or "warn" (blood alcohol content of no less than 50 or 80 milligrams in 100 millilitres of blood respectively), or when the person fails or refuses to provide a breath sample. The section also requires the person to submit his or her driver's licence directly to ICBC if it is not in their possession at the time the notice is served. The notice of driving prohibition is prescribed and contains the following information:

- A statement that the prohibition commences immediately and continues for the period set out in the notice of prohibition
- That a monetary penalty is imposed and that it must be paid no later than 30 days after the notice of prohibition is served
- That the person has a right to have the prohibition reviewed by the superintendent, and instructions describing how to apply for a review

This section also prohibits the imposition of a driving prohibition under this section to a person who is subject to a driving prohibition under section 94.1.

OSMV Notes:

- *This section introduces the new roadside sanctions based on a “warn” or “fail” on a roadside screening device.*
- *It outlines what will be on the Notice of Prohibition:*
 - *The prohibition starts immediately;*
 - *The driver is also subject to administrative penalties;*
 - *The driver can request a review of the prohibition;*
- *Because we will have two types of prohibitions at .08 (roadside and under s.94), the legislation will be clear that you can only get one or the other (not both).*

Section 215.42 sets out the length of the automatic roadside driving prohibition. If the person’s breath sample registers a “warn” on the approved screening device and it is their first driving prohibition under this section, the person is immediately prohibited from driving for a period of three days. If it is the person’s second prohibition under this section within a five year period, the person is immediately prohibited from driving for seven days. If the person receives a third or subsequent driving prohibition under this section within a five year period, the person is prohibited from driving for thirty days. For the purposes of determining the length of the prohibition for repeat offenders, no previous prohibitions under this section are considered if the review period of seven days has not expired; or in the case of a driver who applies for a review, until the review has been conducted by the superintendant and the driver has been advised of the review decision.

If the person’s breath sample registers a “fail” on the approved screening device or the person refuses to provide a breath sample, the person is immediately prohibited from driving for a period of 90 days.

OSMV Notes:

- *Roadside Prohibitions for a “warn” are 3, 7 and 30 days based on whether it is a first, second or subsequent prohibition.*
- *Drivers who register a “fail” or refuse to provide a sample are automatically subject to a 90 day prohibition.*
- *Based on legal advice (Lord Cokes rule) it also includes a provision that says you can’t get a second prohibition until you’ve had time to have the first one reviewed. For someone who gets multiple prohibitions in a weekend, they may end up with 2 – 3 day prohibitions instead of a 3 day and a 7 day. This would only happen in rare situations and is needed to protect the scheme from legal challenge.*

Sections 215.43, 215.44 allow for additional consequences to be applied when a person is prohibited under section 215.41. Section 215.43 allows for escalating monetary penalties, not exceeding \$750, as prescribed by the regulation. Section 215.44 requires that a persons who receives a 30 day (i.e. multiple repeat offences) or 90 day prohibition (breath

sample registered a "fail" on an approved screening device) must also register in and attend remedial programs as required by the superintendent (counselling and ignition interlock programs).

OSMV Notes:

- *This introduces the administrative penalties (amounts will be in regulation) that accompany the new roadside prohibitions. A maximum limit is consistent with other administrative penalty schemes and is intended to help protect these provisions from legal challenge.*
- *It also introduces the mandatory remedial programs (Responsible Driver Program and ignition interlock) that accompany the 30 and 90 day prohibitions.*

Section 215.45 requires that the peace officer who serves the notice of driving prohibition to forward all documents related to the prohibition to the superintendent, including the seized driving licence, a copy of the notice of driving prohibition, the certificate of service, and a report of the incident.

