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April 2009

This Month In Full Disclosure:

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Alberta Child Welfare – New Class Action Lawsuit in the Works

Announcements

Injured In A Car Accident?
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0.08 BLOOD ALCOHOL LIMIT – HOW LOW WILL IT GO?



Think you're okay because you've only had a drink or two? That's not necessarily so. As *Full Disclosure* reported in November 2008, even small amounts of alcohol in the blood can impair one's ability to drive. In addition, several factors, including age, gender and even the time of day, can affect the blood-alcohol content.

The House of Commons justice committee recently began hearings on whether or not the federal government should lower the legal limit for impaired driving from .08 percent to .05 percent. Should the proposed change become law, drivers caught driving with .05 percent blood-alcohol level could be charged criminally as opposed to having their licence suspended, which is the current punishment for such an offense.

Not everyone is in favour of the proposal, however. Canada Safety Council, for example, issued a press release stating that a lower blood-alcohol limit could actually

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jeopardize progress in the fight against impaired driving. They cite a recent survey of crown prosecutors and defence counsel that found that even with the current legislation, impaired driving cases are taking longer and longer to prosecute. The Council's past president Emile Therien says that the lower level will result in more cases being brought before a judge because people are more likely to challenge a criminal charge to avoid a criminal record.

Currently all provinces except Quebec temporarily suspend the licences of those drivers caught with a blood-alcohol level of .05 or greater. In British Columbia, drivers get a 24-hour suspension, and as of May 1, Ontario drivers will lose their licence for three days the first time they're caught, seven days the second time, and thirty days the third time. That's a pretty strong deterrent, according to Klein Lyons lawyer Manjot Hallen. While Hallen agrees that people are more likely to go to court if the charge could lead to a criminal record, he says that on the plus side, the proposed legislation could result in more people thinking twice before having even a single drink before driving.

The cost of advertising the change in legislation would likely be quite high, however. Why advertise? "In order for the legislation to be an effective deterrent," says Hallen, "it has to be communicated to the public."

To read the transcripts of justice committee hearings, visit <http://www2.parl.gc.ca/>.

Read Canada Safety Council's [press release](#).

Don't Miss
 The Klein Lyons
Guide To An
ICBC Settlement ▶

BELTS AND BAGS – ACCESSORIZING FOR SAFETY

While they're mere fashion accessories to most of us, in the world of motor vehicles, belts and bags reduce injuries and save lives.

Seat Belts Make Sense

According to a recent press release issued by the Ministry of Public Safety and Solicitor General, British Columbia traffic fatalities decreased 26 percent over a six-year period, from 467 deaths province-wide in 2002 to 350 deaths in 2008 — despite an increase in population of 300,000. In 2002, the RCMP (which is responsible for about 80% of British Columbia's traffic law enforcement) ramped up enforcement of three problem areas, including unbuckled seat belts, and roughly doubled the number of fines handed out for seat-belt violations. Between 2007 and 2008, the number of deaths of unbelted vehicle occupants dropped 40

Testimonials

I wanted to take the time to sincerely thank you for your support and diligence on my case. I fully trusted you as subject matter experts and I was beyond impressed with your professionalism and care to my case. I would recommend Klein Lyons in a heartbeat.

— Colleen Dix

percent. In BC, the fine for not wearing a seatbelt is \$167.

Wearing a seat belt makes good sense. Seat belts reduce injuries by stopping the wearer from hitting hard interior parts of the vehicle and from hitting other passengers. They also prevent wearers from being thrown from the vehicle.

Seat belts reduce injuries by stopping the wearer from hitting hard interior parts of the vehicle and from hitting other passengers.

Here's how to wear a seat belt to ensure optimum safety:

- Wear a lap/shoulder belt system
- Place the lap belt low over your pelvic bones, and wear it snugly
- Place the shoulder belt over your shoulder and across your chest — never under your arm or behind your back.
- Don't recline your seat to the point where you create slack in the seat belt

Airbags Save Lives

Airbags deploy when the severity of a crash reaches a preset threshold value, cushioning the driver or passenger from impact with a hard surface. While the threshold varies from vehicle to vehicle, it is roughly equivalent to the force of a vehicle crashing into a solid wall at a speed of 13 to 23 kilometres per hour.



