THE TOP TEN REPORT:
Provincial & Territorial Measures to Minimize Impaired Driving and Support Victims

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No alcohol. No drugs. No victims.
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INTRODUCTION

Under the Canadian constitution, the provinces and territories* have legislative authority over the licensing of drivers, and the regulation of highways, vehicle ownership, automobile insurance, and traffic enforcement. The provinces also have legislative authority over civil liability, victim support programs and victim compensation. While the Criminal Code sets out the federal impaired driving offences, the provinces can enact legislation and implement programs that would minimize impaired driving and better safeguard victims. Indeed, much of the recent decrease in impaired driving deaths and much of the progress in supporting victims is due to provincial initiatives.

Nevertheless, major challenges remain. Canada’s impaired driving record is still poor relative to comparable advanced democracies. There have also been sharp increases in driving after drug use, particularly among young cannabis users. The federal government legalized the recreational cannabis market in 2018, despite the lack of effective means of enforcing the federal drug-impaired driving legislation. The percentage of fatally injured drivers testing positive for alcohol, which had generally been falling since 2000, increased in 2015 and 2016. Finally, a great deal more can be done to support victims** and ensure that they are adequately compensated.

* Throughout the remainder of this document, the word “provinces” should be interpreted to include the territories unless otherwise indicated.
** Throughout this document the word “victim” should be interpreted to include both victims and survivors.
The *Top Ten Report* is part of an ongoing project, commonly referred to as *Rating the Provinces*, that MADD Canada began in 1998. The purpose of the project is to encourage the provinces to implement reforms that will reduce impaired driving and support victims. The first step in the *Rating the Provinces* project was undertaking a review of the Canadian and international traffic research in order to identify effective measures that were compatible with Canada’s constitution, including the *Canadian Charter of Rights and Freedoms*. The first comprehensive reports were published in 2000 and subsequent reports were issued every three years up to 2015.

In 2017, MADD Canada published a related report entitled, *A Summary of Provincial and Territorial Traffic Legislation Related to Impaired Driving*, which sets out the legislation on key issues in chart form. It allows the reader to appreciate at a glance the range of legislation on each issue and provides a benchmark for assessing past and future progress. Each statement in the charts includes a pinpoint reference to the underlying legislation, published government policy or website upon which it is based.

The *Top Ten Report* is the next instalment in the *Rating the Provinces* project. Section I of *The Report* sets out in point form the key components of MADD Canada’s provincial reform agenda. Nevertheless, MADD Canada’s the reform agenda focuses on the following issues:

(a) Graduated Licensing Programs (GLPs) and Extended Zero Alcohol and Drug Limits for Young and New Drivers;

(b) Short-Term Roadside Alcohol-Related Administrative Licence Suspension (ALS) and Vehicle Impoundment (AVI) Programs;

(c) Short-Term Roadside Drug-Related ALS and AVI Programs;

(d) 90-Day Alcohol and Drug-Related ALS and AVI Programs;

(e) Long-term ALS Programs for Federal Impaired Driving Offenders;

(f) Interlock Programs for Federal Alcohol-Related Driving Offenders;

(g) Support for Victims and Survivors;

(h) Financial Programs for Victims and Survivors; and

(i) Additional Measures.

MADD Canada has adopted a comprehensive approach to the impaired driving problem, recognizing that a combination of countermeasures is required to deter impaired driving among the general population, reduce recidivism among offenders and support victims.

MADD Canada is particularly concerned about impaired driving among young and novice drivers, a constituency that has been dramatically over-represented in impairment-related crash deaths and injuries. The recent increases in driving after cannabis use among this age group threatens to offset some of the progress that has been made in reducing their rates of alcohol-related crash deaths and injuries. Given their proven effectiveness, the enactment of comprehensive GLPs and extended zero alcohol and drug limits figure prominently in MADD Canada’s analysis of the provincial impaired driving legislation.
The recommendations also reflect a preference for provincial administrative measures, rather than criminal or court-based sanctions. Recent experience in British Columbia and Alberta indicate that immediate roadside administrative measures are far less labour intensive and appear to be far more effective than criminal proceedings in deterring impaired driving. In particular, MADD Canada would urge all provinces to enact legislation requiring the police to impose an immediate roadside 90-day ALS and a 30-day AVI on drivers who register a BAC of .08% or more on an approved screening device (ASD), regardless of whether the driver is also charged with a federal impaired driving offence. These ALS and AVI provisions should include significant administrative fees and penalties, mandatory alcohol interlock orders, and other remedial requirements. MADD Canada does not view this emphasis on enacting provincial administrative sanctions as being inconsistent with its efforts to ensure that repeat impaired driving offenders and impaired drivers who cause fatal or personal injury crashes are held criminally responsible and are appropriately sanctioned.

