

Key Issues in Drug-impaired Driving

Key Considerations

- Policies to reduce the prevalence of drug-impaired driving should prioritize public health by establishing regulations on public access to cannabis and the consumption of cannabis in public spaces.
- To address misperceptions associated with cannabis use and driving, public education campaigns should incorporate clear, unambiguous messaging about the impairing effects of cannabis on driving. An emphasis should also be placed on the legal consequences of drug-impaired driving.
- Sanctions for drug-impaired driving are the same as those established for alcohol-impaired driving. These can include administrative sanctions (e.g., immediate roadside licence prohibitions), criminal sanctions or a combination of both.
- To increase law enforcement's capacity to detect drug-impaired drivers, policy makers should invest in enhanced training for police officers to recognize the common signs and symptoms of drug impairment, in addition to training on the use of approved oral screening devices.
- To reduce repeat violations of drug-impaired driving laws, prevention efforts should focus on addressing underlying problematic drug use, through treatment programs designed to meet the specific needs of drug-impaired drivers.

The Issue

To coincide with the passing of Bill C-45, effectively legalizing cannabis for non-medical use in Canada, Bill C-46 made amendments to Canada's drug-impaired driving legislation in an effort to deal with the use of cannabis and other drugs by drivers. Bill C-46 outlines several new measures to assist law enforcement personnel in identifying drivers impaired by cannabis. In addition, the bill includes measures that will affect drinking drivers. While policy makers can draw from existing alcohol and tobacco legislation to guide the development of evidence-informed policies for cannabis, legislation must reflect the unique characteristics of cannabis and the risks and harms associated with cannabis-impaired driving.

This brief outlines the key issues for those involved in establishing effective policies to minimize the harms associated with driving under the influence of cannabis. It provides policy makers at the municipal and provincial levels with the information and tools necessary to develop evidence-informed policy about cannabis and driving.



Background

As Canada enters a new era of legalized non-medical cannabis, many issues and challenges face those involved in establishing policies around its availability and use. Such policies must guide the establishment of rules and regulations that allow access to cannabis without unduly compromising the health and safety of those who choose to use it, as well as others who may interact with people using cannabis. Among the most prominent concerns associated with the legalization of cannabis involves the potential harms caused by driving after using cannabis.

Having spent the past four decades dealing with the problems associated with alcohol and driving, one might assume that the collective wisdom gained from this experience would place Canada in an excellent position to deal effectively with drivers impaired by the use of cannabis. However, although some of the lessons learned from drinking and driving might be applicable, cannabis presents a new set of challenges. There is little about cannabis that is similar to alcohol. From the chemical structure of the drugs to how they are consumed, the way they are distributed and eliminated by the body, their effects on the body, the patterns of use, the extent of use and the potential for addiction, the two substances are very different.

Accessibility and Use

While the federal government passed legislation legalizing the sale and possession of cannabis for personal use, the responsibility for establishing the rules and regulations for the distribution model was passed on to the provinces and territories. Hence, each jurisdiction has its own set of rules. Moreover, municipalities can determine where cannabis can and cannot be used.

For an updated summary of the provincial and territorial regulations established for the legalization of non-medical cannabis in Canada, please see CCSA's [Summary of Provincial and Territorial Regulations](#).

To borrow from the literature on alcohol and public health, it is clear that cannabis is no ordinary commodity.¹ Cannabis, much like alcohol, is a product that has public health implications that need to be considered in establishing policies around its availability and use. Although without the impairing effects of alcohol or cannabis, tobacco is also a product with clear implications for public health, primarily as a consequence of inhaling second-hand smoke.

Environment

The potential adverse effects and lack of acceptability of second-hand smoke have prompted some policy decisions around cannabis use to mirror tobacco policies. For example, some local authorities have created rules about the use of cannabis in public spaces, parks, buildings and campsites. Owners of rental properties (including hotel rooms) have also established rules about use in occupied premises.

Severe restrictions on where cannabis can be used would prompt some people to seek private or clandestine locations. Such locations could include a motor vehicle, which is often seen as a private, personal space. The need to seek a location to use cannabis can also require using a motor vehicle for transportation to and from such locations, which has implications for impaired driving.

