

# **DIL GOSAL DUI/IRP SUPPLEMENTAL INFORMATION**

## **Notice of Driving Prohibition or Vehicle Impoundment**

Your Provincial Government and ICBC are substituting Criminal Code charges with tougher Motor Vehicle Sanctions on the Public.

You may have a blue paper, called a Notice of Driving Prohibition Section 215.41 (MVA), or Certificate of Service (MVA) 215.47.

You also have a "VI" or Notice of Vehicle Impoundment Section 215.46 or 251 (MVA), for a 3, 7, or 30 day impound.

We have acted on behalf of many drivers facing administrative prohibitions and Immediate Roadside Prohibitions over the years. Act quickly. You previously had 7 days to dispute and the hearing would be generally held during the 21 day 'waiting period.' However, under the new rules, the Prohibition starts IMMEDIATELY, on the spot.

The grounds for Appeal for Revoking the Prohibition are limited, and include:

1. you did not operate or have care or control of the motor vehicle;
2. your breath test did not register a "warn" or a "fail";
3. you did not fail or refuse to comply with a demand for a breath test; or
4. you had a reasonable excuse for failing or refusing to comply.

There is a lot of case law over the years that we have accumulated in these various areas which may make it seem, at first blush, that you have no chance. However, many legal arguments and defences may exist depending on the facts and issues you have. It is about what evidence there is, not necessarily what happened. As discussed above, we can offer you Attorney Client and Solicitor Client privilege in your Immediate Roadside Prohibition Notice of Prohibition Appeal.

In some cases, we can apply to have the Adjudicator vary the Driving Prohibition if the officer acted without lawful authority for the suspension.

## **Administrative Sanctions**

Immediate Roadside Prohibitions (IRP)

Administrative sanctions will apply if:

1. You are caught driving with a blood-alcohol content (BAC) between 0.05 and 0.08;
2. Your BAC is above 0.08; or
3. You refuse (or are deemed to have refused) to provide a breath sample.

If a police officer suspects you are driving impaired, he or she will ask you to provide a breath sample at the roadside into a roadside screening device. This is called an ASD or Approved Screening Device. Depending on the BAC in the sample, the device will either indicate Pass, Warn or Fail.

**PASS**

Means your breath sample contains a BAC below 0.05. You should be on your way, but the officer can always issue you a 24-Hour Prohibition if warranted.

## **WARN**

ADP: (Prior to October 1, 2010):

Means your breath sample is between 0.05 and 0.08 BAC. If you provide a sample within this range:

### **The first time within a five-year period:**

1. You will lose your driver's licence immediately, for three days.
2. You may also lose your vehicle for three days. If you do, you will pay all related towing and storage fees.
3. -You will pay a \$200 monetary penalty and a \$250 driver's licence reinstatement fee.

### **The second time within a five-year period (just on a WARN):**

1. You will lose your driver's licence immediately, for seven days.
2. You may also lose your vehicle for seven days. If you do, you will pay all related towing and storage fees.
3. You will pay a \$300 monetary penalty and a \$250 driver's licence reinstatement fee.
4. The third time within a five-year period:
5. You will lose your driver's licence and your vehicle immediately, for 30 days.
6. You will pay all related towing and storage fees.
7. You will pay a \$400 monetary penalty and a \$250 driver's licence reinstatement fee.

To regain your driving privileges, you will have to complete the Responsible Driving Program and use an Ignition Interlock Device whenever you drive, for one full year, following your driving suspension.

## **FAIL**

Means the ASD is measuring your BAC above 0.10. If you fail, refuse or are deemed to have refused to provide a breath sample:

1. You will immediately lose your driver's licence for 90 days and your vehicle for 30 days.
2. You will pay all related towing and storage fees (approx \$1,500).
3. You will pay a \$500 monetary penalty and a \$250 driver's licence reinstatement fee.

To regain your driving privileges, you will have to complete the Responsible Driving Program and use an Ignition Interlock Device whenever you drive, for one full year, following your driving suspension.

In all, you will face administrative consequences that will cost you about \$4,060 before you can legally operate a motor vehicle again in B.C.

You only have seven (7) days from the date you received the Notice of Driving Prohibition to request the Superintendent of Motor Vehicles review the Prohibition.

The Application Form is available at the ICBC Driver Services Centre. However, you may want to retain D. Gosal & Assoc BEFORE going to ICBC. The Written Review Cost is \$100, and an Oral Review (only available for 30 day and 90 day prohibitions) is \$200. The Driving Prohibition continues while this Appeal/Review Process is in process, so it is best to retain your Lawyer immediately.

You may also face charges under the Criminal Code of Canada under section 253, or otherwise.

We offer Client's a Paid Consultation and can be hired for the Hearing of these matters.

If you are on a graduated license program ("N" or "L) and blow between .001 (anything above ZERO) to .005, you get:

1. A 12-hour immediate roadside Licence Suspension (24-hour for drugs).
2. Automatic driving record review by the OSMV and further driving prohibitions according to the Driver Improvement Program (DIP) guidelines.
3. Driver's Licence Reinstatement Fee of \$250 following any DIP prohibitions.

If you blow in the "warn" and "fail" range, then you will be subject to the full sanctions listed above.

### Summary of Drink & Driving consequences

Consequences Warn range (.05 – .08) Fail range (over .08)  
 1st time 2nd time\* 3rd time\*

	3 Days	7 Days	30 Days	90 Days
Immediate roadside driving prohibition (loss of driver's license)	3	7	30 Days	90 Days
Vehicle impoundment for impaired driving 3 days**	Days**	Days**	30 Days	30 Days
Estimated minimum towing, storage costs	\$150	\$210	\$700	\$700
Administrative penalty	\$200	\$300	\$400	\$500
Driver's license reinstatement fee	\$250	\$250	\$250	\$250
Responsible Driver Program requirement and cost***	n/a	n/a	REQ	REQ
Ignition Interlock requirement***	n/a	n/a	1 Year	1 Year
Ignition Interlock cost per year	n/a	n/a	\$1,730	\$1,730
Estimated total cost to you	\$600	\$760	\$3,960	\$4,060
Criminal charges	n/a	n/a	n/a	Possible

\* within a five-year period

\*\*three- and seven-day impoundments are at the discretion of police

\*\*\*These requirements may be triggered earlier and may increase in length if other offences are on a driving record.

**Note:** Applicable taxes and licence fees also apply.