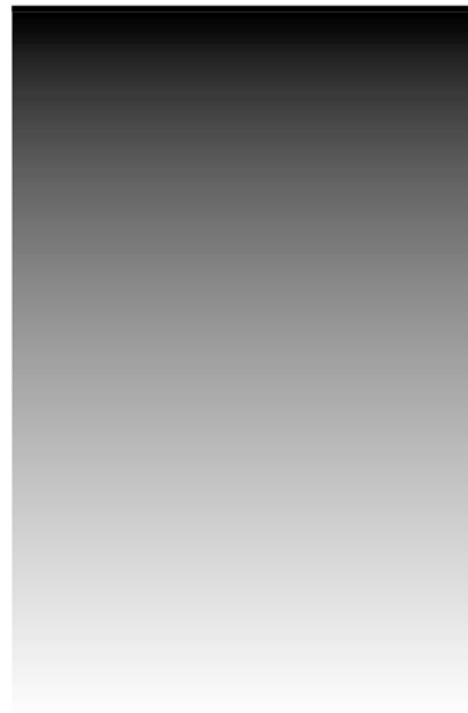




Ministry of
Public Safety
and Solicitor General

OFFICE OF THE
SUPERINTENDENT
OF MOTOR VEHICLES

**DRIVER
IMPROVEMENT
PROGRAM
POLICIES AND
GUIDELINES**



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Driver Improvement Program

Policies and Guidelines

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Driver Improvement Program

Policies and Guidelines

Section 1 – Introduction

1.0 Overview

Drivers with a history of violations on their driving record are at a high risk of being involved in a crash and are a risk to public safety.

The Driver Improvement Program (DIP) identifies and intervenes with high-risk drivers and encourages them to improve their driving habits. Usually, high-risk drivers are identified by driver penalty points, criminal code convictions, and through action taken by the police. Interventions range from early warning letters to prohibition from driving.

The DIP is a program of the Office of the Superintendent of Motor Vehicles (OSMV), which has delegated some responsibilities to the Insurance Corporation of British Columbia (ICBC). The purpose of this document is to describe the responsibilities delegated to ICBC by the Superintendent, and to set out the policies by which the delegation is carried out.

The DIP is only one of a collection of programs aimed at improving public safety on British Columbia roads. When making decisions under the DIP, the Superintendent is entitled to consider the driver's overall record including any action that has been taken through other driver safety programs. These programs include the Graduated Licensing (GLP), Indefinite Licence Suspension, Administrative Driving Prohibition, and Vehicle Impoundment programs

A variety of interventions are available to be imposed by the Adjudicator, depending on the individual circumstances of the case, including timing and severity of the driving offences.

1.1 Audience

The Driver Improvement Program Policies and Guidelines document is provided to all ICBC Adjudication Representatives and Reviewing Officers and OSMV Adjudicators as guidelines for their decisions related to driver improvement interventions.

1.2 Glossary

Adjudicator

ICBC Adjudication Representative and Reviewing Officer and OSMV Adjudicator with delegated authority to impose interventions as deemed appropriate for driver improvement or overall road safety.

Administrative Driving Prohibition (ADP)

90-day prohibition issued by police to drivers whose blood alcohol content (BAC) exceeds the legal limit of 80 mg per 100 ml within three hours of driving, or to drivers who fail or refuse to submit to a breath or blood-alcohol test. Detailed information on ADP available on-line at: http://www.icbc.com/Licensing/lic_fines_pen_pro_ADP.asp

Appeal(s)

For the purpose of this document, an appeal refers to the option available to drivers to appeal a driving prohibition to the British Columbia Supreme Court under Section 94 of the *Motor Vehicle Act* (MVA).

Driver Fitness Program

Section 92 of the *Motor Vehicle Act* authorizes the Superintendent to refuse to issue or to cancel any class of driver's licence if the holder has a medical condition or disability that affects his or her ability to drive safely, or if the licence holder does not complete a medical examination as requested by the Superintendent, or as required by legislation. Section 25 of the MVA authorizes the Superintendent to place a driving restriction on such a driver or to have the driver take further tests.

Experienced Drivers

Drivers with more than 2 years of driving experience and not in the Graduated Licensing Program who hold a full privilege driving licence.

