



BRITISH
COLUMBIA

RoadSafetyBC
Ministry of Public Safety and the Solicitor General

Driver Improvement Program Policies and Guidelines

August 2020

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

Driver Improvement Program Policies and Guidelines

Table of Contents

TABLE OF CONTENTS.....	2
SECTION 1 - INTRODUCTION	3
1.0 OVERVIEW.....	3
1.1 AUDIENCE	3
1.2 GLOSSARY.....	4
SECTION 2 - LEGISLATIVE AUTHORITY AND DELEGATION.....	7
2.0 LEGISLATIVE AUTHORITY.....	7
2.1 DELEGATION OF AUTHORITY	8
2.2 DISCLAIMER.....	8
SECTION 3 - INTERVENTIONS.....	9
3.0 OFFENCE LETTERS	9
3.1 WARNING LETTERS.....	9
3.2 PROBATION.....	9
3.3 PROHIBITION	9
SECTION 4 - ADJUDICATION POLICIES AND GUIDELINES	11
4.0 GENERAL CONSIDERATIONS	11
4.1 EXPERIENCED DRIVERS – INTERVENTION CHART.....	12
4.2 EXPERIENCED DRIVERS – HIGH-RISK DRIVING OFFENCES.....	12
4.3 NEW DRIVERS INTERVENTION CHART – NO PREVIOUS PROHIBITIONS	13
4.4 NEW DRIVERS – WITH PREVIOUS PROHIBITIONS (WITHIN 2 YEARS) – INTERVENTION CHART	14
4.5 ALCOHOL- OR DRUG-RELATED DRIVING SUSPENSIONS AND PROHIBITIONS.....	14
4.6 HIGH-RISK DRIVING PROHIBITION GUIDELINES:	15
4.7 CRIMINAL CODE / MOTOR VEHICLE ACT CONVICTIONS	17
4.8 USA CONVICTIONS	17
SECTION 5 - REVIEWS	17
5.0 NOTICE OF INTENT – REVIEWS.....	18
5.1 NOTICE OF PROHIBITION – REVIEWS.....	18
SECTION 6 - NOTICE OF PROHIBITION – APPEALS	18
6.0 NOTICE OF PROHIBITION – APPEALS	19

Section 1 – Introduction

1.0 Overview

Drivers with a history of violations on their driving record are at a high risk of being involved in a crash and are a risk to public safety.

The Driver Improvement Program (DIP) is a RoadSafetyBC program that identifies and intervenes with drivers who engage in poor or dangerous driving behaviour and encourages them to improve their driving habits. Drivers with poor or dangerous driving habits are generally identified as a result of one or more of the following: accumulation of driver penalty points; convictions for specific offences under the *Motor Vehicle Act (MVA)* or *Criminal Code of Canada* (Criminal Code); and through action taken by the police.

Under the DIP, Adjudicators may impose a variety of interventions ranging from early warning letters to prohibitions from driving in order to encourage drivers to improve their driving habits. In making any determination with respect to possible driver improvement action, Adjudicators consider the individual circumstances of each case, including the type, timing and severity of driving infractions recorded on a driver's driving record.

The Superintendent of Motor Vehicles (Superintendent) delegates some adjudication responsibilities for the DIP to the Insurance Corporation of British Columbia (ICBC) and RoadSafetyBC. The purpose of this document is to describe the delegated responsibilities and to set out the policies by which the delegation is carried out.

The DIP is only one of a collection of programs aimed at improving public safety on British Columbia roads. When making decisions under the DIP, Adjudicators are entitled to consider the driver's overall record including any action that has been taken through other driver safety programs. These programs include the Graduated Licensing (GLP), Indefinite Licence Suspension, Administrative Driving Prohibition, Responsible Driver, Ignition Interlock, Vehicle Impoundment and Driver Fitness programs.

1.1 Audience

The DIP Policies and Guidelines document is provided to all ICBC Adjudication Representatives and Reviewing Officers and RoadSafetyBC Adjudicators as guidelines for their decisions related to driver improvement interventions.

