

Short Snappers:

B. New Breath-Testing Instruments

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Impaired Driving – The Changing Landscape

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NEW BREATH-TESTING INSTRUMENTS

The Intoxilyzer 8000C, the Intox ECIR II, and the Alco-Sensor FST are among the new breath-testing equipment that the police are using in Canada. Are these machines new and improved - or just new?

As defence counsel rarely are able to gain actual access to these instruments, this paper is necessarily based on hearsay and bare assertions except where stated to be based on something more reliable.

A. The Intoxilyzer 8000C

This section of the paper will be purposely kept brief for two reasons. The Intoxilyzer 8000C is not currently being used by any police agencies near you. Second, it is not that interesting.

One might reasonably expect that because this Instrument is called the 8000C and the previous version was the 5000C that this new version would be more accurate and more advanced in its ability to test for alcohol. However, the Alcohol Test Committee which approves instruments for use in Canada, will only approve an instrument if it is as accurate as the Borkenstein Breathalyzer. The first approved instruments are consistently used as models for those which come after. If the new instrument, once tested against the previously approved instruments, is at least as accurate as those which came before it, then it may be approved for use. In this way, older technology continues to serve as the guide for breath-testing in Canada.

The Intoxilyzer 5000C required 6 inches of water column pressure, 5 seconds of continuous breath and a slope with a rise of not more than 3 mg% and an immediate decline of not more than 5 mg%. The 8000C's sampling criteria are different. The 8000C requires a minimum flow rate of 0.15 litres per second. The minimum breath time is only one second. The sample must be a minimum of 1.1 litres in volume.

The Intoxilyzer 8000C will show the volume of the breath sample on the test printout card. The writer's initial response was that this could be very useful in cases where it is alleged that the accused failed to provide an adequate sample. However, the 5000C also has that capability but the software has been programmed in such a way that the volume is not recorded on the test printout card. I am enclosing a test record card from Toronto from 2005 which was generated using a 5000EN (basically the same instrument as a 5000C) which shows the volume of air used by the test subject.