

# RATING THE PROVINCES AND TERRITORIES: THE 2008 PROGRESS REPORT

JURISDICTION	2008 RATINGS			2006 GRADES
	SETTING A GOOD EXAMPLE	PROMISING	NEEDS IMPROVEMENT	
ALBERTA			✓	B-
BRITISH COLUMBIA			✓	C+
MANITOBA			✓	A-
NEW BRUNSWICK	✓			D
NEWFOUNDLAND AND LABRADOR			✓	B-
NORTHWEST TERRITORIES			✓	B-
NOVA SCOTIA		✓		D+
NUNAVUT			✓	F
ONTARIO			✓	B
PRINCE EDWARD ISLAND			✓	D+
QUEBEC	✓			C
SASKATCHEWAN			✓	B-
YUKON			✓	C+

# EXECUTIVE SUMMARY

*The 2008 Progress Report* is part of MADD Canada's ongoing dialogue with the provincial and territorial governments on the critical role that they can play in reducing impaired driving. This document outlines the progress that the jurisdictions have made in the last 12 months. Each provincial and territorial review begins with the jurisdiction's general performance in *Rating the Provinces and Territories: The 2006 Report Card* and how it fared in *The 2007 Progress Report*. Any relevant amendments and related initiatives introduced since September 15, 2007 are then outlined. This includes legislation that has been brought into force as well as legislation that is pending proclamation. Consistent with the previous reports, specific recommendations are made for improving each jurisdiction's impaired driving legislation. Finally, a conclusion is provided, rating the jurisdictions as "setting a good example," "promising" or "needs improvement."

MADD Canada is very disappointed with the lack of progress that has been made in the last 12 months. Only Québec and New Brunswick introduced significant legislative changes. Manitoba enacted major reforms in 2006-07 and is going through a consolidation period. Nova Scotia, Ontario and Prince Edward Island enacted significant reforms in 2006-07, but key provisions of this legislation have not yet been brought into force. Alberta announced plans to strengthen its legislation, but made only modest changes in the last 12 months. Finally, British Columbia, Newfoundland and Labrador, Saskatchewan, the Northwest Territories, Nunavut, and the Yukon have done very little since MADD Canada's last comprehensive review in 2006.

Granted, several jurisdictions have enacted reforms concerning hand-held devices, speeding and civil forfeiture of instruments of crime that may impact all motorists, including impaired drivers. MADD Canada hopes that the past 12 months will prove to be a period of planning and preparation that will generate major legislative reforms during the next 12 months.

The following chart summarizes the jurisdictions' performance in *The 2006 Report Card* and, more importantly, their ratings in *The 2008 Progress Report*. A more detailed discussion of the 2008 ratings is included in the individual provincial and territorial reviews that follow.

JURISDICTION	2006 GRADES & RANKINGS		2008 RATINGS		
			Setting a good example	Promising	Needs improvement
Alberta	B-	4th			✓
British Columbia	C+	8th			✓
Manitoba	A-	1st			✓
New Brunswick	D	12th	✓		
Newfoundland and Labrador	B-	3rd			✓
Northwest Territories	B-	6th			✓
Nova Scotia	D+	11th		✓	
Nunavut	F	13th			✓
Ontario	B	2nd			✓
Prince Edward Island	D+	10th			✓
Québec	C	9th	✓		
Saskatchewan	B-	5th			✓
Yukon	C+	7th			✓

# INTRODUCTION

In September 2006, Mothers Against Drunk Driving (MADD) Canada released *Rating the Provinces and Territories: The 2006 Report Card*, which is available on MADD Canada's website (<http://www.madd.ca>). MADD Canada published similar comprehensive reviews of the provincial and territorial impaired driving legislation in 2000 and 2003, and annual progress reports in the intervening years. These studies were designed to facilitate a dialogue on impaired driving with the provinces and territories and assist them in reducing the related crash deaths and injuries. MADD Canada believes that by working together with provincial and territorial officials, it can help make all communities safer.

Consistent with the expressed preference of most provinces and territories, *The 2006 Report Card* focused on a narrower range of traffic safety issues than its predecessors. *The 2006 Report Card* examined four areas: licensing; police enforcement powers; licence suspensions and revocations; and vehicle and remedial programs. In selecting the core elements of *The 2006 Report Card*, priority was given to measures that would garner the greatest public support and have the most significant impact on reducing impaired driving crashes. The core elements are outlined below:

- a comprehensive graduated licensing program for all new drivers, including express police powers to enforce it;
- a .00% blood-alcohol concentration (BAC) limit for all drivers under 21 or with less than five years driving experience;
- express police powers to stop vehicles, establish sobriety checkpoints, and demand field sobriety (physical coordination) testing from suspected alcohol and/or drug-impaired drivers;\*
- a strengthening of the existing short-term roadside licence suspension programs for drivers with BACs of .05% or higher to include a 7-14 day licence suspension, a \$150-\$300 licence reinstatement fee, the recording of the suspension on the driver's record, and mandatory remedial measures for repeat violations; and
- mandatory alcohol interlock, vehicle impoundment and forfeiture, and remedial programs.

The rating scale used to assess the provincial and territorial legislation in 2006 is included in the appendix. The rating scale outlines the specific elements of each initiative and thus provides readers with the criteria upon which each jurisdiction was ranked and graded.

*The 2008 Progress Report* is part of MADD Canada's ongoing discussions with the provincial and territorial governments. This document outlines the progress that the provinces and territories have made in the last 12 months. Each provincial and territorial review begins with the jurisdiction's general performance in *The 2006 Report Card* and how it fared in *The 2007 Progress Report*. Any relevant legislation and related initiatives introduced since August 31, 2007 are then outlined. This includes legislation that has been brought into force as well as legislation that is pending

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\* Recent *Criminal Code* amendments authorize the police to demand "physical coordination" tests from any driver that they reasonably suspect has alcohol or drugs in his or her body. However, these tests may only be sought to enable the officer to determine whether to demand evidentiary breath or blood samples, or a drug recognition test. It is doubtful that officers could demand physical coordination testing under this power for the purpose of gaining evidence to issue a provincial short-term roadside licence suspension. *Criminal Code*, R.S.C. 1985, c. C-46, s. 254(2). Thus, this recent federal amendment lessens, but does not eliminate, the need for provincial and territorial legislation authorizing the police to demand field sobriety testing from suspected alcohol and/or drug-impaired drivers.

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proclamation. Consistent with the previous reports, specific recommendations are made for improving each jurisdiction's impaired driving legislation. Finally, a conclusion is provided, rating each jurisdiction as "setting a good example," "promising" or "needs improvement."

The following chart illustrates the impaired driving legislation in each jurisdiction as of September 15, 2008. It should be noted that a low threshold has been adopted in crediting the jurisdictions. Thus, if a jurisdiction had a program of some kind, even if it was relatively weak, it was recognized.

### THE 2008 STATUS REPORT

	AB	BC	MB	NB	NL	NS	NT	NU	ON	PE	QC	SK	YK
<b>LICENSING:</b>													
Minimum Driving Age 16		✓		✓	✓	✓			✓	✓	✓		
Graduated Licensing Program	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
.00% BAC for Drivers <21 or <5 Years Experience			✓	△		△							
Enforcement of Graduated Licensing	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
<b>POLICE ENFORCEMENT POWERS:</b>													
Stop Vehicles	✓	✓	✓	✓			✓	✓	✓	✓	✓	✓	
Demand Documentation	✓	✓	✓	✓			✓	✓	✓	✓	✓		
Demand Standard Field Sobriety Testing			✓	✓					✓		✓	✓	
Demand Samples From Drivers in Injury Crashes													
<b>LICENCE SUSPENSIONS AND REVOCATIONS:</b>													
24-Hour Licence Suspension for Unfitness							✓	✓					
7-14 Day Admin. Licence Suspensions									△				
90-Day Admin. Licence Suspensions	✓	✓	✓	✓	✓	✓	✓		✓	✓	△	✓	✓
<b>VEHICLE AND REMEDIAL PROGRAMS:</b>													
Alcohol Interlock Program	✓	✓	✓	△	✓	✓	✓		✓		✓	✓	✓
Vehicle Impoundment	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Vehicle Forfeiture			✓						✓		△		
Remedial Programs	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓

✓ Legislation in force as of Sept. 15/08.    △ Legislation not in force as of Sept. 15/08.

