



December 8, 2014

s.22

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

Introduction

On November 16, 2014, a peace Officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Greg Diamond. I have proceeded with this review based on that confirmation. I acknowledge I received a three page facsimile on December 2, 2012, from s.22 at s.22 attaching a statement signed by you dated December 1, 2014.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Were the ASDs reliable?

Based on a review of the evidence, I am not satisfied that the ASDs used to conduct your tests were reliable.

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

Decision

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

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

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

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



Adjudicator M. Dimech
RoadSafetyBC

cc: Greg Diamond
by fax 604-938-0870



December 9, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

I am satisfied that you were not advised of your right to request a second breath test analysis.

Decision

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

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

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

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

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including November 10, 2014. **Original receipts and invoices with proof of payment must be submitted for** reimbursement. Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



M Thiessen
Adjudicator

pc: Martin Allen
Bastion Law Corporation
250-920-0177



December 16, 2014

s.22

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

Introduction

On November 28, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Were the ASDs reliable?

I am satisfied that the ASDs were not reliable.

Decision

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

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

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

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



E. Tuit
Adjudicator

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



DECEMBER 2, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

I find that on a review of all of the evidence, the Report to Superintendent in not properly before me.

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

Decision

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

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

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

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

Adjudicator M. Dimech [(formerly M. Smith - pseudonym)]

cc: Don Skogstad
by fax to 250-487-4309



December 22, 2014

s.22

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

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

I have considered all the grounds available to you.

Issues

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

Facts, Evidence and Analysis

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

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

Having considered the evidence before me, I cannot find that you were advised of your right to request a second analysis.

Decision

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

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

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

If you have not already done so, you may go directly to the location where the vehicle is impounded for the immediate release of the vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 22, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Kyla Lee
604-685-8308



December 17, 2014

s.22

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

Introduction

On November 28, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

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

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

Decision

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

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

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

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



Adjudicator A. Cochrane

cc: Jordan Watt
fax: 250 480-4910



December 3, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

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

Based on the evidence before me, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act on June 20, 2014, at 00:21 hours. Having made this finding, I do not have to consider anything further.

Decision

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

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

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

Records at this office indicate that the vehicle associated with this IRP has already been released.



K. Partel
Adjudicator
RoadSafetyBC

pc: Albert King, King & Company, 250-753-6123

DECEMBER 2, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

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

Adjudicator B. McKenzie

cc: Bert King by fax 250 753 6123



December 18, 2014

s.22

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

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 18, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator N. Cook

cc: Rory Morahan (by fax)
(250) 385-8748



December 22, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

You applied on 3 review grounds. All 3 of these grounds are not applicable to your situation because of the reason for which you were prohibited. For your benefit, I have considered all the applicable grounds available to you in this review.

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

Was the ASD reliable?

Based on the evidence before me, I am not satisfied that the ASDs were reliable. Having made this finding, I do not have to consider anything further.

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 22, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator K. Partel
RoadSafetyBC



December 4, 2014

s.22

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

Introduction

On November 15, 2013, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

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

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

Decision

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

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

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including December 16, 2013. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



A. McAlistair
Adjudicator

cc: Jeffrey Green
fax: 250 361-9181



December 29, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

At the outset of your oral hearing your lawyer, Tom Doust, confirmed that he received full disclosure.

Issues

There are three issues in this review:

1. Were you a driver within the meaning of section 215.41(1) of the Act?
2. If so, did you fail or refuse to comply with a demand?
3. If so, did you have a reasonable excuse?

Facts, Evidence and Analysis

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

Did you fail or refuse to comply with a demand?

When considering the evidence before me, I find that you did not fail or refuse to comply with a demand.

Decision

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

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

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

If you have not already done so, you may go directly to the location where the vehicle is impounded for the immediate release of the vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 29, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle

A handwritten signature in black ink, appearing to read 'J. Downs', with a stylized flourish at the end.

Adjudicator J. Downs

cc: Tom Doust



December 1, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

You applied for this review on three grounds, one of which is not applicable to your circumstance because of the reason for which you were prohibited. For your benefit, I have considered all grounds that apply to your circumstance.

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Was the ASD reliable?

Based on the evidence before me, I am not satisfied that the ASD was reliable.

Decision

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

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

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

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



Adjudicator N. Bond

cc: Greg Cranston
by fax 604-608-5588



December 31, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

At the beginning of the hearing your lawyer, Cathryn Waker, confirmed receipt of the documents that I have before me. For your benefit, I will consider all of the grounds that are available to you in this review.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the ASD reliable?

