

# **RATING THE PROVINCES AND TERRITORIES: THE 2005 PROGRESS REPORT**



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# RATING THE PROVINCES AND TERRITORIES: THE 2005 PROGRESS REPORT

## INTRODUCTION

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In June 2003, Mothers Against Drunk Driving (MADD) Canada released *Rating the Provinces and Territories: The 2003 Report Card*. This report card was the second comprehensive review of the provincial and territorial impaired driving legislation, and built upon the initial *Rating the Provinces and Territories: The 2000 Report Card*. These studies were designed to facilitate ongoing dialogue with the provincial and territorial governments on impaired driving and assist them in reducing alcohol-related crash deaths and injuries. MADD Canada believes that by working together with provincial and territorial officials, it can assist in making all communities safer.

*The 2000 Report Card* summarized key highway traffic, victims rights and insurance provisions that would reduce impaired driving and/or better serve victims. *The 2003 Report Card* was limited to highway traffic legislation, leaving victims rights and insurance issues to be discussed in separate studies. Moreover, *The 2003 Report Card* focused on a narrower range of traffic safety issues than its predecessor, namely: the protection of young drivers, enactment of effective police enforcement powers, and development of policies addressing persistent drinking drivers and repeat offenders. These are areas in which Canada has demonstrably lagged behind the world leaders in traffic safety.

*The 2003 Report Card* contained two categories of recommendations – standard and innovative practices. The standard practices, which were based on existing programs in Canada, were considered to be essential measures that could be easily integrated into the existing provincial and territorial legislation. The innovative practices, which were drawn largely from international experience, required more significant changes in attitudes and legislation. The 2003 provincial and territorial ratings were based solely on the standard practices. However, the innovative practices were included to encourage government officials to consider fundamental changes and alert them to the measures that MADD Canada would be considering in *The 2006 Report Card*.

In *The 2004 Review*, MADD Canada highlighted the legislative progress that each jurisdiction made between June 2003 and May 2004. Jurisdictions were given one of three ratings: “setting a good example”, “promising” and “needs improvement”. While some jurisdictions made significant progress, others failed to enact any suggested reforms.

*The 2005 Progress Report* provides individual summaries of the progress that each province and territory has made in the past five years. First, each jurisdiction’s grades and rankings in *The 2000 Report Card* and *The 2003 Report Card* are presented. Second, a synopsis is provided of each jurisdiction’s performance in *The 2003 Report Card*. The synopsis addresses four areas: licensing; police enforcement powers; licence suspensions and revocations; and vehicle sanctions and remedial programs. Third, a brief analysis is provided of each jurisdiction’s relevant legislative amendments over the past two years. Fourth, consistent with the objectives of the previous reports, specific recommendations are made for improving traffic safety in each province and territory. Finally, a conclusion is provided for each jurisdiction containing its rating in *The 2005 Progress Report*.

Like its predecessors, *The 2005 Progress Report* is designed to assist the provinces and territories in strengthening their traffic legislation. MADD Canada remains committed to working with officials in each jurisdiction to reduce impaired driving crashes, deaths and injuries.

# ALBERTA

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## GRADES AND RANKINGS:

Alberta received a grade of C- and ranked sixth among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a C- and ranked seventh among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## THE 2003 SYNOPSIS:

Alberta scored poorly on licensing, primarily because it lacked a graduated licensing program. It also needed to strengthen police enforcement powers by explicitly authorizing officers to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The province's 24-hour licence suspension legislation was relatively weak, compared to its other licence suspension programs. Alberta had strong alcohol interlock and vehicle impoundment programs, but needed to introduce vehicle forfeiture legislation and strengthen its remedial programs.

## PROGRESS JUNE 2003 - MAY 2005:

In *The 2004 Review*, Alberta received a rating of “promising” based on the coming into force of the *Traffic Safety Act* [TSA].<sup>1</sup> The TSA included a comprehensive graduated licensing program. First, it requires new drivers to hold a learner's licence for at least one year and a probationary licence for at least two years, before taking an “exit test” to obtain full driving privileges.<sup>2</sup> Second, learners must be accompanied by a fully-licensed driver over the age of 18 and are prohibited from driving between midnight and 5 a.m.<sup>3</sup> Third, learners and probationary drivers are subject to a zero BAC limit,<sup>4</sup> lower demerit point thresholds,<sup>5</sup> and passenger restrictions.<sup>6</sup> Amendments to the TSA gave the police authority to demand that drivers stop

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<sup>1</sup> R.S.A. 2000, c. T-6 [TSA]. The TSA, with some minor exceptions, was only proclaimed in force in 2003, even though it was enacted in 1999.

<sup>2</sup> Alta. Reg. 320/2002, ss. 32(8), and 33(1) and (7).

<sup>3</sup> *Ibid.*, ss. 31 and 32(5).

<sup>4</sup> TSA, *supra* note 1, s. 90(4)(a), (c) and (d), (5) and (7).

<sup>5</sup> Alta. Reg. 331/2002, ss. 10(1) and 19(1).

<sup>6</sup> *Supra* note 2, ss. 32(4) and 33(8).

when requested to do so for the purpose of enforcing the *TSA* or a bylaw.<sup>7</sup> While the enactment of the *TSA* was positive, no significant changes have been made in the last year.