Less restrictive policies on where cannabis can be used would undoubtedly prompt discussion about possible changes to alcohol policies. For example, if cannabis can be smoked in public parks and

1 Babor, T.F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K., ... Rossow, I. (2003). *Alcohol: No Ordinary Commodity. Research and Public Policy*. Oxford, UK. Oxford University Press.



beaches, the logical extension would be to allow the use of alcohol in similar places. While some would welcome the opportunity to enjoy their favourite beverage on a picnic or at the beach, unrestricted public use of alcohol provides greater opportunity for underage use and enhances the probability of alcohol-impaired driving afterwards.

Availability

The overall availability of alcohol has been identified as a factor associated with the incidence of impaired driving. In particular, the density of alcohol retail outlets is highly correlated with impaired driving. It is reasonable to assume that a similar relationship would exist with cannabis. Establishing rules surrounding the number and location of cannabis distribution outlets and possibly places of consumption would be an important consideration to help limit cannabis-impaired driving.

Policy Alignment

Cannabis is a unique product that requires policy makers to draw upon existing policies for both tobacco and alcohol to determine those that are best suited to the characteristics of the drug, the current patterns of use and the existing level of social acceptance.

The intoxicating properties of both cannabis and alcohol pose the most direct danger to public health. Policies that deal with these properties should be given priority and should be modelled on **alcohol policies**.

The major public health effects of smoking are of a long-term nature (e.g., emphysema, lung cancer), but can include short-term irritation of the eyes and throat among those in the vicinity of the smoker. Policies determining the locations where cannabis can be consumed need to be respectful of those who do not use it and be closely aligned with **tobacco policies**.

Impairment Due to Cannabis

Cannabis is a psychoactive substance used largely for its euphoric properties. While many claim it produces a pleasant state of relaxation, it causes a somewhat paradoxical increase in heart rate and blood pressure. Psychomotor and cognitive impairment associated with cannabis use have been demonstrated repeatedly. However, unlike alcohol, which has a strong relationship between blood alcohol concentration, impairment and crash risk, impairment associated with cannabis use is not strongly correlated with blood THC concentration. Individuals can be impaired at low THC levels, even long after the initial high has waned.

Driving requires both physical and cognitive performance not only to manoeuvre the vehicle but to navigate the complex and dynamic traffic environment. Impairment in motor or cognitive functioning or both can increase the probability of adverse events. Cannabis can impair both cognitive and motor function, but not necessarily in the same manner as alcohol. Impairment due to cannabis can manifest differently than alcohol-induced impairment. For example, the classic signs and symptoms of alcohol impairment – slurred speech, fumbling and incoordination – are not necessarily prominent among those who have consumed cannabis. Impairment due to cannabis can be more cognitive in nature, having effects on memory, concentration, divided attention, decision making and executive functioning. These types of impairment can be more subtle than is typically the case for the obvious psychomotor impairment due to alcohol.



Focus group feedback also indicates that perceptions of impairment due to cannabis use vary considerably and are not necessarily aligned with reality. Some of the reported claims about the effects of cannabis use on driving include:

- It doesn't impair driving;
- It makes someone high on cannabis a better driver;
- It makes them more cautious;
- Cannabis users know they are impaired so they can compensate;
- Cannabis users drive more slowly;
- Cannabis users are able to concentrate better; and
- It's not as bad as alcohol.

The contradictions within this set of statements merely add to the confusion about the effects of cannabis on driving. To some extent, the origin of some of these perceptions is based on comparing the experiences of driving after drinking and driving after using cannabis. Perceived differences in the two situations might lead cannabis users to believe they are less impaired by cannabis than by alcohol.

Countering these beliefs will require clear, unambiguous messages about the impairing effects of cannabis and the consequences of driving under the influence of it. Communications about cannabis and driving must reflect the reality of the differences between the effects of alcohol and cannabis, while clearly stating that both cause impairment.

Impaired Is Impaired.

Public education campaigns must reinforce the message that any substance (alcohol, cannabis or other) has the ability to impair a driver and that charges and sanctions identified under Bill C-46 apply to all impaired drivers. Bill C-46 also applies to the operation of all motorized vehicles, including boats and off-road vehicles such as ATVs and snowmobiles.