1.2 Glossary

Adjudication Representative

An ICBC employee who, under delegated authority, decides on the appropriate intervention action based on relevant guidelines and procedures.

Administrative Driving Prohibition (ADP)

A 90-day prohibition issued by police to drivers whose blood alcohol content (BAC) exceeds the legal limit of 80 mg per 100 ml within three hours of driving, or to drivers who fail or refuse to submit to a breath or blood-alcohol test. Detailed information on ADP is available online at: <http://www.icbc.com>

Appeal(s)

For the purpose of this document, an appeal refers to the option available to drivers to appeal a driving prohibition to the British Columbia Supreme Court under Section 94 of the MVA.

Commit

For the purpose of this document, a driver commits an offence when the driver is convicted, pleads guilty or is deemed to plead guilty.

Driver Fitness Program

Section 92 of the MVA authorizes the Superintendent to refuse to issue or to cancel any class of driver's licence if the holder has a medical condition or disability that affects his or her ability to drive safely, or if the licence holder does not complete a medical examination as requested by the Superintendent, or as required by legislation. Section 25 of the MVA authorizes the Superintendent to place a driving restriction on such a driver or to have the driver take further tests.

Experienced Drivers

Experienced drivers are drivers who are holders of a full privilege driving licence. These drivers have more than two years of driving experience and are not in the Graduated Licensing Program.

Graduated Licensing Program (GLP)

The Graduated Licensing Program is separated into two stages – learner and novice. In each of these stages a driver must comply with certain restrictions. More detailed information on the GLP is available online at: <http://www.icbc.com>

High-Risk Driving Incident Report (HRDIR)

Section 93 of the MVA provides the Superintendent with the authority to prohibit a person from driving a motor vehicle, if the Superintendent considers it to be in the public interest. If the Superintendent is satisfied that the driver is a high-risk to public safety – and needs to be dealt with swiftly and outside of

the regular DIP process – the driver may be prohibited. A peace officer can complete a HRDIR to initiate such a review by the Superintendent.

Indefinite Licence Suspension (ILS)

An Indefinite Licence Suspension is issued automatically when a driver is convicted of a motor vehicle-related *Criminal Code of Canada* offence. More detailed information on ILS is available online at: <http://www.icbc.com>

Ignition Interlock

The Ignition Interlock Program (IIP) is a remedial program designed to protect road users by preventing drivers from operating their vehicles while affected by alcohol. An ignition interlock is a device wired into the vehicle's ignition system that requires the driver of the vehicle to provide a breath sample before attempting to drive. The sample must register an alcohol-free breath or the vehicle will not start. Program evaluations have consistently found up to a 90% reduction in repeat drinking and driving while the device is installed.

Immediate Roadside Prohibition (IRP)

An Immediate Roadside Prohibition may be issued by police to drivers with a blood alcohol content (BAC) of 50 mg of alcohol in 100 ml of blood or above, or if a driver refuses or fails to provide a breath sample. Drivers who receive an IRP may apply to the Superintendent of Motor Vehicles for a review of the prohibition.

New Drivers

New drivers are defined as those drivers in the Graduated Licensing Program.

No-Point Violations

While they are not weighed as heavily as pointed offences, no-point violations demonstrate a fundamental disregard for safety and licensing requirements. Examples of no-point violations:

- driving without insurance
- failing to produce a driver's licence or insurance
- illegal use of a driver's licence or permit
- failing to wear a seat belt
- failing to wear a motorcycle safety helmet
- failing to display L (learner) or N (novice) signs in rear window

Penalty Points

The DIP uses a penalty point system to identify drivers who engage in poor or dangerous driving behaviour. Under this system, a pre-determined number of points are added to the driving records of

individuals who are convicted of driving violations. A listing of penalty points can be found online at: <http://www.icbc.com>

Prohibition

For the purpose of this document, prohibition refers to the intervention stage at which a driving privilege has been revoked. Drivers are prohibited from operating a motor vehicle throughout the duration of the prohibition.

In most cases, driving prohibitions will be for a specified period of time. Drivers who have further traffic convictions or events added to their driving record while subject to a driving prohibition may have their existing driving prohibition extended within the guidelines set out in this document.

