



RoadSafetyBC
Ministry of Public Safety and Solicitor General

Immediate Roadside Prohibition Review Policies

RoadSafetyBC
Po Box 9254 Stn Prov Govt
Victoria, BC, V8W 9J2

1.0 Overview

In 2010, RoadSafetyBC introduced the Immediate Roadside Prohibition (IRP) program to immediately remove alcohol-affected drivers from BC's roads, reduce the number of motor vehicle collisions and resulting injuries and fatalities. The IRP program also serves as a deterrent to alcohol-affected driving behaviour.

An IRP is a driving prohibition issued by a peace officer under the *Motor Vehicle Act* (Act) based on breath tests taken on an approved screening device (ASD). Peace officers may issue an IRP and impound the vehicle if a driver provides a breath sample into an ASD which results in either a [WARN](#) or a [FAIL](#) reading, or if a driver refuses to provide a breath sample into an ASD.

In its first year, the IRP program was credited with reducing motor vehicle fatalities by 40%, motor vehicle injuries by 23% and motor vehicle property damage by 10.5% province-wide.¹ As of December, 2016, statistics show that 351 lives have been saved since the introduction of the IRP program, representing a 50% reduction in motor vehicle fatal victims related to alcohol.² Despite the program's success, alcohol-affected driving persists as a leading contributing factor in motor vehicle fatalities in BC, causing an average of 65 deaths each year.

1.1 Terms and Definitions

Act	<i>Motor Vehicle Act.</i>
Adjournment	determination by the Superintendent that a review will be postponed and reconvened at a later date and time. An adjournment may be requested by the Applicant or suggested to the Applicant by the Superintendent.
Adjudicator	an independent decision-maker to whom the Superintendent may delegate the authority to conduct an IRP review.
Applicant	person who has been served with an IRP Notice of Prohibition and, within 7 days of the date of service, filed a complete IRP Application for Review (MV2726) at a Driver Licensing or ServiceBC office, and paid the prescribed fee.
ASD	approved screening device prescribed by the <i>Criminal Code</i> used by peace officers for the purposes of alcohol screening. All police agencies in BC use the Alco-Sensor FST.

¹ Macdonald, Scott, et al. "The Impact on Alcohol-Related Collisions of the Partial Decriminalization of Impaired Driving in British Columbia, Canada." *Accident Analysis & Prevention*, vol.59, 2013.

² British Columbia. RoadSafetyBC. *Report on Alcohol-Related Motor Vehicle Fatalities*. Victoria, BC: Research and Data Unit. Policy and Strategic Initiatives Branch. <https://www2.gov.bc.ca/assets/gov/driving-and-transportation/driving/publications/dec-2016-alcohol-related-fatalities.pdf>.

Blood Alcohol Concentration	concentration of alcohol in a person's blood expressed as "mg%" (milligrams of alcohol per 100 millilitres of blood).
Decision	the official decision sent to an applicant outlining the outcome reached by the Superintendent upon completion of an IRP review.
Disclosure	all evidence provided by the peace officer to the Superintendent, and any technical information and materials that may be relied upon by the Superintendent in the review so the Applicant is fully aware of the case that he or she must address.
DLO	Driver's Licensing or ServiceBC office. Locations of DLO's may be found at http://www.icbc.com/locators/Pages/default.aspx . Current wait times may be found at http://www.icbc.com/driver-licensing/visit-dl-office/Pages/Best-times-to-visit.aspx .
Driver	a person on whom an IRP Notice of Prohibition has been served.
Driving Prohibition	prohibition from driving for 3, 7 or 30 days in the case of a warn IRP, or for 90 days in the case of a fail or a refusal IRP, as outlined on a served IRP Notice of Prohibition.
FAIL Reading	an ASD reading which indicates the breath sample contains a blood alcohol concentration of 80 milligrams of alcohol per 100 millilitres of blood (80 mg%) or greater.
Fail IRP	IRP issued to a person found to have a blood alcohol concentration of 80 mg% or greater while driving.
Mandatory Information	required information set out in the IRP Notice of Prohibition as defined by the Act. Mandatory information includes the person's name, date of prohibition, time and location of the prohibition, reason for the prohibition, and the peace officer's signature.
Onus	burden of proof. In the review of a driving prohibition the onus is on the Applicant (person to whom the notice of driving prohibition was served).
Refusal IRP	IRP issued to a person for refusing to comply with a demand made under the <i>Criminal Code</i> to provide a sample of breath for analysis by means of an ASD.
Representative	a lawyer, translator, guardian, or other person authorized by the Applicant to deal with matters relating to the IRP Review process on his or her behalf.

