

# Criminal Code Offences

DRIVING AND THE  
*CRIMINAL CODE*



## Driving and the *Criminal Code*

Certain behaviours and actions related to the operation of a road vehicle constitute offences under the *Criminal Code*. Convictions for such offences are subject to driving prohibition, fines, court-ordered imprisonment, as well as penalties provided under the *Highway Safety Code*.

## Driving-related Criminal Offences

### Criminal Code

### BRIEF DESCRIPTION OF OFFENCE

220	Causing death by criminal negligence
221	Causing harm by criminal negligence
236	Manslaughter
249(1)a	Dangerous operation of a motor vehicle
249(3)	Dangerous operation causing bodily harm
249(4)	Dangerous operation causing death
249.1	Failure to stop when pursued by police
252(1)	Hit-and-run
252(1.2)	Hit-and-run causing bodily harm
252(1.3)	Hit-and-run causing death
253(a)*	Driving or having care of a vehicle when impaired by alcohol or a drug
253(b)*	Driving or having care of a vehicle with a blood-alcohol concentration in excess of 80 mg per 100 ml of blood
254(5)*	Refusal to submit to a breathalyser test or to provide a blood sample
255(2)*	Driving a vehicle when impaired by alcohol or a drug and causing bodily harm
255(2.1)	Driving a vehicle with a blood-alcohol concentration in excess of 80 mg per 100 ml of blood and causing an accident resulting in bodily harm to another person
255(2.2)	Refusal to obey the orders of a peace officer to provide a breath or blood sample or to submit to a physical coordination test following an accident resulting in bodily harm to another person



## Criminal Code

## BRIEF DESCRIPTION OF OFFENCE

255(3)*	Driving a vehicle when impaired by alcohol or a drug and causing death
255(3.1)	Driving a vehicle with a blood-alcohol concentration in excess of 80 mg per 100 ml of blood and causing an accident resulting in the death of another person
255(3.2)	Refusal to obey the orders of a peace officer to provide a breath or blood sample or to submit to a physical coordination test following an accident resulting in the death of another person

\* If these offences are committed simultaneously, they will lead to a single penalty.

## Even outside Québec

- If any offence listed above is committed in another province or territory;  
or
- if such an offence is committed in an American state with which Québec has signed a reciprocal agreement,

the offence is entered on the driver's record and is subject to the same penalties as if it had occurred in Québec.

# Penalties

The *Highway Safety Code* prescribes the following penalties:

- **Revocation** of a learner’ licence, probationary licence or driver’s licence, i.e. the licence is cancelled.
- **Suspension of the right to get a licence**, which means that no learner’s licence, probationary licence or driver’s licence may be issued to the person for a set period of time.

As a result of these penalties, the person does not have the right to operate a motor vehicle or get a licence during the penalty period.

## Length of penalty period

The penalty period begins on the day of conviction. The length of the licence revocation period, or suspension of the right to a licence period, is determined according to the number of penalties issued as a result of convictions for offences committed under the *Criminal Code* within the previous 10 years.

First penalty	1 year
Second penalty	3 years
Third penalty or more	5 years

A penalty period imposed under the *Highway Safety Code*, however, cannot be shorter than a court-ordered driving prohibition period.

### Example:

After being convicted of a first offence under the *Criminal Code* within the 10 previous years, a driver is sentenced by a **court** to a 2-year driving prohibition. In this case, the driving prohibition may not be less than two years, even though the penalty period for a similar offence is one year under the *Highway Safety Code*.

## Obtaining a licence to drive while under penalty for impaired driving

During the driving prohibition period, an offender may be issued a restricted licence, which only becomes valid after the minimum driving prohibition period prescribed under the *Criminal Code* has ended, and after the offender has registered for the alcohol interlock program.

A restricted licence remains valid until the end of the penalty period. Anyone who holds such a licence and operates a vehicle without an alcohol ignition interlock, or who fails to abide by the terms and conditions of use of the device, is deemed to be driving under penalty and is liable to a fine and seizure of the vehicle he or she is driving, as well as penalties under the *Criminal Code*.