Reasonable Person

A hypothetical person used as a legal standard. The reasonable person acts sensibly, exercises average care, skill and judgement, and takes proper precautions. In the context of operating a motor vehicle, he or she has regard for the safety of the public and must take proper precautions to guard against the risks that may reasonably be anticipated to arise from time to time as he or she proceeds on his or her way. As a general rule, personal factors (including, but not limited to, employment, medical considerations, family responsibilities, hardship, etc.) need not be taken into account in determining a reasonable person standard.

Responsible Driver Program (RDP)

The Responsible Driver Program is a remedial education and counselling program for drivers who have received certain alcohol- or drug-related prohibitions and/or convictions. Every Canadian province and many jurisdictions throughout the world have similar programs and they have been shown to reduce the risk of repeat alcohol-related accidents and convictions.

Reviewing Officer

An ICBC employee who, under delegated authority, carries out reviews of driving prohibitions to determine whether the prohibition should be cancelled, reduced or upheld.

RoadSafetyBC Adjudicator

A RoadSafetyBC adjudicator means an adjudicator with the delegated authority to conduct reviews and impose interventions under the DIP in accordance with the DIP Policies and Guidelines.

Street Racer

A street racer is an individual who has engaged in high-speed or unsafe racing competition on public highways.

Superintendent

This is the reference to the Superintendent of Motor Vehicles as noted in Section 118 of the MVA.

Unlicensed Drivers

All drivers are required by law to have a licence. Interventions for those who drive without a licence will typically be the same as for new drivers.

Vehicle Impoundment

The police will impound any vehicle driven by a person under a prohibition from driving or licence suspension, or if the person is driving while unlicensed. In addition, a vehicle can be impounded for street racing or stunting, for excessive speeding and alcohol-affected driving, and for failing to properly sit astride a motorcycle or driving a motorcycle while unlicensed or under-licensed.

Section 2 - Legislative Authority and Delegation

Section 93 of the MVA authorizes the Superintendent to prohibit a person from driving a motor vehicle for failing to comply with the Act or for having an unsatisfactory driving record in BC or elsewhere in North America.

Section 117 of the MVA allows the Superintendent to delegate responsibility and authority under this program.

2.0 Legislative Authority

93 (1) Even though a person is or may be subject to another prohibition from driving, if the superintendent considers it to be in the public interest, the superintendent may, with or without a hearing, prohibit the person from driving a motor vehicle

(a) if the person

(i) has failed to comply with this Act or the regulations, or

(ii) has a driving record that in the opinion of the superintendent is unsatisfactory,

(b) if the person's privilege of driving a motor vehicle has been suspended or cancelled in any jurisdiction in Canada or in the United States of America, or

(c) for any cause not referred to in paragraph (a) or (b) that relates to the use or operation of motor vehicles.

(2) In forming an opinion as to whether a person's driving record is unsatisfactory the superintendent may consider all or any part of the person's driving record, including but not limited to any part of the driving record previously taken into account by a court or by the superintendent in making any order prohibiting the person from driving a motor vehicle.

(3) If under this section the superintendent prohibits a person from driving a motor vehicle on the grounds of an unsatisfactory driving record, a prohibition so made must not be held invalid on the grounds that the superintendent did not examine or consider other information or evidence.

2.1 Delegation of Authority

117 (1) The superintendent may delegate any or all of the powers, duties and functions of the superintendent

(a) under this Act to persons appointed in accordance with section 118 (2), or

(b) under this Act, except Part 2.1, to the Insurance Corporation of British Columbia.

(2) The Insurance Corporation of British Columbia, in carrying out powers or responsibilities delegated to it under subsection (1), must act in accordance with any directives issued by the superintendent.

(3) For the purposes of subsection (2), the superintendent may issue general or specific directives.

2.2 Disclaimer

This excerpt from the MVA is not the official statute. It is intended for reference purposes only and may not be up to date. The Province of British Columbia does not warrant its accuracy and will not be liable or responsible for damages arising out of its use.

