

## **MADD Canada Calls for New Impaired Driving Legislation**

MADD Canada urges Parliamentarians to introduce new impaired driving legislation that will address its five priority policy initiatives.

***1. Eliminate the use of conditional sentences for violent crimes, including impaired driving causing death and impaired driving causing bodily harm.***

MADD Canada wants conditional sentences eliminated for the crimes of impaired driving causing death and impaired driving causing bodily harm. Canadian courts have frequently been handing out conditional sentences for violent crimes. Parliamentarians never intended conditional sentences to be used for violent crimes. In an impaired driving crash, where a person has been killed or seriously injured, there needs to be an appropriate sentence handed down that both reflects the seriousness of the crime and the value of a life.

***2. Re-introduce drug impaired driving legislation that will provide police with the legal framework to apprehend and charge drug impaired drivers.***

Today in Canada, there is no drug impaired driving law that allows police to properly detect and charge those people who take drugs and drive impaired. Bill C-16 of the previous Parliament would have established the necessary legal framework for police to properly apprehend drug impaired drivers. MADD Canada calls on the Government to re-introduce, and for Parliamentarians to pass this needed legislation soon.

MADD Canada also believes that, with the establishment of a new legal framework to charge drug impaired drivers, the Government also needs to provide adequate resources and training dollars for timely implementation by police forces, and appropriate public relations dollars to raise awareness of the new drugs and driving safeguards in the public. A specific awareness effort needs to be aimed at young Canadians, given the dramatic increase in cannabis use and the rising incidents of toking and driving.

***3. Strengthen the presumptions regarding the use of breath or blood test evidence so as to narrow ‘evidence to the contrary’ defences; referring specifically to the Carter Defence (or ‘Two-Drink Defence’) and the ‘Last Drink Defence.’***

Canada is the only country that has these two self-serving defences, in which the burden of proof for the accuracy of BAC samples rests with the Crown. The *Carter* defence employs a toxicologist to confirm the accused’s testimony (“*I only had two drinks.*”) and this negates the police BAC evidence. The *Last Drink* defence uses a toxicologist to dispute BAC readings, where the accused states he/she consumed a great deal of alcohol just before driving – and that alcohol would not have been absorbed into the blood stream at the time police stopped the vehicle.

In both defences, the accused's testimony, along with the defence toxicologist's confirmation, will negate the police evidence. These are spurious defences that allow those who can afford a lawyer and toxicologist to walk without consequence for drinking and driving.

MADD Canada recently participated in a Justice Canada consultative workshop on 'evidence to the contrary.' This is a problem with Canadian laws that federal officials have been apprised of since the 1999 House of Commons hearings on impaired driving. Action on the 'evidence to the contrary' issue is long overdue. The organization is hopeful -- encouraged by the recent workshop -- that the Government will bring new legislation to counter these 'made-in-Canada' spurious defences during the life of this Parliament.

***4. Provide authorities with the statutory authority to demand a breath (or blood) sample at the scene of a crash where a person has been killed or seriously injured. This authority to demand breath (or blood) samples should be extended to a hospital or medical office.***

Police must be given appropriate statutory authority and a streamlined charging process to ensure effective enforcement of impaired driving laws. To provide the authority for police to demand a breath and/or blood sample in a situation where someone has been killed or seriously injured would ensure impaired drivers will not go undetected.

Almost 40 percent of all traffic fatalities involve a person who has consumed alcohol. There is also a rising number of incidents involving those who have taken drugs. Therefore, it is reasonable and in the best interests of the public to provide this authority to obtain a sample at a fatality scene.

Furthermore, a recent BC study showed only 11 % of impaired drivers taken to the hospital were convicted of an impaired driving offence. For this reason, MADD Canada contends this authority to obtain a sample should include the right to demand the evidentiary blood samples from hospitals or medical offices.

***5. Amend the Criminal Code to establish a new 253(c) 0.05% BAC law.***

A federal 0.05% BAC makes good sense for a number of reasons. *Foremost, it saves lives.* According to a Centre for Addiction and Mental Health study, a 0.05% BAC will result in a decrease of between 185 and 555 fatalities a year in Canada. A 0.05% BAC will bring down the BAC levels of all drivers – making *roads safer for all motorists*. Moreover, a 0.05% BAC legal limit is more in keeping with recent real-world experience in fighting impaired driving, leading medical evidence on the affects of alcohol on driving, and what is internationally recognized as a reasonable limit to safeguard the public against the risks of an impaired driving incident. Lastly, a vast majority – four in five Canadians – support a 0.05% BAC limit.

The MADD Canada proposal for a new *Criminal Code* 253(c) offence (as detailed in recent Senate and House of Commons Bills) would introduce measures that would get impaired drivers with 0.07 % BAC readings and higher off the roads. The impaired motorist would be ticketed as a summary conviction offence (first offence would carry a \$300 fine and a 45-day federal driving prohibition, and subsequent offences would carry a \$600 fine and a 90-day federal driving prohibition). A person can pay the fine and not drive for 45-days without going to court. After two years, if the offender has no additional driving convictions, the 0.05% BAC offence would be dropped from his/her record.

The new 0.05% BAC offence will allow police to take impaired drivers off the road in an effective and efficient manner and it will ensure courts are not overwhelmed with impaired driving cases. It sets the federal legal limit at the internationally recognized level. This 0.05% BAC offence sends the right message to those who drink and drive: the Federal Government is serious about road safety.

**For more information, visit [www.madd.ca](http://www.madd.ca) or call:**

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