Representation Authorization	document filed by the Applicant at a DLO, which includes the name and contact information of the Representative(s), as well as the Applicant's signature. Authorization also explicitly states that the Superintendent may communicate directly with and provide disclosure and the review decision to the stated Representative(s).
Required Documents	document which peace officers must promptly forward to the Superintendent after issuing an IRP Notice of Prohibition. Required documents are the Notice of Driving Prohibition and Certificate of Service (MV2723); the Report to Superintendent (MV2724); and, with respect to warn and fail IRPs, information relating to the calibration of the ASD on the basis of which the IRP Notice of Prohibition was served.
Statutory Declaration	a document filled out and filed at an ICBC DLO by a person who has been issued an IRP and lost his or her licence.
Stay	a temporary suspension of an applicant's driving prohibition which the Superintendent may authorize in circumstances where the Superintendent extends the time to make a decision beyond 21 day timeframe.
Superintendent	the Superintendent of Motor Vehicles, or a person to whom his powers, duties or functions have been delegated. For the purposes of this document, the Superintendent's authority will likely be carried out by a delegated authority.
Technical Materials	technical, medical or scientific evidence or information as defined by section 215.49(6) of the Act.
Warn Reading	an ASD reading which indicates the breath sample contains a blood alcohol concentration of 50 milligrams of alcohol per 100 millilitres of blood (50 mg%) or greater.
Warn IRP	an IRP issued to a person for having a blood alcohol concentration of not less than 50 mg%

1.2 Authorities and Delegations

[Section 117](#) of the [Act](#) provides the Superintendent with the authority to delegate powers, duties or functions to staff of RoadSafetyBC and ICBC.

The Superintendent typically delegates the authority to conduct IRP reviews to [IRP adjudicators](#) and managers.

The Superintendent has delegated the following functions to [ICBC DLOs](#):

- providing and processing Applications for Review and collecting the prescribed review fees;
- receiving and cancelling drivers’ licences seized by police or surrendered by drivers;
- scheduling oral and written reviews ;
- providing disclosure;
- providing and processing [statutory declaration](#) forms when driver has lost his or her licence;
- issuing temporary licences when IRPs are stayed;
- issuing new licences when IRPs are revoked; and,
- collecting re-instatement fees when drivers complete their [driving prohibitions](#).

Section [215.44](#) of the Act provides the Superintendent with the authority to impose a prescribed monetary penalty of not more than \$500 on any person served with a driving prohibition.

Section [215.5\(7\)](#) authorizes the Superintendent to extend the timeline for a making a decision beyond the legislated 21 days.

Section [215.5\(8\)\(a\)](#) provides the Superintendent with the discretionary authority to [stay](#) a driving prohibition if the Superintendent is unable to send a decision within the legislated 21-day timeline.

The prescribed Monetary Penalties are as follows:

	Warn IRP (50 mg% to 80 mg%)			Fail or Refusal IRP (> 80 mg%)
	1 st offence	2 nd offence within 5 years	3 rd offence within 5 years	1 st or subsequent offence
Driving Prohibition Length	3 days	7 days	30 days	90 days
Administrative Monetary Penalty³	\$200	\$300	\$400	\$500

2.0 Application for Review

Under section [215.48](#) of the Act, a driver may apply to the [Superintendent](#) for a review of his or her driving prohibition, regardless of its length.

An Application for Review (Application) can be completed and submitted to any [ICBC DLO](#).

