

Impaired driving

It is late Friday night. Peter is driving home from a party at Bill's. Although Peter drank a lot, he is sure that he is still sober enough to drive. A few blocks from his place Peter sees the flashing lights in his rear view mirror. Peter pulls over and sees Officer Anderson coming towards his car. What must Peter do? What are his rights in this situation?

Officer Anderson approaches Peter and asks him for his driver's licence, vehicle registration and proof of insurance. Peter must turn this documentation over to Officer Anderson. Peter does not have to answer any of her questions.

If Officer Anderson suspects that Peter has been drinking she may demand that he take the ALERT (Alcohol Level Evaluation Roadside Tester). The ALERT gives a general indication of the alcohol Peter has consumed. This is done by the use of three coloured lights. A green light indicates that he is below the legal limit. A yellow light warns that Peter is near the legal limit so the police will suspend his licence for 24 hours as a safety precaution. If the ALERT shows a red light, Peter would have failed the ALERT. There is no penalty for failing the ALERT but a red light will give the police

reasonable grounds to demand that Peter go to the police station to take the breathalyser.

Officer Anderson needs reasonable grounds to believe that Peter is impaired before she can demand the breathalyser. As pointed out, failing the ALERT will give reasonable grounds for a breathalyser demand. Other indications may be slurred speech, glassy eyes or uncoordinated movements. Test like walking a straight line may give the police grounds. If you are asked to do one of these test you have the right to refuse. Check.

The breathalyser will give the police a more accurate reading of Peter's blood alcohol level than the ALERT. If Peter's blood alcohol level is over 0.08 he will be charged for impaired. Over 0.08 refers to having a blood alcohol concentration exceeding 80 milligrams of alcohol in 100 milliliters of blood. There does not need to be any noticeable change in Peter's behaviour or any problem with his driving performance for a charge of over 0.08 to be laid.

In some cases the police are unable to get a breath sample because the driver may be unconscious or may have a respiratory problem which prevents him or her from blowing hard enough to make the

machine work. Unless the driver gives consent, the police can only take a blood sample if they have a warrant issued by a judge. Blood samples can only be taken by a qualified person such as a doctor.

Once the request for a breathalyser is made, Peter has been legally detained. The Charter of Rights and Freedoms guarantees that anybody being detained has the right to know the reason for the detention and to speak with a lawyer. Prior to administering the breathalyser Officer Anderson must give Peter an opportunity to speak to a lawyer in private and if necessary inform him of available legal aid facilities. The ALERT is only a screening test and cannot be used as evidence in court so Peter does not have the right to consult a lawyer before it is taken.

Peter may decide that he does not want to take the ALERT or the breathalyser. However, it is an offence to refuse to provide a breath sample without a reasonable excuse. Refusal has the same penalty as failing the breathalyser.

If the police did not give Peter the breathalyser he could still be charged with impaired driving. Driving while over .08 is a separate offence from operating a motor vehicle while your ability is

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impaired. Impairment can be determined by observations of the police. If Peter had a lack of coordination, slurred speech, glassy eyes or the smell of alcohol on his breath, the police could charge him with impaired driving. Without the breathalyser evidence their case may be harder to prove but not impossible.

All that is required for a charge of impaired driving is that Peter has care and control of a motor vehicle. He does not have to be driving the motor vehicle. This means that if Peter was just sitting in his car on the side of the road the police could ask him for a breath sample if they have a reasonable suspicion that he had been drinking alcohol. If you are in a position to set the vehicle in motion, even unintentionally, you are in care and control. Sleeping behind the wheel of your car at the side of the road may be enough to have care and control.

If Peter was to cause injury or death when driving while impaired the consequences can be severe. If he injured someone, the maximum penalty is a ten year jail term. If Peter killed someone the penalty is a maximum of 14 years. As well as being charged with impaired driving he could be charged with

manslaughter, criminal negligence causing bodily harm or death, or dangerous operation of a motor vehicle causing bodily harm or death. These offences have a maximum penalty of life imprisonment.

If Peter is convicted of driving while impaired he would lose his licence from three months to three years. If he causes death or injury the suspension will be longer, perhaps even life. Impaired driving can also raise his insurance rates whether or not he has an accident.

The material in this article was obtained from the pamphlets *A Guide to Drug and Alcohol Law for Canadians* by the Alcoholism and Drug Addiction Research Foundation and *Sharing the Law* from the Public Legal Information Association of Newfoundland.

This column is intended to be used as a guide only. It is not meant to be a replacement for professional legal advice. If you require any additional legal advice or legal counselling, please contact a lawyer.