Based on a review of the evidence, I am not satisfied that the ASDs used to conduct your tests were reliable.

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

Decision

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

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

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

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

Adjudicator M. Dimech

cc: Cathryn Waker
by fax 604-637-1617



December 30, 2014

s.22

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

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

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

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

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Was the ASD reliable?

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

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

Decision

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

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

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



Adjudicator N. Cook

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



December 29, 2014

s.22

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

Introduction

On November 2, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Decision

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

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

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

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

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

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including November 12, 2014. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



Adjudicator N. Cook

cc: Don Muldoon (by fax)
(604) 974-8888



December 18, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

You applied for this review on all grounds; however, not all grounds apply to your situation. For your benefit, I have considered all grounds that apply to your situation.

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

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



N. Bond
Adjudicator

cc: Paul Evans
Fax: 778-395-6266



DECEMBER 24, 2014

s.22

RE: Immediate Roadside Prohibition (IRP) No. s.22

I am writing with respect to the Notice of Driving Prohibition that was served on you on December 14, 2014.

The driving prohibition and its related vehicle impoundment have been cancelled. This prohibition, and the associated IRP penalty fee and the reinstatement fee, have been removed from your driving record.

If you surrendered a British Columbia driver's licence at the time you were served with the Notice of Driving Prohibition, you may be issued with a free duplicate driver's licence. To obtain this licence, you must go to a Driver Services Centre with primary and secondary identification.

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

Arlene Caldwell
Team Lead, Adjudication

cc: Jennifer Currie
(604) 590-5626



December 22, 2014

s.22

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

Introduction

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

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

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

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

As it is determinative of this review, I focus on the one key issue:

Were you a driver within the meaning of the Act?

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

Decision

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

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

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

A handwritten signature in black ink, appearing to read 'M Thurlow', with a long horizontal line extending to the right.

M Thurlow
Adjudicator

cc. Lisa Jean Helps
Helps Law Corporation
Fax: 604-669-5558



December 15, 2014

s.22

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

Introduction

On November 27, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

I will consider all of the grounds available to you in this review that are appropriate to the circumstances under which you were issued the prohibition.

After reviewing the evidence before me, I find that there is insufficient evidence to support your prohibition.

Decision

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

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

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

Adjudicator M. Dimech

cc: Sarah Leamon
by fax to 604-370-2505



December 16, 2014

s.22

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

Introduction

On June 20, 2012, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

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

Was the ASD reliable?

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

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

Decision

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

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

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

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

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including July 21, 2012. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



Adjudicator N. Cook

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



December 2, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

After considering all of the evidence before me, I am not satisfied that the peace officer made a valid ASD demand.

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

Decision

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

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

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

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



Adjudicator N. Cook formerly "N. James" (pseudonym name)

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



December 18, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

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

Decision

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

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

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

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



Adjudicator N. Cook

cc: Jennifer Currie (by fax)
(604) 590-5626



December 12, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and December 12, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

A handwritten signature in black ink, appearing to be 'N. Bond', written in a cursive style.

Adjudicator N. Bond

cc: Lolita Rudovica
by fax: 604-581-2017



December 19, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

I am satisfied that your BAC was less than 80 mg%.

Decision

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

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

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

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



E. Tuit
Adjudicator

pc: John Chak (by fax)
604-282-7509



December 18, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

Was the ASD reliable?

Based on the evidence, I am satisfied that the ASD used for your second analysis was not reliable.

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

Decision

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

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

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

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



A. Dolphin
Adjudicator

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

December 29, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?

- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Stanbury and your lawyer's submissions, I find there is one determinative issue in this review.

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

After considering all the evidence before me in this specific set of circumstances, I find on a balance of probabilities that the officer did not provide sufficient evidence to support the prohibition imposed.

I am satisfied that you did not fail or refuse to comply with the demand. Having made this finding, I do not need to consider other issues.

Decision

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

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

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

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



Adjudicator V. Parker

cc. Rajdeep Basra
604-372-0498 (fax)



December 18, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Some of the grounds on which you applied for this review are not applicable to your situation because the officer prohibited you from driving because an ASD test resulted in a "FAIL". Therefore, I will consider all of the grounds available to you in this review that are appropriate to those circumstances.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

As it is determinative of this review, I focus on the one key issue:

Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%

Based on the evidence before me, I am not satisfied that the ASD fail was a result of your BAC exceeding 80 mg%. Having made this finding I do not have to consider anything further.