### **RECOMMENDATIONS:**

Alberta should consider raising the minimum age for an instruction permit from 14 to 16. Research indicates that drivers under the age of 16 have substantially higher crash rates than their older counterparts. Police should be given explicit authority to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The province's 24-hour roadside licence suspension legislation needs to be strengthened. The suspension should only be terminated if a driver's tested BAC is below .05%.<sup>8</sup> The province should also enact a vehicle forfeiture program for those who repeatedly drive while impaired, suspended, prohibited, uninsured, or otherwise unauthorized. Alberta should also make the successful completion of a remedial program mandatory for all federal impaired driving offenders.<sup>9</sup>

### **CONCLUSION:**

The province has made two positive changes to its legislation since June, 2003. Consequently, Alberta has received a rating of "promising" in *The 2005 Progress Report*.

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<sup>7</sup> *TSA*, *supra* note 1, s. 166(1) and (2).

<sup>8</sup> Under the current legislation, these suspensions must be terminated if the driver's tested BAC is 0.08% or below. *TSA*, *supra* note 1, s. 89(5).

<sup>9</sup> Currently, the Registrar has discretion to require an offender to complete a remedial program prior to licence reinstatement. *TSA*, *supra* note 1, s. 91(5).

## BRITISH COLUMBIA

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### GRADES AND RANKINGS:

British Columbia received a grade of C+ and ranked second among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a D+ and ranked eighth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

### THE 2003 SYNOPSIS:

British Columbia was rated as having a very strong graduated licensing program. However, the province scored relatively poorly on enforcement powers, because it did not explicitly authorize the police to establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. British Columbia's licence suspension programs were rated as being average. The province had a very good vehicle impoundment program, but lacked alcohol interlock, vehicle forfeiture, and mandatory remedial programs.

### PROGRESS JUNE 2003 - MAY 2005:

In *The 2004 Review*, British Columbia received a rating of "needs improvement". British Columbia has since introduced some minor amendments to its *Motor Vehicle Act [MVA]*.<sup>1</sup> The Act now permits the police to use approved screening devices to test the BAC of a suspected drinking driver, if he or she challenges a 24-hour roadside licence suspension.<sup>2</sup> The impoundment period for driving without a licence or while suspended was increased from 30 to 60 days.<sup>3</sup> While the minimum fine for driving while prohibited or suspended was increased from \$300 to \$500, the mandatory minimum imprisonment period of seven days for first offenders was eliminated.<sup>4</sup>

If proclaimed in force, provisions in the *MVA*, will permit the Superintendent of Motor Vehicles to mandate participation in driver-training, remedial and/or ignition interlock programs.

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<sup>1</sup> R.S.B.C. 1996, c. 318 [*MVA*]. See *The Motor Vehicle Amendment Act, 2004*, S.B.C. 2004, c. 68, only some of which has been proclaimed in force.

<sup>2</sup> *MVA*, *ibid.*, s. 215(1), (5), (6), and (6.1).

<sup>3</sup> *Ibid.*, s. 105.2(1).

<sup>4</sup> *Ibid.*, ss. 95(1)(c) and 102(c).

The Superintendent will only be able to invoke this provision if he or she believes that: a driver has an unsatisfactory driving record; or it is in the public interest to mandate participation, given the person's driving skills, fitness or ability.<sup>5</sup>

### **RECOMMENDATIONS:**

British Columbia's graduated licensing program could be further strengthened by adding a zero BAC limit for supervising drivers and precluding learners from driving on high-speed roads. Police should be given explicit authority to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. British Columbia's 24-hour roadside licence suspension and 90-day administrative licence suspension programs could be improved by including progressive sanctions and remedial measures for multiple violations. The province needs to proclaim in force the provisions in the *MVA* allowing the Superintendent to mandate participation in driver-training, remedial and/or ignition interlock programs. Finally, the remedial measures program for federal impaired driving offenders, which was announced in 1998, should be enacted and implemented.<sup>6</sup>

### **CONCLUSION:**

The province has made only minor changes to its legislation since June, 2003. Consequently, British Columbia has received a rating of "needs improvement" in *The 2005 Progress Report*.

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<sup>5</sup> *Ibid.*, s. 25.1(1).

<sup>6</sup> Canadian Council of Motor Transport Administrators (CCMTA), Standing Committee on Road Safety Research and Policies, *STRID Monitoring Report: Progress in 1996 and 1997* (Ottawa: CCMTA, 1998) at 40.

# MANITOBA

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## GRADES AND RANKINGS:

Manitoba received a grade of C and ranked fourth among the 12 jurisdictions in the initial *Rating The Provinces and Territories: The 2000 Report*. It received a B and ranked first among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## THE 2003 SYNOPSIS:

Manitoba had the best, or among the best, programs in numerous areas. Its graduated licensing program and police enforcement powers were highly rated. However, the province needed to strengthen enforcement by giving police explicit authority to use passive alcohol sensors, establish sobriety checkpoints, and demand that suspected drinking drivers submit to field sobriety testing. It was also rated as having the best licence suspension and remedial programs. Manitoba was the only Canadian jurisdiction with a vehicle forfeiture program.

