

Publisher's Note

2019 — Release 3

Previous release was 2019-2

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McLeod, Takach & Segal

Breathalyzer Law in Canada

This practice-oriented service provides subscribers with quick, up-to-date answers to procedural and substantive questions related to drinking and driving offences. Three volumes furnish all the information needed to advise, defend, and prosecute individuals charged with the offences of impaired driving, driving “over 80” and failing or refusing to comply with demands for samples.

In addition to new case law, this release comprehensively updates Chapters 5, on Breath, Blood and Evaluation Demands, and 7, Warrant to Obtain Blood Samples, in light of the December 2018 replacement of Canada’s driving offences regime by former Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts, S.C. 2018, c. 21. New Chapter 5 accords to the following structure:

- Text of the Criminal Code’s s. 320.28
- Introductory commentary
- The peace officer - who can make the demand?
- Reasonable and probable grounds
- Operation of a conveyance while impaired to any degree
- Impracticality or incapability to take samples of breath or blood

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- Wording of the demand
- Demands made “as soon as practicable”
- Required accompaniment
- Evaluation demands and blood-drug and blood-alcohol concentrations
- Demands by evaluation officers
- Types of drugs
- Blood-taking
- The Canadian Charter of Rights and Freedoms

New Chapter 7 is set out as follows:

- The Criminal Code s. 320.29 provisions
- Introductory commentary
- The contents of the information
- Telephone and other telecommunications warrants
- The issuance of the warrant
- The effect of the Charter of Rights on the section
- Applications for release of samples for analysis, and other issues