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May 28, 2018

Senate of Canada  
Ottawa, Ontario  
K1A 0A4

Dear Honourable Members of the Senate of Canada,

We are writing on behalf of MADD Canada, and its members, volunteers and victim/survivor families, to express our grave concern with the decision of the Senate Committee on Legal and Constitutional Affairs to remove mandatory alcohol screening from Bill C-46: *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

Research over the past 45 years in numerous countries has repeatedly shown that mandatory alcohol screening is the single most effective means of reducing impaired driving deaths. For example, personal injury crashes involving a drunk driver decreased 56% in Sweden following the introduction of mandatory alcohol screening in 1970. A 2004 study concluded that New Zealand's mandatory alcohol screening program resulted in a 54% decrease in total serious and fatal nighttime crashes, saving society more than \$1 billion a year. Ireland achieved similar reductions in total traffic deaths and serious injuries within a decade of enacting mandatory alcohol screening in 2006. Rather than overburdening the Irish courts, the program greatly reduced impaired driving charges, which fell from approximately 18,650 to 6,525.

MADD Canada estimates that mandatory alcohol screening would reduce Canada's impaired driving rate by approximately 20%, saving some 200 lives and preventing 12,000 injuries every year.

Yet, the Committee has cast this life-saving measure aside.

MADD Canada is committed to supporting the victims and survivors of impaired driving, and to ensuring that those who drive impaired are held criminally accountable. However, we are equally committed to deterring impaired driving and reducing the needless deaths and injuries it causes. We have championed mandatory alcohol screening in Canada for many years because it is the most effective way of achieving that goal.

Despite countless education campaigns, the enactment of potentially severe sanctions and the best efforts of the criminal justice community, our current impaired driving laws are not working. It is difficult to understand how anyone can credibly claim otherwise. Millions of Canadians continue to drink and drive, and impairment-related crashes remain one of the country's leading criminal causes of death. Impairment-related traffic crashes kill approximately 1,000 Canadians a year and injure almost 60,000 more, a disproportionate number of whom are teenagers and young adults.

In fact, Canada has long had one of the poorest impaired driving records among comparable countries. The U.S. Centers for Disease Control and Prevention reported that Canada had the highest percentage of alcohol involvement in crash deaths among 20 high-income countries in 2013. Canada also had the second highest rate of alcohol-related crash deaths per 100,000, despite having one of the lowest rates of alcohol consumption. For example, Canada's per capita rate of alcohol-related crash deaths was almost five times that of Germany, even though Canadians consumed 33% less alcohol per capita.

Put simply, Canadians drink considerably less than residents of many other countries and yet are much more likely to die in an alcohol-related crash. The laws in these countries have done a far better job of separating drinking and driving. Not surprisingly, almost all of these countries have comprehensive mandatory alcohol screening programs. Indeed, in its 2015 Global Status Report on Road Safety, the World Health Organization stated that 121 out of 180 countries had mandatory alcohol screening programs of some kind.

There has been considerable discussion of the *Canadian Charter of Rights and Freedoms*. Based on our research, which is available in various legal and traffic safety journals, we have concluded that mandatory alcohol screening does not violate the *Charter*. Dr. Peter Hogg, Canada's leading constitutional law scholar, has reached the same conclusion.

The Committee heard testimony that other countries can enact mandatory alcohol screening legislation because, unlike Canada, they do not have a *Charter of Rights and Freedoms*. While it is true that none of these countries has legislation identical to our *Charter*, many have well-entrenched civil and human rights laws that provide comparable protections.

The Committee was also told that the *Charter* precludes the enactment of mandatory alcohol screening because it is not based on individualized suspicion. With respect, we would disagree. The Ontario Court of Appeal has held that legislation providing for the mandatory screening of all courtroom entrants was reasonable and did not infringe on section 8 of the *Charter*. Individualized suspicion was not held to be a prerequisite for compliance with the *Charter*. Similarly, the Supreme Court of Canada stated the mandatory inspection of baggage and pat-down searches at border crossings neither violated section 8, nor constituted a detention within the meaning of the *Charter*. Again, the absence of individualized suspicion did not render these mandatory screening procedures unconstitutional.

Mandatory alcohol screening must be put in the context of other accepted screening procedures. Millions of Canadians are routinely subject to mandatory searches of their belongings and person at Canadian

airports, borders, courts, and other government facilities, including Parliament Hill. The Canadian courts have never held these mandatory screening procedures to violate the *Charter*.

The simple fact is that alcohol-related crashes pose a far greater risk to Canadians than attacks at our airports, borders or courts. Mandatory alcohol screening is less intrusive, inconvenient and stigmatizing than many of these other screening procedures, operates in the same way and serves the same protective purposes. Given that the courts have upheld the constitutionality of these other screening procedures, there is no principled basis for reaching the opposite conclusion regarding mandatory alcohol screening.

We encourage you to review our article [“Why Mandatory Roadside Breath Screening?”](#), and the legal [opinion of Dr. Peter Hogg](#) for an analysis of the *Charter* issues.

As individuals who have worked alongside victims and survivors of impaired driving for decades, we are at a loss to explain to them why Canada has refused to adopt an effective, cost-efficient and constitutionally-sound measure which would prevent impaired driving crashes, deaths and injuries.

The Committee has made a serious error in removing mandatory alcohol screening from Bill C-46. We strongly recommend the Senate reverse this decision and put mandatory alcohol screening back in the Bill.

Sincerely,

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