Graduated Licensing Program (GLP)

The Graduated Licensing Program is separated into two stages – learner and novice. In each of these stages a driver must comply with certain restrictions. More detailed information on the GLP available on-line at: http://www.icbc.com/Licensing/lic_getlic_undgfp.asp

Indefinite Licence Suspension (ILS)

An Indefinite Licence Suspension is issued automatically when a driver is convicted of a motor vehicle-related *Criminal Code of Canada* offence. More detailed information on ILS available on-line at: http://www.icbc.com/Licensing/lic_fines_pen_points_susp_ils.asp

New Drivers

New drivers are defined as those drivers in the Graduated Licensing Program.

No-Point Violations

While they are not weighed as heavily as pointed offenses, no-point violations demonstrate a fundamental disregard for safety and licensing requirements. Examples of no-point violations:

- driving without insurance
- failing to produce a driver's licence or insurance
- illegal use of a driver's licence or permit
- improperly equipped vehicle
- failing to wear a seat belt
- failing to wear a motorcycle safety helmet
- failing to display L (learner) or N (novice) signs in rear window

Penalty Points

The DIP uses a penalty point system to identify bad drivers. Under this system, a pre-determined number of points are added to the driving records of individuals who are convicted of driving violations. A listing of penalty points can be found on-line at: http://www.icbc.com/Licensing/lic_fines_pen_points.asp

Prohibition

For the purpose of this document, prohibition refers to the intervention stage at which a driving privilege has been revoked. Drivers are prohibited from operating a motor vehicle throughout the duration of the prohibition.

In most cases, driving prohibitions will be for a specified period of time. Drivers who have further traffic convictions or events added to their driving record while subject to a driving prohibition may have their existing driving prohibition extended within the guidelines set out in this document.

Street Racer

This is the reference to an individual who has engaged in high-speed or unsafe racing in competition on public highways.

Superintendent

This is the reference to the Superintendent of Motor Vehicles as noted in Section 118 of the MVA.

Unlicensed Drivers

All drivers are required by law to have a licence. Interventions for those who drive without a licence will typically be the same as for new drivers.

Vehicle Impoundment

The Police will impound any vehicle driven by a person under a prohibition from driving or whose driver's licence and his or her right to apply for or obtain a driver's licence are suspended, an unlicensed driver or a street racer. Detailed information on Vehicle Impoundment available on-line at:
http://www.icbc.com/Licensing/lic_fines_pen_impounded.asp

Section 2 - Legislative Authority and Delegation

Section 93 of the **Motor Vehicle Act** authorizes the Superintendent to prohibit a person from driving a motor vehicle for failing to comply with the Act or for having an unsatisfactory driving record in BC or elsewhere in North America.

Section 117 of the **Motor Vehicle Act** allows the Superintendent to delegate responsibility and authority under this program.

2.0 Legislative Authority

- 93 (1) Even though a person is or may be subject to another prohibition from driving, if the superintendent considers it to be in the public interest, the superintendent may, with or without a hearing, prohibit the person from driving a motor vehicle
- (a) if the person
 - (i) has failed to comply with this Act or the regulations, or
 - (ii) has a driving record that in the opinion of the superintendent is unsatisfactory,
 - (b) if the person's privilege of driving a motor vehicle has been suspended or cancelled in any jurisdiction in Canada or in the United States of America, or
 - (c) for any cause not referred to in paragraph (a) or (b) that relates to the use or operation of motor vehicles.
- (2) In forming an opinion as to whether a person's driving record is unsatisfactory the superintendent may consider all or any part of the person's driving record, including but not limited to any part of the driving record previously taken into account by a court or by the superintendent in making any order prohibiting the person from driving a motor vehicle.
- (3) If under this section the superintendent prohibits a person from driving a motor vehicle on the grounds of an unsatisfactory driving record, a prohibition so made must not be held invalid on the grounds that the superintendent did not examine or consider other information or evidence.

2.1 Delegation of Authority

- 117 (1) The superintendent may delegate any or all of the powers, duties and functions of the superintendent
- (a) under this Act to persons appointed in accordance with section 118 (2), or
 - (b) under this Act, except Part 2.1, to the Insurance Corporation of British Columbia.
- (2) The Insurance Corporation of British Columbia, in carrying out powers or responsibilities delegated to it under subsection (1), must act in accordance with any directives issued by the superintendent.
- (3) For the purposes of subsection (2), the superintendent may issue general or specific directives.

2.2 Disclaimer

This excerpt from the **Motor Vehicle Act** is not the official statute. It is intended for reference purposes only and may not be up to date. The Province of British Columbia does not warrant its accuracy and will not be liable or responsible for damages arising out of its use.