Server Training

Many jurisdictions require those who serve alcohol to complete a training program on responsible serving practices. Although the probability of bar and tavern patrons using cannabis on the premise is greatly limited by smoke-free policies, it is likely that some patrons will either arrive at a bar, tavern or club after having used cannabis or go outside to the smoking area. Given that the combination of cannabis and alcohol enhances the impairing effects of either substance alone, responsible service programs will need to incorporate information about the effects of cannabis to assist in assessing the intoxication and impairment of patrons. Although a relatively minor change to existing training programs, it should not be overlooked.

Sanctions for Driving under the Influence of Cannabis

Bill C-46 prescribes blood drug concentration limits for ten different substances. These limits establish the maximum allowable amount of drug in the body of a driver. It is a criminal offence to drive or have care and control of a vehicle while impaired by a drug or with a concentration of a drug in the blood in excess of the established limit.

Blood drug concentrations are expected to work in a manner similar to the 80 mg/dL blood alcohol concentration (BAC) limit. Such limits are essentially a legal shortcut that eliminates the necessity to



establish that the driver was impaired by the drug. The sanctions for driving while impaired by cannabis are the same as for driving while impaired by alcohol.

Although the per se limits and criminal sanctions for impaired driving have been established and are listed in the *Criminal Code*, the provinces and territories can set lower thresholds with corresponding licensing sanctions. For example, most provinces and territories have implemented immediate administrative sanctions for drivers who are found to have a BAC of at least 50 mg/dL, as determined by an approved alcohol screening device. The length of these suspensions varies from 24 hours to seven days and can be accompanied by vehicle impoundment and fines. Repeat violations are typically associated with more severe sanctions, such as longer suspensions, vehicle impoundment, attendance at a remedial program and participation in an ignition interlock program.

Several jurisdictions have indicated that administrative measures similar to those currently in place for drivers with BACs of at least 50 mg/dL will be implemented for drivers who are adversely affected by drug use. However, determining drug use is more complicated than the use of a roadside breath test to assess alcohol use. Some jurisdictions have proposed that administrative sanctions will be determined through roadside tests of impairment (i.e., the Standardized Field Sobriety Test or SFST) or by approved oral fluid drug screening equipment.

For more information on administrative sanctions for drug-impaired driving, please see CCSA's updated [policy brief](#) on administrative sanctions.

The SFST is a valid indicator of impairment widely used by law enforcement in Canada and the United States. It requires an officer who has been trained to administer the test and to recognize the signs and symptoms of drug use. Poor performance on the SFST combined with indications of drug use would be sufficient to issue an administrative suspension.

Should jurisdictions elect to use approved oral fluid screening equipment to determine drug use as the basis on which to impose administrative sanctions, they will be restricted to the assessment of cannabis, cocaine and methamphetamine. Oral fluid screening tests can be conducted by an officer who has been trained to administer the test and to recognize the signs and symptoms of drug use. Given that the procedure for alcohol-related administrative suspensions typically allows the driver to request a second test on a different approved screening device, a parallel procedure for drugs would provide the opportunity for a second oral fluid screening test or possibly an optional blood test.

Zero tolerance for both alcohol and drugs is a common policy across Canada for both young and novice drivers. These restrictions are often part of the graduated licensing program or determined by driver age. For example, some provinces impose zero tolerance on drivers under 22 years of age regardless of licence class. It should, however, be kept in mind that many drivers in the graduated licensing program are over 25 years of age. Enforcing these rules requires that any driver who tests positive for any level of alcohol or drug be asked to provide their driver's licence to verify age and licence status.

Mandatory Testing

For many years, the police in Canada have been able to require drivers suspected of consuming alcohol to provide a sample of breath at the side of the road to test for the presence of alcohol. The police officer must have a reasonable suspicion that the driver has consumed alcohol to demand a breath test. The threshold for suspicion is reasonably low and could be the smell of alcohol, an admission of drinking or the presence of alcohol in the vehicle.