## PROGRESS JUNE 2003 - MAY 2005:

In *The 2004 Review*, Manitoba received a rating of “setting a good example”. Manitoba has since amended *The Highway Traffic Act*.<sup>1</sup> The Act now specifically authorizes officers to: demand that a driver produce his or her licence, vehicle insurance certificate and registration; and enquire as to whether the driver has consumed alcohol or drugs.<sup>2</sup> If the police reasonably suspect that a driver has consumed alcohol, drugs or another impairing substance, they may demand that the driver undergo a field sobriety test.<sup>3</sup> If a driver refuses to participate or follow the officer’s instructions, his or her licence will be suspended for three months, and his or her vehicle may be impounded for 60 days.<sup>4</sup> Moreover, the police must immediately request that the driver surrender his or her licence, if they reasonably suspect that the driver is too impaired to comply with the demand for the field sobriety test. The police must also demand a driver’s

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<sup>1</sup> *The Highway Traffic Act*, C.C.S.M. c. H60 [HTA]. See *The Highway Traffic Amendment Act (Police Powers Respecting Unsafe Drivers and Miscellaneous Amendments)*, S.M. 2004, c. 11.

<sup>2</sup> HTA, *ibid.*, s. 76.1(4)(b) and (d).

<sup>3</sup> *Ibid.*, s. 76.2(1).

<sup>4</sup> *Ibid.*, s. 263.1. A second occurrence within five years may result in a vehicle impoundment of 180 days, and subsequent occurrences may result in even lengthier vehicle impoundments. *Ibid.*, s. 242.1(7.1) and (7.1.1).

licence if, based on the test results, they reasonably suspect that he or she is unable to drive safely.<sup>5</sup>

### **RECOMMENDATIONS:**

Manitoba has again made very significant progress. However, the province should consider raising its minimum driving age to 16. Its graduated licensing program could be further strengthened by adding roadway and time-of-day restrictions, and requiring drivers to pass an “exit test” to obtain full driving privileges. While police now have statutory authority to demand documentation, make enquiries about alcohol and drug consumption, and demand that a suspected impaired driver submit to field sobriety testing, they should also be given explicit authority to establish sobriety checkpoints and use passive alcohol sensors.

### **CONCLUSION:**

The province has made major changes in its legislation since June, 2003. Consequently, Manitoba has been awarded a rating of “setting a good example” in *The 2005 Progress Report*.

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<sup>5</sup> *Ibid.*, s. 265(3.1) and (3.3).

# NEW BRUNSWICK

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## **GRADES AND RANKINGS:**

New Brunswick received a grade of D and ranked eleventh among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a D+ and ranked tenth among the 13 jurisdictions in *The 2003 Report*.

## **THE 2003 SYNOPSIS:**

New Brunswick lacked several key programs that were commonplace in most other jurisdictions. The provincial graduated licensing program was rated as average. The province scored poorly on enforcement powers, because it did not provide the police with explicit authority to stop vehicles at random, establish sobriety checkpoints, use passive alcohol sensors, or demand field sobriety testing from suspected drinking drivers. New Brunswick needed to introduce a 90-day administrative licence suspension program and strengthen its provincial suspensions for federal impaired driving offences. Moreover, the province did not have alcohol interlock, vehicle impoundment, or vehicle forfeiture programs. However, the province's remedial programs were relatively strong.

## **PROGRESS JUNE 2003 - MAY 2005:**

In *The 2004 Review* New Brunswick received a rating of "needs improvement". The province has failed to make any significant changes in the past year. The possibility of instituting an alcohol interlock program has been discussed, but there is no pending legislation on the matter.

## **RECOMMENDATIONS:**

New Brunswick should enact Bill 2, *An Act to Amend the Motor Vehicle Act*,<sup>1</sup> which would strengthen the current graduated licensing program. In addition, the province should enact a zero BAC limit for supervising drivers and require novice drivers to pass an "exit test" to obtain full driving privileges. The police should be given explicit statutory authority to stop vehicles at random, establish sobriety checkpoints, use passive alcohol sensors, and demand that

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<sup>1</sup> Second Sess., 55th Leg., New Brunswick, 2004 (Second reading, 8 December 2004).

suspected drinking drivers submit to field sobriety testing. New Brunswick's 24-hour roadside licence suspension program should be strengthened by including progressive sanctions and remedial provisions for multiple violations. The province should introduce a 90-day administrative licence suspension program, as it is one of the few jurisdictions that has not yet done so. The provincial licence revocations for repeat offences and the "look-back" period should be increased. Finally, New Brunswick needs to introduce alcohol interlock, vehicle impoundment, and vehicle forfeiture programs.

**CONCLUSION:**

The province has made no changes in its legislation since June, 2003. Consequently, New Brunswick has received a rating of "needs improvement" in *The 2005 Progress Report*.

# NEWFOUNDLAND AND LABRADOR

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## GRADES AND RANKINGS:

Newfoundland and Labrador received a grade of D+ and a tenth place ranking among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a D+ and ranked ninth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## THE 2003 SYNOPSIS:

Newfoundland and Labrador was rated as having the best graduated licensing program in the country. However, the province scored relatively poorly on police enforcement powers, as it did not explicitly authorize the police to stop vehicles, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, or demand field sobriety testing from suspected drinking drivers. The province had an excellent 24-hour licence suspension program, but needed to introduce 90-day suspensions and strengthen its revocations for federal impaired driving offences. Newfoundland and Labrador also lacked alcohol interlock, vehicle impoundment, and vehicle forfeiture programs. However, it had very strong remedial programs.