Given the other demands on the provincial governments, it is unrealistic to expect that they will be able to consider all the recommendations in Section I. Moreover, the provinces had previously indicated a preference for narrowly focused reports, highlighting a limited number of issues. In Section II, we provide each province with an individualized set of key recommendations. The absence of a recommendation on an issue is not necessarily an endorsement of the underlying measure, but rather may simply mean that there
were other more pressing concerns in that province. Since the recommendations are elaborated upon in Section I, they are set out in general terms in Section II.

The first three listed recommendations in each provincial summary reflect MADD Canada's most pressing concerns in the jurisdiction and these will be highlighted in MADD Canada's subsequent discussions with the relevant provincial officials and politicians. In selecting these priority recommendations, MADD Canada focused on the traffic safety measures that would likely have the greatest deterrent impact and thus result in the greatest reduction in impaired driving deaths and injuries.

The remaining seven recommendations in the individualized reports are not prioritized, but rather are listed in the same order as the nine previously identified headings. In other words, the order in which the seven recommendations appear is not intended to reflect their relative importance. The individualized reports will be updated periodically to reflect the progress that each province makes.

There is one last issue that warrants comment, namely Bill C-46, which the federal government enacted in 2018 at the same time as its cannabis legalization legislation. Among other things, Bill C-46 repealed and replaced all the impaired driving and other federal traffic offences, limited the Crown's disclosure requirements, narrowed some questionable defences, and simplified, clarified and rationalized the federal impaired driving legislation. The Bill has also provided the provinces with the legal means to greatly strengthen their drug and alcohol-impaired driving enforcement.

Bill C-46 created new per se drug-impaired driving offences (i.e. offences based solely on driving while having a prohibited quantity of a specified drug in one's blood) and authorized the police to demand that suspected drug-positive drivers submit to roadside oral fluid drug testing and evidentiary blood-drug testing in stipulated circumstances. In order to take full advantage of these new offences and enforcement powers, the provinces may need to enhance police training and resources to provide for the timely analysis of evidentiary blood samples. The provinces must also ensure that there are enough approved oral fluid drug test kits and certified drug recognition evaluators to enforce the federal and provincial drug-impaired driving laws throughout their jurisdiction.

In traffic safety terms, the most important measure in Bill C-46 is the "mandatory alcohol screening" provision (MAS), which authorizes the police to demand a roadside breath test from any driver whom they have lawfully stopped. Decades of research in numerous countries have established that well-publicized, comprehensive MAS programs result in significant and sustained reductions in total and alcohol-related crash deaths and injuries. However, in order to achieve and maintain a significant deterrent impact, the equivalent of at least one-third of the licensed drivers in the jurisdiction need to be tested annually. Except for Alberta, no province appears to have implemented the widespread use of MAS and thus the testing levels necessary to have a major deterrent impact. Given the proven traffic safety benefits of MAS, MADD Canada considers the immediate implementation of well-publicized comprehensive MAS programs a priority issue.
(a) GLPs and Extended Zero Alcohol and Drug Limits for Young and New Drivers

i. Minimum age of 16 to start the GLP and a minimum 12-month duration for Stage 1 (adult supervising driver), regardless of whether the applicant has completed or is enrolled in a driver education course.

ii. Minimum 24-month duration for Stage 2 of the GLP, regardless of whether the applicant has completed or is enrolled in a driver education course. Night-time driving and passenger limits for Stage-2 drivers, subject to limited exceptions (e.g. drivers who are 22 or older, and drivers who are supervised or are driving for employment purposes).

iii. Prohibition on being positive for alcohol or any non-prescription drug for all GLP drivers, regardless of whether their driving ability is impaired or affected by alcohol or drugs.