The current Statutes and Regulations of British Columbia are available online at:

<http://www.bclaws.ca>

Official print copies of British Columbia Acts and Regulations are available for purchase directly from Crown Publications Inc. online at: <http://www.crownpub.bc.ca/>

Crown Publications
563 Superior Street
Victoria, British Columbia
V8V 1T7

Phone: 250-387-6409 – Fax: 250-387-1120

Section 3 – Interventions

A variety of driver interventions are imposed by Adjudicators. Decisions are based on the individual circumstances of each case, including the number of separate or repeat infractions. Additionally, the type, timing and the severity of the infractions are all factors in the level of intervention. New drivers, regardless of age, are at a higher risk of causing a crash than experienced drivers. For this reason, there are lower threshold levels for intervention with new drivers. Threshold tables are listed in Section 4 of this document.

3.0 Offence Letters

Offence letters are sent by ICBC to advise drivers that their driving record is being monitored and that any further driving offences may result in action being taken by the Superintendent. Drivers receive an offence letter when they reach a certain point threshold (see tables in Section 4).

3.1 Warning Letters

Warning letters are sent by ICBC and are intended to let drivers know that their driving records are monitored and to encourage them to improve their driving behaviour by highlighting the consequences of high-risk driving.

3.2 Probation

Drivers who receive a notice of probation from ICBC maintain their driving privileges, but are warned that any further violations may result in a driving prohibition. Probation may be employed either before a prohibition is initially imposed or after the driver's licence has been reinstated.

Once the probation period has ended a driver remains under close scrutiny for an additional two years and will likely be subject to a driving prohibition if further infractions are added to the driving record.

3.3 Prohibition

Prohibition from driving is the most severe intervention of the Driver Improvement Program.

In most cases, a Notice of Intent to Prohibit is sent to the driver giving them an opportunity to make a submission that the prohibition should not proceed or should be reduced.

An ICBC Adjudication Representative will consider the five-year driving record and may send a Notice of Intent to Prohibit to a driver when one or more of the following apply:

- the requisite point level has been exceeded (see tables in Section 4)
- the driver accumulates more points within two years, but after six months of a prohibition or probation
- an experienced driver commits two or more high-risk offences within a one-year period (see 4.2 in Section 4)

- the driver has been convicted in the USA of an offence that is equivalent to a Canadian *Criminal Code* motor vehicle-related offence
- the ICBC Adjudication Representative determines that a driving prohibition is in the public interest

The driver is given an opportunity to explain why the prohibition should not be imposed. If no submission is made, a Notice of Prohibition will be sent to the driver. If an application for review has been made, the submission will be taken into consideration prior to any decision being made.

In other situations, a Notice of Prohibition may be issued without first giving the driver a Notice of Intent to Prohibit.

The Notice of Prohibition may be issued when:

- the driver has accumulated more points within six months of a probation or prohibition
- the Notice of Intent to Prohibit is upheld after a review
- an additional term of prohibition is added to a prohibition already in effect
- the driving record changes due to a dispute
- the driver has been convicted of another offence while on probation
- the ICBC Adjudication Representative or RoadSafetyBC Adjudicator determines that a driving prohibition is in the public interest

ICBC will refer a driver's record to RoadSafetyBC for adjudication when:

- a driver has more than 50 penalty points resulting from 2, 3, 4 and 6 point infractions within a two year period
- a police report is on file
- the Superintendent deems it necessary

The Notice of Prohibition is typically sent by regular mail to the driver. By signing, dating and returning the Notice to ICBC, the driver has acknowledged receipt of the Notice of Prohibition and the prohibition will take effect. Drivers also have the option of attending an ICBC Driver Licensing Office, a Service BC location, or an Appointed Agent location to acknowledge their prohibition by completing an Acknowledgement of Prohibition from Driving form. The driver must also surrender their driver's licence. ICBC must forward a driver's DIP file, including a signed and dated Notice of Prohibition or Acknowledgement of Prohibition from Driving form, to the Superintendent upon request.