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 18, 2014.

You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



F. Lee
Adjudicator

cc: Jeremy Carr, Lawyer, via fax 9-250-388-7327



December 15, 2014

s.22

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

Introduction

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

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

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

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

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

Was the second analysis provided by the officer?

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 15, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



M. Thiessen
Adjudicator



December 10, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

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

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Lisa Helps.

The officer provided 11 pages of disclosure to this office on November 19, 2014. After reviewing section 14 of the Report to Superintendent (the “RTS”), I note that the officer did not record the number of pages that forms part of the sworn document. In addition to providing a

sworn or solemnly affirmed RTS, upon service of the Notice a peace officer must forward to the superintendent:

- a person's licence;
- a copy of the Notice and Certificate of Service;
- information relating to the calibration of the ASD(s), and;
- information relating to the vehicle impoundment.

I am satisfied that the officer provided these documents, all of which are submitted separate from the RTS. I find that what I am left with is the four- page Narrative Text Hardcopy which cannot be considered as it was not incorporated as part of the sworn RTS. Therefore, I have not referred to this document when conducting this review.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 10, 2014.

You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

A handwritten signature in black ink, appearing to be the initials 'NB' with a long horizontal stroke extending to the right.

Adjudicator N. Bond

cc: Lisa Helps
by fax: 604-669-5558



December 30, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you and your lawyer, Joseph Gordon.

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

Did the ASD register a “WARN” result?

I am satisfied that the ASD did not register a “WARN” result.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act. A refund of the fees associated with this IRP has been initiated and will be sent in approximately six to eight weeks. However, the refund may be used to offset any outstanding fines or debts owed to the Province of British Columbia.

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



M Thiessen
Adjudicator

cc. Joseph R. Gordon
Gordon & Company
fax: 250-860-9937



December 15, 2014

s.22

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

Introduction

On November 29, 2014, a peace Officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

I acknowledge receipt of Mr. Burnett's submission dated December 8, 2014.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Were the ASDs reliable?

Based on a review of the evidence, I am satisfied that the ASDs used to conduct your tests were not reliable.

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

Decision

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

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

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

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



Adjudicator M. Dimech
RoadSafetyBC

cc: Clarke Burnett
by fax 250-860-3505



December 19, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

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



E. Tuit
Adjudicator

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



December 4, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

I will consider all of the grounds available to you in this review that are appropriate to the circumstances under which the officer issued the Notice.

At the hearing you confirmed that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation. I acknowledge receipt of your sworn statement received in our office on November 18, 2014, together with attachments.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was your BAC less than 80 mg% even though the ASDs registered a “FAIL”?

After considering the evidence before me, I am not satisfied that your BAC was more than 80 mg% even though the ASDs registered a “FAIL”.

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

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(1) of the *Act*. You are prohibited from driving for 90 days. Your prohibition took effect on November 13, 2014.

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

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

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

Adjudicator M. Dimech [formerly M. Smith (pseudonym name)]
RoadSafetyBC



December 23, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

Was the ASD reliable?

Based on the evidence before me, I am satisfied that the ASD used for the first ASD test was not reliable.

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

Decision

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

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

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

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



A. Dolphin
Adjudicator

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



December 23, 2015

s.22

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

Introduction

On December 2, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Henderson and your lawyer’s submissions, I find there is one determinative issue in this review.

Was the ASD reliable?

After considering all the evidence before me in this specific set of circumstances, I find on a balance of probabilities that the officer did not provide sufficient evidence to support the prohibition imposed.

Based on the evidence before me, I am not satisfied that the ASD was reliable. Having made this finding, I do not need to consider other issues.

Decision

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

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

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

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

Adjudicator V. Parker

cc. Randle Howarth
604-850-5707 (fax)



December 8, 2014

s.22

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

Introduction

On November 15, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

Having reviewed the evidence of Constable Wangkhang and your submissions, I find there is one determinative issue in this review.

Was the ASD reliable?

After considering all the evidence before me in this specific set of circumstances, I am not satisfied on a balance of probabilities that the ASD was reliable. Having made this finding, I do not need to consider other issues.

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 8, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator V. Parker



December 4, 2014

s.22

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

Introduction

On November 15, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

Records indicate that you received full disclosure of the documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Was the ASD reliable?