iv. Mandatory 30-day ALS, 7-day AVI and restarting of the relevant GLP stage for GLP drivers who violate the prohibition on being positive for alcohol or non-prescription drugs.

v. Prohibition on being positive for alcohol or any non-prescription drug for fully licensed drivers who are under the age of 22 or who have less than 5 years of driving experience.

vi. Mandatory 30-day ALS, 7-day AVI and 1-year extension of the zero alcohol and drug limit for fully licensed drivers under the age of 22 or with less than 5 years of driving experience who violate the alcohol or non-prescription drug prohibition.

(b) Short-Term Roadside Alcohol-Related ALS and AVI Programs

i. Mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol.

ii. Mandatory 7-day ALS and AVI for drivers who register a BAC of .05% to .079% on an “approved screening device” (ASD) or who fail an alcohol-related standardized field sobriety test (SFST).

iii. Drivers with a BAC of .05% or more should be informed of their right to take a second roadside ASD test on a different device. Drivers who fail an alcohol-related SFST should be informed of their right to take a roadside ASD.

iv. Mandatory monetary penalties and licence reinstatement fees for drivers who register a BAC of .05% to .079% or who fail an alcohol-related SFST.

v. Escalating ALSs, AVIs and mandatory remedial requirements for repeat occurrences within 10 years.

(c) Short-Term Roadside Drug-Related ALS and AVI Programs

i. Mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by a drug.

ii. Mandatory 7-day ALS and AVI for drivers who fail a drug-related SFST or oral fluid drug test.
iii. Drivers who fail a drug-related SFST should be informed of their right to submit to a drug recognition evaluation (DRE). Drivers who fail an oral fluid drug test should be informed of their right to submit to a blood-drug test.

iv. Mandatory monetary penalties and licence reinstatement fees for drivers who fail an oral fluid drug test or a drug-related SFST.

v. Escalating ALSs, AVIs and mandatory remedial requirements for repeat occurrences within 10 years.

(d) 90-Day Alcohol and Drug-Related ALS and AVI Programs

i. Mandatory roadside 90-day ALS and 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. In order to maximize enforcement resources, administrative sanctions alone should be imposed on drivers who do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

ii. Mandatory 90-day ALS and 30-day AVI for drivers who register a BAC of .08% or more on an “approved instrument” (i.e. evidentiary breath testing machine) or who are charged with an alcohol-related Criminal Code impaired driving offence.

iii. Mandatory 90-day ALS and 30-day AVI for drivers who fail a DRE, test above the prescribed blood-drug limits, or are charged with a drug-related Criminal Code impaired driving offence.

iv. Mandatory 90-day ALS and 30-day AVI for drivers who fail or refuse, without a reasonable excuse, to submit to any required impairment-related test or examination. (i.e. an ASD test, an evidentiary breath or blood-alcohol test, a SFST, an oral fluid drug test, a DRE, or a blood-drug test).

v. Mandatory monetary penalties and licence reinstatement fees.

vi. Mandatory remedial requirements, including a minimum alcohol interlock order of 6 months for drivers who receive an alcohol-related, 90-day ALS or who are assessed as having an alcohol problem.

vii. Escalating ALSs, AVIs and mandatory remedial requirements for repeat occurrences within 10 years.

(e) Long-Term ALS Programs for Federal Impaired Driving Offenders

i. Mandatory 1-year ALS for drivers convicted of a first federal impaired driving offence, other than the low per se blood-tetrahydrocannabinol (THC) offence (i.e. driving with 2 - 4.99 nanograms of THC per millilitre of blood).

ii. Mandatory 3 and 10-year ALSs, respectively for drivers convicted of a second and subsequent federal impaired driving offence within 10 years.

iii. Mandatory alcohol and/or drug assessment, and the successful completion of any recommended treatment or other remedial program prior to relicensing.
(f) Interlock Programs for Federal Alcohol-Related Driving Offenders

i. Mandatory 1-year interlock order for drivers convicted of a first federal alcohol-related driving offence.

ii. Mandatory 3 and 5-year interlock orders, respectively for drivers convicted of a second or third federal alcohol-related impaired driving offence within 10 years.

iii. Successful completion of the provincial interlock program prior to relicensing for all alcohol-related Criminal Code impaired driving offenders.

iv. The interlock order should remain in effect until the interlock data log indicates that the offender has addressed any underlying alcohol problem and no longer poses a significant risk of reoffending.

v. First offenders should be immediately eligible to enter the provincial interlock program. The “hard” provincial licence suspension for second and third offenders should be limited to 3 and 6 months, respectively.