OSMV Notes:

- *This closes the loophole established by the Newman decision which said the same officer who formed the R&P grounds had to also serve the notice. Drivers won't be able to use this case to argue that the prohibition should be overturned. (see 94.1)*

Section 215.46 allows a person to apply for a review of the driving prohibition issued under section 215.41 and sets out the conditions for making an application. The person must file an application for review with the superintendent within seven days of being served the notice of prohibition, submit the prescribed hearing fee and surrender his or her driver's licence to ICBC if it was not seized by the police officer. The person must file a statutory declaration if the driver's licence was lost, stolen or destroyed. The person must use the form required for an application and provide the information required by the superintendent, along with any other sworn statements or other evidence that the person would like the superintendent to consider. The driving prohibition is not stayed if the person files an application for review. In addition, the section allows the superintendent to conduct an oral hearing for a 30 or 90 driving prohibition, if the person requests an oral hearing at the time of review application and pays the prescribed fee. Persons who fail to appear on prescheduled dates without prior notice waive their right to an oral hearing.

OSMV Notes:

- *This sets out the rules for reviews.*
- *The prohibition is not stayed pending the review*
- *For the 3 and 7 day prohibitions, only written reviews are available*
- *For the 30 and 90 day prohibitions, the driver can ask for an oral review*

Section 215.47 sets out the information, documents and evidence that the superintendent must consider in a review of a driving prohibition issued under section 215.41, including any relevant written statements submitted by the applicant, the notice of driving prohibition and any other relevant documents, information and reports of peace officers, and relevant evidence provided at oral hearings. The superintendent must also consider the person's driving record in the case of repeat offenders under section 215.41. This section also allows the superintendent to determine the weight to given to the documents or information submitted in the review considerations. This section forbids persons from being cross-examined.

OSMV Notes:

- *This section outlines what is considered during the review and includes provisions to close loopholes established by case law under the existing ADP program by specifying what information may be considered.*
- *It also allows the Superintendent to review the driving record in situations where the driver is disputing whether it was a first, second or subsequent prohibition.*

Section 215.48 sets out superintendent's considerations for confirming or revoking prohibitions issued under section 215.41. In every case, the superintendent must be satisfied that the person was a driver as defined in section 215.41 in order to confirm a prohibition. In addition, for 3, 7 and 30 day driving prohibitions, if the superintendent is satisfied that the approved screening device test resulted in a "warn" reading, and that the length of the driving prohibition was accurately calculated, the superintendent is required to confirm the driving prohibition and the monetary penalty for which the person is liable. This section allows the superintendent to reduce the length of the driving prohibition and vary the monetary penalty, as appropriate, in cases where the prohibition was incorrectly calculated at the roadside. In the case of a 90 day driving prohibition, if the superintendent is satisfied that the person's approved screening device test resulted in a "fail" reading, or that the person failed or refused, without reasonable excuse, to comply with a demand for a breath sample, this section requires that the superintendent confirm the driving prohibition and the monetary penalty. This section also allows the superintendent to substitute a 3, 7 or 30 day prohibition and vary the monetary penalty as appropriate, when the 90-day prohibition issued at the roadside was incorrectly based on a "warn" reading from the approved screening device.

Under this section the superintendent is required to revoke the driving prohibition when satisfied that the person was not the driver. Otherwise, 3, 7 or 30 day prohibitions are revoked if the superintendent is satisfied the approved screening device did not register a "warn". A 90 day prohibition must be revoked if the superintendent is satisfied that the approved screening device test did not register a "fail", or that the person did not fail or refuse to comply with the breath demand. The superintendent is also required to cancel the monetary penalty and direct ICBC to return any seized licence or permit.

This section requires that the superintendent send the review decision and reasons in writing to the applicant within 21 days of the notice of driving prohibition under section 215.41. In cases when the superintendent is unable to meet this timeline, the superintendent may extend the review period as required and stay the driving prohibition and direct ICBC to issue a temporary driver's licence for the period of the extension.

OSMV Notes:

- *This section sets out the review grounds –*
 - *I wasn't the driver*
 - *I did not register a "warn" or "fail" on an ASD*
 - *It wasn't my second or subsequent prohibition (for the escalating sanctions)*
- *It also allows the Superintendent to vary the prohibition and the accompanying monetary penalty (e.g. from a 7 day to a 3 day) if the incorrect length was issued at roadside.*

Section 215.49 gives the Lieutenant Governor in Council power to make regulations for prescribing the form of the notice of prohibition, and for prescribing an approved screening device for the purposes of taking a breath sample. This section also allows the Lieutenant Governor in Council power to make regulations for prescribing the schedule of monetary penalties and the time and manner for payment of monetary penalties.

