



Penalties higher for impaired driving, police investigative powers increased.

As of July 2, 2008, penalties for Impaired Driving have been increased significantly. Also increased, are the police powers to investigate the offence of Impaired Driving. The "*Tackling Violent Crime Act*" was passed and one proposed benefit is that it helps fill an administrative gap for officers who investigate the driving related offences.

Under the previous legislation, a driver could not be compelled to submit to a physical roadside sobriety test, often referred to as a co-ordination test. The investigating officer previously had to inform the suspected impaired driver that the tests were voluntary and could be stopped at any time during the test.

The new law now allows officers to demand a driver to take a Standard Field Sobriety Test (SFST) to determine if the driver's ability to operate a vehicle has been impaired by alcohol or drugs. If the driver refuses or does not comply with the mandatory roadside SFST, criminal charges can now be laid. This is a significant increase in police powers to investigate the offence. If the driver fails the SFST, a demand for further examination back at the police station can be made. Once back at the police station, a certified Drug Recognition Expert (DRE), will determine if impaired driving charges should be laid, based on his or her evaluation of the suspected impaired driver.

The "*Tackling Violent Crime Act*" also calls for higher penalties for those who are convicted of Impaired Driving charges. For a first offence the minimum sentence has been increased from \$600 to \$1000. For a second offence the minimum sentence is now 30 days in jail, twice as long as the previous minimum sentence. For third and any subsequent offences, the minimum penalty is now 120 days in jail. If an impaired driver causes bodily harm it now carries a 10-year sentence and if the impaired driver causes death, he or she could now face a maximum life sentence.

Providing defences to impaired driving charges has also changed. Previously, excuses such as the "*Last Drink Defence*" where it could have been argued that the driver had consumed 1-2 drinks so close to the time of the traffic stop that he or she, had they not been stopped, would have arrived at their destination, before the alcohol would have been absorbed into the body, and would have technically not been impaired at the time of the offence. Now a defence must include medical evidence that the accused was not impaired at the time of the stop to be successful.