

**MADD CANADA'S
MOTHER'S DAY REPORT
on the Federal Parliament and
its advance of impaired driving policy
Released: May 4, 2005**

On Sunday, Canadians celebrate a day with their mothers. MADD Canada asks Members of Parliament to think of the mothers across the country who can only remember their children – those who will not have a chance to share this day with their loved ones because an impaired driver took away the joy and the warmth of a mother-child embrace.

MADD Canada members do not want any more mothers – or fathers, children, family and friends – to feel the pain of losing a loved one who is forever gone or forever changed as a result of an impaired driving crash.

There are initiatives that our Federal Parliament can consider and implement to make our impaired driving laws more effective. On what all hope is a mother's most special day, we ask MPs (and all candidates in the impending election) to consider impaired driving as a justice priority issue in the next Parliament.

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■ Observations on the Federal Parliament in 2004/05

The genesis of this report

Three years ago, Mothers Against Drunk Driving (MADD Canada) began a practice of releasing a *Mother's Day Report* to inform its membership, supporters and the public, of the advances made by the Federal Parliament in the fight against impaired driving.

MADD Canada's goal is to significantly decrease the numbers of Canadians killed and injured as a result of impaired driving crashes. It is continuously urging MPs to introduce new legislation that will establish more effective impaired driving laws, thereby ensuring safer roads and a reduction in impaired driving incidents, fatalities and injuries.

As Canadians who know something about impaired driving and the devastating impact it can have on families, friends and community, MADD Canada supporters are again asking Parliamentarians this year -- through this *Mother's Day Report* -- to look at the realistic policy solutions MADD Canada has presented, and to introduce new legislation that will make a difference.

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To put this *Mother's Day Report* into perspective, it is important to remember that impaired driving is Canada's number one cause of criminal death.

On average, 4 Canadians are killed and nearly 190 Canadians are seriously injured each and every day as a result of alcohol-related crashes.

Because MADD Canada believes that the status quo is unacceptable, our organization and its supporters see it as critical that Parliament reviews Canada's current impaired driving laws and practices with a goal to save lives and to make our roads safer.

Look-back to the past twelve months

From the time of the last year's reporting-out, MADD Canada recounts the following activities in Ottawa relating to its policy priorities.

- MADD Canada presented over 33,500 Canadians petitioning the Justice Minister to eliminate the use of conditional sentences for violent impaired driving crimes where a Canadian has been killed or seriously injured.
- MADD Canada representatives have worked with the Canadian Professional Police Association on drugs and driving issues and, jointly, the organizations pushed for swift passage of Bill C-16, the drugs and driving legislation. MADD Canada and the CPPA repeatedly urged both the Justice Minister and MPs on the Justice Committee to separate the review of Bill C-16 and Bill C-17 (the marijuana possession legislation) and ensure Bill C-16 is considered by the Committee and Parliament in advance of the other, more controversial drug legislation. All representations have gone unanswered.
- MADD Canada participated in a Justice Canada roundtable in January 2005 on the issue of a lower 0.05% BAC offence.
- There has been an exchange of correspondence on outstanding impaired driving issues with the Justice Minister through the year. MADD Canada's letters included a repeated request for a face-to-face meeting. In late April, the Minister's Office arranged a May 2 meeting to discuss impaired driving with MADD Canada's National President and other representatives.

In the past twelve months, nothing substantive occurred in Parliament respecting MADD Canada's priority impaired driving policies. All policy debate has been eclipsed by the political agendas that have been playing themselves out.

Having said that, MADD Canada's continues its work with Senator Marjory LeBreton. It is the Senator's intention to introduce legislation regarding Canada's blood alcohol concentration (BAC) legal limit. The Senator is prepared to introduce a 0.05% BAC Bill at the first 'good opportunity.' As the federal impaired driving law is enforced today, a person can drink a considerable amount of alcohol and then drive without the expectation of being charged. MADD Canada's objective is to reduce the number of drinks a person can consume and then legally drive – and the Senator's legislation will focus necessary debate on the inadequacies of the current federal BAC law and its enforcement.

■ Priority Impaired Driving Initiatives

It is MADD Canada's contention that the Federal Government must do more to eliminate impaired driving. The country's impaired driving laws are not working; they are not deterring people from drinking and driving. Canadians need a comprehensive strategy to decrease the numbers of drinking drivers and to reduce the crashes, injuries and deaths that result from drinking and driving.

The crime of impaired driving should be a priority for the Federal Justice Minister and Government. MADD Canada supporters are looking for an active commitment from all MPs to initiate a comprehensive plan that will answer for the loss of lives and the social costs of this crime.

Looking ahead – past the impending election and to Canada's next Parliament – MADD Canada urges Parliamentarians (both current and future) to introduce necessary changes to federal impaired driving legislation within the first 18 months of the next Government's mandate. As has been the case for more than a year now, MADD Canada supporters call on the Federal Government to act on three important policy initiatives.

1. Introduce a new 0.05% BAC *Criminal Code* offence and sanctions that will reduce impaired driving fatalities and create safer roads for all motorists.

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* offence 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. 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.

2. Enhance police powers to better enable Canadian law enforcement to effectively apprehend and charge impaired drivers.

Today, there are still too many Canadians driving while over the legal limit. A prime reason for this behaviour is that the fear of being caught and charged with impaired driving is non-consequential. It is estimated that 1 in every 445 impaired driving trips results in a criminal charge.

Police must be given the necessary tools (including current technology) to detect and apprehend impaired drivers. Police must be given appropriate statutory authority and a streamlined charging process to ensure effective enforcement and prosecution.

MADD Canada also specifically calls on Parliament to provide the authority for police to demand a breath and/or blood sample from any driver involved in a crash where someone has been killed or seriously injured. This authority should extend to any person who may need medical treatment; police should be given the authority to demand the evidentiary blood samples from hospitals. (A recent BC study showed only 11 % of impaired drivers taken to the hospital were convicted.) This is a reasonable demand given that 40% of all traffic fatalities involve alcohol.

3. Address sentencing issues for impaired driving that are making a mockery of our Canadian judicial system.

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.

MADD Canada also calls for the elimination of the *Last Drink* and the *Carter* defences for impaired drivers. 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, 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.

■ The Next Steps

Impaired driving needs to be a Federal Government priority. This crime affects far too many Canadians – it is a regular occurrence in our communities and has, unfortunately, numbed our law-makers to discount its seriousness. The fact is, for decades, impaired driving has been far more deadly in Canada than the annual totals of homicide (almost three times). For these reasons, MADD Canada will continue its work to place impaired driving on the federal justice agenda.

MADD Canada will press for the changes to the Canadian law as outlined in this *Mother's Day Report*. We want Parliamentarians to consider a comprehensive plan for fighting the crime of impaired driving. Parliamentarians need to rethink the *Criminal Code* offences for the crime, enhance the police's ability to enforce the law, and eliminate certain spurious defences and conditional sentences where someone has been killed or seriously injured as a result of impaired driving.

In the weeks and months ahead, MADD Canada will request of all National Political Party Leaders to explain where they stand on making impaired driving a priority justice issue in the next Parliament. MADD Canada will look for an early signal from the next Government that it is prepared to address the crime of impaired driving. The organization's membership and supporters will work with Parliamentarians to advance the priority impaired driving issues cited herein. In these ways, MADD Canada strives to prompt changes to our country's laws.

■ Contact Information

Canadians can get more information on impaired driving and on this specific federal policy initiative by visiting MADD Canada's website – **www.madd.ca**.

Canadians can also access information, programs and victims' services from the MADD Canada's National Office by calling its toll-free line -- **1-800-665-6233**

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