OSMV Notes:

- *Regulation will outline the specific penalty amounts (\$100, \$200 and \$400) and specify they must be paid within 30 days;*
- *Review fees will be set at \$100 for a written review and \$200 for an oral review;*
- *The Approved Screening Device will also be specified in regulation.*

SECTION 15

Section 232 allows for automatic escalating licence suspensions for drivers convicted of motor vehicle related *Criminal Code* offences. The section is amended to align with provisions in the *Criminal Code* which allow for a specified reduction in the court ordered prohibition if the person convicted of an alcohol-related motor vehicle offence complies with the conditions of a provincial ignition interlock program. Changes to this section will allow a the person to apply to the superintendent for a reduction to their licence suspension to three months in the case of a first conviction, six months in the case of a second conviction and twelve months in the case of a subsequent conviction. Approval of the superintendent is subject to the person equipping the motor vehicle that they operate with an ignition interlock device, and registering for and participating in a remedial program and the ignition interlock program to the satisfaction of the superintendent for the remainder of the prohibition period set out by the courts and the suspension period established in section 232. At a minimum, this would be nine months for a first conviction, 30 months for a second conviction and indefinitely for a subsequent conviction.

OSMV Notes:

- *This will allow the Superintendent to reduce a mandatory prohibition issued by the courts in situations where the driver installs an ignition interlock on their car.*
- *The Superintendent will have discretion and will review each situation on a case by case basis.*
- *This is based on research that says longer driving prohibitions increase the risk that the driver will continue to drive while prohibited. Ignition interlock devices reduce that risk.*
- *First conviction: Rather than 1 yr prohibition, it will be 3 months prohibition + 9 months interlock;*
- *Second conviction: Rather than 3 yr prohibition, it will be 6 months prohibition + 2.5 yrs interlock;*
- *Third conviction : Rather than indefinite prohibition, it will be 12 months prohibition + indefinite interlock*

SECTION 16

Section 233 sets out the provisions for reinstating licences suspended under section 232. This section is amended to require the superintendent to notify ICBC of a driver's right to apply for a driver's licence after serving the minimum required court-order prohibition set out in section 232. The section is further amended to allow the superintendent to require a condition to be placed on the person's driver's licence that the person is required to participate in the ignition interlock program.

OSMV Notes:

- *This allows us to apply s. 232 to reduce the prohibitions*

SECTION 17

This section sets out that the Act comes into force by regulation.

DRAFT

MINISTRY OF PUBLIC SAFETY AND SOLICITOR GENERAL

Section Notes

Motor Vehicle Act (Impaired Driving Initiative)

SECTION 1

Under **section 26 (1)** of the *Motor Vehicle Act* (MVA), the Insurance Corporation of British Columbia (ICBC) can refuse to issue a licence or permit to a person for several reasons. Changes to this section add failure to pay a monetary penalty resulting from an automatic roadside driving prohibition and failure to pay towing and storage charges relating to a vehicle impoundment as grounds for ICBC to refuse to issue a licence or permit.

SECTION 2

Under **section 26.1**, ICBC may cancel a person's driver's licence if the person is indebted to ICBC or the government for a fine indebtedness. Changes to this section add monetary penalties owed to government as grounds for ICBC to cancel a person's driver's licence.

SECTION 3

Under **section 93.2**, the superintendent is required to notify ICBC about the imposition, cancellation or stay of various prohibitions under the *Motor Vehicle Act*. Changes to this section add the new automatic roadside driving prohibitions and driving prohibitions for unlicensed drivers to the list of applicable prohibitions.