MADD Canada is very disappointed with the lack of progress that has been made in the last 12 months. Only Québec and New Brunswick introduced significant legislative changes. Manitoba enacted major reforms in 2006-07 and is going through a consolidation period. Nova Scotia, Ontario and Prince Edward Island enacted significant reforms in 2006-07, but key provisions of this legislation have not yet been brought into force. Alberta announced plans to strengthen its legislation, but made only modest changes in the last 12 months. Finally, British Columbia, Newfoundland and Labrador, Saskatchewan, the Northwest Territories, Nunavut, and the Yukon have done very little since MADD Canada's last comprehensive review in 2006.

The chart below summarizes the jurisdictions' performance in *The 2006 Report Card* and, more importantly, their ratings in *The 2008 Progress Report*. A more detailed discussion of the 2008 ratings is included in the individual provincial and territorial reviews which begin on page 5.

JURISDICTION	2006 GRADES & RANKINGS		2008 RATINGS		
			Setting a good example	Promising	Needs improvement
Alberta	B-	4th			✓
British Columbia	C+	8th			✓
Manitoba	A-	1st			✓
New Brunswick	D	12th	✓		
Newfoundland and Labrador	B-	3rd			✓
Northwest Territories	B-	6th			✓
Nova Scotia	D+	11th		✓	
Nunavut	F	13th			✓
Ontario	B	2nd			✓
Prince Edward Island	D+	10th			✓
Québec	C	9th	✓		
Saskatchewan	B-	5th			✓
Yukon	C+	7th			✓

Looking forward, MADD Canada believes that three major initiatives warrant special attention. First, MADD Canada encourages all jurisdictions to enact a comprehensive graduated licensing program, coupled with a .00% BAC limit for all drivers under the age of 21 or in their first five years of driving.

Second, MADD Canada advocates that jurisdictions adopt the short-term administrative licence suspension program endorsed by the Canadian Council of Motor Transport Administrators (CCMTA). The program calls for 7-14 day administrative licence suspensions for drivers who are reasonably suspected of being impaired by alcohol and/or drugs, or who register a BAC of .05% or higher. The program also includes progressive sanctions and mandatory remedial measures for drivers with multiple violations.

Third, MADD Canada proposes that each jurisdiction enact a comprehensive alcohol interlock program for all federal impaired driving offenders. The minimum interlock order should be one year for a first offence, three years for a second offence within ten years, and five years for a third offence within this period. Regardless of the minimum prescribed period, the interlock order should remain in effect until the offender's performance in the interlock program and any remedial program convinces the licensing authority that he or she no longer poses a significant risk of re-offending.

# ALBERTA

**THE 2006 REPORT CARD:** Alberta scored well for its 90-day administrative licence suspension, and relatively well for graduated licensing enforcement and its alcohol interlock program. It scored poorly for its low minimum driver age, its lack of restrictions on drivers in the second stage of the graduated licensing program, elements of its short-term administrative licence suspension, and its remedial programs. In addition, Alberta needed to improve its police enforcement powers, enact a 24-hour suspension for unfitness and introduce vehicle forfeiture. Alberta received a grade of B- and ranked fourth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Alberta made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

As of July 1, 2008, Alberta strengthened its ignition interlock program by making participation mandatory for impaired driving offenders who had a BAC exceeding .16%, refused to provide a sample, or had two or more prior convictions within the past ten years.<sup>1</sup> The province also introduced a three-year Traffic Safety Action Plan in December 2007.<sup>2</sup>

### ALBERTA: 2008 STATUS REPORT<sup>3</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

<sup>1</sup> Alberta Transportation, News Release, “Tough new rules to keep chronic drunk drivers off Alberta’s roads” (17 June 2008), online: <<http://www.gov.ab.ca/acn/200806/2379596EFOEF2-E64D-7733-A418891223A3751B.html>>.

<sup>2</sup> Office of Traffic Safety, *Alberta Traffic Safety Plan: 3-yr Action Plan (2007-2010)*, (Edmonton: Alberta Infrastructure and Transportation, 2007). Among other things, the *Plan* calls for strengthening the provincial graduated licensing program. *Ibid.* at 21. The strategic plans for impaired driving and the ignition interlock program were to be developed early in 2008. *Ibid.* at 28.

<sup>3</sup> As an aside, Alberta introduced a bill to prohibit the use of “hand-held communication devices” while driving. Bill 204, *Traffic Safety (Hand-Held Communication Devices) Amendment Act, 2008*, 1st Sess., 27th Leg., Alberta, 2008 (as passed, second reading May 26, 2008). The province also enacted legislation improving traffic “safety devices” at intersections. *Traffic Safety Amendment Act, 2007*, S.A. 2007, c. 45, ss. 2, 3, 9, and 10.

**RECOMMENDATIONS:**

Alberta should increase the minimum driving age from 14 to 16. The province's graduated licensing program should be strengthened by precluding learners from driving on high-speed roads and by adding a .00% BAC limit for supervising drivers. Alberta should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

Police should be given express statutory authority to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. The 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

Alberta's interlock program remains limited in scope and relatively weak.<sup>4</sup> The province should require all federal impaired driving offenders to participate in a comprehensive alcohol interlock program as a condition to regaining their driver's licence. The province should enact an administrative vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, the province should enact legislation requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program.

**CONCLUSION:**

Alberta made no significant changes to its impaired driving legislation in the past 12 months. Consequently, Alberta has received a rating of "needs improvement" in *The 2008 Progress Report*.

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<sup>4</sup> For example, the mandatory program applies to a relatively small fraction of the total impaired driving offenders. Moreover, mandatory participants are subject to a minimum interlock order of only six months. *Supra* note 1.

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# BRITISH COLUMBIA

**THE 2006 REPORT CARD:** British Columbia scored well on its minimum driving age and police authority to stop vehicles and demand documentation. It also scored relatively well for its graduated licensing program and .00% BAC restrictions on new drivers. It scored poorly for its alcohol interlock program and elements of its short-term administrative licence suspension. In addition, British Columbia needed to introduce a 24-hour suspension for unfitness, strengthen elements of its 90-day administrative licence suspension, expand its vehicle impoundment program, and introduce vehicle forfeiture. British Columbia received a grade of C+ and ranked eighth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** British Columbia made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement.”

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

British Columbia made no relevant changes to its impaired driving legislation in the past 12 months.

### BRITISH COLUMBIA: 2008 STATUS REPORT<sup>5</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

British Columbia’s graduated licensing program should be further strengthened by precluding learners from driving on high-speed roads and by adding a .00% BAC limit for supervising drivers. British Columbia should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

<sup>5</sup> As an aside, British Columbia amended its *Civil Forfeiture Act*, S.B.C. 2005, c. 29, s. 1(1) in 2008 expanding the circumstances in which prosecutors could seek civil forfeiture of “instruments of unlawful activity.” Although the earlier legislation had not been used to seek forfeiture of the vehicles of impaired driving offenders, the government issued a press release indicating that it would use the amended legislation to do so. British Columbia, News Release, “Act Protects Gift Card Value, Expands Civil Forfeiture” (10 April 2008), online: <[http://www2.news.gov.bc.ca/news\\_releases\\_2005-2009/2008PSSG0020-000511.htm](http://www2.news.gov.bc.ca/news_releases_2005-2009/2008PSSG0020-000511.htm)>.

Police should be given express authority to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. British Columbia's 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

British Columbia should require all federal impaired driving offenders to participate in an alcohol interlock program as a condition to regaining their driver's licence. The province should expand its vehicle impoundment program to include all unlicensed, uninsured, suspended, or otherwise unauthorized drivers. The province should also introduce an administrative vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, the province should enact legislation requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program.

