

Nova Scotia

Guide to Appealing a 90-Day Driver's Licence Suspension

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1 Overview

This guide explains how to appeal an Order of Suspension having a 90-day suspension to the Motor Vehicle Appeal Board (MVAB).

It will help you understand the following:

- whether you may have grounds for an appeal
- what the Board can consider
- what evidence you may need
- how to apply
- what happens after you apply
- the types of hearings available
- how to prepare for your hearing
- what happens after the Board makes its decision

Important: Your suspension remains in effect while your appeal is being considered.

This guide provides general information only. It is not legal advice.

2 Eligibility to Apply

You may apply to the MVAB to have your 90-day administrative driver's licence suspension reviewed in some circumstances. However, disagreeing with the suspension or hardship created by the suspension is not enough to have it rescinded. The Board can only consider the specific grounds of appeal that apply to the reason your suspension was issued.

2.1 Document Review

Look at your Order of Suspension and any other documents you received from the peace officer to determine the grounds for issuing your 90-day suspension. Your grounds for appeal must relate to that reason. A 90-day suspension may result from an allegation involving one or more of the following:

- impaired driving because of alcohol, drugs, or both
- having a blood-alcohol concentration (BAC) of 80mg or more per 100ml of blood
- having a drug concentration above the prescribed limit (e.g., 2 ng/ml THC)
- having a combination of alcohol and drugs exceeding the prescribed limit (e.g., 50mg% BAC and 2.5ng/ml THC)
- failing or refusing to comply with a lawful demand for alcohol or drug testing

Note: Blood Alcohol and drug concentrations stated are as defined in [Blood Drug Concentration Regulations \(SOR/2018-148\)](#).

3 Grounds for Appeal

The grounds the Board can consider depend on the law under which your suspension was issued. Check your Order of Suspension to identify the legal authority for your suspension. Different legal tests apply to suspensions issued under clause 72(1)(a) or clause 72(1)(b) of the Traffic Safety Act, and to suspensions issued under section 279A of the former Motor Vehicle Act.

Your appeal and supporting evidence should address the legal test that applies to your suspension:

- **For clause 72(1)(a):** whether the officer had reasonable grounds to believe the person committed an offence under section 320.14 or 320.15 of the Criminal Code of Canada, or another prescribed provision
- **For clause 72(1)(b):** whether the officer had reason to believe, based on an analysis, that the prescribed drug or combined alcohol-and-drug concentration was exceeded

Depending on the circumstance and which section your suspension was issued under, some possible examples of grounds for appeal are as follows:

- **Impaired Driving:** "I did not operate or have care or control of a motor vehicle while impaired by alcohol, a drug, or a combination of both."
- **Blood Alcohol Concentration:** "I did not operate or have care or control of a motor vehicle while my blood alcohol concentration was at or above 80mg per 100ml of blood."
- **Drug concentration:** "I did not operate or have care or control of a motor vehicle while my blood drug concentration exceeds the prescribed limit."
- **Combined alcohol and drug concentration:** "I did not operate or have care or control of a motor vehicle while my combined alcohol and drug concentration was above 50mg% BAC and 2.5ng THC."
- **Failure or refusal to comply with a demand:** "I did not fail or refuse to comply with the demand that resulted in my suspension."

Depending on the circumstances, a demand may relate to a roadside breath sample, evidentiary breath test, blood sample, or applicable drug-testing procedure.

Important: You should only rely on the grounds that relate to the reason your suspension was issued.

For example, if your suspension resulted from an alleged failure or refusal to comply with a demand, your appeal must address that allegation.

3.1 Check the Appeal Type

Make sure this is the right appeal for your circumstances. To help you decide, ask yourself these questions:

Question 1: Do I have a 90-day administrative driver's licence suspension?

- **No:** This is not the correct appeal process.
- **Yes:** Continue to Question 2.

Question 2: Am I disputing the facts that resulted in the suspension (e.g., disputing that you drove or had care or control while impaired, had an alcohol and/or drug concentration above the applicable prescribed limits as shown above, or failed or refused to comply with a testing demand)?

- **No:** The reason you want to appeal may not be something the Board is permitted to consider.
- **Yes:** Continue to Question 3.