The current Statutes and Regulations of British Columbia are available on the Internet at <http://www.bclaws.ca/>

Official print copies of British Columbia Acts and Regulations are available for purchase directly from Crown Publications:

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Section 3 - Interventions

A variety of driver interventions are employed by Adjudicators. Decisions are based on the individual circumstances of the case, including the number of separate or repeat offences. Additionally, the type, timing and the severity of the offences are all factors in the level of intervention. New drivers, regardless of age, are at a higher risk of causing a crash than experienced drivers. For this reason, there are lower threshold levels for intervention with new drivers. Threshold tables are listed in Section 4 of this document.

3.0 Offence Letters

Offence letters advise drivers that their driving record is being monitored and that any further driving offences may result in action being taken by the Superintendent of Motor Vehicles.

Drivers receive an offence letter when they reach a certain point threshold.

3.1 Warning Letters

Warning letters encourage drivers to improve their driving behaviour and warns of the consequences of high-risk driving.

3.2 Probation

Drivers on probation maintain their driving privileges, but are warned that any further violations may result in a driving prohibition. Probation may be employed either before a prohibition is initially imposed or after the driver's licence has been reinstated.

Once the probation period has ended a driver remains under close scrutiny for an additional two years and will likely be subject to a driving prohibition if further offences are added to the driving record.

3.3 Prohibition

Prohibition from driving is the most severe intervention in the Driver Improvement Program.

In most cases, a Notice of Intent to Prohibit is sent to the driver giving them an opportunity to make a submission to show why the prohibition should not proceed or should be reduced.

If a driver reaches a point level within two years, as shown in the tables in Section 4, an Adjudicator will consider the five-year driving record and may send a Notice of Intent to Prohibit to the driver when:

- the requisite point level has been exceeded (see tables)
- the driver accumulates more points within two years, but after six months of a prohibition or probation
- the driver has been convicted in the USA of an offence that is equivalent to a Canadian *Criminal Code* motor vehicle related offence
- the Adjudicator determines that a driving prohibition is in the public interest

The driver is given an opportunity to explain why the prohibition should not be imposed. If no submission is made, a Notice of Prohibition will be sent to the driver. If a submission is made it will be taken into consideration prior to any decision being made.

In other cases, a Notice of Prohibition may be issued without first giving the driver a Notice of Intent to Prohibit.

The Notice of Prohibition may be issued when:

- the driver has accumulated more points within six months of a probation or prohibition
- the Notice of Intent to Prohibit is upheld after a review
- an additional term of prohibition is added to a prohibition already in effect
- driving record changes due to a dispute
- the driver has been convicted of another offence while on probation
- the Adjudicator determines that a driving prohibition is in the public interest

ICBC will refer a driver's record to OSMV for adjudication when:

- a driver has more than 50 penalty points resulting from 2, 3 and 6 point infractions within a two year period
- a police report is on file
- the Adjudicator deems it necessary

The Notice of Prohibition is typically sent by certified mail to the driver, who is required to acknowledge receipt of the Notice. By signing for delivery of the certified mail or by signing the notice, the driver has acknowledged receipt of the Notice of Prohibition and the driving prohibition will take effect. If someone other than the driver to whom the notice is sent signs for delivery of the certified mail or the notice of

prohibition is not signed and returned then the driving prohibition will not take effect but will remain outstanding.

If the notice is not signed by the driver, the driving record will reflect an outstanding prohibition which may be served on a driver by the police. Drivers have the option of attending a Driver Services Centre to acknowledge their prohibition.

If the driver is not personally served or does not acknowledge a prohibition, it will remain on the driving record indefinitely.

Once acknowledgement has been obtained, the prohibition takes effect for the duration specified. When the prohibition period is complete, and once all other requirements have been met, drivers may reapply for a new licence. If granted, the new licence will be a two-year short-term renewal.

Once the prohibition period has ended a driver remains under close scrutiny for an additional two years and will likely be subject to a driving prohibition if further offences are added to the driving record.

Section 4 – Adjudication Policies and Guidelines

The underlying principle in these guidelines is that sanctions should escalate in cases of numerous offences or repeated driver improvement interventions. In more serious cases an Adjudicator may decide to prohibit a driver without prior interventions under the Driver Improvement Program (DIP), or even when the driving record is free from convictions.

The number of penalty points, the severity of offence(s) and whether the driver is new or experienced typically determines the scope of intervention available to Adjudicators. Within that scope, the actual intervention imposed against the driver is done so at the discretion of the Adjudicator, based on the specific circumstances of that driver's record. Depending on the driving record, interventions in excess of these Policies and Guidelines may be appropriate.

