



**Canada's Proposed Approach to
Drug-Impaired Driving
Bill C-46
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Background

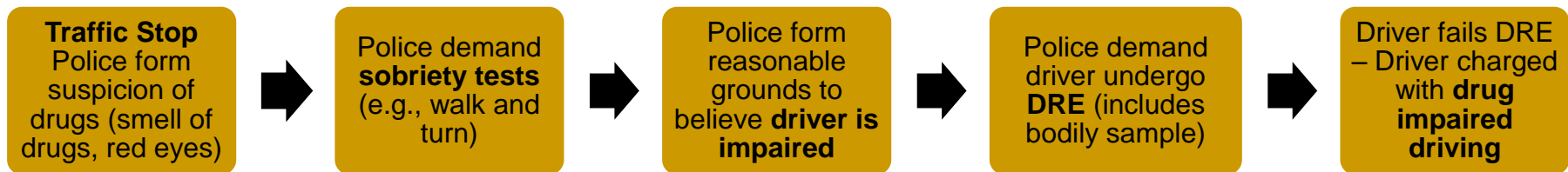
- Canada has committed to legalizing and strictly regulating cannabis by July 2018
- Canada also committed to strengthening the criminal law with respect to drug-impaired driving
- Federal Government introduced two pieces of draft legislation on April 13, 2017:
 - Bill C-45, the *Cannabis Act*; and,
 - Bill C-46, An Act to amend the *Criminal Code* (offences relating to conveyances) and to make consequential amendments to other Acts) was introduced.



Current Law – Drug-Impaired Driving

- Drug-impaired driving has been a criminal offence since 1925
- Since 2008, police have been authorized to demand: (1) standard field sobriety tests (SFST) at the roadside; and (2) drug recognition evaluation (DRE) at the station

Current Typical Scenario - Drugs



Provinces and Territories can also address drug-impaired driving in highway traffic legislation (e.g., immediate roadside licence suspension)



Overview – Bill C-46

- Bill C-46 proposes, among other things, to amend the *Criminal Code* to strengthen the approach to drug-impaired driving.
- Two key proposals :
 - Create three new offences of being over prohibited drug limit within two hours of driving; and,
 - Authorize police to use oral fluid drug screeners at the roadside.



Enact new *Criminal Code* offences

- Three new offences of having a prohibited level of drugs in blood within two hours of driving:
 1. A straight summary conviction offence for drivers with low levels of impairing drugs (precautionary approach) – maximum fine of \$1,000;
 2. A hybrid offence for drivers with the presence of illicit drugs and impairing levels of legal drugs – same penalties as alcohol-impaired driving;
 3. A hybrid offence for drivers with drugs in combination with alcohol – same penalties as alcohol-impaired driving.
- The proposed drug levels are not contained in the Bill, but would be set by regulation (similar to UK approach).



Draft Regulation – October 14, 2017

Summary Conviction

- ≥ 2 ng but less than 5ng THC per ml of blood
- Max penalty \$1,000
- Discretionary Driving Prohibition

Hybrid – Drug alone

- ≥ 5 ng THC per ml of blood
- ≥ 5 mg GHB per L of blood
- Any detectable level for:
 - LSD;
 - Ketamine;
 - PCP;
 - Magic Mushrooms;
 - Cocaine;
 - Heroin (6-Mam);
 - Methamphetamine.

Hybrid – Combination Drug and Alcohol

- ≥ 2.5 ng THC per ml of blood combined with 50 mg alcohol/100 ml of blood

- Penalties for the hybrid offences would be the same as for alcohol-impaired driving (e.g., mandatory minimum fine of \$1,000 on a first offence, 30 days imprisonment on a second offence and 120 days on a third offence).

