

Publisher's Note

An Update has Arrived in Your Library for:

Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

BREATHALYZER LAW IN CANADA

McLeod, Takach & Segal

Release No. 7, July 2025

This practice-oriented service provides subscribers with quick, up-to-date answers to procedural and substantive questions related to drinking and driving offences. Three volumes furnish all the information needed to advise, defend, and prosecute individuals charged with the offences of impaired driving, a reframed driving "over 80" to within two hours after ceasing to operate a conveyance, a blood alcohol concentration that is equal to or exceeds 80, and failing or refusing to comply with demands for samples.

What's New in this Update:

This release contains updates to Chapter 1 (The Offence of Impaired Operation (Driving or Care or Control)), Chapter 2 (The Offence of Having, Within 2 Hours of Ceasing to Operate a Conveyance, 80 or More mg of Alcohol in 100 ml of B1) and Appendix U (Licence Suspension Provisions).

THOMSON REUTERS®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

Highlights

- **The Offence of Impaired Operation (Driving or Care or Control)—Sentencing—Impaired Operation Causing Death—**The accused, who suffered from cystic fibrosis, lost control of his pickup truck while passing at a speed of 80 kph in a 60 kph zone, hit the gravel shoulder and swung across the highway before slamming into a police cruiser. The officer suffered serious injuries that will have some lifelong negative impacts on his career. The accused pleaded guilty to dangerous driving causing bodily harm and impaired driving causing bodily harm, and received a conditional sentence of two years less one day, which included 18 months of house arrest, to be followed by three years' probation and a five-year driving prohibition: *R. v. Derby*, 2024 ONSC 4434, 2024 CarswellOnt 12125 (Ont. S.C.).
- **The Offence of Having, within 2 Hours of Ceasing to Operate a Conveyance, 80 or More mg of Alcohol in 100 ml of Blood—The Effect of the Canadian Charter of Rights and Freedoms on s. 320.14(1)(b)—**Charged with impaired driving "over 80", the accused claimed his Charter rights under ss. 8 and 10(b) had been violated. When pulled over by the officer and asked, the accused acknowledged having consumed alcohol four or five hours earlier, though there was no odour of alcohol detected by the officer and no discussion about how many drinks the accused had consumed. Upon exiting the vehicle to provide a sample, the accused became belligerent and aggressive, while cursing at the officer and initially not taking direction. The officer noted the accused's eyes were watery, and, in the vehicle, an infant was not buckled in in the back seat. The court found the accused not to have demonstrated improper driving, slurring of words or difficulty with small or large motor coordination, but held the constellation of facts to have supported a reasonable suspicion on the part of the officer, which justified the making of the ASD demand: *R. v. Douglas*, 2024 BCPC 135, 2024 CarswellBC 2083 (B.C. Prov. Ct.).