

Canadian Criminal Law/Offences/Impaired Driving and Over 80/History

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The predecessor to alcohol-related driving offences is the summary offence of "driving while intoxicated" initially found in the 1921 Criminal Code.

In 1925, the offence was expanded to include drugs and to include "care and control".

In 1930, the offence was made into a hybrid offence.

In 1947, a presumption of care and control where the accused was found in the driver's seat was created. This is now found in s. 258(1)(a).

In 1951, the offence was changed to driving while "impaired".

In 1969, the additional offence of driving while "over 80" was created as well all drivers were required to give a breath sample on demand.

In 1976, the penalties for "over 80" and refusal were made the same.

On July 2, 2008, Bill C-2 came into force.^u It made the following changes:

- amending s. 258(1)(c) and (d), removing references to "evidence to the contrary" and added "conclusive proof". The effect of this was to remove the effect of s. 25 of the Interpretation Act which permitted the defence to present "evidence to the contrary" once s. 258(1)(c) is established.
- gave the police power to *demand* that a driver perform a standard field sobriety test for both alcohol and drugs
- altered the requirements for "reasonable suspicion" under s. 254(2) for a ASD demand. The new version requires the additional component that the officer suspect that the driver was in care and control of the vehicle within the preceding 2 hours.

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