³ The administrative penalty does not reflect the cost of an IRP in its entirety; for example, driver licence reinstatement fees and all costs associated with a vehicle impoundment are additional.

2.1 Legislated Timeframe for Receiving Applications

To apply for a review, a driver must submit an Application and pay the prescribed fee within 7 days of being served the IRP Notice of Prohibition.

Applications will not be accepted after 7 days from the date of service of the IRP as the Superintendent has no authority to conduct reviews outside of the legislated timeframe.

2.2 Review Fees⁴

The fee for a written review is \$100.

The fee for an oral review hearing is \$200.

2.3 Oral Review Hearings

Oral review hearings are available to persons served with IRPs with driving prohibitions of 30 and 90 days, provided that the Applicant:

- requests an oral hearing on his or her application; and,
- pays the prescribed oral hearing fee.

Oral review hearings are limited to 30 minutes and are conducted by telephone. The Superintendent oversees and manages the review within that time frame in accordance with administrative law principles.

The Superintendent will call the telephone number indicated by the Applicant on the Application to initiate the review; the Applicant is responsible for ensuring that he or she, and/or his or her [representative](#), is available at the time of the call.

If the call is missed, the hearing will automatically change to a written review and the Superintendent will make a decision on basis of any written submissions in the review file.

See section [3.0 14-Day Hearing Policy for Oral Reviews](#) for more information on oral review hearings.

2.4 Written Submissions

The Applicant should provide his or her submissions to the Superintendent by 4:30 p.m., two days prior to the date of the scheduled oral or written review.

Any information submitted after this time is considered a late submission. Late submissions will not be considered by the Superintendent unless they are accepted through the late submissions process.

See section [9.0 Late Submissions](#) for more information about the late submissions process.

⁴ Regardless of the outcome of the review, review fees are not reimbursed to applicants.

2.5 Confirmation of Licence Status

At the time of application, the ICBC DLO will enquire as to the status of the driver's licence. To complete the Application and proceed with the review, the licence must have been:

- seized by police after serving the IRP Notice of Prohibition;
- surrendered to an ICBC DLO; or,
- if the licence was lost or stolen, a [statutory declaration](#) must be completed by the Applicant and submitted at the time of application.

2.6 Authorization for Representation

If an applicant would like to be represented for some or all of the IRP review process he or she, or his or her [Representative\(s\)](#), must provide a written authorization to an ICBC DLO or directly to RoadSafetyBC.

The written authorization must contain:

- the Applicant's name;
- the name of the Applicant's Representative(s);
- an explicit statement authorizing RoadSafetyBC to communicate and disclose documents to the Representative(s); and,
- the signature of the Applicant.

A written authorization allows RoadSafetyBC to communicate directly with, and to provide disclosure and the review decision directly to the Applicant's Representative(s). If the authorization is incomplete, RoadSafetyBC will advise what is missing and/or any further requirements.

2.7 Disclosure

Applicants who submit an Application to an ICBC DLO and pay the prescribed fee will be provided with [disclosure](#) at the time of application.

RoadSafetyBC will notify the Applicant or his or her Representative(s) of disclosure that is not available at the time of application, or that is forwarded to the Superintendent after initial disclosure.

RoadSafetyBC will inform the Applicant that the document(s) are available and can be picked-up at an ICBC DLO or sent directly by fax to the Applicant or his or her Representative(s).

If disclosure cannot be provided at least 48 hours before the review, RoadSafetyBC may offer to reschedule the review to allow the driver sufficient time to prepare.

See section [4.0 Required Documents](#) for more information about the contents of disclosure.

2.8 Incomplete Applications

The ICBC DLO faxes the Application to RoadSafetyBC for processing. If a section is incomplete, RoadSafetyBC will contact the ICBC DLO and the Applicant, or his or her Representative(s), to obtain the necessary information.

RoadSafetyBC will not proceed with the review until the missing information is received.

2.9 Licence Cancellations, Suspensions and Requirements Unrelated to the IRP

The filing of an Application does not [stay](#) the driving prohibition or alter or affect any other licence cancellation, licence suspension and/or any outstanding licensing requirements.