Question 3: Do I have evidence that supports my position?

- **No, or not sure:** Consider the evidence available to you and the disclosure you receive through the appeal process. You may also wish to obtain legal advice.
- **Yes:** You may have grounds to appeal.

MVAB administrative staff can explain the appeal process, but they cannot provide legal advice or tell you whether you should appeal.

3.2 What are not Grounds for Appeal

Some circumstances may be very important to you personally but do not, by themselves, establish legal grounds for rescinding the suspension.

Some examples are as follows:

- you need your licence for work
- losing your licence causes financial or personal hardship
- you cannot afford an alcohol rehabilitation program or other costs

- you want the suspension removed from your driving record for employment or insurance purposes
- you did not understand your legal rights or responsibilities at the time of the incident
- the related criminal proceeding did not result in a conviction

The administrative suspension and any criminal proceeding are separate matters. Evidence obtained through a criminal proceeding may still be relevant if it helps you prove one of the permitted grounds of appeal.

4 Applicable Legislation

Your suspension documents will identify the legal authority under which your suspension was issued.

If your suspension was issued under clause 72(1)(a) of the Traffic Safety Act

The Board's review will relate to whether the peace officer had the required grounds concerning an alleged offence under section 320.14 or 320.15 of the Criminal Code, or another prescribed provision, in connection with operating or having care or control of a motor vehicle.

This may involve an allegation of impaired driving or failing or refusing to comply with a testing demand.

If your suspension was issued under clause 72(1)(b) of the Traffic Safety Act

The Board's review relates to the results of an analysis of breath, blood or another bodily substance following a demand and whether the applicable drug or combined alcohol-and-drug concentration exceeded the prescribed level while the person was operating or had care or control of a motor vehicle.

If your suspension was issued under section 279A of the former Motor Vehicle Act (i.e., issued prior to October 19, 2026)

You may use the Notice of Appeal process for a 90-day administrative suspension. The grounds you rely on must correspond to the reason the suspension was originally imposed.

5 Provision of Proof

If you appeal, you are responsible for presenting enough evidence to prove your grounds of appeal. The Board considers the evidence and makes findings of fact using the civil standard of proof known as the balance of probabilities. In plain language, you must satisfy the Board that the facts you are asking it to accept are more likely than not to be true.

This is different from the standard used to determine guilt in a criminal proceeding.

5.1 Types of Evidence

The evidence you need will depend on the ground of your appeal and what happened in your case. Evidence may include one or more of the following:

- your own testimony
- testimony from a witness who has personal knowledge of what happened
- a sworn or affirmed statement from a witness who cannot attend the hearing
- police reports and other police information
- a prosecutor's information sheet
- a Certificate of an Analyst
- reports from a qualified medical practitioner or qualified technician
- a Drug Recognition Evaluator's report
- a toxicology report
- medical evidence
- photographs
- video
- relevant text messages
- expert evidence
- other documents or information relevant to your ground of appeal

You do not need every type of evidence listed above – what is important is making sure that the evidence helps prove the specific grounds on which you are appealing.

6 Application for an Appeal

6.1 Before You Apply

Before you apply for an appeal, make sure you have surrendered your driver's licence. If you still have your driver's licence card, you must surrender it. If your licence was not previously surrendered to police or Access Nova Scotia, and is lost, stolen or destroyed, contact or visit Access Nova Scotia for instructions.

6.2 Complete the Notice of Appeal

Complete the 90-Day Administrative Driver's Licence Suspension Notice of Appeal application. On the application, you will identify the following:

- your contact information
- information about your suspension
- the ground or grounds on which you are appealing
- whether you have a representative
- your preferred hearing type (in writing, phone, or videoconference)
- other information required by the form

Include any evidence you want the Board to consider and keep a copy of your completed application and supporting documents.

Appeal Fee

A \$150 appeal fee must accompany your application. If applying online, follow the payment instructions provided with the online application. The application will automatically take you to the payment screen. If you cannot pay online, you cannot submit the application online. For a paper application, include your cheque or money order with your application. If your appeal is successful, your application fee will be refunded.