Having considered the Certificate of Qualified ASD Calibrator, I find that the ASD used was unreliable.

Decision

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

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

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

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



Adjudicator J. Downs



December 12, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

Were the ASDs reliable?

I am satisfied that the ASD used for your second analysis was not reliable.

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

Decision

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

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

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

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



Adjudicator A. Cochrane



December 22, 2014

s.22

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

Introduction

On December 5, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Were the ASDs reliable?

Based on a review of the evidence, I am not satisfied that the ASD used to conduct your first test was reliable.

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

Decision

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

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

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

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

Adjudicator McKenzie

pc: Jeremy Carr by fax: 250 388 7327



December 8, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

Records indicate your lawyer received full disclosure. I have considered all the grounds available to you.

Issues

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

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 8, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Paul Pearson
250-480-0004



December 1, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

Records indicate your lawyer received full disclosure. I have considered all the grounds available to you.

Issues

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

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 1, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Jeremy Carr
250-388-7327



December 9, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

On the IRP Application for Review, you indicated that you are applying for this review on all 13 grounds, a number of which are not applicable to your situation due to the reason for which you were prohibited. For your benefit, I have considered all relevant grounds for review.

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

Considering the evidence before me, I find there is insufficient evidence to support the Notice served to you.

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

Decision

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

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

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

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



A. Dolphin
Adjudicator

cc: Philip Cote (by fax)
(778) 395-6226



December 9, 2014

s.22

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

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

On the IRP Application for Review, you indicated that you are applying for this review on all 13 grounds, a number of which are not applicable to your situation due to the reason for which you were prohibited. For your benefit, I have considered all relevant grounds for review.

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

Were the ASDs reliable?

Based on the evidence, I am satisfied that the ASDs used for your analyses were not reliable.

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

Decision

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

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

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

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



A. Dolphin
Adjudicator

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



December 29, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

In reaching my decision on this review, I must consider all relevant information provided to me. I consider only the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

I am satisfied that you did not fail or refuse to comply with the ASD demand.

Decision

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

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

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

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



M Thiessen
Adjudicator



December 11, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

I acknowledge receipt of Ms. Currie’s correspondence dated December 4, 2014, with attachments.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

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

Upon reviewing the evidence, I am satisfied that you were not advised of your right to request a second breath test.

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

Decision

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

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

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

Adjudicator M. Dimech
RoadSafetyBC

cc: Jennifer Currie
by fax 604-590-5626



December 8, 2014

s.22

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

Introduction

On November 15, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

I have considered all the grounds available to you.

Issues

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

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

Facts, Evidence and Analysis

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

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

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

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 8, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Kyla Lee
604-685-8308



December 17, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation. I acknowledge receipt of correspondence from s.22 December 5, 2014, and from s.22

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

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

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

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

Decision

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

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

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

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

Adjudicator M. Dimech
RoadSafetyBC



December 29, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

At the beginning of the hearing your lawyer, Erin Dance, confirmed that she received full disclosure of the documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Were the ASDs reliable?

Based on a review of the evidence, I am satisfied that the ASDs used to conduct your tests were not reliable.

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

Decision

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

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

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

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

Adjudicator M. Dimech
RoadSafetyBC

cc: Erin Dance
by fax 604-687-3022



December 24, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

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

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

Decision

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

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

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

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



Adjudicator A. Cochrane

cc: David C. Tarnow
fax: 604 278-0525



December 9, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

On November 27, 2014, I received a fax from Ms. Currie's office which states, "I write to advise that I will not be acting as counsel for s.22 in this review." However, I acknowledge receipt of your submission dated November 26, 2014.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

I am satisfied that your BAC was less than 80 mg%.

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

Decision

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

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

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

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



Adjudicator A. Cochrane



DECEMBER 1, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

At the beginning of the hearing your lawyer, Jennifer Currie, confirmed that she had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation. I acknowledge receipt of Ms. Currie’s correspondence dated November 16, 2014.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

I find that on a review of the evidence before me is this particular set of circumstances, there is insufficient evidence to establish that the peace officer made a valid demand.

Decision

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

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

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

Records at this office confirm that your vehicle was not towed at the time you received your driving prohibition.

Adjudicator M. Dimech [formerly M. Smith (pseudonym name)]

CC Jennifer Currie
By fax 604-590-5626



December 22, 2014

s.22

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

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

Were the ASDs reliable?