**CONCLUSION:**

As in 2006-07, British Columbia made no significant changes to its impaired driving legislation. Consequently, British Columbia has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# MANITOBA

**THE 2006 REPORT CARD:** Manitoba scored well for its .00% BAC restrictions on new drivers, graduated licensing enforcement, police enforcement powers, short-term administrative licence suspension, and vehicle forfeiture program. It also scored relatively well for its Standard Field Sobriety Testing and remedial programs. It scored poorly for its lack of restrictions on drivers in the intermediate stage of the graduated licensing program. In addition, Manitoba needed to improve its alcohol interlock program and introduce a 24-hour suspension for unfitness. Consequently, Manitoba received an A- and ranked first in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Manitoba became the first jurisdiction in Canada to require all drivers to have a .00% BAC during their first five years of driving.<sup>6</sup> In addition, the province strengthened its alcohol interlock program.<sup>7</sup> Consequently, Manitoba was rated as “setting a good example” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Manitoba made no relevant changes to its impaired driving legislation in the past 12 months.

### MANITOBA: 2008 STATUS REPORT

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience	✓	90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing	✓	Vehicle Forfeiture	✓
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

Manitoba should increase its minimum driving age to 16. Its graduated licensing program should be further strengthened by adding roadway and time-of-day restrictions at the learner stage, and by requiring drivers to pass an exit test at the end of the intermediate stage.

The police should be given express statutory authority to establish sobriety checkpoints and to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

<sup>6</sup> *Driver's Licence Regulation*, Man. Reg. 180/2000, ss. 11.1 and 11.2.

<sup>7</sup> *Highway Traffic Act*, C.C.S.M. c. H60, ss. 279.1(1) – 279.1(1.2) and 279.1(7)(b.1); and *Ignition-Interlock Program Regulation*, Man. Reg. 195/2003, ss. 8(1), 13.1(1) and 13.1(2).

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. Manitoba's comprehensive 90-day licence suspension legislation could be strengthened by including progressive sanctions for drivers with multiple violations.

Manitoba should consider extending its new mandatory alcohol interlock program to those convicted of a first offence for driving with a BAC above .08%, driving while impaired, or refusing to provide a breath or blood sample. Similarly, Manitoba should consider broadening its already strong vehicle impoundment program to include uninsured vehicles.

**CONCLUSION:**

The province made no changes to its impaired driving legislation in the last 12 months. Consequently, Manitoba has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# NEW BRUNSWICK

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**THE 2006 REPORT CARD:** New Brunswick scored well for its minimum driving age. It scored poorly for its lack of restrictions under the graduated licensing program, its police enforcement powers, its short-term administrative licence suspension, and its vehicle impoundment and remedial programs. In addition, it needed to introduce a 90-day administrative licence suspension, a 24-hour suspension for unfitness, and vehicle forfeiture. New Brunswick received a grade of D and ranked twelfth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** In June 2007, the province enacted legislation empowering the police to stop vehicles at random, demand documentation, and require drivers reasonably suspected of having alcohol in their bodies to submit to field sobriety tests.<sup>8</sup> The Act also created a 90-day administrative licence suspension program.<sup>9</sup> Consequently, New Brunswick received a rating of “promising” in *The 2007 Progress Report*.

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## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

New Brunswick recently enacted legislation which, when implemented next year, will greatly strengthen its graduated licensing program.<sup>10</sup> Among other things, the legislation will double the minimum length of stage one to eight months for drivers who have successfully completed a driver education course,<sup>11</sup> introduce late night driving restrictions for stage-one and stage-two drivers,<sup>12</sup> and require all drivers under 21 years of age to have a .00% BAC.<sup>13</sup>

New Brunswick recently proclaimed in force the June 2007 legislation authorizing the police to randomly stop vehicles and to demand field sobriety tests from drivers suspected of having alcohol in their bodies. Similarly, the 90-day administrative licence suspension program, also included in the June 2007 legislation, was recently brought into force.<sup>14</sup> The province’s optional ignition interlock program legislation enacted in 2006 has also not been proclaimed in force.<sup>15</sup>

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<sup>8</sup> *An Act to Amend the Motor Vehicle Act*, S.N.B. 2007, c. 44, ss. 16 and 7.

<sup>9</sup> *Ibid.*, s. 20.

<sup>10</sup> The province indicated that it intends to implement the legislation early in 2009. D. Martins, “Road to being a fully licensed driver officially became longer yesterday” *Miramichi Leader* (20 June 2008), A5.

<sup>11</sup> Bill 74, *An Act to Amend the Motor Vehicle Act*, 2nd Sess., 56th Leg., New Brunswick, 2008, s. 2(e). The minimum length of stage one will remain 12 months for drivers who have not passed a driver education course.

<sup>12</sup> Stage-one drivers will be prohibited from driving between midnight and five a.m. *Ibid.*, s. 2(b). Stage-two drivers under 21 years of age will also be prohibited from driving at this time unless they are accompanied by a licensed driver, are driving for educational or employment purposes, or are granted an exception by the Registrar. *Ibid.*, s. 2(c) and (d). Stage-two drivers will also be restricted to carrying no more than three passengers. *Ibid.*, s. 2(c). The Act will require accompanying drivers to hold a valid driver’s licence for three years. *Ibid.*, s. 2(d).

<sup>13</sup> *Ibid.*, s. 5.

<sup>14</sup> See respectively, *Motor Vehicle Act*, R.S.N.B. 1973, c. M-17, s. 310.002(2) – random stops, s. 310.001(2) – demand field sobriety test, and ss. 310.04 and 310.05 – 90-day administrative licence suspensions.

<sup>15</sup> However, the province indicated in June 2008 that it intended to implement the ignition interlock program within two months. J. Robichaud, “Ignition interlock devices to be introduced this summer” *Times & Transcript* (12 June 2008), online: <<http://timestranscript.canadaeast.com/rss/article/323489>>.

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## NEW BRUNSWICK: 2008 STATUS REPORT<sup>16</sup>

<b>Licensing:</b>		<b>Licence Suspensions and Revocations:</b>	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience	△	90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
<b>Police Enforcement Powers:</b>		<b>Vehicle and Remedial Programs:</b>	
Stop Vehicles	✓	Alcohol Interlock Program	△
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing	✓	Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

△ Legislation not in force as of Sept. 15/08.

### RECOMMENDATIONS:

New Brunswick's graduated licensing program could be strengthened by: adding high-speed roadway restrictions for novice drivers; imposing a .00% BAC limit on supervising drivers; and requiring stage-two drivers to pass an exit test to obtain full driving privileges. New Brunswick should proclaim in force the legislation strengthening its graduated licensing program and requiring all drivers under 21 years of age to maintain a .00% BAC.

New Brunswick should also proclaim in force its June 2007 legislation strengthening the police enforcement powers. The police should also be given explicit statutory authority to establish sobriety checkpoints and to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. In addition, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. New Brunswick should proclaim in force the 90-day administrative licence suspension legislation that it enacted in June 2007. Moreover, it should strengthen this legislation by adding mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

Even when proclaimed in force, New Brunswick's optional alcohol interlock legislation will be limited in scope and relatively weak. All federal impaired driving offenders should be required to participate in the alcohol interlock program as a condition to regaining their driver's licence. Moreover, the minimum duration of the interlock orders should be increased. New Brunswick's vehicle impoundment program should be extended to include all unlicensed, uninsured, suspended, or otherwise unauthorized drivers. The province should also enact a vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, the province should enact legislation requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program.

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<sup>16</sup> As an aside, New Brunswick did proclaim in force reduced speed limits for school and construction zones, and comprehensive seatbelt provisions from the June 2007 legislation. See *supra* note 14, ss. 140.1, 142, 142.01, and 200.1.

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**CONCLUSION:**

New Brunswick introduced legislation in the past 12 months which, when proclaimed in force, will strengthen its impaired driving legislation. Consequently, the province has received a rating of “setting a good example” in *The 2008 Progress Report*.