(g) Support for Victims and Survivors

i. Enact legislation requiring the police to refer victims and survivors to victim services and to inform them of their right to information about their cases.
ii. Recognize victims and survivors of impaired driving as victims of violence. Ensure that the mandates of the provincially funded victim services include victims and survivors of impaired driving.

iii. Install provincial monuments for victims and survivors of impaired driving and establish an impaired driving road sign program.

iv. Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.

(h) Financial Programs for Victims and Survivors

i. Provide trauma counselling to those injured in impairment-related crashes and to families of those killed, when no other financial support is available.

ii. Provide financial assistance for travel expenses to enable victims of impaired driving and their families to attend and participate in criminal justice proceedings.

iii. Provide funding to victims and survivors of impaired driving to enable them to attend their first MADD Canada Victims Conference.

iv. Permit victims and survivors of impaired driving and their families to access provincial programs that provide compensation to victims of crime.

v. Increase mandatory third-party automobile insurance coverage to at least $500,000.

(i) Additional Measures

i. Implement the widespread use of the federal MAS provisions.

ii. Develop an education, assessment, treatment, and early licence re-instatement program for federal drug-impaired driving offenders.

iii. Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug impaired-driving laws throughout the province.

iv. Establish an effective system for drawing blood samples from suspected drug-impaired drivers and ensure that the samples are analyzed in a timely fashion.

v. In provinces with private automobile insurance, limit the surcharge that is imposed on impaired driving offenders who are enrolled in an alcohol interlock program. In provinces with government automobile insurance ensure that the surcharge on federal impaired driving offenders adequately reflects the seriousness of their conduct and the additional traffic risks that they pose.

vi. Introduce provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.

vii. Ensure that all levels of the court provide complete conviction and sentencing data in a timely manner by calendar year for all impaired driving cases.
SECTION II: 
THE PROVINCIAL AND TERRITORIAL TOP TEN LISTS
Priority Recommendations:

- Enact a zero BAC limit for all drivers who are under the age of 22 or who have less than 5 years of driving experience. Enact a prohibition on being positive for any non-prescription drug for all GLP drivers and for all drivers who are under the age of 22 or who have less than 5 years of driving experience.
- Enact a mandatory 30-day ALS and 7-day AVI for drivers who are under 22 or with less than 5 years of driving experience if they are positive for alcohol or non-prescription drugs and impose on them a 1-year extension of this prohibition.
- Strengthen the immediate roadside 90-day ALS program for a failed ASD test by increasing the AVI to 30 days and ensuring that administrative sanctions alone are imposed on drivers who do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

Remaining Recommendations:

- Increase the mandatory AVI from 3 to 30 days for all drivers who are subject to any 90-day alcohol or drug-related ALS and for drivers who are subject to a 90-day ALS for failing/refusing, without a reasonable excuse, to comply with a demand made under s. 320.27 or s. 320.28 of the Criminal Code.
- Reconsider the provision imposing an additional 1-year ALS on all drivers who are subject to a 90-day ALS, unless they participate in an alcohol interlock program. This provision applies even if the initial ALS involved no alcohol and there is no indication that the driver has an alcohol problem of any kind. The driver must either forgo driving for an additional year or participate in an interlock program costing about $1,500 which is irrelevant to his or her situation and the conduct in issue. This provision may be challenged by drivers who receive a drug-related, 90-day ALS, particularly if it is based on having 2 to 4.99 nanograms of THC per millilitre of blood.
- Recognize victims and survivors of impaired driving as victims of violence. Ensure that the mandates of the provincially funded victim services include victims and survivors of impaired driving.
- Limit the insurance surcharge that can be imposed on impaired driving offenders who are in an alcohol interlock program.
- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
Priority Recommendations:

- Implement widespread use of the federal MAS provisions.
- Enact a zero BAC limit for all drivers who are under the age of 22 or who have less than 5 years of driving experience. Enact a prohibition on being positive for any non-prescription drug for all GLP drivers and for all drivers who are under the age of 22 or who have less than 5 years of driving experience.
- Enact a mandatory roadside 7-day ALS and AVI for drivers who fail a drug-related SFST or an oral fluid drug test.

