

IMPAIRED DRIVING - 8 - MOUTH ALCOHOL - GUM

R. v. Goheen 2010 ABPC 146 per Rosborough, PCJ:

Impaired driving trial. ASD used. Accused was chewing gum immediately prior to the test being administered. Officer was cross-examined from the ASD manual regarding the possible need to wait 20 minutes prior to taking the sample given that gum may contain traces of alcohol. However, the officer maintained that he was not trained to wait, and that he believed that the fail reading obtained was valid.

Held: No s. 8 breach.

Onus on defence to prove s. 8 violation. The applicable standard is “reasonableness” not “scientific accuracy”: ***Musurichan*** 107 AR 102 (CA). “In this case there is no credible evidence that chewing gum did, or even could, retain any or sufficient alcohol to cause a ‘false fail’ reading on the ASD.”