Based on the evidence before me, I am not satisfied that the ASDs used to obtain samples of your breath were reliable. Having made this finding, I do not have to consider anything further.

Decision

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

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

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

You may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 22, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator K. Partel
RoadSafetyBC

pc: Cory Armour, Tessmer Law Offices, 1-250-762-3163



December 12, 2014

s.22

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

Introduction

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

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

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

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

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

Decision

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

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

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

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



Adjudicator A. Cochrane

cc: Richard Gibbs
fax: 250 562-0671



December 18, 2014

s.22

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

Introduction

On December 5, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

At the outset of your oral hearing, your lawyer, Mitch Foster, confirmed that he received full disclosure of the documents before me. You applied on several grounds, some of which are not applicable to your situation because of the ground for which you were prohibited on. For your benefit I have considered all the grounds available to you.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Was the ASD reliable?

Having considered the Certificate of Qualified ASD Calibrator, I find that the ASD used was unreliable.

Decision

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

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

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

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 18, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Mitch Foster
604-687-4299



December 2, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) Notice ^{s.22}

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

After reviewing the evidence before me, I am satisfied that your BAC was less than 80 mg%.

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

Decision

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

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

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

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



Adjudicator N. Cook

cc: Julian van der Walle (by fax)
(250) 503-0249



December 9, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

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

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

Decision

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

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

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

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



Adjudicator N. Cook

cc: Brian Mickelson (by fax)
(604) 637-1617



December 2, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

I will consider all of the grounds available to you in this review that are appropriate to the circumstances under which you were issued the prohibition.

At the beginning of the hearing you confirmed that full disclosure of the documents before me was provided to you.

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

There is one issue that is determinative of this hearing.

Was the second analysis provided by the Officer?

Based on a review of the evidence before me, I am not satisfied that the investigating officer provided a second analysis.

Decision

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

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

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

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

Adjudicator M. Dimech [formerly M. Smith (pseudonym name)]



December 23, 2014

s.22

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

Introduction

On December 5, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

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

I am not satisfied that you were advised of your right to request a second breath test analysis.

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

Decision

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

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

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

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



Adjudicator N. Cook

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



December 4, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

Records at this office indicate that you received full disclosure. I have proceeded with this review based on that confirmation.

I have considered all the grounds available to you.

Issues

The following are the issues in this review:

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

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

Facts, Evidence and Analysis

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

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

Having considered the evidence before me, I cannot find that you were advised of your right to request a second analysis.

Decision

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

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

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

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including November 18, 2014. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



Adjudicator J. Downs



December 17, 2014

s.22

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

Introduction

On November 28, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

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

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

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

Decision

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

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

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

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



Adjudicator A. Cochrane



December 31, 2014

s.22

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

Introduction

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

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

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

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

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

Preliminary Matters

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

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

Issues

The following are the issues in this review:

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

Facts, Evidence and Analysis

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

Were the ASDs reliable?

I am satisfied that the ASDs were not reliable.

Decision

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

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

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

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



E. Tuit
Adjudicator

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



December 3, 2014

s.22

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

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

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me have been provided to your lawyer, Geoffrey Simair. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed all of the evidence before me, I find there is one determinative issue in this review.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

After reviewing the evidence before me, I am satisfied that your BAC was less than 80 mg%.

Having made this finding I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at:

http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including July 14, 2014. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.



Adjudicator N. Cook

cc: Geoffrey Simair (by fax)
(250) 385-4506



DECEMBER 8, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 17, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device ("ASD"); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jeremy G. Carr. I have proceeded with this review based on that confirmation.

I acknowledge receipt of Mr. Carr's submissions dated November 26, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did you fail or refuse to comply with an ASD demand?
- If you failed or refused to comply with the demand, did you have a reasonable excuse?

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Did you fail or refuse to comply with an ASD demand?

Based on my review of the evidence, I am not satisfied that you failed or refused to comply with the ASD demand.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including [the date of this letter/ the date your vehicle was eligible for release]. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator M. Dimech (formerly M. Smith – pseudonym)
RoadSafetyBC

cc: Jeremy G. Carr
via fax (250) 388-7327



December 4, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On November 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- you failed or refused to comply with a demand made under the *Criminal Code* to provide a sample of breath for analysis by means of an approved screening device (“ASD”); and
- you did not have a reasonable excuse for failing or refusing to comply with a demand.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing you confirmed that you received full disclosure of the documents before me. I have proceeded with this review based on that confirmation. You applied on three grounds, two of which are not applicable to your situation because of the ground for which you were prohibited on. For your benefit I have considered all the grounds available to you.