## PROGRESS JUNE 2003 - MAY 2005:

Newfoundland and Labrador received a rating of “setting a good example” in *The 2004 Review*, because several key amendments to the *Highway Traffic Act*<sup>1</sup> were proclaimed in force. First, the amendments increased the minimum fines for several violations of the graduated licensing program.<sup>2</sup> Second, the province introduced a 90-day administrative licence suspension program for impaired driving suspects who fail to provide a breath sample as required by the *Criminal Code* or who have a BAC of .08% or higher.<sup>3</sup> Third, the amendments significantly increased the provincial licence suspensions and “look-back” period for repeat federal impaired

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<sup>1</sup> *Highway Traffic Act*, R.S.N.L. 1990, c. H-3 [HTA]. The majority of the amendments were enacted in 2002, but were not proclaimed in force until August 1, 2003. See *An Act to Amend the Highway Traffic Act*, S.N.L. 2002, c. 11.

<sup>2</sup> HTA, *ibid.*, Schedule: Penalties.

<sup>3</sup> *Ibid.*, s. 60.1(9)(b).

driving offenders.<sup>4</sup> Fourth, the amendments authorized the police to impound the vehicle of a driver for 30 days, if they reasonably believe that he or she is suspended, disqualified or prohibited from driving.<sup>5</sup> Fifth, the province has created a voluntary ignition interlock program permitting federal impaired driving offenders to obtain early reinstatement of their licence.<sup>6</sup>

While there has been some discussion about authorizing the police to use passive alcohol sensors, legislation has not yet been introduced.

### **RECOMMENDATIONS:**

The province's strong graduated licensing program could be strengthened by requiring drivers to pass an "exit test" to obtain full driving privileges. Police should be given explicit statutory authority to stop vehicles at random, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected impaired drivers submit to field sobriety testing.<sup>7</sup> The province should replace its voluntary ignition interlock program with a mandatory program for all federal impaired driving offenders. Finally, the province should establish a vehicle forfeiture program in addition to its vehicle impoundment program.

### **CONCLUSION:**

The province has made several major changes to its legislation since June, 2003. Consequently, Newfoundland and Labrador has been awarded a rating of "setting a good example" in *The 2005 Progress Report*.

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<sup>4</sup> *Ibid.*, s. 65(1). The suspension periods were one year for a first federal offence, two years for a second offence within five years, and three years for a third or subsequent offence within five years. The suspensions for a second and third offence have been increased to three and five years respectively, and the "look-back" period for repeat offences has been extended to ten years. In addition, drivers convicted of a fourth offence within ten years are now subject to a suspension "for life".

<sup>5</sup> *Vehicle Seizure and Impoundment Regulations under the Highway Traffic Act*, N.L.R. 73/03, s. 3.

<sup>6</sup> *Highway Traffic Driver Regulations, 1999 (Amendment)*, N.L.R. 74/03, s. 5. See *Ignition Interlock Program Overview*. Online: <<http://www.gs.gov.nl.ca/gs/mr/idl-iip.stm>>.

<sup>7</sup> Currently, the police can only stop a vehicle if they have reasonable grounds to believe that it is being driven contrary to the *Highway Traffic Act* or in other specified situations.

# NORTHWEST TERRITORIES

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## **GRADES AND RANKINGS:**

The Northwest Territories received a grade of F and ranked last among the 12 jurisdictions in *Rating the Provinces and Territories: The 2000 Report*. It received a D- and ranked twelfth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## **THE 2003 SYNOPSIS:**

The rating for the Northwest Territories reflected the fact that it lacked several key programs as of January 1, 2003. However, many of these programs were included in legislation that had not yet been proclaimed in force. The Northwest Territories scored poorly on licensing, primarily because it lacked a graduated licensing program. The territory also scored poorly on enforcement powers, as the police were not explicitly authorized to establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. The territory also needed to introduce a 90-day administrative licence suspension program and strengthen its 4 to 24-hour roadside licence suspension program. Furthermore, it lacked alcohol interlock, vehicle impoundment, vehicle forfeiture, and remedial programs.

## **PROGRESS JUNE 2003 - MAY 2005:**

In *The 2004 Review*, the Northwest Territories received a rating of “setting a good example”, based on *An Act to Amend the Motor Vehicles Act*.<sup>1</sup> This Act was proclaimed in force on December 1, 2004, and made major changes to the *Motor Vehicles Act* [MVA].<sup>2</sup> First, the amendments introduced a zero BAC limit for learners and authorized the police to demand breath samples from any learner whom they reasonably suspected had consumed alcohol. A learner who has a positive BAC is subject to a 30-day licence suspension.<sup>3</sup> Second, the

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<sup>1</sup> S.N.W.T. 2003, c. 14.

<sup>2</sup> R.S.N.W.T. 1988, c. M-16.

<sup>3</sup> *Ibid.*, s. 116.2(3).

