

Braid: Good drunk driving law still has a few hiccups

BY DON BRAID, CALGARY HERALD AUGUST 28, 2012 7:30 AM

Presented By:



In Alberta, nothing raises a row more quickly than government meddling in the right to drive as badly as possible.

So the .05 law is controversial yet again, as the province prepares to put it into full effect Saturday.

This is a good law that will save lives. Already, many drivers are far more careful about having that second drink.

But I've had problems all along with how the law was handled, especially the misrepresentations by responsible ministers.

As Wildrose gleefully fomented hostility, the PCs tried to claim .05 has been in the law all along.

It never was. Police merely used .05 as a guideline for declaring impairment in some cases.

But if a driver then demanded to blow again at a police station, and registered less than .08 — not .05 — car and licence had to be returned on the spot.

Starting Saturday, .05 is a real standard, not just a guideline. Police will be required to seize the driver's vehicle and licence for three days for a first offence.

And yet, the government was still trying to mask the truth Monday with this mushy headline on a news release:

"Impaired driving limits haven't changed. The penalties have."

The penalties have changed, that's for sure.

But so have the limits. The .05 rule is new, period, and it will catch hundreds or possibly thousands of drivers unaware, especially at the beginning.

Maybe the PCs are worried about riots at the impound lots. If so, they can claim .05 was law all along — even though it wasn't — and you should have known.

So, don't doubt it — Alberta's rules for drinking and driving change radically on Saturday. The PCs would do more to ensure compliance and public understanding by stating this clearly.

While all this was looming, the government and police were vigorously enforcing new provincial penalties for drivers who blow .08, the federal limit in law.

This measure was brought in July 1, again as a sop to Wildrose critics, who demanded much tougher enforcement against people who break the criminal law.

They got it. Between July 1 and Aug. 23, 994 people had their licences suspended pending criminal proceedings. Police also seized 632 vehicles.

Most of us will have no problem whatsoever with drunks having their licences snatched and watching their cars towed into the bleary distance.

And yet, on this point the law appears to have a genuine flaw.

It's doubtful that the province has the right to suspend a licence indefinitely when a driver hasn't been proven guilty.

This is a very open-ended penalty. A driver might not get his court appearance for months. The case could be delayed if a lawyer gets the sniffles.

Criminal lawyers are already set to challenge this; the province should head them off and save everybody a lot of money by fixing definite terms to the suspensions.

One other provision is dubious, too — the right to appeal a suspension only to the Transportation Safety Board, "a quasi-judicial body."

When the stakes are indefinite suspension of the right to drive, imposed on a person who isn't yet convicted, the appeal should be to a real court.

Despite these problems, the law is just as crucial as Alberta's mandatory seatbelt law was when it came into effect exactly 25 years ago.

Alberta was the last province to do that. Inevitably, the law was challenged, allowed to stand and saved countless lives.

The trajectory of the .05 law is almost identical. We're a bit late. Challenges are inevitable. But it will avert a great deal of mayhem and misery.

Don Braid's column appears regularly in the Heralddbraid@CalgaryHerald.com

© Copyright (c) The Calgary Herald