3.0 14-Day Review Policy

The 14-day review policy supports the Superintendent in meeting the 21-day timeline for sending a decision to the Applicant which is required by section [215.5\(6\)](#) of the Act. The intent of the policy is to help ensure that the Applicant receives a timely review decision.

3.1 Review Booking Process

Applicants served with driving prohibitions of 30 and 90 days in length, who request a review will be offered 3 oral review hearing dates and time options to choose from by the ICBC DLO agent. All three dates offered will be within the 14-day period.

3.2 Applications for Reviews Scheduled More than 14 Days from the Date of Service

An applicant, who is unable or unwilling to schedule a review within 14 days of being served with an IRP Notice of Prohibition, will be asked to provide a reason on his or her Application for not being able to schedule the review on the offered dates. RoadSafetyBC will contact the Applicant or his or her Representative(s) to schedule a date of review.

If a review hearing is scheduled outside of 14 days from the date of service of the IRP Notice of Prohibition, the Superintendent may not be able to render a decision within the legislated 21-day timeline. In these circumstances, the Superintendent will extend the timeline for the decision.

If a review is scheduled outside of 14 days from the date of service, the Superintendent may choose to [stay](#) the driving prohibition pending a final decision on the review.

In deciding whether to stay an applicant's driving prohibition, the Superintendent will consider the reason(s) that the Applicant provided for scheduling the review on a date and time after the 14-day period set out in this policy, and will balance the personal circumstances provided by the Applicant against the person's driving record, including the history, if any, of alcohol-affected driving.

4.0 Required Documents

Section [215.47](#) of the [Act](#) requires peace officers to promptly forward several [required documents](#) to the Superintendent after issuing an IRP Notice of Prohibition.

Required documents are:

- the IRP Notice of Driving Prohibition and attached Certificate of Service;
- the Report to Superintendent, sworn or solemnly affirmed by the peace officer; and,
- with respect to warn and fail IRPs, information relating to the calibration of ASD on the basis of which the IRP Notice of Prohibition was served.

4.1 Process for Missing Required Documents

If a required document is missing from the package submitted by police, RoadSafetyBC will request the originating police agency submit the missing document(s) as soon as possible.

4.2 Unsworn/Unaffirmed IRPs

If a review is requested and a sworn or solemnly affirmed Report to Superintendent has not been provided to RoadSafetyBC within 7 days of the date of service, the Applicant's file will be forwarded to the Superintendent.

In these circumstances, section [215.48\(7\)\(c\)](#) requires the Superintendent to revoke the IRP, and subsection [215.48\(7\)\(d\)](#) requires the Superintendent to reimburse the Applicant for the following fees, if paid:

- administrative penalty;
- licence re-instatement and licensing fees; and
- towing and storage fees (if applicable).

Further, under section [215.48\(7\)\(e\)](#) of the Act, an applicant who held a valid licence at the time the driving prohibition was served, and subsequently had it cancelled, will have his or her valid licence returned by an ICBC DLO.

5.0 Mandatory Information

[Mandatory information](#) refers to required information set out in the prescribed IRP Notice of Prohibition issued under section [215.41](#) of the Act.

Mandatory information includes the:

- person's name;
- date of prohibition;
- time and location of prohibition;
- IRP reason for prohibition; and,
- peace officer's signature.

5.1 Missing Mandatory Information

If mandatory information is missing from the IRP Notice of Prohibition at the time of service, it is invalid, and the driving prohibition and associated vehicle impoundment will be cancelled by RoadSafetyBC.

5.2 Driving Prohibition Cancellation Process

When RoadSafetyBC cancels a driving prohibition it will:

- update RoadSafetyBC's data management systems;
- notify the Applicant in writing;
- if appropriate, notify ICBC to return the Applicant his or her licence under section [215.47\(8\)\(e\)](#); and,

- notify the police to update the Canadian Police Information Centre (CPIC).