Commissioner was authorized to enact regulations establishing a graduated licensing program.<sup>4</sup> Third, the amendments now require the police to issue a 24-hour roadside licence suspension to any driver whom they reasonably believe is impaired by alcohol, drugs or fatigue, or who registers a BAC above .05%. Drivers with a BAC above .05% will also be subject to a 30-day territorial licence suspension, if they have had a prior .08% administrative suspension or a licence cancellation arising from a federal impaired driving offence.<sup>5</sup>

Fourth, the territory enacted a 90-day administrative licence suspension program for drivers who register a BAC above .08% or who refuse to provide breath or blood samples.<sup>6</sup> Moreover, drivers who receive a 90-day suspension may be required to participate in: a driver assessment or improvement program; an alcohol dependency awareness, assessment or treatment program; or an alcohol interlock program.<sup>7</sup> Fifth, the vehicle of a person charged with driving while disqualified or prohibited under provincial or federal law may be seized for 30 days, if that disqualification or prohibition had been imposed for a federal impaired driving offence.<sup>8</sup>

## **RECOMMENDATIONS:**

The Northwest Territories should raise the minimum driving age from 15 to 16. Research indicates that drivers under the age of 16 have substantially higher crash rates than their older counterparts. The territory needs to enact a comprehensive graduated licensing program which includes: time-of-day, roadway and passenger restrictions; a zero BAC limit for accompanying drivers; and a zero BAC limit for the first two years of unsupervised driving. Police enforcement powers should be strengthened by explicitly authorizing the police to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing.

The vehicle impoundment program should be extended to include uninsured drivers, and all suspended, prohibited or disqualified drivers. The Northwest Territories should also introduce

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<sup>4</sup> *Ibid.*, s. 349(e.1).

<sup>5</sup> *Ibid.*, s. 116.4.

<sup>6</sup> *Ibid.*, s. 116.6. Drivers who register a BAC above .08% are issued a temporary permit that expires before the 90-day suspension comes into force.

<sup>7</sup> *Ibid.*, ss. 77.1 and 78(2.1).

<sup>8</sup> *Ibid.*, s. 302.1.

a vehicle forfeiture program. Finally, all federal impaired driving offenders should be subject to mandatory remedial and alcohol interlock programs.

**CONCLUSION:**

The territory has made several important changes to its legislation since June, 2003. Consequently, the Northwest Territories has been awarded a rating of “setting a good example” in *The 2005 Progress Report*.

# NOVA SCOTIA

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## **GRADES AND RANKINGS:**

Nova Scotia received a grade of C and ranked third among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a C and ranked fifth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## **THE 2003 SYNOPSIS:**

Nova Scotia's graduated licensing program was rated as being among the best in the country. The province scored relatively poorly on police enforcement powers, because it did not provide the police with explicit authority to stop vehicles at random, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. The province was rated as having strong licence suspension programs. Nova Scotia needed to introduce alcohol interlock, vehicle impoundment, and vehicle forfeiture programs. Its remedial programs included assessment, education and treatment components.

## **PROGRESS JUNE 2003 - MAY 2005:**

In *The 2004 Review* Nova Scotia received a rating of "needs improvement". The province has failed to make any significant changes in the past year. Nova Scotia has discussed the issue of alcohol interlocks for impaired driving offenders, but has not yet introduced any legislation.

## **RECOMMENDATIONS:**

Nova Scotia's graduated licensing program could be strengthened by imposing a zero BAC limit on supervising drivers and precluding learners from driving on high-speed roads. The province needs to provide the police with explicit authority to stop vehicles at random, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The province's 24-hour roadside licence suspension legislation could be strengthened by imposing progressive sanctions for repeat offenders and requiring these drivers to participate in remedial programs. Nova Scotia

continues to lack alcohol interlock, vehicle impoundment, and vehicle forfeiture programs. The vehicle impoundment legislation was enacted in 1998, but has not yet been proclaimed in force.<sup>1</sup>

#### **CONCLUSION:**

The province has failed to make any significant changes to its legislation since June, 2003. Consequently, Nova Scotia has received a rating of “needs improvement” in *The 2005 Progress Report*.

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<sup>1</sup> *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, S.N.S. 1998, c. 42 [Amending Act]. Sections 1 through 3 of the *Amending Act* have been proclaimed in force but section 4, which deals with vehicle impoundment, remains unproclaimed. If the legislation is proclaimed in force, the police would be required to detain the vehicle of any person driving while his or her provincial licence or privilege to obtain a licence has been revoked for a *Criminal Code* offence. On being notified of the detention, the Registrar of Motor Vehicles would be authorized to issue a 90-day vehicle impoundment order for a first occurrence and a 180-day vehicle impoundment order for a second occurrence within a “specified period”.

# NUNAVUT

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## **GRADES AND RANKINGS:**

Although Nunavut became a separate territory and adopted the laws of the Northwest Territories in 1999, it was not rated in the initial *Rating the Provinces and Territories: The 2000 Report*. Nunavut received an F and ranked last among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## **THE 2003 SYNOPSIS:**

Nunavut's rating reflected the fact that it lacked several key programs as of January 1, 2003. It scored poorly on licensing, primarily because it lacked a graduated licensing program. Nunavut received a relatively poor rating on enforcement powers as it did not explicitly authorize the police to establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. The territory needed to strengthen its 4 to 24-hour roadside licence suspensions, and introduce a 90-day administrative licence suspension program. Furthermore, Nunavut lacked alcohol interlock, vehicle impoundment, vehicle forfeiture, and mandatory remedial programs.