Remaining Recommendations:

- Extend the current 12-hour driving prohibition to 30 days and enact a 7-day AVI for GLP drivers who violate the prohibition on being positive for alcohol or non-prescription drugs.
- Increase the immediate alcohol-related roadside ALS for drivers who register a BAC of .05% to .079% on an ASD from 3 to 7 days, make the AVI mandatory and increase it from 3 to 7 days.
- Drivers who fail a drug-related SFST should be informed of their right to submit to a DRE. Drivers who fail an oral fluid drug test should be informed of their right to submit to a blood-drug test.
- Enact legislation imposing a minimum alcohol interlock order of 6 months on all drivers who are subject to any 90-day, alcohol-related ALS.
- Drivers with a first alcohol-impaired driving offence should be immediately eligible to enter the provincial interlock program. The “hard” provincial licence suspension for second and third offences should be limited to 3 and 6 months, respectively.
- Install provincial monuments for victims and survivors of impaired driving and establish an impaired driving road sign program.
- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact legislation imposing a mandatory 30-day ALS and 7-day AVI on GLP drivers for being positive for alcohol or non-prescription drugs and requiring them to restart the relevant stage of the GLP.

• Enact legislation imposing a mandatory 30-day ALS and 7-day AVI on drivers who are under 22 or with less than 5 years of driving experience for being positive for alcohol or non-prescription drugs. Violations of this prohibition should result in it being extended by 1 year.

Remaining Recommendations:

• Enact a mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol or a drug.

• Lengthen the immediate roadside alcohol and drug-related 72-hour ALSs and AVIs to 7 days (i.e. BAC of .05% -.79%, failed oral fluid drug test, failed SFST, and failed DRE).

• Enact legislation imposing a minimum alcohol interlock order of 6 months on all drivers who are subject to any 90-day, alcohol-related ALS (i.e. a failed ASD or SFST, failed evidentiary breath test, and failing or refusing to take any required test). Restrict interlock orders to drivers who commit an alcohol-related infraction or offence or who are assessed as having an alcohol problem.

• Drivers with a first alcohol-impaired driving offence should be immediately eligible to enter the provincial interlock program. Currently, the provincial licence suspension is not automatically reduced. Rather, offenders may apply to the Licence Suspension Appeal Board for a restricted licence to drive with an interlock once the minimum federal driving prohibition has expired. The “hard” provincial licence suspension for second and third offences should be limited to 3 and 6 months, respectively.

• Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.

• Provide financial assistance for travel expenses to enable victims and their families to attend and participate in criminal justice proceedings.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
NEW BRUNSWICK

Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

• Make the alcohol-related, 7-day ALS mandatory and enact an accompanying mandatory 7-day AVI. Enact parallel sanctions for drivers who fail an alcohol-related SFST.

Remaining Recommendations:

• Stage 1 of the GLP should be 12 months even if the applicant has or is enrolled in a driver education program. Extend Stage 2 of the GLP to 24 months.

• Enact a mandatory 30-day ALS and 7-day AVI for GLP drivers and drivers who are under 22 or with less than 5 years of driving experience if they are positive for alcohol or non-prescription drugs. Impose a 1-year extension of this prohibition on drivers who are under 22 or with less than 5 years of driving experience if they violate this prohibition.

• Enact a mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol or a drug.

• Make the immediate 7-day ALS for poor performance on a SFST mandatory and enact an accompanying 7-day AVI. Enact parallel sanctions for drivers who fail a roadside oral fluid drug test.

• Enact legislation requiring the police to refer victims and survivors to victim services and to inform them of their right to information about their cases.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.

• Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.
Priority Recommendations:

- Implement widespread use of the federal MAS provisions.
- Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.
- Stage 1 of the GLP should be 12 months even if the applicant has or is enrolled in a driver education program. Extend Stage 2 of the GLP to 24 months.

