

If you have been charged with impaired driving, “over 80” or refusal or failure to blow, then you may have already realized that this is one of the most complex areas of criminal law. The good news: many impaired driving cases have the potential for success. As both skilled defenders and former Crown prosecutors, we offer you the distinct advantage of our experience representing both sides in these matters. Our thorough understanding of the rules and procedures involved in impaired driving law can help you avoid a conviction and get your drivers licence back.

First Steps

Take these three steps to begin preparing your defence:

1. Call Chris Archer at 403-237-9200 to set up a free consultation.
2. Write an objective and detailed account of the entire day in question. Leave out nothing. It could be more than 6 months before you go to trial; by then, your memory will have faded and you will need your written statement to remind you of the circumstances leading up to and following your being charged.
3. Do not speak to the police or the prosecutor without your lawyer.

Terminology

Here’s a quick guide to some of the terminology you’ll encounter when dealing with impaired driving law in Alberta:

Curative discharge

- If you plead guilty to or are found guilty of impaired driving or “over 80” but need treatment for a drug or alcohol addiction, the court may sentence you to probation with a strict condition that you receive the necessary treatment. That probation is called a curative discharge, and the court orders it instead of a conviction. If you successfully complete the treatment program, no conviction is registered on your criminal record; however, normal licence suspensions still apply.

Failure to blow

- You commit the offence of failure to blow if, without a lawful excuse, you do not provide a proper breath sample in your roadside screening or Breathalyzer test.
- For the complete legal definition, see 254(5) of the *Criminal Code*: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec254subsec1>

Impaired driving

- You commit the offence of impaired driving if you drive, help someone else drive or are otherwise in control of a motor vehicle (regardless of whether it is moving) while your ability to operate it is impaired by alcohol or drug.
- For the complete legal definition, see 253(a) of the *Criminal Code*: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec253subsec1>

Interlock (Ignition Interlock program)

- An Interlock device is like a Breathalyzer that you have to blow into before you can start your car. If there is alcohol in your body, then your car will not start. Having the device allows you to drive before your driving suspension is over.
- To be eligible for the Ignition Interlock program, you must ask the judge to recommend you for it on the date of your sentencing. After 3 months of your driving suspension, you may apply for the program. If you are approved, you must pay the application, installation, rental and removal fees, in addition to course, testing and licensing fees.
- Click here for more information on Alberta's Ignition Interlock program: <http://atsb.alberta.ca/506.htm>

Notice of suspension/disqualification

- This form includes your personal information and the details of the event for which you are facing charges. It states whether your drivers licence is suspended for 3 or 6 months and when the suspension begins—either immediately or after 21 days (in which case you will be issued a temporary permit).
- Click here for more information on notices of suspension/disqualification and Alberta's

Administrative License Suspension program: <http://atsb.alberta.ca/503.htm> .

“Over 80”

- You commit the offence of “over 80” if you operate a motor vehicle while your blood alcohol level is higher than the legal limit of 80 milligrams of alcohol in 100 millilitres of blood. Breath tests are typically used to determine your blood alcohol level, but under certain circumstances alternative testing, such as blood or urine, may be used.

- For the complete legal definition, see 253(b) of the *Criminal Code*: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec253subsec1>

Refusal to blow

- You commit the offence of refusal to blow if, without a lawful excuse, without a lawful excuse, you refuse to provide a proper breath sample in your roadside screening or Breathalyzer test.

- For the complete legal definition, see 254(5) of the *Criminal Code*: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec254subsec1>

Roadside screening

- Roadside screening helps the police determine whether you are impaired or “over 80.” They may test your coordination, speech, and/or breath. If you pass the test, you may be sent on your way; if you get a warning, you may receive a 24-hour suspension; and if you fail, you may be taken to the nearest police station for an official, approved test using a device such as the Breathalyzer.

Related Laws

You can read the federal and provincial impaired driving laws online:

- Section 253 of the Criminal Code: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec253subsec1>
- Section 254 of the Criminal Code: <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html#sec254subsec1>
- Alberta's Traffic Safety Act: <http://www.canlii.org/ab/laws/stat/t-6/20080314/whole.html>