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# NEWFOUNDLAND AND LABRADOR

**THE 2006 REPORT CARD:** Newfoundland and Labrador scored well for its minimum driving age, short-term administrative licence suspension and remedial programs, and relatively well for its vehicle impoundment program. It scored poorly for its police enforcement powers and its lack of restrictions on Level II drivers in its graduated licensing program. In addition, the province needed to introduce a 24-hour suspension for unfitness and vehicle forfeiture. The province received a grade of B- and ranked third in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Newfoundland and Labrador made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Newfoundland and Labrador made no relevant changes to its impaired driving legislation in the past 12 months.

### NEWFOUNDLAND AND LABRADOR: 2008 STATUS REPORT<sup>17</sup>

<b>Licensing:</b>		<b>Licence Suspensions and Revocations:</b>	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
<b>Police Enforcement Powers:</b>		<b>Vehicle and Remedial Programs:</b>	
Stop Vehicles		Alcohol Interlock Program	✓
Demand Documentation		Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

The province’s graduated licensing program could be strengthened by: increasing the minimum length of the program from 20 to 24 months; precluding Level I drivers from driving on high-speed roads; requiring supervising drivers to have a .00% BAC; and requiring Level II drivers to pass an exit test to obtain full driving privileges. Newfoundland and Labrador should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

Police should be given explicit statutory authority to: stop vehicles at random; demand documentation from any driver; establish sobriety checkpoints; and demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

<sup>17</sup> As an aside, the province enacted children’s seatbelt provisions in June 2007, which came into force on July 1, 2008. *An Act to Amend the Highway Traffic Act*, S.N.L. 2007, c. 23.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. The 90-day administrative licence suspension legislation should include mandatory progressive sanctions for drivers with multiple violations.

The province should replace its voluntary ignition interlock program with a mandatory program for all federal impaired driving offenders. Finally, Newfoundland and Labrador should enact a vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

**CONCLUSION:**

As in 2006-07, Newfoundland and Labrador made no significant changes to its impaired driving legislation. Consequently, Newfoundland and Labrador has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# NORTHWEST TERRITORIES

**THE 2006 REPORT CARD:** The Northwest Territories scored well for its graduated licensing program, police enforcement powers, 24-hour licence suspension for unfitness, and 90-day administrative licence suspension. It scored poorly on aspects of its short-term administrative licence suspension and alcohol interlock programs. In addition, it needed to strengthen its vehicle impoundment and remedial programs, and introduce vehicle forfeiture. The Northwest Territories received a grade of B- and ranked sixth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** The Northwest Territories made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

The Northwest Territories made no relevant changes to its impaired driving legislation in the past 12 months.

### NORTHWEST TERRITORIES: 2008 STATUS REPORT

<b>Licensing:</b>		<b>Licence Suspensions and Revocations:</b>	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	✓
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
<b>Police Enforcement Powers:</b>		<b>Vehicle and Remedial Programs:</b>	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

The Northwest Territories should increase its minimum driving age from 15 to 16. The territory’s strong graduated licensing program could be improved by requiring drivers to pass an exit test at the end of the probationary period to obtain full driving privileges. The Northwest Territories should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

The police should be authorized to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The Northwest Territories was the first jurisdiction to authorize the police to suspend a driver’s licence if they reasonably believed that he or she was fatigued. The police should also be given a more general power to suspend a driver’s licence for 24 hours if they reasonably believe that he or

she is unfit to drive for any reason other than alcohol or drug impairment. The territory should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. The 90-day licence suspension legislation should include mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

The territory should replace its discretionary alcohol interlock program with legislation requiring all federal impaired driving offenders to participate in an alcohol interlock program as a condition to regaining their driver's licence. The vehicle impoundment program should be extended to include uninsured vehicles, and drivers who are unlicensed, suspended, prohibited, or disqualified for any reason, not just for federal impaired driving offences. The territory should introduce a vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, legislation should be enacted requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program.

### **CONCLUSION:**

As in 2006-07, the territory made no changes to its impaired driving legislation. Consequently, the Northwest Territories has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# NOVA SCOTIA

**THE 2006 REPORT CARD:** Nova Scotia scored well for its minimum driving age, but poorly on graduated licensing, police enforcement powers, and alcohol interlock and vehicle impoundment programs. It also needed to introduce a 24-hour licence suspension for unfitness, improve its short-term administrative licence suspension and enact vehicle forfeiture. Thus, the province received a D+ grade, and ranked eleventh in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Nova Scotia enacted legislation which, when proclaimed in force, will substantially strengthen its graduated licensing program and introduce a .00% BAC for at least the first four years and nine months of driving.<sup>18</sup> In addition, Nova Scotia brought into force and then strengthened its alcohol interlock legislation.<sup>19</sup> Consequently, Nova Scotia was ranked as “setting a good example” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Nova Scotia passed legislation that will expand the circumstances in which officers may temporarily impound vehicles.<sup>20</sup> On September 16, 2008, the province reaffirmed its intention to implement its ignition interlock program at the end of the month.<sup>21</sup> The graduated licensing and .00% BAC legislation enacted in 2006-07 has not been proclaimed in force.

### NOVA SCOTIA: 2008 STATUS REPORT<sup>22</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience	△	90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing			
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles		Alcohol Interlock Program	✓
Demand Documentation		Vehicle Impoundment	△
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

△ Legislation not in force as of Sept. 15/08.

<sup>18</sup> *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, S.N.S. 2007, c. 20, ss. 3(4) and 6(1).

<sup>19</sup> *Motor Vehicle Act*, R.S.N.S. 1989, c. 293, ss. 67(5A), (11A), (13) and 280A.

<sup>20</sup> Once the legislation is brought in force, drivers with suspended, revoked or invalid licenses, or who officers suspect have committed an offence under the *Criminal Code* or the *Motor Vehicle Act* may be subject to vehicle impoundment. *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, S.N.S. 2008, c. 21, s. 3.

<sup>21</sup> Nova Scotia, News Release, “Province Steps Up Tough Stance on Drinking and Driving” (16 September 2008), online: <<http://gov.ns.ca/news/details.asp?id=20080916004>>.

<sup>22</sup> As an aside, a private member’s bill to lengthen Nova Scotia’s alcohol interlock program received first reading on

**RECOMMENDATIONS:**

Nova Scotia should proclaim in force the provisions that it enacted in 2006-07. The province could further strengthen its graduated licensing program by including time-of-day and passenger restrictions for “licensed learners,” and by requiring supervising drivers to maintain a .00% BAC.

Nova Scotia should give the police explicit statutory authority to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be given the authority to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver’s licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. The province’s 90-day licence suspension legislation should include mandatory progressive sanctions for drivers with multiple violations.

Nova Scotia should proclaim in force the new vehicle impoundment provisions, and should further expand its program to include uninsured or otherwise unauthorized drivers. The province should also enact a vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

**CONCLUSION:**

The province made modest changes to its impaired driving legislation in the past 12 months. Consequently, Nova Scotia has received a rating of “promising” in *The 2008 Progress Report*.

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Dec. 12/07. Bill 110, *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, 2nd. Sess., 60th Leg., Nova Scotia, 2007. Also, a ban on “hand-held” cell phone use while driving came into effect on April 1, 2008. *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, S.N.S. 2007, c. 45, s. 7. Further, the province launched an impaired driving enforcement pilot project. Nova Scotia, News Release, “Province Launches Impaired Driving Enforcement Pilot Project” (20 December 2007), online: <<http://www.gov.ns.ca/news/>>.

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# NUNAVUT

**THE 2006 REPORT CARD:** Nunavut scored well for its police enforcement powers and was one of two jurisdictions to have a 24-hour licence suspension for unfitness to drive. It scored poorly for graduated licensing, short-term administrative licence suspensions, and remedial programs. In addition, it needed to introduce a 90-day administrative licence suspension, an alcohol interlock program, and vehicle impoundment and forfeiture programs. Nunavut received a grade of F and ranked last in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Nunavut made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Nunavut made no relevant changes to its impaired driving legislation in the past 12 months.