## **PROGRESS JUNE 2003 - MAY 2005:**

Nunavut received a rating of "needs improvement" in *The 2004 Review*. The province has failed to make any changes in the past year.

## **RECOMMENDATIONS:**

Nunavut should establish a graduated licensing program. The police should be given explicit statutory authority to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The territorial roadside licence suspensions should be strengthened, and a 90-day administrative licence suspension program should be enacted. Finally, Nunavut needs to introduce alcohol interlock, vehicle impoundment, vehicle forfeiture, and mandatory remedial programs.

**CONCLUSION:**

The province has made no changes in its legislation since June, 2003. Consequently, Nunavut has received a rating of “needs improvement” in *The 2005 Progress Report*.

# ONTARIO

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## **GRADES AND RANKINGS:**

Ontario received a grade of C+ and ranked first among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a B and ranked second among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## **THE 2003 SYNOPSIS:**

Ontario had leading programs in every major category. Its graduated licensing program was strong. The police had broad powers to stop vehicles at random, but were given no explicit authority to demand documentation, use passive alcohol sensors, establish sobriety checkpoints, or demand field sobriety testing from suspected drinking drivers. The province's alcohol interlock and vehicle impoundment programs were rated as the best in the country. Ontario had good remedial programs, but needed to introduce vehicle forfeiture.

## **PROGRESS JUNE 2003 - MAY 2005:**

Ontario received a rating of "needs improvement" in *The 2004 Review*. The *Highway Traffic Statute Law Amendment Act (Child Youth and Safety), 2004* was passed on December 9, 2004, but has not yet been proclaimed in force.<sup>1</sup> The Act would authorize the enactment of regulations defining the qualifications of applicants for, and holders of, a novice licence.<sup>2</sup> The Act would also authorize the police to request that passengers in the vehicle of a novice driver identify themselves in certain limited circumstances.<sup>3</sup>

## **RECOMMENDATIONS:**

The police should be given explicit statutory authority to use passive alcohol sensors, demand documentation, and demand that suspected drinking drivers participate in field sobriety testing. Ontario's 12-hour roadside suspension program should be strengthened by increasing the suspension period to 24 hours, and by adding progressive sanctions and mandatory remedial

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<sup>1</sup> S.O. 2004, c. 22.

<sup>2</sup> *Ibid.*, s. 2.

<sup>3</sup> *Ibid.*, s. 3. The police would be authorized to request passenger information if they suspected that the novice driver was contravening the regulations.

measures for repeat occurrences. Similarly, the province should enact progressive sanctions and mandatory remedial measures for drivers who receive multiple 90-day administrative suspensions. Finally, Ontario should enact a vehicle forfeiture program for drivers who repeatedly drive while impaired, suspended, prohibited, uninsured, or otherwise unauthorized.

**CONCLUSION:**

The province has not brought into force any significant legislative changes since June, 2003. Consequently, Ontario has received a rating of “needs improvement” in *The 2005 Progress Report*.

## PRINCE EDWARD ISLAND

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### GRADES AND RANKINGS:

Prince Edward Island received a grade of D+ and ranked eighth among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a D+ and ranked eleventh among 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

### THE 2003 SYNOPSIS:

Prince Edward Island scored poorly on licensing, primarily because it lacked a graduated licensing program. The province did not give the police statutory authority to stop vehicles at random, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. Prince Edward Island had licence suspension, vehicle impoundment and remedial programs, but needed to introduce alcohol interlock and vehicle forfeiture provisions.

### PROGRESS JUNE 2003 - MAY 2005:

Prince Edward Island received a rating of “needs improvement” in *The 2004 Review*. The province has since made several amendments<sup>1</sup> to the *Highway Traffic Act [HTA]*.<sup>2</sup> First, the amendments strengthened the passenger restrictions that apply to drivers who have held a licence for less than one year.<sup>3</sup> Second, the police have been given explicit statutory authority to stop vehicles and demand documentation in the lawful execution of their duty.<sup>4</sup> Third, the police have been authorized to impose 24-hour roadside licence suspensions on drivers who refuse to comply with a demand for a breath sample made under section 254 of the *Criminal Code*.<sup>5</sup> Fourth, the

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<sup>1</sup> *An Act to Amend the Highway Traffic Act*, S.P.E.I. 2003, c. 8; *An Act to Amend the Highway Traffic Act*, S.P.E.I. 2003, c. 39; *An Act to Amend the Highway Traffic Act*, S.P.E.I. 2003, c. 40; and *An Act to Amend the Highway Traffic Act*, S.P.E.I. 2004, c. 5.

<sup>2</sup> R.S.P.E.I. 1988, c. H-5.

<sup>3</sup> *Ibid.*, s. 92.1(1). Previously, these drivers were restricted to carrying three passengers, but this limit did not apply if the passengers were members of the driver’s immediate family. The new law has eliminated this exception to the three-passenger limit.

<sup>4</sup> *Ibid.*, s. 253(1)(a) and (c).

