



## Impaired Driving

### What does “impaired driving” mean?

Impaired driving means driving a car, truck, boat, snowmobile, aircraft, train or other motor vehicle when the ability to operate the motor vehicle is impaired by alcohol or drugs.

A person can be convicted of the criminal offence of impaired driving when there is proof beyond a reasonable doubt of the person's impairment. Evidence might show, for example, that the person was driving very slowly or too fast, was not driving in a straight line, could not manage simple physical tasks, had slurred speech or bloodshot eyes or had breath that smelled of alcohol. A person who is actually impaired by alcohol can be convicted of impaired driving, whether or not the person's blood alcohol content was over the “legal limit.”

### What is the “legal limit”?

When the alcohol content in a person's blood is more than 80 mg of alcohol in 100 ml of blood, the person can be convicted of being “over the legal limit” (being “over 80”). In most situations, a breath test is used to determine the blood alcohol concentration. In some situations, a blood test is used to determine the concentration.

A person whose blood alcohol content is over the legal limit could be convicted even if the person didn't act drunk or seem to be impaired. The punishment for this criminal offence is the same as the punishment for driving while impaired.

### What happens if a person refuses to give the police a breath sample?

A police officer can demand that a driver provide a breath sample on an “approved screening device” when the police officer has a reasonable suspicion that the person has alcohol in his or her body. The approved screening device test is usually done at the roadside.

A police officer can demand that a driver provide a breath sample on an “approved instrument” when the police officer has reasonable grounds to believe that the person has committed an impaired driving offence or was driving while over the legal limit. The approved instrument test is usually given at the police station.





A person who refuses to give a breath sample when asked, and does not have a legal reason for refusing, can be convicted of the offence of refusing to provide a breath sample. The punishment for this criminal offence is the same as the punishment for the offence of driving while impaired.

The police can ask a person who is unable to provide a breath sample because of an injury or physical problem to provide a blood sample. A doctor or other qualified medical professional will take the blood sample. Refusing to provide a blood sample is also a criminal offence.

### Are there other impaired driving offences?

Yes. When an impaired driver injures someone, the impaired driver can be charged with impaired driving causing bodily harm. The appropriate charge will be decided after the police investigation. Impaired driving causing bodily harm is an indictable offence with a maximum punishment of 10 years in prison.

When an impaired driver kills someone, the impaired driver can be charged with impaired driving causing death. This is an indictable offence with a maximum punishment of life imprisonment.

### What is the punishment for a person convicted of an impaired driving offence?

Impaired driving is a serious criminal offence.

For the offences of impaired driving, driving with a blood alcohol content “over 80,” or refusing to give a breath or blood sample without a lawful excuse, the *Criminal Code* sets minimum penalties that the judge must impose. In addition to these minimums, the judge can decide that other punishments are also appropriate in the circumstances. For example, a judge could sentence a person convicted of impaired driving for the second time to a minimum of 14 days in prison, prohibit the offender from driving for three years and order the offender to report to a probation officer. (See table below)

In some provinces in Canada, a judge can reduce the time a first offender is prohibited from driving if the driver participates in an alcohol ignition interlock program. When the ignition interlock is installed, a driver cannot start or run a motor vehicle unless the driver gives an acceptable breath sample.

	Minimum punishment	Prohibition from driving
For a first offence	A fine of at least \$600	A prohibition from driving for at least one year and up to three years
For a second offence	At least 14 days in prison	A prohibition from driving for at least two years and up to five years
For subsequent offences	At least 90 days in prison	A prohibition from driving for at least three years and up to a lifetime ban

### What happens if a person who is prohibited from driving is caught driving?

When a person who has been prohibited from driving is caught driving, the person can be charged with the offence of operating a motor vehicle while disqualified. The Crown prosecutor may choose to process the charge as an indictable offence with a maximum punishment of five years in prison. Or, the Crown prosecutor may choose to process the charge as a summary conviction offence with a maximum punishment of six months in prison and a \$2,000 fine.

### Can a victim of an impaired driving offence make a victim impact statement?

Yes. A victim of an impaired driving offence can prepare a written victim impact statement that the judge must take into consideration when deciding on the appropriate punishment for the offender.

### Where is more information available?

If you or someone you know have been a victim of crime, help is available. All provinces and territories have services for victims of crime. They can help if you need information or other assistance.

For more information about Canada's justice system and links to victim services, visit our Web site:

[www.canada.justice.gc.ca/victim](http://www.canada.justice.gc.ca/victim)

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### Other fact sheets with related information:

Victim Impact Statement