If the prohibition is not acknowledged by the driver, then the prohibition will not take effect and will remain outstanding. The driving record will reflect the outstanding prohibition which may be served on a driver by the police.

If the driver is not personally served by the police or does not acknowledge a prohibition, the outstanding prohibition will remain on the driving record indefinitely even if the driver applies for a review of the prohibition.

Once the driver acknowledges the prohibition or is personally served by the police, the prohibition takes effect for the duration specified. When the prohibition period is complete and all other requirements have been met, drivers may apply for a new licence. As set out in Directions to ICBC pertaining to section 60(6) of the MVA, if granted, the new licence will be a two-year, short-term renewal licence.

Once the prohibition period has ended, a driver remains under close scrutiny for an additional two years and will likely be subject to a driving prohibition if further infractions are added to the driving record.

Section 4 – Adjudication Policies and Guidelines

The underlying principle in these guidelines is that interventions should escalate in cases of numerous infractions or repeated driver improvement interventions. In more serious cases an Adjudicator may decide to prohibit a driver without prior interventions under the DIP, or even when the driving record is free from convictions.

The number of penalty points, the severity of infraction(s) and whether the driver is new or experienced typically determines the scope of intervention available to Adjudicators. Within that scope, the actual intervention imposed against the driver is done so at the discretion of the Adjudicator, based on the specific circumstances of that driver's record. Depending on the driving record, interventions outside of these Policies and Guidelines may be appropriate.

If the ICBC Adjudication Representative finds that a higher or lower intervention is warranted than the following charts indicate, or if there are driver fitness issues, the file will typically be forwarded to RoadSafetyBC for decision.

4.0 General Considerations

The Adjudicator will take into account the five-year driving record, including both pointed and non-pointed violations, as well as any submissions from the driver. Additionally, the following factors are considered when adjudicating a record:

- driving experience

- type and class of licence(s)
- seriousness of the infraction(s) as they relate to public safety or property damage
- period of time since the infraction or between infractions
- previous warnings, probation periods or driving prohibitions
- previous lenience shown by Adjudicators
- penalty points
- driving improvement shown

The following charts provide Adjudicators with an appropriate range of discretion for driver improvement action, as delegated by the Superintendent of Motor Vehicles. Drivers who have further traffic convictions or events added to their driving record while subject to a driving prohibition may have their existing driving prohibition extended. These figures are intended as guidelines only.

4.1 Experienced Drivers – Intervention Chart

The following chart is based on driver penalty points accumulated by experienced drivers within the previous two years.

Experienced Drivers Intervention Chart								
POINTS	Offence Letter	Warning Letter	Probation	Notice of Intent	Prohibition			Refer to RoadSafetyBC
					Final	Min # months	Max # months	
9 – 14		x						
15 – 19			x	x	x	3	8	
20 – 24				x	x	4	10	
25 – 35				x	x	6	12	
36 - 49				x	x	8	18	
50 or more								x

4.2 Experienced Drivers – High-Risk Driving Offences

The following offences under the Motor Vehicle Act constitute dangerous, high-risk driving behaviour and habits that require driver improvement action when an experienced driver's record demonstrates a pattern of these offences:

- excessive speed
- driving without due care and attention

- driving without reasonable consideration
- use of an electronic device while driving (**effective June 1, 2016**)
- emailing or texting while driving (**effective June 1, 2016**)

Experienced drivers who commit two or more of these high-risk driving offences within a one-year period are subject to potential driver improvement action as per the intervention chart below.

Note: Effective June 1, 2016 the offences for use of an electronic device while driving and emailing or texting while driving are added to the list of high-risk driving offences. Use of an electronic device while driving and emailing or texting while driving are therefore considered high-risk offences for the purposes of the DIP when the violation ticket for these offences is issued to an experienced driver on or after June 1, 2016.