The first commercial airbags appeared in automobiles in the 1980s. According to Transport Canada, between 1990 and 2000, airbags saved about 300 lives, and the number increases each year as airbags become more common in vehicles. Airbags are also particularly effective in preventing life-threatening and debilitating head and chest injuries.

Airbags, however, aren't without risk, because they inflate so quickly that they can actually cause injuries. They are not mandatory in Canada, and cars with airbags can be equipped with an on-off switch that allows airbags to be deactivated. Transport Canada discourages installing this feature, however, and instead advises drivers to take the following steps to reduce the risk of airbag injuries:

- Place infants in rear-facing infant seats in the back seat
- Transport children 12 years old and younger in the back seat and use appropriate and properly installed child restraints
- Buckle your seat belt
- Maintain a space of 25 centimetres between the centre of the airbag cover and the centre of your breastbone.

Current Class Actions

- Alberta Child Welfare
- AMO Contact Lens Solution
- BC Ear Bank
- BC Rail Pension Plan
- Business Development Bank of Canada
- Breast Cancer Testing
- Crocus
- Fosamax
- H.R.T. (Hormone Replacement Therapy)
- Light Cigarettes
- Shoulder Pain Pump
- Sleepees
- Vioxx
- Wego Tube Kite

ALBERTA CHILD WELFARE

NEW CLASS ACTION LAWSUIT IN THE WORKS

A class action has been certified against the Child Welfare branch of the Alberta Government and the Alberta Public Trustee on behalf of children who were in the custody of Child Welfare between July 1, 1966 and February 19, 2008. The class includes any individual who suffered a personal injury as a result of assault or negligence and for whom the defendants failed to advance a claim. The lawsuit alleges that the defendants had a responsibility to pursue criminal injuries compensation and personal injury claims for children under their care, but that they failed to do so. The action was certified in February 2008 by Justice D. R. Thomas of the Alberta Court of Queen's Bench, who appointed three representative plaintiffs to act on behalf of the class.



Like most Canadian provinces, Alberta has a fund for compensating victims of crime. Historically, the amounts awarded to victims have ranged from a few thousand dollars to over \$100,000, depending on the seriousness of the injuries. But for decades, the Alberta government has failed to make applications for children in their care, and for most of these children the time limits have now expired.

"We're working to get compensation for people whose legal rights and legal interests were not protected," explains lawyer Nicola Hartigan from Klein Lyons' Vancouver office, who is working on this case with lawyers Robert Lee of the Old Strathcona Law Office in Edmonton and Mark Freeman of Docken & Company in Calgary. "The children had a right to make a claim for victims of crime compensation or initiate a civil action and they were not informed of those rights. We're alleging that Child Welfare and the Public Trustee had a responsibility to pursue either criminal injuries compensation or personal injury claims on behalf of children in their care."

Hartigan notes that in 2005, after this lawsuit was launched, the Alberta Government implemented a policy that aims to protect the legal rights of children in their care. The policy requires the child welfare authorities to inform the legal services branch of all cases where a child under permanent guardianship has been physically or sexually assaulted, where such a child wishes to commence a civil action, or where a lawyer or insurance company has contacted the child about settlement of an injury or an accident claim.

"We're working to get compensation for people whose legal rights and legal interests were not protected".

"This policy is a step in the right direction," says Hartigan, "but it doesn't help the children who have claims pre-dating the implementation of the new policy. For many of the class members the time has passed and they are no longer able to make these claims."

The Alberta government appealed the certification decision and the appeal was heard in February 2009. Hartigan notes that a decision is expected any time now. "If we're successful and the Court of Appeal upholds the certification decision," she added, "next we will be moving the case toward trial."

ANNOUNCEMENTS

David Klein of Klein Lyons will be speaking about assessing and managing conflicts of interest at the 3rd Pension Law & Litigation Seminar on April 21, 2009, in Vancouver.

Diane Elder, case manager/paralegal for Klein Lyons, participated in a panel presentation on Part 7 Benefits: The Good, the Bad and the Ugly, on March 28, 2009, at the Essential Soft Tissue Injury Conference in Vancouver.

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