I acknowledge that you may have a clean driving record. However, I am unable to consider your driving record in the making my decision. The scope of the review is limited to the grounds as defined in section 215.5 of the Act. In this review, I can only consider and make decisions on the issues noted below.

Issues

There are three issues in this review:

1. Were you a driver within the meaning of section 215.41(1) of the Act?
2. If so, did you fail or refuse to comply with a demand?
3. If so, did you have a reasonable excuse?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Did you fail or refuse to comply with a demand?

When considering the evidence before me, I find that you did not fail or refuse to comply with a demand.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where the vehicle is impounded for the immediate release of the vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 4, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle



Adjudicator J. Downs



December 3, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On June 26, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “*Act*”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the *Act* requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

You applied on thirteen review grounds, some of which are not applicable to your situation because of the reason for which you were prohibited. For your benefit, I have considered all the grounds available to you.

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Mr. Jeremy G. Carr. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the *Act*?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?

- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find that there is but one issue which is determinative in this review.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

Based on the evidence before me, I am satisfied that your BAC was not less than 80 mg%.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the *Act*.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Records at this office indicate that the vehicle associated with this IRP has already been released. Since your IRP review is successful and the prohibition is revoked, you are eligible to have the towing and storage costs reimbursed by the Superintendent up to the amounts set out in the *Lien on Impounded Motor Vehicle Regulation* under the *Motor Vehicle Act*. Information concerning this Regulation can be found online at: http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/952568628

Upon receipt of your proof of payment, the Superintendent of Motor Vehicles will pay the towing and storage costs up to and including July 27, 2014. **Original receipts and invoices with proof of payment must be submitted for reimbursement.** Examples of proof of payment include a towing and storage invoice created by the impound lot noting payment and a zero balance owing; invoice and cancelled cheque or credit card transaction slip; invoice and copies of identifiable payments from bank or credit card statements. You must also enclose a copy of this letter to ensure the correct charges are refunded to you.

K MacNeil
Adjudicator

pc: Jeremy G. Carr 604-687-8996



December 2, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 14, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I have been delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1) of the Act;
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing your lawyer, Sarah E. Leamon, confirmed that full disclosure of the documents before me was provided to her. I confirm receipt of Ms. Leamon's submission dated November 26, 2014.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “fail”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

After considering the evidence, I am not satisfied that you were a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator M. Dimech [formerly M. Smith (pseudonym)]

cc: Sarah E. Leamon
by fax 604-370-2505



December 3, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 12, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that you received full disclosure of the documents before me. You applied on one ground. For your benefit, I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was your BAC less than 80 mg% even though the ASD registered a "FAIL"?

Having considered the evidence before me, I am not satisfied that the ASD registered a "FAIL" as a result of your BAC exceeding 80 mg%.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 3, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Sarah Leamon
604-370-2505



December 10, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On November 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

At the beginning of the hearing your lawyer, Kyla Lee, confirmed that she had received all of the disclosure documents before me. I have proceeded with the review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider any further grounds in this review.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator A. Cochrane

cc: Kyla Lee
fax: 604 685-8308



DECEMBER 9, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On November 22, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

When you applied for this review, you checked three grounds listed on the application form; however, one of these grounds is not applicable to your situation, because of the reason for which you were prohibited. For your benefit, I have considered all grounds that apply in your case.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

- Was the ASD reliable?

I am satisfied that the ASD was not reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator B. McKenzie



December 16, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On the IRP Application for Review, you indicated a number of grounds for review that are not applicable to your situation because of the reason for which you were prohibited. However, I have considered all grounds available to you in this review.

At the beginning of the hearing, your lawyer, Kyla Lee, confirmed that she had received all of the disclosure documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Was the ASD reliable?

I am satisfied that the ASD used to administer the first breath test was not reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.



E. Tuit
Adjudicator

pc: Kyla Lee (by fax)
604-685-8308



December 24, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On December 6, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On the IRP Application for Review, you indicated a number of grounds for review that are not applicable to your situation because of the reason for which you were prohibited. However, I have considered all grounds available to you in this review.

At the beginning of the hearing, your lawyer, P. James Butler, confirmed that he had received all of the disclosure documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Was the ASD reliable?