Experienced Drivers Intervention Chart—Multiple High-Risk Driving Offences					
	Notice of Intent	Prohibition			Refer to RoadSafetyBC
		Final	Min # Months	Max # Months	
HIGH-RISK DRIVING OFFENCES					
Prior to June 1, 2016: Any combination of two or more of the following offences within a one-year period: excessive speed, driving without due care and attention and driving without reasonable consideration	x	x	3	12	
On or after June 1, 2016: Any combination of two or more of the following offences within a one-year period: excessive speed, driving without due care and attention, driving without reasonable consideration, use of an electronic device while driving, and emailing or texting while driving	x	x	3	12	

4.3 New Drivers Intervention Chart – No Previous Prohibitions

As outlined in the intervention chart below and under 4.4, new drivers face driver improvement action after committing any driving offence carrying two or more driver penalty points.

New Drivers Intervention Chart – No Previous Prohibitions								
Within 24 Months	Offence Letter	Warning Letter	Probation	Notice of Intent	Final	Min.# Months	Max # Months	Refer to RoadSafetyBC
Points								
2 – 6	x		x	x	x	1	6	
7 – 13				x	x	2	8	
14 – 20				x	x	4	10	
21 – 29				x	x	6	12	
30 – 49				x	x	8	18	
50 or more								x

4.4 New Drivers - With Previous Prohibitions (within 2 years) - Intervention Chart

New Drivers - With Previous Prohibitions - Intervention Chart								
Within 24 Months	Offence Letter	Warning Letter	Probation	Notice of Intent	Final	Min. # Months	Max # Months	Refer to RoadSafetyBC
Points								
2 - 6	x		x	x	x	2	6	
7 - 13				x	x	3	8	
14 - 20				x	x	6	12	
21 - 30				x	x	8	14	
31 - 49				x	x	10	18	
50 or more								x

4.5 Alcohol- or Drug-Related Driving Suspensions and Prohibitions

Driving while affected by alcohol or drugs is among the most dangerous behaviour a driver can engage in. IRPs, 24-hour prohibitions and 12-hour suspensions are issued by police to immediately remove drivers from the road if their ability to drive is affected by alcohol or drugs. IRPs are used when a police officer believes a driver's ability to operate a vehicle is affected by alcohol due to a WARN or a FAIL reading on an approved screening device (ASD), or a driver refuses to provide a sample in an ASD. 24-hour prohibitions are used when a police officer believes a driver's ability to operate a vehicle is affected by alcohol or drugs. 12-hour suspensions may be issued if a new driver has any amount of alcohol in their blood.

If a new driver receives one IRP, one 12-hour suspension, or one 24-hour prohibition they will be subject to driver improvement action.

If an experienced driver receives two 24-hour prohibitions within two years, they will usually receive a warning letter. However, if they have other offences, convictions or prohibitions within that period, they may receive a Notice of Intent to Prohibit.

If an experienced driver receives three 24-hour prohibitions within two years, a Notice of Intent to Prohibit may be sent to the driver.

Depending on the driver's overall record, the length of the prohibition may be longer.

New Drivers - IRPs, 24-hour Prohibitions and 12-hour Suspensions

	Prohibition				Refer to RoadSafetyBC
	Notice of Intent	Final	Min # Months	Max # Months	
one IRP or 12/24 hour	x		1	6	
two IRP or 12/24 hour	x		3	8	
three	x		6	12	
four	x		12	18	
five	x		16	24	
six or more					x

Experienced Drivers - 24-hour Prohibitions						
				Prohibition		Refer to RoadSafetyBC
	Warning	Notice of Intent	Final	Min # Months	Max # Months	
Two*	x	x		2	6	
three		x		3	8	
four		x		4	12	
five		x		5	18	
six		x		6	24	
seven or more						x
*Drivers may receive a Notice of Intent if other offences or convictions exist on the driving record						

4.6 High-Risk Driving Prohibition Guidelines:

Section 93 of the MVA provides the Superintendent with the authority to prohibit a person from driving a motor vehicle, if the Superintendent considers it to be in the public interest. If the Superintendent is satisfied that the driver is an immediate risk to public safety, the driver may be prohibited. In these instances, a HRDIR may be completed by a peace officer and reviewed by the Superintendent. In cases where a driver has engaged in high-risk driving behaviours that meet a certain criteria, the Superintendent will issue a Notice of Prohibition in order to immediately intervene and ensure public safety by removing the driver from the road. The chart below provides a list of criteria that the Superintendent may consider in determining if an intervention is appropriate and the appropriate length of any intervention related to a high-risk driving incident.