Remaining Recommendations:

- Lengthen the existing mandatory 7-day ALS to 30 days and enact a 7-day AVI for drivers who are under 22 or with less than 5 years of driving experience if they are positive for alcohol or non-prescription drugs. Violations of this prohibition should result in it being extended by 1 year.
- Enact a mandatory roadside alcohol-related, 7-day ALS and AVI for drivers who fail an alcohol-related SFST and inform them of their right to take an ASD. Enact a mandatory roadside drug-related, 7-day ALS and AVI for drivers who fail a drug-related SFST or oral fluid drug test.
- Provide drivers who fail a drug-related SFST with the right to submit to a DRE and inform them of this right. Provide drivers who fail an oral fluid drug test with the right to submit to a blood-drug test and inform them of this right.
- Lengthen the 7-day AVI to 30 days for drug-related, 90-day ALSs. Enact a mandatory 90-day ALS and 30-day AVI for drivers who fail a DRE. Currently, these sanctions can be imposed on a driver if an analysis of a bodily substance indicates that he or she has a prohibited BDL, or a prohibited BDL in combination with a prohibited BAC. The legislation does not expressly require the BDL to be based on evidentiary blood-drug test. If the BDL is based on an oral fluid drug test, a confirmatory DRE or evidentiary blood-drug test should be required.
- Reconsider the provision imposing an alcohol interlock on drivers who are convicted of a drug-related Criminal Code offence even when he or she does not have an alcohol problem of any kind. The driver must either forgo driving for an additional year or participate in an interlock program costing about $1,500 which is irrelevant to his or her situation and the conduct in issue. This provision may be challenged.
- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
- Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.
Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

• Enact an immediate roadside 7-day ALS and AVI for drivers who register a BAC of .05% to .079% on an ASD or fail an alcohol-related SFST. Currently, the 24-hour ALS for registering a BAC of .05% or higher cannot be administered at roadside if a driver challenges the initial ASD result because the second analysis must be completed on an approved instrument.

Remaining Recommendations:

• Enact legislation imposing a mandatory 30-day ALS and 7-day AVI on drivers who are under 22 or with less than 5 years of driving experience for being positive for alcohol or non-prescription drugs. Violations of this prohibition should result in it being extended by 1 year.

• Enact an immediate roadside 7-day ALS and AVI for drivers who fail a drug-related SFST or oral fluid drug test.

• Enact a 30-day AVI to supplement the alcohol-related, 90-day ALS for drivers who have a BAC in excess of .08% as indicated by an evidentiary breath or blood-alcohol test. Enact a 90-day ALS and 30-day AVI for drivers who are charged with an alcohol-related Criminal Code impaired driving offence.

• Enact a 30-day AVI to supplement the drug-related, 90-day ALS for drivers who fail a DRE. Enact a mandatory 90-day ALS and 30-day AVI for drivers who test above the prescribed blood-drug limits or are charged with a drug-related Criminal Code impaired driving offence.

• Enact a mandatory 1-year interlock order for drivers convicted of a first federal alcohol-related impaired driving offence.

• Provide financial assistance for travel expenses to enable victims and their families to attend and participate in criminal justice proceedings.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the territorial and federal drug-impaired driving laws throughout the territory.
**Priority Recommendations:**

- Implement widespread use of the federal MAS provisions.
- Enact an immediate 7-day ALS and 7-day AVI for drivers who fail an alcohol-related SFST and a 7-day AVI for drivers who register a BAC of .05% to .079% on an ASD.
- Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

**Remaining Recommendations:**

- Extend the mandatory 7-day ALS to 30 days and enact a mandatory 7-day AVI for GLP drivers, drivers who are under 22 and drivers with less than 5 years of driving experience who violate the prohibition on being positive for alcohol or non-prescription drugs.
- Enact a mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol or a drug.
- Enact a mandatory drug-related, 7-day ALS for drivers who fail an oral fluid drug test and enact a mandatory 7-day AVI for drivers who fail a drug-related SFST or oral fluid drug test.
- Enact a mandatory 1-year interlock order for all drivers convicted of a first federal alcohol-related driving offence. Currently, a mandatory 1-year interlock order is only imposed on specified categories of alcohol-impaired driving offenders.
- Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.
- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
- Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.