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stairways? Here's one:

WHY? Do bicycle riders flying along at twenty to thirty mph (heaven only, knows what that is in kilometres) choose to use the sidewalks. Note here: We said sideWALK, not sideRIDE!!! For those of us big enough to do it, it's kind of fun to face them down, like a matador and a bull. OLE', as they pass and you side-step them, deftly jerking their handlebars so that they careen into a large oak tree. One of those large balloon things forms over their heads with all kinds of stars and Neptunes, swirling around.

WHY? Haven't smokers figured it out? We don't want their fumes. Sure, pal here just set your lunch down here and I'll pee in your coke! Virtually every building is clearly marked, NO SMOKING. Is it a reading problem? Maybe it's the new

cause. Perhaps in lieu of a real cause (or the fear of a real cause) they think they'll smoke here just to defy the rules. Sort of like going in the "OUT" door. Example:

Some clown in the SUB the other day, lights up just as s/he gets up to go out the door. Now that's defiant! What guts! I'll give you odds, this is the butt-head who tormented his/hers sister/brother's kitten, because of personal frustrations over having a bad bed wetting problem. Then:

WHY? When I set out to try and ask some silly questions and poke some fun does the ultimate WHY? come like a bolt of lightning? The telephone rings and we find out someone very special is gone. Just like that!!

Why? Good LORD, WHY? Dear GOD, Do the good die young? And often so very young. WHY?

Condoms

Despite some of the bad publicity condoms have gotten in the past they are the most effective means of preventing the spread of STD's (Sexually Transmitted Diseases), as well as a very effective contraceptive if you choose to have intercourse. Condoms are 97% effective when used correctly every time you have sexual intercourse. They may become over 99% effective if supplemented with spermicidal foams or jellies. Herpes is the sexually transmitted infection which may not be prevented by the use of a condom.

There are many different kinds of condoms on the market today: extra sheer and ribbed for those who love the sensation, extra strength for those who like to play it safe, coloured and flavoured condoms for individuals who enjoy having fun, and for those gents that always complained that condoms are too tight and uncomfortable we now have the extra large condom. All condoms must pass certain safety standards before being distributed to the public. Some condoms that have performed well in the airburst test are: Conture, Extra Strength Lubricated, and Stimula Vibra-Ribbed (all are Lifestyles products).

Novelty condoms, such as glow in the dark condoms, carry a warning label that they may not be effective in preventing the spread of STD's. It is important for the consumer to read labelling for the important information. Although the

natural condoms, made from sheep intestine, allow for more sensitivity during intercourse they also do not prevent the transmission of STD's. Natural condoms are commonly used among those people who are allergic to latex condoms. These individuals may combine the natural and latex condoms for protection against STD's. If the male is allergic to the latex, it is suggested that he put on the natural skin condom on first followed by the latex condom. If the female is allergic put the natural skin condom on top of the latex.

Some condoms are lubricated with a thin coating of Nonoxynol-9, a spermicide which will eradicate HIV and other organisms that cause sexually transmitted disease. For increased protection against STD's condoms may also be supplemented with a spermicidal foam. The foam has also been found to increase sensitivity for the male counterpart if a small amount is put inside the tip of the condom before placement on the penis. Unfortunately some individuals may be allergic to spermicides. If irritation occurs immediately discontinue use of the spermicide and opt for an unlubricated condom. Spermicidal condoms are not recommended if you are going to have anal intercourse. The membranes of the anus are very sensitive and may be irritated by the harshness of the spermicide.

Lubrication is a common con-

cern when using a condom. If the lubricated condom does not offer adequate lubrication use a supplementary lubricant. It is important to never use any oil-based lubricants, such as vaseline, suntan lotion, or vegetable oil, since they break down the latex. The best lubricants to use are water-based products, such as K-Y jelly or a spermicidal gel, which can be found at any local drug store.

Latex condoms deteriorate with time. It is important to check the expiration date on the condom packaging before buying the product. In most cases each condom is also individually labelled with the expiration date. If you open a condom and a foul odour is released immediately throw the condom away since this is probably a good indication that the condom is no longer any good. To ensure that your condoms stay in good shape keep them out of direct sunlight and in a cool area. Do not keep condoms in your wallet in a back pocket or on the dash of your car since the heat and the light will accelerate the deterioration of the latex. For the best results keep condoms in a condom wallet (available in some drug stores) and carry in the breast pocket of your jacket or in a purse.

Remember, whatever your shape or size there is a condom for you. If you are unaware of how to put one on simply look inside the box for helpful instructions.

S.W.A.T.

Research has shown that if you laugh really hard, even if at first it is forced, you will suddenly feel much better about everything, and the skies will appreciate it too.