### NUNAVUT: 2008 STATUS REPORT

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	✓
Graduated Licensing Program		7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	
Enforcement of Graduated Licensing			
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	
Demand Documentation	✓	Vehicle Impoundment	
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

Nunavut should increase its minimum driving age from 15 to 16. The territory should establish a formal graduated licensing program, which is at least 24 months in length. It should include .00% BAC, time-of-day and passenger restrictions for learners, and a .00% BAC requirement for accompanying drivers. The territory should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

The police should be given express statutory authority to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be given authority to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

Nunavut is one of the two jurisdictions to authorize the police to suspend a driver’s licence if they reasonably believe that he or she is fatigued. The police should be given a more general power to suspend a driver’s licence for 24 hours if they reasonably believe that he or she is unfit to drive

for any reason other than alcohol or drug impairment. The territory should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. Nunavut needs to enact a 90-day administrative licence suspension for drivers who register a BAC above .08% or who refuse to provide a breath or blood sample. The 90-day administrative licence legislation should include mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

The territorial legislation should require all federal impaired driving offenders to participate in an alcohol interlock program as a condition to regaining their driver's licence. Nunavut also needs to introduce a comprehensive vehicle impoundment program for unlicensed, uninsured, suspended, or otherwise unauthorized drivers. The territory should also enact a vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, Nunavut should enact legislation requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program.

**CONCLUSION:**

As in 2006-07, Nunavut made no changes to its impaired driving legislation. Consequently, Nunavut has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# ONTARIO

**THE 2006 REPORT CARD:** Ontario scored well on its minimum driving age and police enforcement powers. It also scored relatively well for its graduated licensing enforcement legislation and Standard Field Sobriety Testing provisions. It scored poorly for the lack of restrictions on drivers in the G2 stage of the graduated licensing program, and for elements of its short-term administrative licence suspension. In addition, it needed to introduce a 24-hour suspension for unfitness, and improve its alcohol interlock and remedial programs. Ontario received a grade of B and ranked second in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Ontario was the first jurisdiction to enact legislation authorizing roadside suspension of more than 24 hours (3-7 days) for drivers with a BAC of .05% or higher.<sup>23</sup> It also significantly expanded eligibility for its ignition interlock program.<sup>24</sup> Consequently, Ontario received a rating of “setting a good example” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Ontario made no relevant changes to its impaired driving legislation in the past 12 months. The province has not yet brought into force the 3-7 day roadside licence suspension provision. Nor has Ontario enacted the regulations necessary to implement the expanded ignition interlock eligibility provisions enacted in 2006-07.

### ONTARIO: 2008 STATUS REPORT<sup>25</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	△
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing	✓	Vehicle Forfeiture	✓
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

△ Legislation not in force as of Sept. 15/08.

<sup>23</sup> *Safer Roads for a Safer Ontario Act, 2007*, S.O. 2007, c. 13, s. 10.

<sup>24</sup> *Highway Traffic Act*, R.S.O. 1990, c. H. 8, s. 41(4.1). The provision permits federal impaired driving offenders to seek early licence reinstatement if they participate in a “conduct review program ... that consists of or includes an ignition interlock program.”

<sup>25</sup> In addition to other general traffic measures related to seatbelts and roadracing, Ontario broadened its civil forfeiture legislation to include vehicles in certain limited circumstances. For a discussion of these measures, see *The 2007 Progress Report* at 22-23. Ontario also announced funding increases for its R.I.D.E. program. Ontario Association of Chiefs of Police, “OACP Welcomes Ontario Government’s Doubling of R.I.D.E. Funding” (19 June 2008), online: <<http://www.oacp.on.ca/content/news/article.html?ID=506>>.

## RECOMMENDATIONS:

Ontario should strengthen its graduated licensing program by increasing the minimum duration of the program to 24 months and by requiring supervising drivers to have a .00% BAC. In addition, Ontario should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

The police should be given express statutory authority to demand documentation from any driver and to establish sobriety checkpoints. Ontario should give the police express statutory authority to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing.<sup>26</sup> The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. The legislation creating the 3-7 day roadside licence suspensions should be proclaimed in force. Moreover, the suspensions should be increased to 7-14 days and applied to drivers who are reasonably believed to be impaired by alcohol and/or drugs. The province's 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial programs for drivers with multiple violations.

The province should enact the regulations necessary to implement the expanded ignition interlock eligibility provisions enacted in 2006-07. Ontario's limited administrative vehicle impoundment program should be extended to include all unlicensed, uninsured, and otherwise unauthorized drivers. Ontario should also enact a comprehensive administrative vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

## CONCLUSION:

The province made no significant changes to its impaired driving legislation in the last 12 months. Consequently, Ontario has received a rating of "needs improvement" in *The 2008 Progress Report*.

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<sup>26</sup> However, s. 48(1) of the *Highway Traffic Act*, R.S.O. 1990, c. H. 8 gives police express statutory authority to stop a vehicle to determine whether there is evidence to justify a demand for a breath sample under the *Criminal Code*. The courts have interpreted this power as implicitly allowing the police to use various investigation techniques to make this determination, including requesting that drivers participate in a "coordination test." *R. v. Saunders* (1988), 63 C.R. (3d) 37 (Ont. C.A.); and *R. v. Smith* (1996), 28 O.R. (3d) 75 (C.A.). See also *R. v. Elias* and *R. v. Orbanski* (2005), 196 C.C.C. (3d) 481 (S.C.C.) which held that police who had only a statutory power to stop vehicles at random could also request, but not demand, that a driver participate in physical coordination testing.

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# PRINCE EDWARD ISLAND

**THE 2006 REPORT CARD:** Prince Edward Island scored well on its 90-day administrative licence suspension and relatively well on its vehicle impoundment program. It scored poorly on its graduated licensing program, elements of its short-term administrative licence suspension program, and its alcohol interlock program. It also needed to introduce a 24-hour suspension for unfitness, strengthen its remedial programs, and introduce vehicle forfeiture. Prince Edward Island received a grade of D+ and ranked tenth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** The province increased its minimum driving age,<sup>27</sup> strengthened its graduated licensing program,<sup>28</sup> and introduced progressive sanctions for drivers with a second or subsequent violation of the .05% BAC limit.<sup>29</sup> Consequently, Prince Edward Island received a rating of “setting a good example” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

The province made no relevant changes to its impaired driving legislation in the past 12 months. However, Prince Edward Island has expressed an i

ntention to extend its .00% BAC limit to the first five years of driving.<sup>30</sup> No legislation has yet been introduced.

### PRINCE EDWARD ISLAND: 2008 STATUS REPORT<sup>31</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

△ Legislation not in force as of Sept. 15/08.

<sup>27</sup> Highway Traffic Act, R.S.P.E.I. 1988, c. H-5, s. 82(1).

<sup>28</sup> See P.E.I. Reg. EC225/07, ss. 2(3), 3(1), 3(3), 3(8), and 4(3).

<sup>29</sup> *Supra* note 27, s. 277.1(6.2) and (6.4).

<sup>30</sup> E. Chamberlain & R. Solomon, “Zero Blood Alcohol Concentration Limits for Drivers Under 21: Lessons from Canada” (2008) 14 Inj. Prev. 123 at 126.

<sup>31</sup> As an aside, the province enacted legislation in November 2007 that doubles speeding fines in school and construction zones. *An Act to Amend the Highway Traffic Act*, S.P.E.I. 2007, c. 7, s. 2.

**RECOMMENDATIONS:**

The province should strengthen its graduated licensing program by requiring supervising drivers to have a .00% BAC and requiring Stage-2 drivers to pass an exit test to obtain a Stage-3 licence. The province should follow through on extending its .00% BAC restriction to include all drivers under the age of 21 or in their first five years of driving.

The police should be given express statutory authority to establish sobriety checkpoints and to demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. The province has strengthened its short-term licence suspension program by imposing mandatory progressive sanctions on drivers with multiple violations of the .05% BAC limit. Nevertheless, the province should increase this administrative suspension to 7-14 days for a first violation and apply these provisions to drivers who the police reasonably believe are impaired by alcohol or drugs. The province's 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial measures for drivers with multiple violations.

In May 2006, Prince Edward Island gave the Registrar express statutory authority to impose alcohol interlock restrictions on drivers.<sup>32</sup> However, the specifics of the interlock program have not yet been enacted. The province should create a comprehensive alcohol interlock program which all federal impaired driving offenders must successfully complete as a condition to regaining their driver's licence.