5.3 Vehicle Impoundment Cancellation Process

When RoadSafetyBC cancels a vehicle impoundment, it will:

- fax an Order of Release to the Impound Lot Operator; and,
- notify the registered owner that the vehicle has been released from impound.

5.4 Reimbursement of Fees Following an IRP Cancellation

If a person is served with a driving prohibition, and that prohibition is subsequently cancelled, RoadSafetyBC will reimburse the person for the following fees, if paid:

- administrative penalty;
- application for review fees
- licence re-instatement and licensing fees; and,
- vehicle impoundment towing and storage fees to the registered owner of the vehicle, if applicable.

6.0 Considerations on Review

Section [215.49](#) of the Act requires the Superintendent to consider:

- any relevant written statements or evidence submitted by the Applicant (or his or her representative[s]) in a review of the driving prohibition;
- in the case of an oral hearing, any relevant evidence given or representations made at the hearing;
- all evidence provided by the peace officer, including the IRP Notice of Prohibition, Report to Superintendent, and any other relevant evidence, such as a narrative summary; and,
- any technical materials, as detailed below.

6.1 Technical Materials

The Superintendent may, on his or her own initiative, refer to [technical materials](#) to determine the issues raised by the Applicant. These materials are either available on RoadSafetyBC's website at <https://www2.gov.bc.ca/gov/content/transportation/driving-and-cycling/driving-prohibitions-suspensions/disputes-appeals-reviews/immediate-roadside-prohibitions-irp/technical-documents-irp-review-hearing>, or if the Applicant is unable to access them electronically or if they are not available online, they will be disclosed to the Applicant and his or her Representative(s) in advance of the review.

7.0 Extensions and Stays

7.1 Legislated Time Frame for Decisions

If an applicant has a review, section [215.5\(6\)](#) requires the Superintendent to send the Applicant a decision within 21 days of the date the IRP Notice of Prohibition was served on the Applicant.

7.2 Decision Extensions

If the Superintendent determines that a review decision cannot be rendered within the legislated time frame, the Superintendent will extend the time to make a decision under section [215.5\(7\)](#), and notify the Applicant of the extension and the new decision date.

7.3 Impact of Extensions on the Driving Prohibition

An extension does not affect the driving prohibition; it provides the Superintendent with further time to make a review decision.

7.4 Discretionary Authority to Stay a Driving Prohibition

Section [215.5\(8\)\(a\)](#) provides the Superintendent with discretionary authority to [stay](#) an applicant's driving prohibition for a period equal to the extension. The Superintendent is not obliged to grant a stay if the time for making a decision has been extended.

If a stay of the driving prohibition is provided to the Applicant, the Superintendent will notify:

- the Applicant;
- the police, to update CPIC;
- ICBC, to issue a temporary licence (if applicable); and,
- the Impoundment Lot Operator to release the vehicle.

8.0 Adjournments

An [adjournment](#) is granted at the discretion of the Superintendent and may be requested by the Applicant or suggested to the Applicant by the Superintendent if it appears that circumstances warrant.

8.1 Adjournments to Obtain Evidence

The Superintendent may grant an adjournment so the Applicant can acquire new evidence, if the evidence is determined to be relevant, and is temporarily unavailable due to circumstances beyond the Applicant's control.

8.2 Confirmation of Adjournments

An adjournment will usually result in a decision rendered after the legislated 21-day time frame. In any circumstance wherein the Superintendent grants an adjournment, the Superintendent will advise the Applicant of that decision either before or during the review.

8.3 Evidence Supplied to the Superintendent

If the Superintendent provides an adjournment at the request of an applicant, the Applicant must send the relevant evidence to RoadSafetyBC by the date and time specified. The Superintendent will review the evidence prior to the rescheduled review. Any adjournment provided or denied will be addressed in the review decision.

9.0 Late Submissions

As per [Section 2.4 Written Submissions](#), all of the submissions and evidence the Applicant wishes the Superintendent to consider in the review should be provided by 4:30 p.m., two business days in advance of the scheduled review. The Superintendent will not consider any information submitted after this time unless it has been accepted through the late submissions process.