Several countries around the world have implemented what is often referred to as random or mandatory breath testing (MBT), which allows the police to demand a driver provide a sample of



breath for analysis at any time in the absence of suspicion of alcohol use. Large-scale enforcement efforts employing MBT in Australia have resulted in substantial reductions in alcohol-involved crashes, injuries and fatalities. The general deterrence value of MBT cannot be denied.

Largely as a result of its demonstrable success in other countries, MBT has been a topic of interest and debate in Canada over the past several years. Among the concerns are that MBT would be an violation of Sections 8 and 9, and possibly 10 of the *Canadian Charter of Rights and Freedoms*. Nevertheless, many would contend that the seriousness of the alcohol-crash problem renders the implementation of MBT in Canada a justifiable infringement of individual rights. Such an infringement, moreover, should be viewed in light of other limitations to personal freedoms in today's society such as security screening and searches that citizens undergo at airports, concerts, sporting events and upon entry to some public buildings.

The introduction of MBT in Canada may foreshadow the expansion to mandatory drug testing. The experience with MBT over the next few years will provide valuable insights into the potential benefits and liabilities associated with the application of mandatory drug screening of drivers.

Patterns of Driving after Drug Use

Traditional impaired driving enforcement efforts targeting alcohol-impaired drivers have concentrated on late night hours on weekends and holiday periods. These were the times when drinking drivers were most likely to be on the roads and most likely to be involved in crashes.

Research has demonstrated that drug use by drivers is not nearly so predictable. While there is a spike in drug use by drivers during late-night hours, drug use is common at other times of day, as well as on weekdays. Traditional enforcement models that concentrate spot checks on weekend nights might need to be expanded or adjusted to reflect the days and times at which drivers using drugs are known to be on the roads.

Remedial and Treatment Programs for Offenders

Remedial and treatment programs for convicted impaired drivers have become commonplace across Canada. The primary purpose of such programs is to prevent further impaired driving incidents by dealing with the problems of alcohol use that give rise to the behaviour. Such programs can also serve as a bridge between the legal system and the healthcare system, facilitating entry into a substance use treatment program, if warranted.

Programs designed for alcohol-impaired offenders could be less effective and possibly inappropriate for offenders whose primary substance use problems are related to drugs rather than alcohol. As the number of drivers convicted of drug-impaired driving offences increases, the demand for remedial programs designed specifically to meet the needs of these individuals will likely increase accordingly.

In addition, Bill C-46 includes a provision that allows the court to defer sentencing of impaired driving offenders until they have completed a substance use treatment program. Convicted offenders will be prohibited from driving during treatment. Upon successful completion of treatment, the court is not required to impose minimum sanctions, but cannot direct an absolute discharge. Presumably, the possibility of a reduced sentence provides motivation for offenders to participate in a treatment program. Policy makers should note that the demand for treatment services might increase and plan accordingly.



Interlock for Impaired Driving Offenders

All provinces and the Yukon and Northwest Territories have alcohol ignition programs for impaired driving offenders. Although the regulations under which these programs operate vary among jurisdictions, many require all drivers convicted of an impaired driving offence to participate in the program prior to having their licence reinstated. This requirement includes those whose impaired driving conviction is the result of drugs. An alcohol ignition interlock will not prevent driving after drug use and imposing this program on drug offenders would appear to have limited value, other than to ensure all impaired driving offenders are treated equally, avoiding the perception that drug-impaired drivers are being treated unfairly.

The obvious contradiction in this policy is not lost on offenders and does little to reduce the likelihood of their repeating the offence. Policy makers should examine the practice of mandating interlock program participation for convicted drug-impaired drivers and explore other ways of making the sanctions and programs required of all impaired drivers equal.

Key Resources

- [Mandatory Alcohol Screening \(Policy Brief\)](#)
- [Short-term Administrative Sanctions for Alcohol and Drug Use by Drivers \(Policy Brief\)](#)
- [Impaired Driving in Canada](#)
- [Drug Evaluation and Classification Program \(Policy Brief\)](#)
- [Drug Per Se Laws \(Policy Brief\)](#)
- [Summary of Provincial and Territorial Cannabis Regulations](#)
- [Clearing the Smoke on Cannabis: Cannabis Use and Driving — An Update](#)
- [Oral Fluid Screening \(Policy Brief\)](#)