SECTION 4

Under **section 94.1**, a peace officer is required to seize a person's driver's licence or permit to operate a motor vehicle and serve the person with a notice of driving prohibition if the peace officer has reasonable and probable grounds to believe the person operated the vehicle with more a blood alcohol concentration of over 80 milligrams per 100 millilitres or if the person refuses to comply with a demand for a sample of his or her breath or blood. In some cases, the peace officer who performs the duties at the roadside is not the same peace officer who serves the notice of driving prohibition to the driver after the breathalyser is administered. Changes to this section allow for another peace officer to serve the notice of driving prohibition.

This section deletes an unnecessary reference to review application instructions being prescribed, and also adds a provision so that a person cannot be prohibited from driving both under section 94.1 and section 215.41 of the *Motor Vehicle Act*.

SECTION 5

Section 94.4 describes the review application process. This change deletes an unnecessary reference to payment of an application fee, as no application fee is payable.

SECTION 6

Section 94.5 lists the documents, reports and evidence the superintendent is required to consider in a review of a driving prohibition. Changes to this section add a provision permitting the superintendent to consider additional relevant documents and information, including those that have not been sworn or solemnly affirmed, to determine the weight that is given to those documents, and to proceed with the hearing in the absence of receiving all the documents required to be forwarded under section 94.3.

SECTION 7

Section 95 (1) makes it an offence to drive while prohibited and sets out the consequences. This section has been amended to add cross-references to section numbers for the new automatic roadside prohibitions and the driving prohibition for unlicensed drivers.

SECTION 8

Section 97.1 describes circumstances where the superintendent is required to forward a driver's licence to ICBC. This section adds a cross-reference consequential to other amendments made by this Bill.

SECTION 9

Section 97.2 is a new provision that sets out the amount payable to reinstate a driver's licence. The amount is set at \$250 and is payable at the time of a first driver's licence application following a driving prohibition or driver licence suspension under the *Motor Vehicle Act*, the *Criminal Code* as well as federal and provincial young offender statutes. The amount is, in addition to any other prescribed fees.

SECTION 10

Section 99 (2) places an automatic one year driving prohibition on persons who are convicted of various *Motor Vehicle Act* and *Criminal Code* Offences. Changes to this section allow for reductions to driving prohibitions for persons criminally convicted of

impaired driving if they agree to the new provisions set out in section 232, including participating in an ignition interlock program as required by the superintendent.

SECTION 11

Section 215 allows peace officers to issue a 24 hour driving prohibition to drivers when they believe the person's ability to drive a motor vehicle is affected by alcohol or drugs. Changes to this section permit a person to request a prescribed standard field sobriety test and if the person satisfies the peace officer that his or her ability to drive is not affected by a drug, the peace officer is required to terminate the 24 hour driving prohibition. These changes align with similar provisions in this section for alcohol. The section is also updated to ensure that peace officers are not required to report 24 hour driving prohibitions to ICBC if they are terminated under this section. The changes also allow for prescribing standard field sobriety tests for determining drug impairment,

SECTION 12

Section 215.1 allows a person to apply to the superintendent for a review of a 24 hour driving prohibition related to alcohol and sets out the provisions. This section is updated to include driving prohibitions related to drugs and to distinguish the grounds for revoking a driving prohibition depending on whether the prohibition was based on impairment due to alcohol or due to a drug other than alcohol.

SECTION 13

Section 215.3 describes the review considerations for revoking a 24 hour driving prohibition. The section is updated to add review considerations for impairment by drugs to the existing review considerations for impairment by alcohol. The review considerations for drugs are that the driver requested the peace officer to administer a standard field sobriety test but the peace officer failed to do so or the person was not the driver of the motor vehicle.

SECTION 14

Section 215.41 sets out definitions for terms used in the new sections related to automatic roadside driving prohibitions. This section allows a peace officer, to take possession of a person's driver's licence and serve a notice of prohibition when a breath sample measured on an approved screening device indicates a "fail" or "warn" (blood alcohol content of no less than 50 or 80 milligrams in 100 millilitres of blood respectively), or when the person fails or refuses to provide a breath sample. The section also requires the person to submit his or her driver's licence directly to ICBC if it is not in their possession at the time the notice is served. The notice of driving prohibition is prescribed and contains the following information:

- A statement that the prohibition commences immediately and continues for the period set out in the notice of prohibition

- That a monetary penalty is imposed and that it must be paid no later than 30 days after the notice of prohibition is served
- That the person has a right to have the prohibition reviewed by the superintendent, and instructions describing how to apply for a review

This section also prohibits the imposition of a driving prohibition under this section to a person who is subject to a driving prohibition under section 94.1.