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1. Nova Scotia is currently replacing its traffic safety legislation. Consequently, some of the recommendations may be moot once the new legislation is proclaimed in force.
Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact a comprehensive GLP with a minimum starting age of 16 that includes a zero BAC and non-prescription drug limit for all GLP drivers. Enact a 30-day ALS and 7-day AVI for GLP drivers who violate the zero BAC and non-prescription drug limit and require them to restart the relevant stage of the GLP.

• Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

Remaining Recommendations:

• Enact an immediate alcohol-related, 7-day ALS and AVI for drivers who register a BAC of .05% to .079% on an ASD or who fail an alcohol-related SFST. Enact an immediate mandatory 7-day ALS and AVI for drivers who fail a drug-related SFST or oral fluid drug test.

• Enact a mandatory 90-day ALS and 30-day AVI for any driver who: registers a BAC of .08% or more on an “approved instrument” (i.e. evidentiary breath test); or who is charged with an alcohol-related *Criminal Code* impaired driving offence.

• Enact a mandatory 1-year interlock order for drivers convicted of a first federal alcohol-related driving offence.

• Recognize victims and survivors of impaired driving as victims of violence. Ensure that the mandates of the provincially funded victim services include victims and survivors of impaired driving.

• Provide financial assistance for travel expenses to enable victims and their families to attend and participate in criminal justice proceedings.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the territorial and federal drug-impaired driving laws throughout the territory.
**Priority Recommendations:**

- Implement widespread use of the federal MAS provisions.
- Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. Drivers subject to 90-day roadside ALSs and 30-day AVIs for a failed ASD test should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.
- Stage 1 of the GLP should be 12 months even if the applicant has or is enrolled in a driver education program. Extend Stage 2 of the GLP to 24 months and enact nighttime restrictions.

**Remaining Recommendations:**

- Enact a mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol or a drug.
- Make the short-term, alcohol-related ALS mandatory, increase it from 3 to 7 days, and enact a 7-day AVI for drivers who register a BAC of .05% to .079% on an ASD. Enact a 7-day ALS and 7-day AVI for drivers who fail an alcohol-related SFST.
- Extend the short-term, drug-related ALS from 3 to 7 days and enact a 7-day AVI for drivers who fail a drug-related SFST. Enact a 7-day ALS and AVI for drivers who fail an oral fluid drug test.
- Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.
- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
- Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.
Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. These drivers should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

• Enact a mandatory 7-day AVI for GLP drivers who violate the prohibition on being positive for alcohol or non-prescription drugs and require them to restart the relevant stage of the GLP. The province may wish to maintain its existing discretionary 30-day AVI for this conduct.

Remaining Recommendations:

• Lengthen the existing 3-day, alcohol-related AVI to 7 days and make it mandatory for drivers who fail a drug-related SFST or oral fluid drug test.

• Enact an immediate 30-day AVI for drivers who are subject to the mandatory drug-related, 90-day ALS. Enact a 90-day ALS and 30-day AVI for drivers who fail a DRE. The 90-day ALS provision based on a single oral fluid drug test should be amended to require the police to undertake a confirmatory DRE or evidentiary blood-drug test.

• Enact an immediate 30-day AVI to accompany the mandatory 90-day ALS for drivers who fail or refuse to comply with a demand for a required test under ss. 320.27 and 320.28 of the Criminal Code.

• Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.

• Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.
Priority Recommendations:

- Implement widespread use of the federal MAS provisions.

- Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. These drivers should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

- Enact an immediate 7-day ALS and AVI for drivers who register a BAC of .05% to .079% on an ASD and for drivers who fail an alcohol-related SFST. Enact an immediate 7-day ALS and AVI for drivers who fail a drug-related SFST or oral fluid drug test.²

Remaining Recommendations:

- Enact a prohibition on being positive for any non-prescription drug for all GLP drivers and for all drivers who are under the age of 22 or who have less than 5 years of driving experience.²

- Enact a 90-day ALS and 30-day AVI for drivers that have been charged with an alcohol-related Criminal Code impaired driving offence.