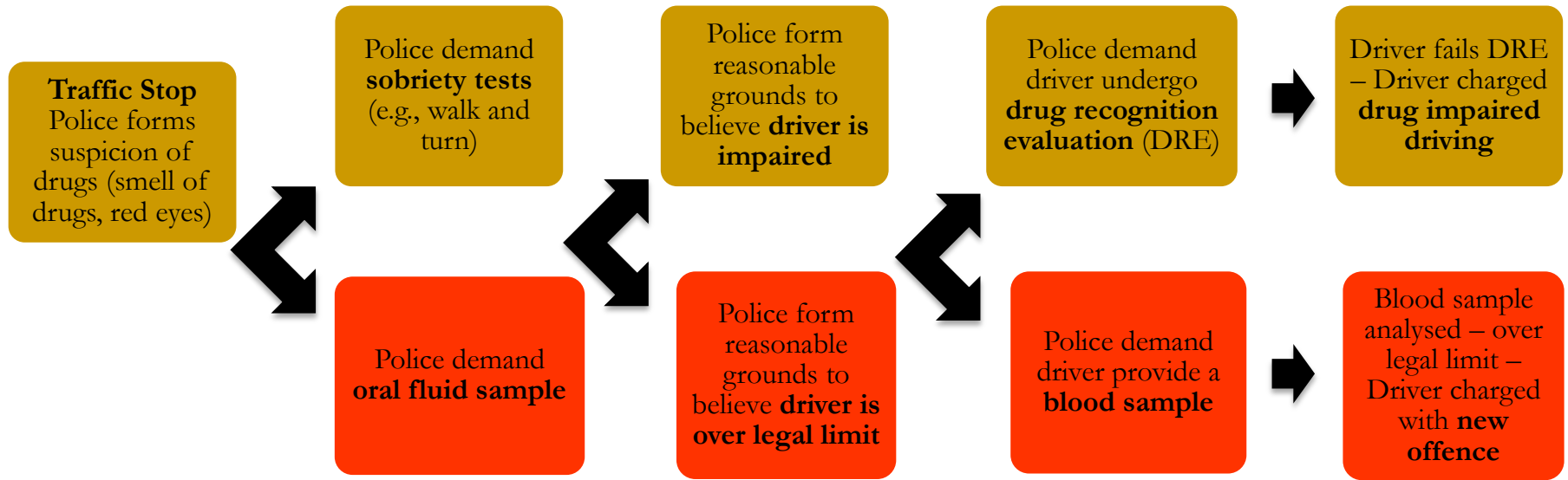


Authorize roadside drug screeners

- *Criminal Code* would be amended to authorize police to use roadside drug screeners approved by the Attorney General of Canada:
 - Demand would be made based upon “reasonable suspicion of drugs in the body” (e.g., red eyes, smell of drugs)
 - Oral fluid screeners would detect THC, cocaine, and methamphetamine (presence **not** concentration)
 - Results would be used to develop “reasonable grounds to believe an offence has been committed”, which are needed by an officer to demand a blood sample for analysis or a drug recognition evaluation
- The Drugs and Driving Committee is in the process of developing evaluation standards, following which the devices will be tested and recommended for use.



Current and Proposed Law



 CURRENT

 PROPOSED



Other elements

- Clarify that drug recognition evaluating officers do not need to be qualified as an expert to give opinion testimony in every trial.
- Permit a police officer to demand a sample of a driver's blood instead of demanding a drug recognition evaluation and remove the requirement that blood be taken by a doctor.
- Create a rebuttable presumption to better link the drug found in the driver's body through a DRE with observed signs of impairment at time of driving.



Funding Announcement

- \$274M* in funding was announced on September 8, 2017 to support law enforcement in the implementation of Bills C-45 and C-46
- For C-45 (Cannabis), \$113.5M will support fighting organized crime and keeping Canadian borders secure
- For C-46 (Impaired Driving), \$161M is available to train, equip and build capacity for front-line officers to enforce drug-impaired driving laws and ensure public safety on Canadian roads
- Of the C-46 funding, up to \$81M is available to support provinces and territories (PTs) directly, through access to screening devices, enhanced training and training capacity for law enforcement to recognize the signs and symptoms of drug-impaired driving, as well as data collection.

*all money is reported in Canadian dollars