If the Adjudicator warrants a higher or lower sanction than the following charts indicate, or if there are driver fitness issues, the file will typically be forwarded to the OSMV for decision.

4.0 General Considerations

The Adjudicator will take into account the five-year driving record, including both pointed and non-pointed violations, as well as any submissions from the driver. Additionally, the following factors are considered when adjudicating a record:

- driving experience
- type and class of licence(s)
- seriousness of the offence(s) as they relate to public safety or property damage
- period of time since the offence or between offences
- previous warnings, probation periods or driving prohibitions
- previous lenience shown by Adjudicators
- previous undertakings made by the driver in submissions
- improvement shown

The following charts are based on driver penalty points accumulated within the previous two years. The charts provide Adjudicators with an appropriate range of discretion for Driver Improvement action, as delegated by the Superintendent of Motor Vehicles. Drivers who have further traffic convictions or events added to their driving record while subject to a driving prohibition may have their existing driving prohibition extended. These figures are intended as guidelines only.

4.1 Experienced Drivers Intervention Charts

Experienced Drivers Intervention Chart								
POINTS	Offence Letter	Warning Letter	Probation	Intent	Prohibition			Refer to OSMV
					Final	Min # Mo	Max # Mo	
9 – 14		x						
15 – 19			x	x	x	3	12	
20 – 24				x	x	4	18	
25 – 49				x	x	5	24	
> 50								x

Experienced Drivers With Excessive Speed, Driving Without Due Care and Attention, and Driving Without Reasonable Consideration Offences Intervention Chart					
OFFENCES	Intent	Prohibition			Refer to OSMV
		Final	Min # Mo	Max # Mo	
Any combination of two of the following offences within a one year period: excessive speed, driving without due care and attention and driving without reasonable consideration	x	x	3	18	

4.2 New Drivers Intervention Chart – No Previous Prohibitions

New Drivers Intervention Chart – No Previous Prohibitions								
Within 24 Months	Offence Letter	Warning Letter	Probation	Intent	Final	Min. # Mos.	Max # Mos.	Refer to OSMV
Points								
2 – 6	x		x	x	x	1	9	
7 – 13				x	x	2	12	
14 – 29				x	x	6	18	
30 – 49				x	x	6	24	
50 or more								x

4.3 New Drivers – With Previous Prohibitions (within 2 years) – Intervention Chart

New Drivers – With Previous Prohibitions – Intervention Chart								
Within 24 Months	Offence Letter	Warning Letter	Probation	Intent	Final	Min. # Mos.	Max # Mos.	Refer to OSMV
Points								
2 – 6	x		x	x	x	2	9	
7 – 13				x	x	3	12	
14 – 29				x	x	8	24	
30 – 49				x	x	10	24	
50 or more								x

4.4 Alcohol or Drug Related Driving Suspensions and Prohibitions

Driving under the influence of alcohol or drugs is among the most dangerous behaviour a driver can engage in. Roadside 24-hour prohibitions and 12-hour suspensions are issued by police to immediately remove drivers from the road if their ability is influenced by alcohol or drugs. 24-hour prohibitions are used when a police officer believes a driver's ability to operate a vehicle is affected by alcohol or drugs. 12-hour suspensions may be issued if a new driver has any amount of alcohol in their blood.

If a new driver receives one 12-hour suspension or one 24-hour prohibition they will receive driver improvement action.

If an experienced driver receives two 24-hour prohibitions within two years, they will usually receive a warning letter. However, if they have other offences, convictions or prohibitions within that period, they may receive a Notice of Intent to Prohibit. If an experienced driver receives three 24-hour prohibitions within two years a Notice of Intent to Prohibit may be sent to the driver.

Depending on the driver's overall record, the length of the prohibition may be longer.

New Drivers – 12 hour Suspensions and 24 hour Prohibitions					
	Prohibition				Refer to OSMV
	Intent	Final	Min # Mos.	Max # Mos.	
one 12/24 hour	x		1	6	
two 12/24 hour	x		3	12	
three	x		12	24	
four	x		18	36	
five	x		24	36	
six or more					x
Drivers who have a combination of prohibitions, suspensions and convictions					x

Experienced Drivers – 24 hour Prohibitions						
	Prohibition					Refer to OSMV
	Warning	Intent	Final	Min # Mos.	Max # Mos.	
Two*	x	x		2	12	
three		x		3	12	
four		x		4	18	
five		x		5	24	
six		x		6	24	
seven or more						x
Drivers who have a combination of prohibitions, suspensions and convictions						x
*Drivers may receive a Notice of Intent if other offences or convictions exist on the driving record						

4.5 Criminal Code / Motor Vehicle Act Convictions

When a driver receives a Criminal Code conviction in Canada that results in a court-ordered prohibition from driving, either in BC or out-of-province, the information is added to their BC driving record.