- Expand the grounds for the existing drug-related, 90-day ALS to include drivers who test above the prescribed blood-drug limits; or who are charged with a drug-related Criminal Code impaired driving offence and enact an accompanying mandatory 30-day AVI.

- Fund programs that facilitate voluntary communication between victims and survivors of serious crimes and the responsible offender(s). This program should include victims and survivors of impaired driving.

- Provide financial assistance for travel expenses to enable all victims and their families to attend and participate in criminal justice proceedings.

- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.

- Enact provincial-wide legislation or regulations permitting the establishment of ride-sharing programs that do not require drivers to have a commercial driver’s licence.

² If proclaimed in force, pending legislation in Québec would impose an immediate 90-day ALS on any driver who tested positive for drugs on an oral fluid drug test.
Priority Recommendations:

- Implement widespread use of the federal MAS provisions.

- Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. These drivers should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

- Increase the minimum age to start the GLP from 15 to 16 and increase the length of Stage 1 to 12 months even if the applicant has or is enrolled in a driver education program. Extend Stage 2 of the GLP to 24 months and introduce nighttime restrictions.

Remaining Recommendations:

- Enact a mandatory 24-hour ALS and discretionary AVI for drivers who are reasonably believed to be affected by alcohol or drugs.

- Increase the 3-day ALS and AVI to 7 days for drivers who register a BAC of .04% to .079% on an ASD, drivers who fail an alcohol-related SFST and drivers who fail an oral fluid drug test. Enact parallel sanctions for drivers who fail a drug-related SFST.

- Reconsider the duration of the existing ALSs for drivers who are charged with an alcohol or drug-related Criminal Code impaired driving offence. Currently, the ALS lasts until the disposition of the criminal charge. Similar legislation in Alberta was struck down by the Alberta Court of Appeal in Sahaluk v. Alberta (Transportation Safety Board), 2017 ABCA 153. Rather, the ALS should be changed to 90 days to avoid unnecessary litigation.

- Enact police services legislation requiring the police to inform victims and survivors of their right to information about their cases and to refer them to victim services.

- Fund victims and survivors of impaired driving to attend their first MADD Canada’s Victims Conference.

- Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the provincial and federal drug-impaired driving laws throughout the province.
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Priority Recommendations:

• Implement widespread use of the federal MAS provisions.

• Enact an immediate 7-day ALS and AVI for drivers who register a BAC of .05% to .079% on an ASD, drivers who fail an alcohol or drug-related SFST, and drivers who fail an oral fluid drug test.

• Enact an immediate roadside 90-day ALS and a 30-day AVI for drivers who register a BAC of .08% or more on an ASD, subject to the drivers being informed of their right to take a second roadside ASD test on a different device. These provisions should include significant administrative fees and penalties, mandatory remedial requirements, and a mandatory 6-month alcohol interlock order. These drivers should not be charged criminally if they do not have a prior provincial 90-day ALS or federal impaired driving conviction, did not cause a fatal or personal injury crash and did not have a passenger under the age of 16 in the vehicle.

Remaining Recommendations:

• Increase the minimum age to start the GLP from 15 to 16 and increase the minimum duration for Stage 1 from 6 months to 12 months, even if the applicant has or is enrolled in a driver education program. Extend Stage 2 of the GLP to 24 months.

• Enact a zero BAC limit for all drivers who are under the age of 22 or who have less than 5 years of driving experience. Enact a prohibition on being positive for any non-prescription drug for all GLP drivers and for all drivers who are under the age of 22 or who have less than 5 years of driving experience.

• Enact a mandatory 90-day ALS and 30-day AVI for drivers who: fail a DRE; test above the prescribed blood-drug limits; or who are charged with a drug-related Criminal Code impaired driving offence.

• Enact a mandatory 1-year interlock order for drivers convicted of a first federal alcohol-related driving offence.

• Recognize victims and survivors of impaired driving as victims of violence. Ensure that the mandates of the provincially funded victim services include victims and survivors of impaired driving.

• Provide financial assistance for travel expenses to enable victims and their families to attend and participate in criminal justice proceedings.

• Ensure that there are enough qualified drug recognition evaluators and approved oral fluid drug test kits to enforce the territorial and federal drug-impaired driving laws throughout the territory.