

## Drug Impaired Driving Cheat Sheet

### DRE

**HGN** – Equal Tracking, smooth pursuit, nystagmus at max deviation, angle of onset before 45 degrees (failure at 4 cues, distinct and sustained nystagmus is 4 seconds)

**Walk and Turn** – unbalanced while instructed, walk too soon, stop walking, miss heel-to-toe by >0.5", step off line completely, arms > 6" lift for balance, turn not as demonstrated, incorrect number of steps (9) (failure at 2)

**One Leg Stand** – swaying, arms lifted 6" or more, hopping, putt foot down (failure at 2 cues)

**VGN** – eyes jerking noticeably

**Lack-of-convergence** – do eyes cross

**Romberg Balance Test** – does subject sway, how much, actual time eyes kept closed

**Finger-to-nose** – tip of finger to tip of nose each time when instructed

**Blood Pressure** – 120-140/70-90 expected

**Temperature** – 37 +/- 0.5

**Pulse** – 60-90 BPM

**Pupil Size** – Room 2.5-5, dark 5-8.5, light 2-4.5

### Drager DrugTest 5000

Ambient temperature for testing 5 to 40 degree C. Humidity 5-95%. Wait 1.5 hours if change from 0 to 20 degrees C. Store at temperature -20 to 60 degrees C. Tilt 10 degrees or less. Interferents possible = similar chemical structures, physiological variation, state of health, food or other substances

### New Code Sections

320.14 – what the offences are – beware being over “within 2 hours after ceasing to operate” but exception at sub 6 re consuming after and no reasonable expectation would be required to provide a sample

320.23 – adjournment for treatment program if province approves for exception to minimum

320.27 – lists the investigative steps allowed ie SFST, DRE, oral/blood/urine sampling

320.31(2) – presumption of accuracy but not identity (ie needs a readback) for blood samples

320.31(6) presumption of accuracy and identity for DRE tests where confirmed by bodily substance sample

### Useful Cases

R. v. Cullotta, 2018 ONCA 665 – blood more intrusive than breath

R. v. Stipo 2017 ONSC 5208 & R. v. Branson 2018 ONCJ 163 – disclosure

R. v. Abbasi-Rad 2016 ONCJ 542 – what does it all mean with DRE?

R. v. Jamieson 2015 ONSC 4291 – no alcohol does not mean RPG for drug

R. c. Nguyen [2018] J.Q. No. 8443 – ASAP and not enough DRE officers

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Further reading: *Drug Impaired Driving in Canada* by Nathan Baker

<https://www.irwinlaw.com/titles/drug-impaired-driving-canada>