Prince Edward Island's vehicle impoundment legislation should be extended to include uninsured drivers. Finally, Prince Edward Island should introduce a vehicle forfeiture program for drivers who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

**CONCLUSION:**

Prince Edward Island made no significant changes to its impaired driving legislation in the past 12 months. Consequently, it has received a rating of "needs improvement" in *The 2008 Progress Report*.

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<sup>32</sup> The Registrar may include as a condition of an individual's licence that he or she is restricted to driving a vehicle with an alcohol interlock. Moreover, the Registrar may issue a restricted licence to a federal impaired driving offender despite the provincial driving disqualification that would otherwise apply, if the offender participates in the ignition interlock program. *Supra* note 27, ss. 71(4.1), 261(1.1) and (1.2).

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# QUÉBEC

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**THE 2006 REPORT CARD:** Québec scored well for its minimum driving age, police enforcement powers, Standard Field Sobriety Testing, and alcohol interlock program, and relatively well for its remedial programs. It scored poorly for its lack of restrictions on drivers in stage two of the graduated licensing program, and its vehicle impoundment program. In addition, it needed to introduce a 24-hour suspension for unfitness, a short-term administrative licence suspension, and a 90-day administrative licence suspension. Finally, Québec lacked a vehicle forfeiture program. Québec received a grade of C and ranked ninth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Québec made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

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## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Québec enacted legislation late in 2007 which, when proclaimed in force, will strengthen its impaired driving legislation.<sup>33</sup> The Act will require all beginning drivers to take a driving course,<sup>34</sup> and will lower the demerit point threshold for cancelling or suspending the licence of drivers under 25 years of age.<sup>35</sup>

It will also increase Québec’s administrative licence suspension from 30 days to 90 days for drivers with BACs above .08%, and for drivers with a learner’s or probationary licence who violate their .00% BAC restriction.<sup>36</sup>

The legislation will strengthen the alcohol interlock program by increasing the length of the interlock requirement for offenders who had a BAC above .16% or refused to provide a sample.<sup>37</sup> In certain limited circumstances, repeat offenders may be subject to a lifetime interlock requirement.<sup>38</sup>

Officers will be authorized to impound for 30 days the vehicle of drivers who have a BAC above .16%, have a BAC above .08% and have had a prior licence cancellation for specified federal driving offences within the past ten years, or who fail to provide a sample.<sup>39</sup>

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<sup>33</sup> *An Act to Amend the Highway Safety Code and the Regulation Respecting Demerit Points*, S.Q. 2007, c. 40 [*The Highway Safety Code Amendment Act, 2007*].

<sup>34</sup> *Ibid.*, s. 11. The course must be approved by the Société de l’assurance automobile du Québec (SAAQ) and must include both theoretical and practical components.

<sup>35</sup> *Ibid.*, s. 92. The demerit point threshold for a licence cancellation or suspension will be 8 for drivers under 23 years of age, 12 for drivers 23-24 years of age, and 15 for drivers 25 years of age or older.

<sup>36</sup> *Ibid.*, s. 36.

<sup>37</sup> *Ibid.*, s. 12. The new interlock requirement will be two years for a first federal impaired driving offence and three years if the driver has one or more prior cancellations or suspensions in the preceding ten years.

<sup>38</sup> *Ibid.* The lifetime interlock restriction will apply to federal impaired driving offenders with two or more cancellations or suspensions within the preceding ten years for refusing to provide a sample, or having a BAC above .16%.

<sup>39</sup> *Ibid.*, s. 40. The specified offences are dangerous operation of a vehicle, dangerous operation causing bodily harm or death, and willfully evading police pursuit.

It should be noted that the legislation has clarified, but not changed Québec’s assessment and education programs for federal impaired driving offenders. *Ibid.*, s. 12.

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In June 2008, Québec again enacted legislation which has not yet come into force. The amendments will broaden the circumstances in which the police may demand physical coordination testing (standard field sobriety testing).<sup>40</sup> If, based on the testing, the police have reasonable grounds to believe that the driver's ability to drive is impaired, they must suspend his or her licence for 24 hours.<sup>41</sup> Similarly, if the driver fails or refuses to submit to testing, his or her licence will be suspended for 24 hours.<sup>42</sup>

### QUÉBEC: 2008 STATUS REPORT<sup>43</sup>

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16	✓	24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	△
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation	✓	Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing	✓	Vehicle Forfeiture	△
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

△ Legislation not in force as of Sept. 15/08.

### RECOMMENDATIONS:

Québec's graduated licensing program could be strengthened by: adding passenger, high-speed roadway and time-of-day restrictions; imposing a .00% BAC limit on supervising drivers; and requiring probationary drivers to pass an exit test to obtain full driving privileges. Québec should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

The police should be given express statutory authority to establish sobriety checkpoints and to demand a breath, blood, saliva, or urine sample from a person reasonably suspected as having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover,

<sup>40</sup> *An Act to Again Amend the Highway Safety Code and Other Legislative Provisions*, S.Q. 2008, c. 14, s. 19 [*The Highway Safety Code Amendment Act, 2008*]. The amendment will permit the police to demand physical coordination testing from any driver, if they reasonably suspect that his or her ability to drive is impaired.

Currently, an officer may only demand physical coordination testing from drivers suspected of having alcohol in their body in order to determine if there are grounds for demanding evidentiary testing under the *Criminal Code*. *Highway Safety Code*, R.S.Q., c. C-24.2, s. 636.1.

<sup>41</sup> *The Highway Safety Code Amendment Act, 2008*, *ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> As an aside, *The Highway Safety Code Amendment Act, 2007*, *supra* note 33, will subject repeat federal impaired driving offenders to an additional two-year licence cancellation or suspension if they have refused to provide a breath sample or have a BAC above .16%. These drivers will also be required to pass an alcohol assessment. *Ibid.*, s. 12. The Act will increase penalties for speeding and permit the police to impound the vehicles of certain repeat speeding offenders. *Ibid.*, s. 52. It also prohibits the use of a hand-held communication device while driving. *Ibid.*, s. 58.

Québec has also recently enacted legislation that could be used to seek the civil forfeiture of vehicles of impaired drivers, which was supposed to come into force no later than September 1, 2008. *An Act Respecting the Forfeiture, Administration and Appropriation of Proceeds and Instruments of Unlawful Activity*, S.Q. 2007, c. 34.

the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. Québec should proclaim in force its 90-day administrative licence suspension program, and should introduce mandatory remedial measures for drivers with multiple violations.

Québec needs to introduce an administrative vehicle forfeiture program for drivers who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

**CONCLUSION:**

The province made significant changes to its impaired driving legislation in the past 12 months which, when fully proclaimed in force, will strengthen its impaired driving legislation. Consequently, Québec has received a rating of “setting a good example” in *The 2008 Progress Report*.

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# SASKATCHEWAN

**THE 2006 REPORT CARD:** Saskatchewan scored well on its 90-day administrative licence suspension, and relatively well on its Standard Field Sobriety Testing and short-term administrative licence suspension. It scored poorly for its police enforcement powers. In addition, it needed to introduce a 24-hour suspension for unfitness, strengthen its vehicle impoundment and remedial programs, and introduce vehicle forfeiture. Saskatchewan received a grade of B- and ranked fifth in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** Saskatchewan made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007. Consequently, the province received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

Saskatchewan made no relevant changes to its impaired driving legislation in the past 12 months. The Attorney General has directed prosecutors to consider more stringent approaches to prosecuting repeat impaired driving offenders in limited circumstances.<sup>44</sup>

### SASKATCHEWAN: 2008 STATUS REPORT

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles	✓	Alcohol Interlock Program	✓
Demand Documentation		Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing	✓	Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

## RECOMMENDATIONS:

Saskatchewan should increase its minimum driving age from 15 to 16. The province’s graduated licensing program could be strengthened by: including time-of-day and high-speed roadway restrictions for learners; requiring novice-2 drivers to pass an exit test to obtain full driving privileges; and imposing a .00% BAC restriction on supervising drivers. Moreover, the province should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

<sup>44</sup> Prosecutors are directed to consider proceeding by way of indictment and applying for forfeiture on conviction if the offender has two or more impaired driving convictions in the preceding two years, or three or more impaired driving convictions in the preceding four years. Saskatchewan, News Release, “Repeat Drunk Drivers To Have Vehicles Forfeited” (12 December 2007), online: <<http://www.gov.sk.ca/news?newsId=5befd9e6-48f9-4b69-8d6b-f55ce2588e98>>.