The criteria are not exhaustive. The Superintendent maintains the discretion to intervene and prohibit drivers that engage in all types of high-risk driving behaviours. The length of prohibition is at the discretion of the Superintendent and depends on the individual circumstances in each case, including the potential and actual harms that have resulted from the driving behaviour. The

types and severity of circumstances that result in a prohibition are greatly varied and for that reason, the guidelines do not contain specific prohibition lengths. Rather, the Superintendent exercises discretion in determining what is appropriate in each case. The prohibition criteria listed below are guidelines only.

Length of Prohibition:	Criteria:
3+ months	<p>Criteria that the Superintendent may consider in determining whether to prohibit a person from driving a motor vehicle under section 93(1)(c) of the MVA:</p> <ul style="list-style-type: none"> • The police have identified the driver. • The police have served any violation tickets and/or have recommended, or intend to recommend, that the driver be charged with any MVA or Criminal Code offences. • There has not been a previous intervention for the incident under section 93(1)(a) of the MVA. • The incident demonstrated an immediate risk to public safety, which may include but is not limited to: <ul style="list-style-type: none"> ▪ The risk was foreseeable to a reasonable person; and, ▪ The details of the incident increased the risk to public safety; or, ▪ The number of specific actions and decisions made by the driver within the same incident increased the risk to public safety. <p>Criteria that the Superintendent may consider in determining the length of any intervention related to a HRDIR:</p> <ul style="list-style-type: none"> • The details of the incident increased the risk to public safety, which may include but are not limited to: <ul style="list-style-type: none"> ○ Location; ○ Weather; ○ Traffic and pedestrian conditions; and, ○ Any further details or evidence in the HRDIR. • Other factors increased the risk to public safety, which may include but are not limited to: <ul style="list-style-type: none"> ○ Alcohol; ○ Drugs; ○ Speed; ○ Licensing status; ○ Passengers (including minors); and, ○ Property damage, personal injury and/or fatality, or the significant likelihood of property damage, personal injury and/or fatality. • Specifics of the driving record, which may include but are not limited to: <ul style="list-style-type: none"> ○ Multiple prior convictions; ○ Prior motor vehicle-related Criminal Code convictions and/or MVA convictions for high risk driving offences; and, ○ Previous interventions under section 93 of the MVA and the length of the time between those interventions.

Note: If for any reason the Superintendent determines that the incident does not on its own warrant intervention under the HRDIR Program, the Superintendent may instead have ICBC review the matter under the authority delegated to them, to consider whether an intervention, if any, is appropriate under section 93(1)(a) of the MVA on the basis of the person's driving record.

4.7 Criminal Code / Motor Vehicle Act Convictions

When a driver is convicted of a Criminal Code offence in Canada that results in a court-ordered prohibition from driving, either in BC or out-of-province, the information is added to their BC driving record.

Some motor vehicle-related Criminal Code offences carry automatic prohibitions from driving. Those prohibitions are separate from any action taken under the DIP and do not take into account the entire driving record. When a Criminal Code conviction, MVA conviction for failing to stop for a peace officer, driving while prohibited/suspended, or combination thereof, is added to the driving record, an ICBC Adjudication Representative reviews the record and has the discretion to give an additional prohibition for up to three years. If the ICBC Adjudication Representative feels a longer prohibition is warranted, they must refer the file to RoadSafetyBC.

If the conviction is for section 220 or 249 (4) of the Criminal Code, which relate to causing death by criminal negligence or by dangerous operation of a motor vehicle, the file must be referred to RoadSafetyBC unless the court orders a prohibition of three years or more.

Occasionally, unsolicited police reports are received before the matter goes to court. When this occurs, and the driving behaviour is particularly dangerous, RoadSafetyBC will review the driving record immediately. Otherwise, an ICBC Adjudication Representative will review the driver's record after a conviction.