<sup>5</sup> *Ibid.*, s. 277.1 (2.1).

provincial licence revocation program for drivers with repeat federal impaired driving convictions has been strengthened by increasing the “look-back” period from five to ten years.<sup>6</sup> Finally, the province’s limited vehicle impoundment program has been further narrowed.<sup>7</sup>

In April 2005, the Standing Committee on Social Development released a very promising report, recommending that the Legislative Assembly introduce comprehensive changes to the *Highway Traffic Act*. Among other things, the Committee proposed the introduction of graduated licensing, alcohol interlock and vehicle forfeiture programs, and the strengthening of the existing vehicle impoundment and remedial programs.

### **RECOMMENDATIONS:**

Prince Edward Island should raise the minimum age for driving from 15½ to 16 and establish a formal graduated licensing program. The police should be given explicit statutory authority to establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The provincial 24-hour roadside and 90-day administrative licence suspension programs could be strengthened by adding progressive sanctions and mandatory remedial programs for drivers who have multiple violations. Finally, Prince Edward Island should introduce alcohol interlock and vehicle forfeiture programs, and the province’s vehicle impoundment program needs to be strengthened.<sup>8</sup>

### **CONCLUSION:**

The province has made several incremental changes in their legislation since June, 2003. Consequently, Prince Edward Island has received a rating of “promising” in *The 2005 Progress Report*.

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<sup>6</sup> *Ibid.*, s. 261(4).

<sup>7</sup> *Ibid.*, s. 255.1(1)(b). The police are now authorized to impound a vehicle if they are satisfied that the driver’s licence has been suspended or cancelled, and the driver has been convicted, within the past two years, of driving while disqualified or suspended under the *Highway Traffic Act* or while disqualified under the *Criminal Code*.

<sup>8</sup> The Standing Committee on Social Development, *Combating Impaired Driving in Prince Edward Island*, April 2005.

# QUÉBEC

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## **GRADES AND RANKINGS:**

Québec received a grade of C- and ranked seventh among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a C+ and ranked third among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## **THE 2003 SYNOPSIS:**

Québec was recognized as having leading programs in several areas. The province's graduated licensing program was rated as average. It had comprehensive police enforcement powers, including the authority to stop vehicles at random, demand documentation, and demand field sobriety testing from suspected drinking drivers. Québec did not have 24-hour roadside (.05%) licence suspensions. Moreover, its 30-day administrative licence suspension program and its provincial suspensions for federal impaired driving offences needed to be significantly strengthened. The province had comprehensive alcohol interlock and vehicle impoundment programs, but no vehicle forfeiture legislation. The remedial programs, which were among the best in the country, include both assessment and treatment components.

## **PROGRESS JUNE 2003 - MAY 2005:**

Québec received a rating of "needs improvement" in *The 2004 Review*. The province has made no changes in the past year.

## **RECOMMENDATIONS:**

Québec's graduated licensing program could be strengthened by: adding passenger, roadway and time-of-day restrictions; including a zero BAC limit for supervising drivers; and requiring drivers to pass an "exit test" to obtain full driving privileges. The police should be given explicit statutory authority to establish sobriety checkpoints and use passive alcohol sensors. Québec should introduce a mandatory 24-hour roadside licence suspension program for drivers with BACs of .05% or higher. The province should also increase the administrative licence suspension period for drivers with BACs above .08% or who refuse to provide breath or blood samples. Drivers with multiple administrative licence suspensions should be subject to

mandatory assessment and other remedial measures. The provincial cancellation periods for repeat federal impaired driving offences should be increased.

Québec's alcohol interlock program could be strengthened by increasing the minimum interlock periods for repeat impaired driving offenders. Further, the alcohol interlock program should apply to all federal impaired driving offenders without exception. Québec also needs to introduce a vehicle forfeiture program and lengthen the detention periods under its vehicle impoundment program.

#### **CONCLUSION:**

The province has failed to make any significant changes to its legislation since June, 2003. Consequently, Québec has received a rating of "needs improvement" in *The 2005 Progress Report*.

# SASKATCHEWAN

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## GRADES AND RANKINGS:

Saskatchewan received a grade of C- and ranked fifth among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a C and ranked fourth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## THE 2003 SYNOPSIS:

Saskatchewan lacked a formal graduated licensing program. The police had the right to stop vehicles at random, but did not have explicit statutory authority to demand documentation, establish sobriety checkpoints, use passive alcohol sensors, or demand that suspected drinking drivers submit to field sobriety testing. The province's licence suspension programs were among the best in Canada. Saskatchewan had alcohol interlock, vehicle impoundment, and remedial programs, but needed to introduce vehicle forfeiture legislation.

## PROGRESS JUNE 2003 - MAY 2005:

In *The 2004 Review*, Saskatchewan received a rating of "needs improvement". *The Highway Traffic Act [HTA]* has since been amended to authorize the impoundment of a vehicle that has no interlock, if it is being driven by a person who is subject to an interlock order.<sup>1</sup> The impoundment period is 30 days for a first occurrence and 60 days for a second occurrence within 2 years.<sup>2</sup> Moreover, the current five-year "look-back" period for repeat federal impaired driving offenders will increase by one year starting in 2005, each year, until 2010.<sup>3</sup>

Saskatchewan has also enacted, but not yet proclaimed in force, *The Traffic Safety Act [TSA]*.<sup>4</sup> The *TSA* will repeal the *HTA* and *The Vehicle Administration Act*, consolidate their provisions and introduce some new amendments.<sup>5</sup> First, the *TSA* will apparently create a three-stage graduated licensing program. According to a newspaper article, this program will include

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<sup>1</sup> S.S. 1986, c. H-3.1, s. 89.1 [HTA]. See *The Highway Traffic Amendment Act, 2004*, S.S. 2004, c. 13.

