



“Dedicated to Justice” • «Au service de la justice»

September 12, 2017

Mr. Anthony Housefather, Chair of the Standing Committee on Justice and Human Rights
Attn: Julie Geoffrion, Clerk of the Committee
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House of Commons
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Dear Mr. Chair,

Thank you for inviting the Canadian Resource Centre for Victims of Crime (CRCVC) to appear before you on Bill C-46. We regret not being able to appear in person, but would like to reiterate our support for Bill C-46. Since 1993, the CRCVC has provided information, support and advocacy to survivors of serious crime, including to families of persons killed and injured in impaired driving crashes.

We believe Bill C-46 will help rid Canadian roads of alcohol and drug-impaired drivers thereby improving public safety. The bill contains a package of reforms that will make it far more difficult to escape detection and avoid conviction. The bill is a comprehensive approach to impaired driving and includes new elements to deal with drug-impaired driving in advance of cannabis legislation.

Mandatory screening is one of the most effective and cost-efficient ways to deter and prevent impaired driving. Mandatory screening gives police the authority to demand a breath sample from any driver. Drivers remain in their cars, and the process is routine and quick for sober drivers. It would likely be used as a preliminary screening measure to determine whether there are grounds to demand evidentiary breath tests. This is similar to what occurs now at sobriety checkpoints when police have reasonable grounds to request a breath-screening test. The results of the roadside screening test (or the mandatory screening) are not admissible in court, but rather are used as grounds to demand a second test – an evidentiary test – on a more sophisticated machine.

Mandatory screening has resulted in significant and sustained reductions in impaired driving crash deaths in countries, which have adopted it, including New Zealand, Australia and most European countries. Countries that have it saw a reduction in the number of charges because it changes people’s behaviour.

This measure will save lives. MADD Canada estimates mandatory screening would reduce impaired driving fatalities and injuries in Canada by about 20%. That is 200 lives saved and more



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than 12,00 injuries prevented each year. The prevention of this crime is critically important, given it continues to be the leading cause of criminal death in Canada.

Mandatory screening greatly increases the number of drivers screened for impairment. Equally important, it greatly increases the perception that if you drive impaired, the chance of getting caught is high. The current law is not an effective deterrent. Millions of Canadians continue to drink and drive, in part, because the likelihood of ever being stopped or charged is so low. Right now, police can only demand a roadside breath sample if they have reasonable suspicion based on behavioural clues and observations (manner of driving, the odour on a driver’s breath, lack of coordination, slurred or indistinct speech). But, people do not always exhibit these obvious signs of intoxication, particularly those who routinely drink and drive. Survey, criminal charge, and criminal conviction data from 2006 indicates a person would have to drive impaired, on average, once a week, every week, for more than 3 years before being charged with an impaired driving offence, and for over 6 years before ever being convicted.

A 2010 Ipsos Reid poll indicated 77% of Canadians would support mandatory screening and we believe a majority would support this legislation given the devastating consequences of this crime.

Cannabis and other drugs can also impair driving ability and increase the risk of crash. We need effective laws and tools in place to detect and deter drugged driving. It’s crucial to establish drug limits for driving, the same way we have limits on alcohol when driving. Alcohol and cannabis can each impair driving ability individually; when mixed, the risk of crash increases greatly. It’s important to have laws that recognize that and place penalties and sanctions on it.

Statistics, studies and roadside surveys all point to an increased prevalence of drug-impaired driving. So this is a growing problem in Canada, and we need strong and effective laws and tools to address it and to reduce the risks. With cannabis legislation imminent, it is prudent to put strong laws and testing measures in place to detect – and ultimately deter – those who drive while under the influence of cannabis and other drugs.

We support the establishment of three new offences for having specific levels of a drug in the blood within two hours of driving. Penalties will depend on the drug type and levels of the drug or the combination of drugs and alcohol:

- 2 nanograms (ng) but less than 5 ng of THC: Having at least 2 ng but less than 5 ng of THC per millilitre (ml) of blood within two hours of driving would be a separate summary conviction criminal offence, punishable only by a fine. This lower level offence is a precautionary approach that takes into account the best available scientific evidence



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related to cannabis. This offence would be punishable by a maximum fine of up to \$1,000.

- 5 ng or more of THC: Having 5 ng or more of THC per ml of blood within two hours of driving would be a hybrid offence. Hybrid offences are offences that can be prosecuted either by indictment, in more serious cases, or by summary conviction, in less serious cases.
- Combined THC and Alcohol: Having a blood alcohol concentration of 50 milligrams (mg) of alcohol per 100 ml of blood, combined with a THC level greater than 2.5 ng per ml of blood within two hours of driving would also be a hybrid offence.
- Both hybrid offences would be punishable by mandatory penalties of \$1,000 for a first offence and escalating penalties for repeat offenders (e.g., 30 days imprisonment on a second offence and 120 days on a third or subsequent offence). The maximum penalties would mirror the existing maximum penalties for impaired driving.

Roadside oral fluid testing is accurate, relatively quick and it only measures very recent drug use. This is not a situation where someone who smoked marijuana two days ago, or a person using prescription drugs and following the dosage level prescribed by their doctor, is going to be charged with impaired driving. This test would be used as the grounds to demand a second, more sophisticated test, which would be analyzed by an approved laboratory. Only the second test could be used as the grounds to lay charges (works in basically the same way the breathalyzer and how the second evidentiary test works for alcohol-related driving charges).

The proposals in Bill C-46 are aimed at making our streets safer and to boost efficiency and reduce delays in the criminal justice system, both of which are important goals. We appreciate the opportunity to provide comments on this vital legislation and look forward to its passage.

Sincerely,

Heidi Illingworth
Executive director