**Note: A restricted licence cannot be issued to any person who, at the time of the offence, held a motorcycle licence, a learner's licence, or who was only eligible to hold these types of licences.**

## Obtaining a restricted licence

**To qualify for a restricted licence, the offender must:**

- unless otherwise ordered by a court, register with the SAAQ's alcohol ignition interlock program after three, six or twelve months, depending on the driving record;
- make sure no other active penalty appears on his or her driving record;
- sign a lease for an alcohol ignition interlock at a participating LEBEAU VITRES D'AUTOS outlet or at a GUARDIAN INTERLOCK SERVICE (GIS) centre;
- go to an SAAQ service centre with a signed copy of the lease to get a restricted licence and pay the required fees;
- **pay the costs** of installation, the lease and special periodic inspections required for the device.

# Consequences of driving while under penalty

All drivers who operate a motor vehicle while their probationary licence, driver's licence, learner's licence or their right to get such licences is under penalty commit an offence.

## As a result:

- The vehicle they are driving may be seized for 30 days. It will be towed and impounded at the owner's expense. Under the *Highway Safety Code*, the driver is required to notify the owner of the seizure without delay.
- The driver is liable to a fine of \$1885 to \$3760\*.

\* These amounts, subject to change, include the fine provided under the *Highway Safety Code*, registry fees and a contribution to IVAC (Indemnisation des victimes d'actes criminels). Please note that additional fees may apply.

# Obtaining a new licence at the end of the penalty period

**At the end of the penalty period**, whether it involved a licence revocation or a suspension of the right to get a licence, the offender may apply for a **new** learner's licence, probationary licence or driver's licence. Applicable fees include the cost of the licence as well as an additional insurance premium of \$300 to \$400, according to the number of penalties appearing on the driving record.

## The offender must also comply with the following conditions:

### In the case of a first alcohol-impaired driving conviction,

- the offender must, **at his or her own expense**, take the Alcofrein driver education program recognized by the Minister of Transport, and submit written proof of participation in the program to the SAAQ; **AND**
- the offender must undergo a **summary assessment** conducted by a duly authorized person who works in a drug or alcohol rehabilitation centre to determine if his or her alcohol consumption behaviours are compatible with the safe operation of a motor vehicle, and submit an attestation indicating a favourable assessment to the SAAQ.
- No new penalties must appear on the driving record.

### If the summary assessment is unfavourable, or for a 2<sup>nd</sup> offence or more:

- the offender must, **at his or her own expense**, undergo a **comprehensive assessment** that aims to make the driver's alcohol and drug consumption behaviour compatible with the safe operation of a motor vehicle. If the assessment is unfavourable, an additional report may be required.
- (once the SAAQ receives a satisfactory report), the offender must drive a vehicle equipped with an ignition interlock for:
  - 1 year for a first penalty;**
  - 2 years for a second penalty;**
  - 3 years for a third penalty or more.**

### If the penalty follows a conviction for an offence other than impaired driving, the person must:

- make an appointment with an SAAQ service centre near the end of the penalty period;
- pass the theory examination.

## For more information

### Telephone:

in Montréal: 514 873-7620

in Québec (city and vicinity): 418 643-7620

from elsewhere in Québec,

Canada and USA, toll free: **1 800 361-7620**

TDD/TTY



in Montréal: 514 954-7763

from elsewhere in Québec: 1 800 505-7763

### or write to:

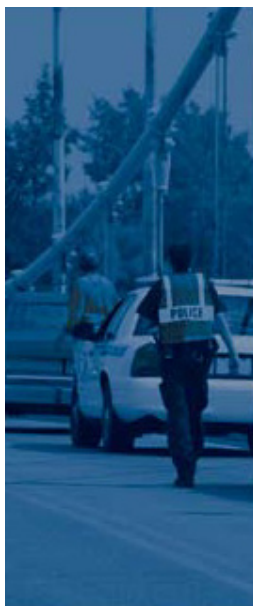
#### **SERVICE DE LA GESTION DES SANCTIONS DES CONDUCTEURS**

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This folder is not a text of law. For any reference of a legal nature, please consult the *Highway Safety Code*, the *Criminal Code* and attendant regulations.

*Version française disponible sur demande.*



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