<sup>2</sup> *HTA, ibid.*, s. 89.3.

<sup>3</sup> *The Vehicle Administration Act*, S.S. 1986, c. V-2.1, s. 72(1) [VAA].

<sup>4</sup> S.S. 2004, c. T-18.1 [TSA].

<sup>5</sup> *Ibid.*, ss. 288 and 290.

passenger, time-of-day, and zero BAC limits, and is scheduled for implementation in September, 2005.<sup>6</sup> Second, the *TSA* will require drivers who receive a second 24-hour licence suspension within five years to participate in a “prescribed” remedial program.<sup>7</sup>

Finally, the province is apparently considering a proposal authorizing the police to demand that suspected drinking drivers submit to field sobriety testing.

### **RECOMMENDATIONS:**

Saskatchewan should consider raising the minimum age of licensed driving from 15 to 16 and implement the proposed graduated licensing program. The police should be given explicit statutory authority to demand documentation, establish sobriety checkpoints and use passive alcohol sensors. Moreover, the proposal to authorize field sobriety testing should be enacted. The province should implement progressive sanctions, mandatory assessments and other remedial measures for drivers with multiple 90-day administrative licence suspensions. The provincial alcohol interlock program should be made mandatory for all federal impaired driving offenders. Finally, a vehicle forfeiture program should be introduced.

### **CONCLUSION:**

The province has made some minor changes in its legislation since June, 2003. Consequently, Saskatchewan has received a rating of “promising” in *The 2005 Progress Report*.

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<sup>6</sup> J. Wood, “Longer wait for new drivers - Saskatchewan last province to have graduated driver’s licence” *The Star Phoenix* (1 March 2005) A1.

<sup>7</sup> *TSA*, *supra* note 4, s. 147.

# YUKON

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## GRADES AND RANKINGS:

The Yukon received a grade of D+ and ranked ninth among the 12 jurisdictions in the initial *Rating the Provinces and Territories: The 2000 Report*. It received a C- and ranked sixth among the 13 jurisdictions in the *Rating the Provinces and Territories: The 2003 Report*.

## THE 2003 SYNOPSIS:

The Yukon made considerable progress between *The 2000 Report* and *The 2003 Report*. The territory introduced a relatively comprehensive graduated licensing program. However, the Yukon scored poorly on enforcement powers, as the police did not have explicit statutory authority to stop vehicles at random, demand documentation, use passive alcohol sensors, establish sobriety checkpoints, or demand that suspected drinking drivers submit to field sobriety testing. The Yukon's licence suspensions were rated as being below average, and its alcohol interlock and impoundment programs were rated as being above average. The Yukon needed to introduce vehicle forfeiture and strengthen its remedial programs.

## PROGRESS JUNE 2003 - MAY 2005:

The Yukon received a rating of "needs improvement" in *The 2004 Review*. On March 30, 2005, the Yukon proclaimed in force amendments to the *Motor Vehicles Act [MVA]*.<sup>1</sup> First, the amendments doubled the vehicle impoundment period for drivers who have failed to comply with a demand for breath or blood samples under section 254 of the *Criminal Code*.<sup>2</sup> Second, the amendments permit a person with three prior impaired driving convictions to apply for early licence reinstatement after one year, if they participate in the territorial alcohol interlock program.<sup>3</sup>

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<sup>1</sup> R.S.Y. 2002, c. 153 [MVA]. See *An Act to Amend the Motor Vehicles Act*, S.Y. 2004, c.15 [Amendment Act]. Some sections of the *Amendment Act* have not yet been proclaimed in force.

<sup>2</sup> *MVA*, *ibid.*, s. 238(11). The impoundment periods for such drivers are now 60 days for a first occurrence, 120 days for a second occurrence within five years, and 240 days for a third or subsequent occurrence within five years.

<sup>3</sup> *Ibid.*, s. 262(4)(c). Previously, these drivers had to wait three years before they could apply to the interlock program to have their indefinite licence suspension lifted.

**RECOMMENDATIONS:**

The Yukon should raise the minimum driving age from 15 to 16, and strengthen its graduated licensing program by requiring drivers to pass an “exit test” to obtain full driving privileges. The police should be given explicit statutory authority to stop vehicles at random, demand documentation, establish sobriety checkpoints, use passive alcohol sensors, and demand that suspected drinking drivers submit to field sobriety testing. The 24-hour roadside and 90-day administrative licence suspension programs should include progressive sanctions and mandatory remedial measures for multiple violations. The Yukon’s licence revocation program should be strengthened by increasing the “look-back” period from five to ten years for subsequent offences. The Yukon should introduce a vehicle forfeiture program for those who repeatedly drive while impaired, suspended, prohibited, uninsured, or otherwise unauthorized. Finally, the alcohol interlock program should be made mandatory for all federal impaired driving offenders.

**CONCLUSION:**

The territory has made two incremental changes to its legislation since June, 2003. Consequently, Yukon has received a rating of “needs improvement” in *The 2005 Progress Report*.