



GLOBAL CROSSING IMMIGRATION
REGULATED CANADIAN IMMIGRATION CONSULTANT

**NOTICE OF RULE CHANGE : IMPAIRED DRIVING NOW FALLS UNDER
“SERIOUS CRIMINALITY” PACKETS MAY NEED UPDATING**

December 18, 2018

Re: Bill C-46

Dear Friends,

As you may have heard, Canada has recently doubled the maximum sentencing for non-aggravating (not involving injury or death) impaired driving offences, including their derivatives such as reckless driving (or “wet reckless”), refusals (“failure to provide sample”) and eluding police (“flight”). The law goes into effect today.

Prior to December 18, if convicted of a non-aggravating DUI, you faced a maximum of 5 years of imprisonment.

As of today, a non-aggravating DUI in Canada is punishable by 10 years of imprisonment.

For more information, check out my latest blog here:

<https://globalcrossingimmigration.com/bill-c-46/>

Any offence that is punishable by a maximum sentence of less than 10 years renders a person inadmissible under “regular” criminality.

An offence that is punishable by 10 years makes a person inadmissible to Canada under “serious criminality”.

Obtaining a TRP or waiver at the consulate or point-of-entry is more rigorous if inadmissible under serious criminality. One, only a superintendent or officer at national headquarters can issue a TRP if inadmissible under serious criminality. Secondly, the trip must be truly compelling or urgent.

The good news is that your offence occurred before the law went into effect. The bad news is that a number of border service officers (BSO) are notoriously unaware on how to enforce the border when it comes to offences that predate a rule change. To minimize issues at the point-of-entry, we are offering supplementary packets reminding officers that tougher sentencing should not adversely impact your travels if you were convicted prior to today.

Deemed Rehabilitated Clients – Sole Misdemeanor Offences

If you have a sole misdemeanor DUI or reckless driving offence and the imposition of sentence has been completed over 10 years ago, you may recall that you are no longer criminally inadmissible. This is referred to as “deemed rehabilitated” – i.e. the we-forgive-you-rule.

As an example: If you have a DUI conviction on June 11, 2007 and served one year probation, you would be deemed rehabilitated by June 11, 2018 – and no longer inadmissible.

However, an offence that is punishable by 10 years or more, under “serious criminality”, may NOT qualify for deemed rehabilitation status. Applicants who are criminally inadmissible to Canada under serious criminality must file an application at the consulate or obtain a TRP to secure entry to Canada.

While this office strongly disagrees with this position, Minister of Immigration, Refugees and Citizenship (IRCC) Ahmed Hussein appears to suggest that deemed rehabilitated persons following the 10-year period will NOT be treated retroactively unless they have previously been “determined” to be rehabilitated prior to 12/18.

So what does “previously been determined” mean?

We think it means that unless a consulate or Border Service Officer (BSO) or superintendent specifically entered “deemed rehabilitated” status in the system (GCMS), you may not be able to claim deemed rehabilitated status for an impaired or reckless driving offence as of today despite the fact that your conviction predates the rule change.

This means that potentially speaking, travelers who were previously considered deemed rehabilitated may no longer be eligible for this status.

2

Clients who are deemed rehabilitated or who potentially fall in this category are urged to reach out to our office as soon as possible for a trouble-free border experience.

To schedule an appointment, please call Robin at 214-295-6051 or toll free at 888-827-6605. If you call the office, our regular consultation fee is \$125 for the appointment.

If you request a consultation over e-mail, you will be eligible for a reduced consultation fee at \$75. The session would be over the phone just like the call-in format. Simply e-mail us at billc46@globalrcic.com for the discount and then provide 2 or 3 available one-hour openings and a date in the main body of the e-mail (be sure to confirm your preferred time zone). A member of our staff will promptly get back to you with a confirmed time.

We are taking appointments on extended hours for Bill C46 applicants from 11 AM Eastern until 7 PM Pacific.

Sincerely Yours,



Marc Laforce, RCIC
R413799