6.3 Submit the Application

Online Application

Complete the online application, upload your documents and follow the instructions to submit the required payment. Keep a copy of your application and supporting documents for your records.

Paper Application

Mail, deliver or courier your completed Notice of Appeal, copies of your supporting evidence and the required payment to:

Motor Vehicle Appeal Board

1672 Granville Street
PO Box 186
Halifax, NS B3J 3Z8

Do not send original supporting documents. Send copies.

Incomplete Applications

An incomplete application may be returned to you without being processed. If this happens, read the accompanying letter carefully. It will explain what information or payment is missing and what you need to do. Before resubmitting your package, check that you have included everything requested. You must re-send your entire package including the information that was missing and what you previously submitted.

Timeframe

Once the Department receives a complete Notice of Appeal that meets the regulatory requirements, the Board is generally required to hear the appeal within 30 days. A delay beyond that period does not prevent the Board from hearing or deciding the appeal.

7 Deadline to Appeal

There is no deadline for filing a Notice of Appeal under the process described in this guide. However, your suspension remains in effect while the appeal is being considered. Processing time may also depend on when the necessary information and police disclosure are received and when you are ready to proceed.

8 Representation

For representation for the appeal, you can do the following:

- represent yourself
- have a spokesperson assist you
- hire a lawyer

A spokesperson could be a family member, friend, community leader, religious or spiritual leader, or another person you choose. If you appoint a representative, information about your appeal, including your disclosure package, may be sent to the representative at the address provided for on the application.

9 Disclosure Package

After your Notice of Appeal is received, information and documents relating to the suspension are gathered by the Registry of Motor Vehicles and the law enforcement agency that issued the Order of Suspension. This information is referred to as the disclosure package. Review your disclosure package carefully as soon as you receive it. The disclosure package will include a letter with a scheduled hearing date and time. Follow the instructions in the accompanying letter.

You or your representative will need to contact MVAB Administration for the following:

1. To confirm that the disclosure package was received
2. To advise you intend to submit additional information
3. To confirm the scheduled hearing date and time as provided in the letter

If you are ready to proceed

Contact MVAB Administration as instructed to move the appeal to the hearing stage. This applies even if you selected a written hearing. The MVAB admin will confirm your appeal.

If you want to provide more evidence

Tell MVAB Administration that you intend to submit additional evidence. Submit the information as instructed and confirm that it has been received prior to the scheduled hearing.

10 Appeal Hearing

10.1 Hearing Types

Depending on the available procedures, your appeal may proceed in writing, by teleconference, or by video conference. You will indicate your preference on the Notice of Appeal application.

Written Hearing

After receiving and reviewing your disclosure package, contact MVAB Administration as instructed to confirm whether you have submitted everything you want the Board to consider in your appeal. For a written hearing, you will not speak directly with the Board panel. The panel considers the written documents received:

- your Notice of Appeal
- your written evidence and submissions
- the disclosure package
- other material properly submitted for consideration

Teleconference Hearing

Your hearing is conducted by telephone. MVAB Administration will provide scheduling information in a letter accompanying your disclosure package. Have

your documents and evidence with you during the hearing. Your witnesses should also be available if they are giving evidence.

Video Conference Hearing

MVAB Administration will provide the date, time and instructions for joining the hearing. Your hearing will be conducted using the video-conferencing platform identified in your hearing information. Make sure that you and your witnesses are prepared to connect as instructed.

10.2 Prepare for Your Hearing

Before the teleconference or video conference hearing be sure to do the following:

1. Identify your grounds for appeal.
2. Write down the important facts you want the Board to know.
3. Organize your documents in the order you plan to discuss them.
4. Make sure your witnesses are available.
5. Review the disclosure package carefully.
6. Identify the evidence that supports your grounds for appeal.
7. Make sure any additional evidence has been submitted as required.

Try to focus your presentation on the legal grounds for appeal rather than unrelated consequences of the suspension.

10.3 Present Your Case

At an oral hearing, you and your witnesses may be required to swear an oath or make an affirmation to tell the truth. When presenting your appeal, do the following:

1. Explain the grounds on which you are appealing;
2. Explain what happened;
3. Identify the evidence that supports your position;
4. Have your witnesses explain what they personally observed; and
5. Answer the Board's questions clearly and directly.