I am satisfied that the ASD used to administer the first ASD test was not reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



E. Tuit
Adjudicator

pc: P. James Butler (by fax)
604-739-9888



December 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On December 7, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to you. I have proceeded with this review based on that confirmation.

On the IRP Application for Review, you did not select any of the available grounds for review. For your benefit, I have considered all grounds which apply to your situation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Facts, Evidence and Analysis

Was the ASD reliable?

Based on the evidence before me, I am satisfied that the ASD used for the first ASD test was not reliable.

Having made this finding, I do not need to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please be advised that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



A. Dolphin
Adjudicator



December 4, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On November 16, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- an approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

I will consider all of the grounds of review which are relevant to the type of prohibition indicated on the Notice the peace officer served.

Records at this office confirm that full disclosure of the documents before me was provided to your representative, Philip W. Cote. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

After reviewing the evidence before me, I find that there is one issue that is determinative of this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider any further grounds in this review

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator A. Cochrane

cc: Philip W. Cote
fax: 778 395-6226



December 12, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No s.22

Introduction

On November 29, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the hearing, your lawyer, Sarah E. Leamon, confirmed that she had received all of the disclosure documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Was the ASD reliable?

I am satisfied that the ASD used to administer the first breath test was not reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



E. Tuit
Adjudicator

pc: Sarah E. Leamon (by fax)
604-370-2505



December 1, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 8, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records indicate that you received full disclosure of the documents before me. You applied on one ground. For your benefit I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was your BAC less than 80 mg% even though the ASD registered a “FAIL”?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was your BAC less than 80 mg% even though the ASD registered a “FAIL”?

Having considered the evidence before me, I am not satisfied that the ASD registered a “FAIL” as a result of your BAC exceeding 80 mg%.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.



Adjudicator J. Downs



December 23, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No. s.22

Introduction

On December 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Jennifer Currie. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

There is one issue that is determinative of this review.

Was the ASD reliable?

Based on a review of the evidence, I am not satisfied that the ASD used to conduct your test was reliable.

Having made this finding, I do not have to consider anything further.

Decision

As a result of my finding, I revoke your driving prohibition and any monetary penalty, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.

Adjudicator McKenzie

pc: Jennifer Currie by fax: 604 590 5626



December 31, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP)- No s.22

Introduction

On December 14, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the Motor Vehicle Act (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device ("ASD") registered a "FAIL" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood ("80 mg%");
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Paul Evans, I have proceeded with this review based on that confirmation.

Upon review of the evidence before me, I find that I do not have a properly sworn Report to Superintendent. As a result, there is insufficient evidence before me to support the prohibition against you.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

Please note that the corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.



F. Lee
Adjudicator

Cc: Paul Evans, Lawyer, via fax 778-395-6226



December 10, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 23, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing your lawyer, Kyla Lee, confirmed that she received full disclosure. I have proceeded with this review based on that confirmation.

You applied on several grounds, some of which are not applicable to your situation because of the reason for which you were prohibited. For your benefit, I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the evidence before me, I cannot find that the ASD used was reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including December 10, 2014. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



Adjudicator J. Downs

cc: Kyla Lee
604-685-8308



December 19, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition No ^{s.22}

Introduction

On December 1, 2014, a peace officer served you with a Notice of Driving Prohibition (the "Notice"). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the "Act") requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device ("ASD") registered a "fail" as a result of your blood alcohol concentration ("BAC") being not less than 80 milligrams of alcohol in 100 millilitres of blood ("80 mg%");
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the *Act* requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

Records at this office confirm that full disclosure of the documents before me was provided to your lawyer, Julian van der Walle, prior to this review. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one determinative issue in this review.

Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?

After considering the evidence before me, I am not satisfied that the "FAIL" was a result of your BAC exceeding 80 mg%. Having made this finding I do not have to consider anything further.

Decision

As a result of my finding, I revoke your driving prohibition and any monetary penalty, as required by s. 215.5(4) of the *Act*.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



F. Lee
Adjudicator

cc Julian van der Walle, Lawyer, via fax 250-503-0249



December 3, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No.s.22

Introduction

On November 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the beginning of the oral hearing, your lawyer, Cathryn Waker, confirmed that she had full disclosure of the documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did an ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Were you a driver within the meaning of section 215.41(1) of the Act?

Based on the evidence, I am satisfied that you were not a driver within the meaning of section 215.41(1) of the Act.

