

## Driver Behaviour and Road Safety Information Sheet

February 1, 2012

# Interim Approach to Impaired Driving in B.C.

Following the decision regarding the constitutional challenge of the Province's Immediate Roadside Prohibition (IRP) legislation, the B.C. Supreme Court has released the provisions affecting the current legislation.

The decision confirmed that the Province has the authority to impose significant immediate administrative sanctions at roadside. The judge confirmed that "warn range" administrative sanctions and administrative sanctions for "refusals/failure to provide" do not infringe the Charter.

The judge found that "fail" range IRPs do infringe the Charter, but only to the limited extent that the existing appeal process does not allow the driver to specifically challenge the results of the roadside breath test. The judge has suspended the declaration of unconstitutionality for "fail" range IRPs until June 30, 2012 to allow time for Government to adopt legislative changes to address these concerns.

In response to the decision and until the legislative changes have been made, police are using the previous sanctions available for drivers who blow a "fail" on an ASD, which include an immediate 24-hour suspension and, following further testing at the police station, a possible 90-day driving prohibition and potentially Criminal Code charges.

IRPs will continue to be issued to drivers who blow a "warn" on an ASD, or who "refuse/fail to provide" a breath sample, as these IRPs have been upheld.

## Interim approach - You've Been Pulled Over by Police

You could have been pulled over as you were displaying signs of impairment; but often impaired drivers are caught due to roadside vehicle checks and targeted enforcement.

If the police have reasonable and probable grounds to believe you are driving impaired, you may, without a breath test:

- Immediately lose your licence, prohibiting you from driving for 24 hours.
- Immediately see the vehicle you are driving impounded for 24 hours — whether it is your vehicle or not.

These immediate, roadside sanctions apply to drivers who are alcohol impaired, drug impaired or both.

If a police officer asks you to provide a breath sample at the roadside into an approved roadside screening device (ASD) and the device indicates PASS or WARN, or if you refuse to provide a sample, here is what you can expect to happen:

**"PASS"** —Your breath sample contains a BAC below 0.05. No Consequences. **Except:** If you are in the Graduated Licensing Program which has a zero-tolerance BAC requirement. [www.pssg.gov.bc.ca/osmv/road-safety/impaired-driving.htm#graduatedlicensing](http://www.pssg.gov.bc.ca/osmv/road-safety/impaired-driving.htm#graduatedlicensing)

**“WARN”** — Your breath sample contains a BAC of between 0.05 and 0.08 on an ASD. An Immediate Roadside Prohibition (IRP) will be issued and the following consequences will occur:

- Your driver's licence is suspended immediately, prohibiting you from driving for three days.
- The vehicle you are driving may be impounded for three days; you will have to pay towing and storage fees.
- You will pay a \$200 administrative penalty.
- You have to apply to have your driver's licence reinstated and pay the licensing fee if you wish to drive again.

There are escalating penalties for repeat offenders – for more information view

<http://www.pssg.gov.bc.ca/osmv/road-safety/impaired-driving.htm#police>

**“REFUSAL/FAIL TO PROVIDE”** — If you refuse or fail to provide a breath sample, police may issue a 90-Day Immediate Roadside Prohibition (IRP) or proceed by way of a Criminal Code charge. If you are issued a 90-Day IRP, the following consequences will occur:

- Your driver's licence is suspended immediately, prohibiting you from driving for ninety days.
- The vehicle you are driving will be impounded for thirty days; you will have to pay towing and storage fees.
- You will pay a \$500 administrative penalty.
- You will be required to pay for and complete the Responsible Driver Program.
- You will be required to pay for and participate in the Ignition Interlock Program.
- You have to apply to have your driver's licence reinstated and pay the licensing fee if you wish to drive again.

If police proceed by way of a Criminal Code charge, then upon a criminal conviction of impaired driving, drivers are subject to; court-ordered consequences which include a minimum \$1,000 fine, a driving prohibition and possible jail time. The Superintendent of Motor Vehicles can also require drivers who have received an impaired driving Criminal Code conviction to pay for and complete the Responsible Driver Program and use an Ignition Interlock Device.

**“FAIL”** — If your breath sample contains a BAC that is above 0.08, you will no longer receive an IRP. Instead, police will revert to prior administrative sanctions and criminal charges and will be able to;

- Issue an immediate 24-hour roadside license suspension and vehicle impoundment.
- Detain you for further breathalyser testing at the police station, and on further confirmed testing of a BAC over 0.08;
  - Issue a 90-day Administrative Driving Prohibition
  - Charge you under the Criminal Code of Canada

Upon a criminal conviction of impaired driving, drivers are subject to; court-ordered consequences, which include a minimum \$1,000 fine, a driving prohibition and possible jail time. The Superintendent of Motor Vehicles can also require drivers who have received an impaired driving Criminal Code conviction and/or Administrative Driving Prohibition(s) to pay for and complete the Responsible Driver Program and use an Ignition Interlock Device.

## Appeals Process

The Office of the Superintendent of Motor Vehicles has a comprehensive appeals process for administrative driving prohibitions and vehicle impoundments. To apply for an appeal for a; “Warn”-range Immediate Roadside Prohibition, 24-hour driving prohibition, 90-Day Administrative Driving Prohibition or Vehicle Impoundment visit: [www.pssg.gov.bc.ca/osmv/disputes/index.htm](http://www.pssg.gov.bc.ca/osmv/disputes/index.htm)