

Publisher's Note

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McLeod, Takach & Segal

Breathalyzer Law in Canada

This practice-oriented service provides subscribers with quick, up-to-date answers to procedural and substantive questions related to drinking and driving offences. Three volumes furnish all the information needed to advise, defend, and prosecute individuals charged with the offences of impaired driving, driving “over 80” and failing or refusing to comply with demands for samples.

Continuing with the transition and adjustment to Canada’s new driving offence regime, as introduced by former Bill C-46 on December 18, 2018, three chapters are comprehensively revised: Chapter 11 (Certificates, Notice of Production of Certificate Evidence and Cross-Examination of Qualified Medical Practitioner, Analyst, or Qualified Technician – s. 320.32(1), (2), (3), (4), (5)), Chapter 12 (Evidence of Failure to Provide a Sample– s. 320.31(8); Evidence of Failure to Comply with a Demand – s. 320.31(10)), and Chapter 13 (Definitions and Regulations – ss. 320.11, 320.38, 320.39, 320.4).

The provisions of certificates Chapter 11 are aimed at avoiding unnecessary appearances where the accused seeks to have the person who signed the certificate cross-examined, given the new matters a qualified technician need attest to. Chapter 12 examines matters relating to evidence of failure to provide a sample, and evidence of fail to comply

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with a demand; the effect of an acquittal, in a refusal prosecution, on the drawing of the inference; and the effect of the Canadian Charter of Rights and Freedoms on s. 320.31(8), (9), and (10). Chapter 13, the Definitions and Regulations chapter, cites technical definitions relating to the testing and administration of breath and blood.