

## Publisher's Note

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<b>BREATHALYZER LAW IN CANADA</b> McLeod, Takach & Segal Release No. 2, February 2026
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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 Blood), Chapter 5 (Breath, Blood, and Evaluation Demands), and Chapter 8 (The Presumption of Operation).

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## Highlights

- **The Offence of Impaired Operation (Driving or Care or Control)—Introduction**—Interpreting “as soon as practicable” for breath, in light of the discovery of firearms inside the vehicle, the court found to make sense the officer’s decision to remain with the vehicle until the tow truck had arrived, even though s. 148 of the provincial *Traffic Safety Act* did not mandate peace officers to do so: *R. v. Kluz*, 2025 SKKB 9, 2025 CarswellSask 18 (Sask. K.B.).
- **The Offence of Having, within 2 Hours of Ceasing to Operate a Conveyance, 80 or More mg of Alcohol in 100 ml of Blood—Introduction**—On appeal, the court held the trial judge to have erred by denying the Crown an opportunity to re-examine the qualified technician before finding the certificate to be inadmissible, and by adopting defense counsel’s recommendation to “object now and argue admissibility later”—admissibility should be decided mid-trial: *R. v. O’Grady*, 2025 NSSC 38, 2025 CarswellNS 98 (N.S. S.C.).