Having made this finding, I do not need to consider anything further.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



A. Dolphin
Adjudicator

cc: Cathryn Waker (by fax)
(604) 637-1617



December 30, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (“IRP”) No.s.22

Introduction

On December 13, 2014, a peace officer served you with a Notice of Driving Prohibition (the “Notice”). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the “Act”) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (“ASD”) registered a “FAIL” as a result of your blood alcohol concentration (“BAC”) being not less than 80 milligrams of alcohol in 100 millilitres of blood (“80 mg%”);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

On the IRP Application for Review, you indicated a number of grounds for review that are not applicable to your situation because of the reason for which you were prohibited. However, I have considered all grounds available to you in this review.

At the beginning of the hearing, your lawyer, Kyla Lee, confirmed that she had received all of the disclosure documents before me. I have proceeded with this review based on that confirmation.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a "FAIL", and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to request a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?

Facts, Evidence and Analysis

Having reviewed the evidence before me, I find there is one issue that is determinative of this review.

Was the ASD reliable?

I am satisfied that the ASD used to administer the ASD test was not reliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by section 215.5(4) of the Act.

You may resume driving after you have obtained a driver's licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver's Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

If you have not already done so, you may go directly to the location where your vehicle is impounded for the immediate release of your vehicle. The Superintendent of Motor Vehicles will pay towing and storage costs up to and including the date of this letter. You are responsible for any storage costs beyond that date. You should know that if the vehicle is not reclaimed, the impound lot may apply to the Superintendent of Motor Vehicles to dispose of the vehicle.



E. Tuit
Adjudicator

pc: Kyla Lee (by fax)
604-685-8308



December 2, 2014

s.22

REVIEW DECISION Immediate Roadside Prohibition (IRP) No. s.22

Introduction

On November 10, 2014, a peace officer served you with a Notice of Driving Prohibition (the Notice). You applied to the Superintendent of Motor Vehicles for a review of your driving prohibition and I am delegated the authority to conduct this review.

Section 215.5(1) of the *Motor Vehicle Act* (the Act) requires me to confirm your prohibition, along with the corresponding monetary penalty and vehicle impoundment, if I am satisfied that:

- you were a driver within the meaning of section 215.41(1);
- the approved screening device (ASD) registered a “FAIL” as a result of your blood alcohol concentration (BAC) being not less than 80 milligrams of alcohol in 100 millilitres of blood (80 mg%);
- you were advised of your right to request a second analysis;
- if requested, it was provided and performed with a different ASD;
- the Notice was served on the basis of the lower analysis result; and,
- the result of the analysis on the basis of which the Notice was served was reliable.

Section 215.5(4) of the Act requires me to revoke your prohibition, cancel the monetary penalty, and revoke any corresponding vehicle impoundment if I am not satisfied of any of the above.

In reaching my decision on this review, I must consider all relevant information provided to me.

Preliminary Matters

At the outset of your oral hearing, your lawyer, Kyla Lee, confirmed that she received full disclosure of the documents before me. You applied on all of the grounds, some of which are not applicable to your situation because of the ground for which you were prohibited on. For your benefit I have considered all the grounds available to you.

Issues

The following are the issues in this review:

- Were you a driver within the meaning of section 215.41(1) of the Act?
- Did the ASD register a “FAIL”, and was it as a result of your BAC exceeding 80 mg%?
- Were you advised of your right to a second analysis?
- Was the second analysis provided by the officer and performed using a different ASD?
- Was the Notice served on the basis of the lower analysis result?
- Was the ASD reliable?
- Was your BAC less than 80 mg% even though the ASD registered a “FAIL”?

Facts, Evidence and Analysis

I find there is one issue that is determinative of my review.

Was the ASD reliable?

Having considered the Certificate of Qualified ASD Calibrator, I find that the ASD used was unreliable.

Decision

As a result of my findings, I revoke your driving prohibition, monetary penalty, and vehicle impoundment, as required by s. 215.5(4) of the Act.

You may resume driving after you have obtained a driver’s licence from the Insurance Corporation of British Columbia. If you hold an Enhanced Driver’s Licence, you must make an appointment to reapply for that licence.

Please note that this decision does not change any other prohibitions from driving or licensing requirements.

The corresponding vehicle impoundment is also revoked. The owner of the vehicle will be notified by separate letter that I am releasing the vehicle.



Adjudicator J. Downs

cc: Kyla Lee
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