Some motor vehicle related criminal code offences carry automatic prohibitions from driving. Those prohibitions are separate from any action taken under the DIP and do not take into account the entire driving record. When a Criminal Code conviction, Motor Vehicle Act conviction for failing to stop for a peace officer, driving while prohibited/suspended, or combination thereof, is added to the driving record, Adjudicators review the record and have the discretion to extend the prohibition for up to three years. If the Adjudicator feels a longer prohibition is warranted, they must refer the file to OSMV.

If the conviction is for section 220 or 249/4 of the Criminal Code, which relate to causing death by criminal negligence or by dangerous operation of a motor vehicle, the file must be referred to OSMV unless the court orders a prohibition of three years or more.

Occasionally, unsolicited police reports are received before the matter goes to court. When this occurs, and the driving behaviour is particularly dangerous, OSMV will review the driving record immediately. Otherwise, Adjudicators will review the driver's record after a conviction.

4.6 USA Convictions

When a driver is convicted of an offence in the USA, ICBC will determine whether the offence is equivalent to a Canadian Criminal Code offence. If satisfied that the offence is equivalent, ICBC has the authority to issue a driving prohibition for a term equivalent to that if the offence occurred in BC.

A prohibition can only be imposed if ICBC receives notification of the USA conviction within three years of the conviction date.

Section 5 - Reviews

In accordance with the principles of administrative fairness, drivers may request a review of any driver improvement action. Only one submission will be considered during any prohibition action.

5.0 Notice of Intent – Reviews

Drivers who have been issued a Notice of Intent to Prohibit may make a submission using the Application to Review and paying a review fee to explain why a driving prohibition should not proceed or should be reduced to a shorter duration. Drivers who make a submission will be heard in accordance with the considerations set out in these guidelines, and an Adjudicator will consider their submissions.

Submissions must be in writing and drivers must include all the information that they wish the Adjudicator to consider. The submission must be received within 21 days from the date of the Notice of Intent to Prohibit. Drivers who do not make a submission within this time limit will receive a Notice of Prohibition.

5.1 Notice of Prohibition – Reviews

Drivers who receive a Notice of Prohibition must acknowledge the driving prohibition and surrender their driver's licence. However, they may make a submission using the Application to Review and paying a review fee to explain why a driving prohibition should not proceed or should be reduced to a shorter duration.

ICBC Adjudicators conduct reviews for prohibitions that are from one to three months in duration. All others are referred to OSMV. The prohibition will remain in effect during the review.

The Adjudicator may consider the driving record and history, personal or financial hardship, family responsibilities, employment and other relevant information. Once the review has concluded the driver will be advised of the outcome.

Section 6 - Notice of Prohibition – Appeals

A driver who has received a Notice of Prohibition has a right to file an appeal within 30 days at the British Columbia Supreme Court.

6.0 Notice of Prohibition – Appeals

Drivers are responsible for bearing the cost of their appeal and are prohibited from driving while their appeal is in progress unless a stay of driving prohibition is ordered by the court.

The authority delegated to ICBC does not permit ICBC to take any steps or action in respect of appeals of prohibitions to the BC Supreme Court, or any other court proceedings in respect of prohibitions.

In the event ICBC receives notice of any legal proceeding arising from or in relation to the exercise of the authority delegated to ICBC, then ICBC must:

- a) not acknowledge receipt or service of any document on behalf of the Superintendent of Motor Vehicles, any ministry of the Province of British Columbia, or Her Majesty the Queen in right of the Province of British Columbia
- b) forward all original documentation to the Superintendent of Motor Vehicles
- c) immediately refer the particular driver to the Superintendent of Motor Vehicles
- d) not exercise any delegated authority with respect to the particular driver

In the event ICBC is named in the legal proceedings, or the individual who conducted the review is named, ICBC will not appear in the proceedings, and will not be entitled to any legal costs. The conduct of the appeal or other proceedings will be carried solely by the Superintendent of Motor Vehicles.