4.8 USA Convictions

When a driver is convicted of an offence in the USA, ICBC will determine whether the offence is equivalent to a Criminal Code offence. If satisfied that the offence is equivalent, ICBC has the authority to issue a driving prohibition for a term equivalent to that if the offence occurred in BC.

A prohibition will only be imposed if ICBC receives notification of the USA conviction within three years of the conviction date.

Section 5 - Reviews

In accordance with the principles of administrative fairness, drivers may request a review of any driver improvement action. Drivers seeking a review of a driving prohibition issued under the DIP must send a completed Application for Review form and pay a non-refundable fee of \$100 for each application.

Drivers may apply for subsequent reviews if they have new information that they want considered. In the absence of any such new information, the subsequent review is not likely result in a different adjudication decision.

5.0 Notice of Intent – Reviews

Drivers who have been issued a Notice of Intent to Prohibit may apply for a review and attach a submission of why a driving prohibition should not proceed or should be reduced to a shorter duration. A Reviewing Officer or RoadSafetyBC Adjudicator will consider a submission in accordance with the considerations set out in these guidelines.

Submissions must be in writing and drivers may include any information they wish to be considered. Drivers who do not make a submission within 21 days from the date of the Notice of Intent to Prohibit will receive a Notice of Prohibition.

5.1 Notice of Prohibition – Reviews

A driver who receives a Notice of Prohibition may apply for a review and attach a submission explaining why the driving prohibition should not continue or should be shortened. Submissions must be in writing and drivers may include any information or evidence they wish to be considered. Subject to any general requirements for referral to RoadSafetyBC set out in the Delegation and Directive, a Reviewing Officer will conduct reviews for prohibitions that are from one to three months in duration. All other reviews must be referred to RoadSafetyBC. The prohibition remains in effect during the review.

The Reviewing Officer or RoadSafetyBC Adjudicator may consider the driving record and history, personal or financial hardship, family responsibilities, employment and other relevant information. Once the review has concluded the driver will be advised of the outcome.

A driver is not required to sign the Notice of Prohibition or an Acknowledgement of Prohibition from Driving form in order to apply for a review of the prohibition. ICBC must not refuse to accept an application for a review of a Notice of Prohibition on the basis that the prohibition has not been acknowledged or personally served.

Section 6 - Notice of Prohibition – Appeals

Drivers who are personally served with a Notice of Prohibition have 30 days from the date of service to appeal the prohibition to the BC Supreme Court.

Drivers who otherwise received a Notice of Prohibition prior to August 14, 2020 have 30 days from the date they received the Notice of Prohibition to appeal the prohibition to the BC Supreme Court.

Drivers who receive a Notice of Prohibition on or after August 14, 2020, other than by personal service, have 30 days from the date they sign their Notice of Prohibition or an Acknowledgement of Prohibition from Driving form to appeal the prohibition to the BC Supreme Court.

Submitting an Application for Review does not suspend the running of the time limit for appeal.

6.0 Notice of Prohibition – Appeals

Drivers are responsible for bearing the cost of their appeal and are prohibited from driving while their appeal is in progress unless a stay of driving prohibition is ordered by the court.

The authority delegated to ICBC does not permit ICBC to take any steps or action in respect of appeals of prohibitions to the BC Supreme Court, or any other court proceedings in respect of prohibitions.

In the event ICBC receives notice of any legal proceeding arising from or in relation to the exercise of the authority delegated to ICBC, then ICBC must:

- a)* not acknowledge receipt or service of any document on behalf of the Superintendent of Motor Vehicles, any ministry of the Province of British Columbia, or Her Majesty the Queen in right of the Province of British Columbia
- b)* forward all original documentation to the Superintendent of Motor Vehicles
- c)* immediately refer the driver to the Superintendent of Motor Vehicles
- d)* not exercise any delegated authority with respect to the driver

In the event ICBC is named in the legal proceedings, or the individual who conducted the review is named, ICBC will not appear in the proceedings, and will not be entitled to any legal costs. The conduct of the appeal or other proceedings will be carried solely by the Superintendent of Motor Vehicles.