Section 215.42 sets out the length of the automatic roadside driving prohibition. If the person's breath sample registers a "warn" on the approved screening device and it is their first driving prohibition under this section, the person is immediately prohibited from driving for a period of three days. If it is the person's second prohibition under this section within a five year period, the person is immediately prohibited from driving for seven days. If the person receives a third or subsequent driving prohibition under this section within a five year period, the person is prohibited from driving for thirty days. For the purposes of determining the length of the prohibition for repeat offenders, no previous prohibitions under this section are considered if the review period of seven days has not expired; or in the case of a driver who applies for a review, until the review has been conducted by the superintendant and the driver has been advised of the review decision.

If the person's breath sample registers a "fail" on the approved screening device or the person refuses to provide a breath sample, the person is immediately prohibited from driving for a period of 90 days.

Sections 215.43, 215.44 allow for additional consequences to be applied when a person is prohibited under section 215.41. Section 215.43 allows for escalating monetary penalties, not exceeding \$750, as prescribed by the regulation. Section 215.44 requires that a persons who receives a 30 day (i.e. multiple repeat offences) or 90 day prohibition (breath sample registered a "fail" on an approved screening device) must also register in and attend remedial programs as required by the superintendent (counselling and ignition interlock programs).

Section 215.45 requires that the peace officer who serves the notice of driving prohibition to forward all documents related to the prohibition to the superintendent, including the seized driving licence, a copy of the notice of driving prohibition, the certificate of service, and a report of the incident.

Section 215.46 allows a person to apply for a review of the driving prohibition issued under section 215.41 and sets out the conditions for making an application. The person must file an application for review with the superintendent within seven days of being served the notice of prohibition, submit the prescribed hearing fee and surrender his or her driver's licence to ICBC if it was not seized by the police officer. The person must file a statutory declaration if the driver's licence was lost, stolen or destroyed. The person must use the form required for an application and provide the information required by

the superintendent, along with any other sworn statements or other evidence that the person would like the superintendent to consider. The driving prohibition is not stayed if the person files an application for review. In addition, the section allows the superintendent to conduct an oral hearing for a 30 or 90 driving prohibition, if the person requests an oral hearing at the time of review application and pays the prescribed fee. Persons who fail to appear on prescheduled dates without prior notice waive their right to an oral hearing.

Section 215.47 sets out the information, documents and evidence that the superintendent must consider in a review of a driving prohibition issued under section 215.41, including any relevant written statements submitted by the applicant, the notice of driving prohibition and any other relevant documents, information and reports of peace officers, and relevant evidence provided at oral hearings. The superintendent must also consider the person's driving record in the case of repeat offenders under section 215.41. This section also allows the superintendent to determine the weight to given to the documents or information submitted in the review considerations. This section forbids persons from being cross-examined.

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Section 215.49 gives the Lieutenant Governor in Council power to make regulations for prescribing the form of the notice of prohibition, and for prescribing an approved screening device for the purposes of taking a breath sample. This section also allows the Lieutenant Governor in Council power to make regulations for prescribing the schedule of monetary penalties and the time and manner for payment of monetary penalties.

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Section 232 allows for automatic escalating licence suspensions for drivers convicted of motor vehicle related *Criminal Code* offences. The section is amended to align with provisions in the *Criminal Code* which allow for a specified reduction in the court ordered prohibition if the person convicted of an alcohol-related motor vehicle offence complies with the conditions of a provincial ignition interlock program. Changes to this section will allow a the person to apply to the superintendent for a reduction to their licence suspension to three months in the case of a first conviction, six months in the case of a second conviction and twelve months in the case of a subsequent conviction. Approval of the superintendent is subject to the person equipping the motor vehicle that they operate with an ignition interlock device, and registering for and participating in a remedial program and the ignition interlock program to the satisfaction of the superintendent for the remainder of the prohibition period set out by the courts and the suspension period established in section 232. At a minimum, this would be nine months for a first conviction, 30 months for a second conviction and indefinitely for a subsequent conviction.

