
Entering Canada with a New York State DWI conviction

In Western New York, the ability to travel to Ontario, Canada to visit Niagara Falls, shop or engage in other recreational activities is often taken for granted. For residents of New York who are convicted of an alcohol-related offense, however, gaining entry into Canada may prove a difficult prospect. This includes convictions for not only Driving While Intoxicated, but also the lesser offense of Driving While Ability Impaired by Alcohol, which is a non-criminal offense in New York State.

1. *Why would a DWI bar a driver from entering Canada?*

In general, people are considered to be inadmissible to Canada due to past criminal activity if they were convicted of an offense in Canada or were convicted of an offense outside of Canada that is considered a CRIME in Canada, including a DWI conviction in the U.S. A DWI conviction in the U.S. makes it illegal for anyone to cross the border into Canada for any reason.

2. *What about Driving While Ability Impaired by Alcohol? That's not a crime in New York.*

Although Driving While Ability Impaired by Alcohol is not a crime in New York State, there is no similar non-criminal provision under the laws of Ontario. As a result, for purposes of gaining entry to Canada from New York State, Driving While Ability Impaired by Alcohol is also considered a crime and may bar entry.

3. *How would Canadian officials know about my conviction?*

Canadian border authorities have access to the United States' National Criminal Index at the border. While they do not choose to check this information for every individual crossing the U.S. border into Canada, running such a check will normally indicate any convictions, including convictions for alcohol-related driving offenses in New York State. Individuals with criminal records may be turned back at the border. Attempting to re-enter at another crossing after being turned is a crime and may result in arrest.

4. *What can a driver do to gain entry to Canada following an alcohol-related conviction?*

To enter Canada in the future, a driver must obtain a Temporary Resident Permit or Approval of Rehabilitation at a Canadian Consulate or Embassy.

Rehabilitation requires the driver to show that he or she has a stable lifestyle and is unlikely to be involved in any future criminal activity. Unfortunately for those convicted of alcohol-related offenses, an individual can only apply for rehabilitation if **five years** have passed since the end of the sentence imposed, including any period of probation.

If five years have not passed since the end of the sentence imposed, a driver is limited to applying for a Temporary Resident Permit to enter Canada.

5. *How does a driver apply for a Temporary Resident Permit?*

A Temporary Resident Permit application can be obtained at the Canadian Immigration and Citizenship website, www.cic.gc.ca/english/applications/visa.html, or through the Immigration Regional Program Center, Canadian Consulate. In Western New York, this office is located at 3400 HSBC Center, Buffalo, New York 14203.

In addition to a fully completed application form, anyone applying for a permit must submit the following documents:

1. Two passport size photographs taken within the last six months.
2. A criminal clearance certificate from the police authorities in all countries (including Canada) where he or she has lived since reaching the age of 18.
3. Three letters of reference from responsible citizens (for example, the parole board, public officials, respectable private citizens, clergymen).

4. The processing fee: the fee for processing an application for a Temporary Resident Permit is \$200.00 Canadian or approximately \$170.00 U.S., depending on the exchange rate.

6. *How does a driver get a Criminal Clearance Certificate to submit with the application?*

To obtain a Criminal Clearance Certificate, an applicant must first have a full set of fingerprints taken by a recognized agency. Fingerprints must be taken using an FBI fingerprint form, but the FBI should not be contacted directly for fingerprinting. Instead, fingerprints can usually be obtained from a local police department. They can also be obtained from a regional office of the Department of Motor Vehicles or from a private organization engaged in the fingerprinting business. An applicant should always specify to the fingerprinting agency that they are needed for Canadian immigration purposes.

Once the fingerprints are obtained by the applicant, they should be sent, along a letter requesting a criminal background check and a certified check or money order for \$18 (U.S.) made payable to the U.S. Treasury, to:

FBI
Criminal Justice Information Services Division
Att: Record Request
1000 Custer Hollow Road
Clarksburg, West Virginia 26306

The processing of this request normally takes between 6 and 8 weeks, and can take up to 10 weeks. Once processing is complete, the FBI will send the results of the criminal background check along with the fingerprint card back to the applicant.

When submitting an application for a Temporary Resident Permit, the *original* fingerprint card and any attached documents should be submitted with it. No photocopies will be accepted by Canadian consulate officers.

7. *Where should a Temporary Resident Permit application be submitted?*

A Temporary Resident Permit application may either be submitted by mail or in person.

- A. By Mail: In Western New York, the application can be mailed to:

Canadian Consulate General
Immigration Regional Program Center
3400 HSBC Center
Buffalo, New York 14203

Any additional documents required will be requested by mail, and the applicant will be notified if an interview is required. Notification of the final decision regarding entry will also be provided by mail.

- B. In Person: Applications are accepted between 8:30 a.m. and 10:00 a.m. at the Canadian Immigration Regional Center located at the HSBC Center, Buffalo, New York. A personal interview may be required. A medical examination also may be required.

8. *Does every driver who applies get in?*

No. The Canadian Consulate is required to weigh several factors when determining whether to issue a Temporary Resident Permit to an individual with a criminal conviction. These factors include:

- A. The severity of the offense;
- B. The amount of time that has passed since the offense;
- C. Canadian national interest, which may include factors such business relationships in Canada that require access, maintenance of Canadian property, such as a cottage, owned by the applicant, etc.;
- D. Humanitarian concerns, such as having a seriously ill relative who lives in Canada.

As a result, an individual who was recently convicted or only desires to travel to Canada for recreational purposes only is less likely to be issued a Temporary Resident Permit.

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