The police should be given express statutory authority to demand documentation from any driver and establish sobriety checkpoints. The police should also be authorized to demand a breath, blood, saliva, or urine sample for a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The police should be authorized to suspend a driver's licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the province should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test. Saskatchewan's 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial measures for drivers with multiple violations.

Saskatchewan should replace its discretionary alcohol interlock program with legislation requiring all federal impaired driving offenders to participate in an interlock program as a condition to regaining their licence. The province should also introduce an administrative vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized.

### **CONCLUSION:**

As in 2006-07, Saskatchewan made no significant changes to its impaired driving legislation. Consequently, Saskatchewan has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# YUKON

**THE 2006 REPORT CARD:** The Yukon scored well for its vehicle impoundment program and relatively well for its alcohol interlock program. It scored poorly for its police enforcement powers, elements of its short-term administrative licence suspension, and its licence abstract and remedial programs. Consequently, the Yukon received a grade of C+ and ranked seventh in *Rating the Provinces and Territories: The 2006 Report Card*.

**THE 2007 PROGRESS REPORT:** The Yukon made no relevant changes to its impaired driving legislation from August 2006 to August 31, 2007, and received a rating of “needs improvement” in *The 2007 Progress Report*.

## CURRENT DEVELOPMENTS:

### SEPTEMBER 1, 2007 – AUGUST 31, 2008:

The Yukon made no relevant changes to its impaired driving legislation in the past 12 months.

### YUKON: 2008 STATUS REPORT

Licensing:		Licence Suspensions and Revocations:	
Minimum Driving Age 16		24-Hour Licence Suspension for Unfitness	
Graduated Licensing Program	✓	7-14 Day Admin. Licence Suspensions	
.00% BAC for Drivers <21 or <5 Years Experience		90-Day Admin. Licence Suspensions	✓
Enforcement of Graduated Licensing	✓		
Police Enforcement Powers:		Vehicle and Remedial Programs:	
Stop Vehicles		Alcohol Interlock Program	✓
Demand Documentation		Vehicle Impoundment	✓
Demand Standard Field Sobriety Testing		Vehicle Forfeiture	
Demand Samples From Drivers in Injury Crashes		Remedial Programs	✓

✓ Legislation in force as of Sept. 15/08.

### RECOMMENDATIONS:

The Yukon should increase its minimum driving age from 15 to 16. The territory should strengthen its graduated licensing program by including high-speed roadway restrictions and by requiring novice drivers to pass an exit test to obtain full driving privileges. The Yukon should require all drivers under the age of 21 or in their first five years of driving to have a .00% BAC.

The police should be given express statutory authority to: stop vehicles at random; demand documentation from any driver; establish sobriety checkpoints; and demand that drivers suspected of having alcohol or drugs in their bodies submit to Standard Field Sobriety Testing. The police should also be authorized to demand a breath, blood, saliva, or urine sample from a person reasonably suspected of having been a driver in a fatal or personal injury crash.

The legislation should authorize the police to suspend a driver’s licence for 24 hours if they reasonably believe that he or she is unfit to drive for reasons other than alcohol or drug impairment. Moreover, the territory should authorize the police to impose a 7-14 day administrative licence suspension on a driver if they reasonably believe that his or her ability to drive is impaired by alcohol or drugs, or if he or she registers a BAC of .05% or higher on a breath, blood or urine test.

The 90-day administrative licence suspension legislation should include mandatory progressive sanctions and mandatory remedial measures for drivers with multiple violations.

The territorial legislation should require all federal impaired driving offenders to participate in an alcohol interlock program as a condition to regaining their driver's licence. The Yukon should introduce an administrative vehicle forfeiture program for those who repeatedly drive while impaired, unlicensed, uninsured, suspended, or otherwise unauthorized. Finally, legislation should be enacted requiring all federal impaired driving offenders to successfully complete a comprehensive remedial program

**CONCLUSION:**

As in 2006-07, the territory made no changes to its impaired driving legislation. Consequently, the Yukon has received a rating of "needs improvement" in *The 2008 Progress Report*.

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# APPENDIX

## THE 2006 RATING SCALE

### SECTION I: LICENSING

#### (a) Minimum Age for Beginning to Drive

- Is 16 the minimum age of licensed driving, even for those enrolled in a driver education program?

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#### (b) Graduated Licensing Program

- Is there a graduated licensing program for all novice drivers, regardless of age?
- Does stage 1 of the graduated licensing program last at least 12 months, even for those enrolled in a driver education program?
- Are stage 1 drivers:
- only able to drive when supervised?
  - prohibited from driving between 10 p.m. and 6 a.m.?
  - prohibited from driving on high-speed roadways?
  - prohibited from carrying more than one non-family passenger under 20?
  - required to submit a signed statement from their supervisor(s) attesting to a minimum number of hours of supervised driving during stage 1?
  - required to pass a stage 1 road test in order to obtain a stage 2 licence?
- Does stage 2 of the graduated licensing program last at least 12 months, even for those who have completed a driver education program?
- Are stage 2 drivers:
- required to be supervised when driving between 10 p.m. and 6 a.m.?
  - required to be supervised when driving on high-speed roadways?
  - prohibited from carrying more than one non-family passenger under 20?
  - required to submit a signed statement from their supervisor(s) attesting to a minimum number of hours of supervised night-time driving (after dark) and supervised driving on high-speed roads?
  - required to pass a stage 2 road test that includes driving on a high-speed roadway in order to obtain a licence with full privileges?
- Must supervisors of stage 1 and stage 2 drivers:
- be at least 21 years of age?
  - be fully licensed?
  - have a BAC of .00%?
- Are all stage 1 and stage 2 drivers required to have a .00% BAC, regardless of their age?
- Are stage 3 drivers subject to a 24-month probationary period during which they:
- must have a .00% BAC?
  - are subject to lower demerit point thresholds or are otherwise more closely monitored by licensing authorities than experienced drivers?

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#### (c) A .00% BAC Limit for all Novice Drivers

- Is there a .00% BAC requirement for all drivers:
- under the age of 21, even if they have full driving privileges; or
  - during their first five years of licensed driving?

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#### (d) Enforcement of the Graduated Licensing Program and the .00% BAC Limits

- Are the police authorized to demand a roadside screening test or standard field sobriety test from:
- any stage 1, stage 2 or stage 3 driver?

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- any supervisor of a stage 1 or stage 2 driver?
- any driver under the age of 21 or any driver during their first five years of licensed driving?
- Are the police authorized to demand that supervisors of stage 1 and stage 2 drivers identify themselves and present their licence when requested to do so?
- Are any licensing sanctions or restrictions (*i.e.* extended periods of supervised driving) applied to stage 1, stage 2 and stage 3 drivers who:
  - have an at-fault crash?
  - commit a serious violation of the provincial traffic legislation?
  - breach a condition of the graduated licensing program?

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**SECTION I: TOTAL .....**

**SECTION II: POLICE ENFORCEMENT POWERS**

**(a) Authority to Stop Vehicles, Demand Documents and Establish Sobriety Checkpoints**

- Does provincial legislation authorize the police to stop any vehicle at random?
- Is failing to stop when directed to do so by an officer a provincial offence?
- Does provincial legislation authorize the police to demand that drivers produce their licence, insurance and ownership documents?
- Are drivers required to identify themselves and present their licence, insurance and ownership documents when requested to do so by an officer?
- Are police authorized to arrest, without a warrant, any driver who refuses to identify himself or herself, or is believed on reasonable grounds to have provided false information?
- Does provincial legislation give police authority to establish systematic sobriety checkpoints?