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Section 233 sets out the provisions for reinstating licences suspended under section 232. This section is amended to require the superintendent to notify ICBC of a driver's right to apply for a driver's licence after serving the minimum required court-order prohibition set out in section 232. The section is further amended to allow the superintendent to require a condition to be placed on the person's driver's licence that the person is required to participate in the ignition interlock program.

SECTION 17

This section sets out that the Act comes into force by regulation.

Voht, Angela E SG:EX

From: Letkeman, Nancy S SG:EX
Sent: Friday, January 8, 2010 11:33 AM
To: Martin, Stephen C SG:EX; Gilmour, Lori SG:EX
Subject: FW: Impaired Option 2 & 3

Importance: High

Steve, just spoke to Lori and she asked me if I had spoken to Rob K—I haven't bec pls see my earlier note...

s.16

Nancy S. Letkeman
Director, Policy & Research Branch
Office of the Superintendent of Motor Vehicles
(250) 356-0097

From: Letkeman, Nancy S SG:EX
Sent: Friday, January 8, 2010 9:35 AM
To: Martin, Stephen C SG:EX
Cc: Melvin, Stephanie SG:EX; Mazzei, Linda D SG:EX; Shoemaker, Wes SG:EX; Blewett, Tyann M SG:EX
Subject: RE: Impaired Option 2 & 3
Importance: High

s.13

Nancy S. Letkeman
Director, Policy & Research Branch
Office of the Superintendent of Motor Vehicles
(250) 356-0097

From: Martin, Stephen C SG:EX
Sent: Friday, January 8, 2010 9:01 AM
To: Shoemaker, Wes SG:EX
Cc: Letkeman, Nancy S SG:EX; Melvin, Stephanie SG:EX; Mazzei, Linda D SG:EX; Martin, Stephen C SG:EX
Subject: Impaired Option 2 & 3
Importance: High

Wes – have a peek at this and give me a call.

Steve

S.C. (Steve) MARTIN
Superintendent of Motor Vehicles
Ministry of Public Safety & Solicitor General
Bus: (250) 387-5692
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New Sanctions for Impaired Driving

In BC there are 133 fatalities each year from impaired driving. The Ministry of Public Safety and Solicitor General (PSSG) has identified "Increased Road Safety" as one of the key strategic priorities for the next three years.

Impaired Driving remains a major issue in BC as prevalence has been increasing over time. This is largely because the old system was not effective:

- 33% of total provincial court time in BC is spent on impaired cases;
- Of over 10,000 cases of drivers over .08 BAC only 7,347 proceed to court;
- It takes from 10 – 24 months to conclude a case through the courts;
- Average police time to support a routine case is 25 – 30 hours;
- Of those cases approved to court, 66% are found guilty;
- Approximately 22% of those cases are repeat offenders;
- Many impaired drivers end up with only a 24 hr prohibition because of the time and resources involved in pursuing a criminal charge;
- 37% of drivers who receive a 24 hour prohibition have been caught before – evidence the old sanctions were not working.

This new approach will enable drinking driving cases to be dealt with through a more efficient and lower cost administrative justice model that provides greater deterrents and more immediate, certain and escalating administrative sanctions for drinking drivers.

Goals of new approach:

- Provide police with the ability to impose swifter and stronger administrative sanctions to first time offenders at roadside.
- Focus Criminal Code impaired driving sanctions on repeat offenders and offenders who cause bodily harm or death.
- 90% reduction in enforcement effort required will allow police to address other pressures
- 78% reduction in the number of impaired cases in the court system will increase capacity and improve efficiency to address other pressures

Our goal is to reduce impaired driving fatalities by 35% by 2013.