

# SPECTRUM

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## Impaired driving

It is a well known fact that drinking and driving do not mix. However, people still insist on driving while impaired. Every year drunk drivers cause tens of thousands of accidents, many of which result in injury or death. For this reason the Criminal Code sets out strict laws which severe punishments to curb impaired driving. These laws apply to all motor vehicles including cars, trucks, motorcycles, aircraft, boats, snowmobiles or all-terrain vehicles. This article will attempt to make you aware of the legal ramifications of impaired driving.

All that is required for a charge of impaired driving is that you have care and control of a motor vehicle. This means it is not necessary that you be driving the motor vehicle. 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 will give you care and control.

Driving or having care and control of a motor vehicle when your blood level is "over .08" is a criminal offence. Over .08 refers to having a blood alcohol concentration exceeding 80 milligrams of alcohol in 100 millilitres of blood. There does not need to be any noticeable change in your behavior or any problem with your driving performance for a charge of over .08 to be laid. Blood alcohol concentration is obtained through breath samples or in exceptional cases blood samples.

The roadside screening device ALERT (Alcohol Level Evaluation Roadside Tester) is probably the first device the impaired driver will encounter. If the police suspects you of drinking, they may require you to take the ALERT. The ALERT will only give a general indication of the alcohol you have consumed. This is done by the use of three coloured lights. A green light indicates that you are below the legal limit. A yellow light is a warning level and the police may suspend your licence for 24 hours and drive you home as a safety precaution. If the ALERT shows a red light, the police may ask you to go to the police station to take the breathalyser.

If the police have reasonable grounds to believe that you are driving while over .08 they can require you to take a breathalyser. This also applies if the police have

reason to believe you have driven in the last two hours. Failing the ALERT is sufficient evidence to require a breathalyser as would slurred speech or glassy eyes. The breathalyser test is done at the police station and it gives an exact reading of your blood alcohol concentration. If the concentration is more than 80 milligrams you have committed an offence, even if your ability is not actually impaired.

Once the request for a breathalyser is made you are legally detained. The Charter of Rights and Freedoms guarantees that anybody being detained has the right to know why and to have a lawyer. Prior to administering the breathalyser the police must give you an opportunity to speak to your lawyer in private and if necessary inform you of available

legal facilities. The ALERT is only a screening test and cannot be used as evidence in court so you do not have the right to consult a lawyer before it is taken.

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 you give 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.

It is an offence to refuse to provide a breath or blood sample without a reasonable excuse. Refusal has the same penalty as failing the breathalyser.

Besides driving while over .08

it is a crime to operate a motor vehicle while your ability is impaired. Impairment can be determined by observations of the police. If you have a lack of coordination, slurred speech, glassy eyes or the smell of alcohol on your breath, the police can charge you with impaired driving.

If you cause injury or death when driving while impaired the consequences can be severe. If you injure someone, the maximum penalty is a ten year jail term. If you kill someone the penalty is a maximum of 14 years. As well as being charged with impaired driving you can be charged with manslaughter, criminal negligence causing bodily harm or death or dangerous operation of a motor vehicle causing bodily harm or death. You could get a maximum penalty of life imprisonment.

Driving while impaired will result in the loss of your licence from three months to three years. If you cause death or injury the suspension will be longer, perhaps even life. Impaired driving can also raise your insurance rates whether or not you have 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.

## METANOIA

With John Valk (Campus Ministry)

### Sunday shopping (Part 2)

Last time I spoke of the religious aspects of the Sunday shopping issue. There are also social aspects to be considered. These too are important, if not crucial, in our discussion.

There are some who advocate the rights of retailers to open on Sunday in order to protect their market share. This argument was advanced by some New Brunswick store owners who saw their competitiveness eroded because of Sunday shopping in Maine. Their concern is legitimate; their solution not so, in the long run. Rather than opening on Sunday, it would be better if consumers examined their shopping habits.

We have in the Western world adopted *laissez-faire* capitalism. That is, free forces of the market place are to determine price, wage, competition, etc. On that basis, as one commercial puts it, "the lowest price is the law". We have come to accept that. But, should we?

We ought all to know that the price we pay for goods and services in Canada reflects the system we have adopted. Included in those prices is the partial cost of our social services: social assistance,

medicine, research dollars, road tax, etc. It would appear to me, therefore, that anyone who regularly scurries south of the border, for the express purpose of buying things at a cheaper price, is in effect circumventing the cost of these social services. That is they benefit from them, in one way or another, but do not wish to pay for them. Furthermore, and this is the more shameful part, they force others to bear the brunt of the services they use or may someday use.

This ought not to continue. If moral or economic responsibilities are lacking then certain creative or constructive measures may need to be implemented. For example, more communities could offer local shopping incentives, as is being done in some places. Failing that, custom regulations could be tightened to prevent cross-border shopping.

Another argument advanced for Sunday shopping is that the present system discriminates against those who wish to spend their money seven days a week. Some specifically find Sunday more convenient, especially if they have busy work schedules.

One cannot be denied a basic

right and freedom to shop anytime. But again, the matter is not so simple. For everyone who insists on the right to shop, there are others who are forced to work. Furthermore, demanding the right to shop also entails imposing that right on others. Nova Scotia has again decided, after a trial period, to restrict Sunday openings. Store owners argued against wide open shopping because it forced many of them to open unwillingly because of competition. Employee groups argued that it deprived workers of time with their families.

How important is time with family? We are now becoming more aware of the long term effect of parental absence on the health and well-being of younger children and teenagers. The statistics are quite revealing. We ignore those statistics at our own peril. Are we prepared to face even more family breakdown and juvenile delinquency?

When we examine the issue in a broader spectrum, therefore, it is not, as Gerald Vandezande of "Citizens for Public Justice" puts it, "Sunday: to shop or not to shop?" According to him, the issue is a choice between two prin-

ciples: "Sunday another day for business and work, for shopping and spending, or Sunday a day for family and friends, for relaxation and worship."

New Brunswickers are in a fortunate position to examine what has and is happening in other places. They do not need to follow suit. They can map out their own course. But, the course choose will reflect their priorities.

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A word for the wise