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**(b) Authority to Demand Standard Field Sobriety Testing (SFST)**

- Are the police explicitly authorized to demand a SFST from any driver they reasonably suspect has alcohol or drugs in his or her body?
- Is failing to take the SFST, without a reasonable excuse, subject to a mandatory 90-day administrative licence suspension, and is it a provincial offence?
- Are the police explicitly authorized to videotape the SFST?

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**(c) Authority to Demand Samples from Drivers in Fatal or Personal Injury Crashes**

- Are the police explicitly authorized to demand a breath, blood, saliva, or urine sample from any person they reasonably suspect of being a driver in a fatal or personal injury crash?
- Is a person's failure to provide the requested sample, without a reasonable excuse, subject to a mandatory administrative licence revocation and lengthy licence disqualification, and is it a provincial offence?
- Are the police authorized to have a blood, saliva or urine sample taken from a person they reasonably suspect of being a driver in a fatal or personal injury crash, if the person is unable to respond to a demand for a sample?

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**SECTION II: TOTAL .....**

	<b>14</b>
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**SECTION III: LICENCE SUSPENSIONS AND REVOCATIONS**

**(a) 24-Hour Licence Suspensions for Unfitness**



- Are the police required to suspend a driver’s licence for 24 hours if they reasonably believe that the driver is unfit to drive for any reason other than alcohol or drug impairment?

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**(b) 7-14 Day (Short-term) Administrative Licence Suspensions for Alcohol and/or Drug Impairment**

- Are the police required to issue a 7-14 day licence suspension to a driver if:
  - they reasonably believe that the driver’s ability to drive is impaired by alcohol or drugs?
  - the driver registers a BAC of .05% or higher on a breath, blood or urine test?

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- Are the police required to:
  - demand the surrender of the driver’s licence?
  - forward the licence to the licensing authority?
  - file a report of the suspension with the licensing authority?

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- Are the police required to inform drivers that:
  - they may challenge the suspension by agreeing to submit, without delay, to evidentiary breath testing in the case of suspected alcohol impairment or a DRE in the case of suspected drug impairment?
  - the suspension will be revoked if the challenge is successful?
  - the results of the evidentiary breath tests or DRE may provide the basis for imposing additional provincial sanctions or laying federal impaired driving charges?

	1
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- Are drivers given the right to apply in writing to the licensing authority to review the suspension on the basis that their ASD reading was below .05% or that the officer did not reasonably believe that their ability to drive was impaired by alcohol or drugs?

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- Is the licensing authority required to revoke the suspension and amend the driver’s record if the results of the review so warrant?

- Are drivers who obtain a second, third or subsequent short-term suspension within three years subject to a 30, 45 and 60-day licence suspension, respectively?

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- Are drivers who receive two or more short-term alcohol-related suspensions within three years required to submit to an impaired driver assessment from a recognized agency?

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- Are drivers who receive three or more short-term alcohol-related suspensions within three years required to install, at their own expense, an alcohol interlock on their vehicle for six months as a condition of licence reinstatement?

	2
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- Are drivers who receive a short-term licence suspension required to pay:
  - a licence reinstatement fee of between \$150 and \$300 for a first suspension?
  - an increased reinstatement fee for any subsequent suspension within three years?

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- Is the licensing authority required to record all short-term licence suspensions on the driver’s record and include them on all driver abstracts for a period of ten years?

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**(c) 90-Day Administrative Licence Suspensions**

- Are the police required to issue a 90-day licence suspension to a driver if:
  - the driver fails, without a reasonable excuse, to submit to any test for impairment required by federal or provincial law?
  - they have reasonable grounds to believe, based on a breath, blood or urine sample, that the driver’s BAC was .08% or higher?

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- Are the police required to send the driver’s licence to the licensing authority, from whom the driver may obtain his or her licence after 90 days if no additional suspension has been imposed?

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- Does the accumulation of 90-day licence suspensions within a prescribed period of time result in a mandatory review of the driver’s record and additional sanctions?

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- Are the grounds for challenging a 90-day licence suspension limited to:

- whether the driver’s BAC reading was below .08%?
- whether the driver refused to submit to the requested test without a reasonable excuse?

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**SECTION III: TOTAL .....**

	27
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**SECTION IV: VEHICLE AND REMEDIAL PROGRAMS**

**(a) Alcohol Interlock Program**

- Is the use of an alcohol interlock a mandatory condition for re-licensing all *Criminal Code* impaired driving offenders?
- Is the use of interlocks encouraged by reducing the length of the mandatory provincial licence suspension or disqualification for:
  - *Criminal Code* offenders who qualify for a shorter federal driving prohibition by participating in an interlock program?
  - other *Criminal Code* offenders?
- Is there a provincial agency that provides for ongoing:
  - servicing of the interlocks and downloading of the data logs?
  - analysis of the offender’s performance in the interlock program, based on the data log?
  - reviews of the offender’s participation in any remedial programs?
- Is the minimum duration of the interlock requirement:
  - one year for a first offence?
  - three years for a second offence within ten years?
  - five years for a third offence within ten years?
- Regardless of the minimum prescribed period, does the interlock requirement remain in effect until the licensing authority is convinced, based on the offender’s performance in the interlock program and any remedial program, that the offender no longer poses a significant risk of re-offending and has overcome any underlying alcohol problem?
- Does the licensing authority have explicit authority to impose an interlock requirement on any driver that it reasonably believes poses a significant risk of impaired driving?
- Does driving a vehicle without an interlock, while subject to an interlock requirement, expressly constitute driving while disqualified?
- Does the driver bear the cost of installing and maintaining the interlock?

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**(b) Vehicle Impoundment and Immobilization**

- Are the police required to impound or immobilize:
  - any vehicle they have reasonable grounds to believe is uninsured?
  - any vehicle driven by a driver they have reasonable grounds to believe is unlicensed, suspended, prohibited, or disqualified?
- Is the impoundment or immobilization period at least:
  - 45 days for a first occurrence?
  - 90 days for a second occurrence, within three years, involving the same vehicle or the same owner?
- Does the legislation:
  - make both the driver and owner of the vehicle liable for any towing, impounding, storage, or immobilization costs?
  - allow owners to recover their vehicles before the end of the impoundment or immobilization period if they can prove that the vehicle was taken without implicit or explicit permission, or that they took reasonable steps to verify that the driver had a valid licence?

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- allow owners of impounded or immobilized vehicles to recover their expenses from the driver?
- allow storage companies to sell impounded vehicles to recover fees that have remained unpaid after the impoundment period?

**(c) Licence Abstract Program**

- Has the province established a system that allows drivers to obtain a government-issued abstract of their driving record and licence status as of a stated date that can be shown to a vehicle owner, such as an employer or car rental firm, whose vehicle they wish to drive?

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**(d) Vehicle Forfeiture**

- Does provincial legislation authorize the forfeiture of the driver’s vehicle, if he or she has been the driver responsible for three or more vehicle impoundments or immobilizations during a ten-year period?

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**(e) Remedial Programs**

- Is undergoing an alcohol/drug assessment and successfully completing any recommended treatment program a mandatory condition of licence reinstatement or reissuance for:
  - all *Criminal Code* impaired driving offenders?
  - all drivers who, within five years, have two or more mandatory administrative licence revocations for failing to take a required impairment test?
  - all drivers with two or more alcohol or drug-related 90-day administrative licence suspensions within five years?
  - all drivers with two or more alcohol-related 7-14 day administrative licence suspensions within three years?
- Does the licensing authority have explicit authority to require any driver it reasonably believes has an alcohol or drug problem to:
  - undergo an alcohol or drug assessment?
  - successfully complete any component(s) of a remedial program?
- Does the driver bear the cost of any required alcohol or drug assessment, and any required education program?

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**SECTION IV: TOTAL .....**

	29
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**SECTION I: LICENSING .....**

**SECTION II: POLICE ENFORCEMENT POWERS .....**

**SECTION III: LICENCE SUSPENSIONS AND REVOCATIONS .....**

**SECTION IV: VEHICLE AND REMEDIAL PROGRAMS .....**

**TOTAL .....**

	30
	14
	27
	29
	100