9.1 Criteria for Late Submission Requests

Late submissions may be accepted by the Superintendent if it meets certain criteria, such as:

- reasons beyond the Applicant's control (e.g. illness, jury duty or incarceration);
- new evidence becoming available; and,
- discovering evidence that existed before the deadline but was not known of by the Applicant.

Under no circumstances will late submissions be considered after a decision has been made.

9.2 Requesting Consideration of Late Submissions

To provide a late submission to the Superintendent, an applicant must explain the reason(s) that the materials were submitted late and why they should be considered. If the Superintendent is satisfied that the Applicant has met one of the required criteria, he or she will consider the late submission prior to rendering a review decision.

Late submissions without a letter of explanation will not be considered by the Superintendent.

9.3 Other Licence Cancellations, Licence Suspensions and Outstanding Licence Requirements

A completed letter of explanation does not alter or affect any other licence cancellation, licence suspension and/or any outstanding licensing requirement.

10.0 Decision Outcomes

At the conclusion of the IRP review, the IRP will be revoked, upheld, or varied.

10.1 IRP Revoked

If the IRP is revoked, RoadSafetyBC will attempt to contact the Applicant or his or her Representative(s) by phone to advise of the revocation.

RoadSafetyBC will:

- remove the prohibition from the driving record;
- update RoadSafetyBC's data management systems;
- if appropriate, notify ICBC to return the driver's licence to the Applicant;
- notify the police to update CPIC; and,
- if paid, reimburse the Applicant for the associated administrative penalty, licence reinstatement fee, and renewal fee.

When the IRP is revoked, the associated vehicle impound will be cancelled.

RoadSafetyBC will:

- update RoadSafetyBC's data management systems;
- if the vehicle is still impounded, contact the Registered Owner and relay a date and time by which the vehicle must be picked up;
- fax an Order of Release to the Impound Lot Operator; and,
- if applicable, reimburse the Registered Owner for towing and storage fees paid to the impound lot.

10.2 IRP Upheld

If the IRP is upheld, RoadSafetyBC will send the decision explaining the Superintendent's reasoning to the Applicant. If the Applicant is represented, a copy of the decision letter will also be forwarded to his or her Representative(s).

Decisions of unsuccessful IRP reviews, in which the Applicant's driving prohibition was [stayed](#), will specify the dates on which the Applicant's driving prohibition will resume and conclude.

In these circumstances, RoadSafetyBC will also:

- update RoadSafetyBC's data management systems;
- notify ICBC of the dates that the Applicant's driving prohibition resumes and concludes; and,
- notify the police to update CPIC.

10.3 IRP Varied

If the review determined that a [warn IRP](#) was issued for an incorrect duration, the Applicant's record will be amended to reflect the appropriate length.

RoadSafetyBC will:

- amend the prohibition on the driving record;
- update RoadSafetyBC's data management systems;
- if appropriate, notify ICBC to return the driver's licence to the Applicant;
- notify the police to update CPIC; and,
- if paid, reimburse the Applicant for any fee in excess of the appropriate administrative penalty.

If the review decision determines that the IRP was issued for an inappropriate duration,

RoadSafetyBC will:

- update RoadSafetyBC's data management systems;
- if the vehicle is still impounded, contact the Registered Owner to arrange a reasonable timeframe for vehicle pickup;
- fax an Order of Release to the Impound Lot Operator; and,
- if applicable, reimburse the Registered Owner for towing and storage fees paid to the impound lot.

10.4 Review Fees

Review fees are not reimbursed to the Applicant, regardless of the outcome of the review.

11.0 Appeal and Judicial Review

An IRP review decision is a final decision. There is no appeal available for an IRP review decision.

In some circumstances a person can apply to the Supreme Court of B.C. for Judicial Review of an administrative review decision under the Judicial Review Procedure Act. The grounds for bringing a Judicial Review are limited and a person should seek independent legal advice if he or she is considering filing a Judicial Review. Alternatively, for more information about the Judicial Review Process, please see the [Courts of BC information package](#).