The Board may ask questions about your evidence. Be respectful and courteous throughout the hearing.

10.4 Missing Your Hearing

It is important that you attend a scheduled teleconference or video conference hearing. If you requested an oral hearing and do not appear without prior notice or a reasonable excuse, the Board may treat you as having waived your right to that hearing. The Board will determine how the appeal proceeds in accordance with the legislation and regulations.

If you must reschedule, contact the MVAB Admin as soon as possible. If the hearing is less than 48 hours away, you may be required to pay a rescheduling fee. If you cannot attend and do not reschedule, your right to appeal is waived and your suspension sustained.

11 The Board's Decision

The MVAB panel considers the evidence and submissions before it and decides whether the suspension should be upheld or rescinded. The Board provides its decision in writing with reasons.

If your suspension is upheld

The 90-day suspension remains in effect. Depending on the nature of the suspension and other requirements that apply to you, there may be additional requirements before your driver's licence can be reinstated.

If your suspension is rescinded

You may apply to have your driver's licence reinstated, subject to any other outstanding suspension or requirement affecting your licence.

11.1 Challenging the Decision

If you disagree with the Board's decision, you may wish to obtain legal advice promptly about whether there is a legal process available to challenge the decision. MVAB administrative staff cannot provide legal advice.

12 Frequently Asked Questions

Q1: Why is my 90-day suspension separate from my criminal charge?

An administrative driver's licence suspension and a criminal prosecution are separate legal proceedings. The criminal court determines whether a person is guilty of a criminal offence. The MVAB determines the administrative licence suspension matter within the authority given to it by provincial legislation. The proceedings also apply different standards of proof.

Q2: What if my criminal charge is withdrawn, dismissed or I am found not guilty?

That result does not determine the outcome of your administrative suspension. However, evidence obtained during the criminal proceeding may be relevant to an MVAB appeal if it helps establish a permitted ground of appeal.

Q3: How do I know if I have grounds to appeal?

Start with the reason shown on your suspension documents, then ask whether you dispute the facts that resulted in the suspension and whether you have evidence supporting your position. If you are unsure whether your circumstances amount to a legal ground of appeal, consider obtaining legal advice. MVAB administrative staff can explain the process but cannot provide legal advice.

Q4: Who can be a witness?

A witness is someone who has personal knowledge of facts relevant to the appeal. You may also give evidence yourself.

Q5: What is a sworn or affirmed statement?

A sworn or affirmed statement is a written statement in which the person formally confirms that its contents are true. If you intend to submit this type of evidence, follow the requirements provided for your appeal.

Q6: What if I receive additional evidence before my hearing?

Contact MVAB Administration and provide it as soon as possible in accordance with the instructions for your appeal. Information received after the hearing will not be considered.

Q7: What if I need to reschedule?

Contact MVAB Administration as soon as possible. There may be requirements or fees associated with rescheduling, particularly when little notice is provided. Follow the instructions provided with your hearing information.

13 Additional Information

Consult the [MVAB webpage](#) for these resources:

- online Notice of Appeal application
- fillable PDF Notice of Appeal application
- printable Notice of Appeal application
- Guide to Appealing a 90-Day Driver's Licence Suspension

For assistance with the administrative appeal process:

Motor Vehicle Appeal Board Administration

Phone: 902-424-4256

Toll-free: 1-855-424-4256

For legal information:

Legal Information Society of Nova Scotia

Website: <http://www.legalinfo.org/>

Email: questions@legalinfo.org

Phone: 902-455-3135

Toll-free within Nova Scotia: 1-800-665-9779

Links

- [Traffic Safety Act](#)
- [Traffic Safety Act Regulations](#)

14 Disclaimer

This guide provides general information about the practices and procedures associated with an appeal of a 90-day administrative driver's licence suspension. It does not constitute legal advice.

Legislation and regulations may change and may be interpreted by the courts. The plain language descriptions in this guide are intended to help explain the process and are not a substitute for the wording of the applicable legislation.

If you need advice about your circumstances or whether you have grounds for an appeal, you should seek legal advice.

Current to October 2026.