
**CANADIAN BROADCAST STANDARDS COUNCIL
BRITISH COLUMBIA REGIONAL PANEL**

CHMJ-AM re *Tom Leykis Show* (Drunk Driving)

(CBSC Decision 02/03-0423)

Decided July 22, 2003

S. Warren (Chair), R. Cohen (*ad hoc*), P. Gill, G. Leighton, M. Loh and E. Petrie

THE FACTS

The *Tom Leykis Show* originates in Los Angeles and was, at all material times, being carried by CHMJ-AM (MOJO Radio, Vancouver) in December 2002, weekdays from 3:00 to 7:00 pm. The *Tom Leykis Show* is a call-in program geared primarily towards young males. It features an opinionated host who discusses issues such as sex, women, money and pop culture with his callers. Although it is not material to the matter at hand, it should also be noted that the broadcaster included the following advisory at the beginning of the program and coming out of the first commercial break during the 5:00-6:00 pm segment:

The *Tom Leykis Show* on MOJO Radio may contain content of an adult nature and is intended for mature audiences only. Please listen responsibly.

On December 10, the topic of the 5:00-6:00 pm segment was drunk driving.

At the beginning of the segment, Leykis informed listeners that the drunk driving episode was a "holiday tradition" for the program (the full transcript of the segment can be found in Appendix A). He suggested that many people consume alcohol at holiday events and then get in their vehicles to drive home. He invited listeners who were driving drunk at that very moment to call in to the show: "You've been boozin' and now you're cruisin'. So if you've been drinking and now you are driving, I mean right now, now is the time to call us and tell us about it." After a commercial break, Leykis explained the purpose of the segment:

And for those of you calling to yell and scream at me about this, let me just remind you of why we do it. We do it to prove that despite all of the public service announcements and all of the warnings about driving drunk and all of the claims that they've increased enforcement, that many of you are still doing it right now. And we've been proving this

point every year for years. So those of you who say “oh, drunk driving is on the decline, people are doing less of it”, I don’t believe it. And I’ll prove it to you right now. Toll free at 1-800-5800-TOM. Dial us right now.

By the way, I want to say this also ‘cause we have a number of people in the law enforcement community who listen to this show. This is no fault of cops, highway patrol people or anybody like that. Uh, believe me, these boys do the right thing. You know the problem is that we are ambivalent in our society about punishing drunk driving. On the one hand, we talk tough and say “oh yeah, yeah, throw the book at him.” On the other hand, I think we’re all worried that we’re the ones who’re gonna get caught. And the result is that we have these laws that let people get out time and time and time again and keep driving drunk. And most people know that even if they get caught, yeah they’ll spend some money, but the reality is you’re not going to be doin’ ten years in prison. It’s just not gonna happen. So that’s my point of proving all of this here on the air. I happen to know that the cops do the right thing. I happen to know that beer, wine and liquor distributors all want you to, you know, be responsible with their product. They don’t want to get in any trouble. But we keep saying that we’re doin’ something about this and we don’t. Bottom line.

During the hour, Leykis took calls from a number of people who said they were driving drunk. The host asked each of them what they had consumed, how much, what motivated them to drink and drive, what freeway they were on and how far they had to go. Most of the callers insisted that, although they had consumed a significant quantity of alcohol, they were still able to control their vehicles. Some even revealed that they were drinking *while* driving. The first of the callers was Jim:

Jim: Um, all right. I just left the bar. I’ve had about four schooners of Budweiser and, uh.

Tom: Four. Tell everybody what a schooner is.

Jim: Schooner? A schooner is about 32 ounces of beer.

Tom: So you’ve drunk a gallon of beer?

Jim: Basically. I guess.

Tom: A gallon.

Jim: Yeah.

[...]

Tom: [...] What, what freeway are you on right now?

Jim: I’m on the 7-10 South headed toward downtown Long Beach.

Tom: With a gallon of beer in ya? [...] Now you know what they say, they say that three, um, three beers can make you impaired enough that they could arrest you. Are you worried about that?

Jim: Uh, no sir, I'm not.

Tom: No? Do you do this often?

Jim: Uh, no I'm not. It's a special occasion.

Tom: Special occasion? Is it the holidays or something else?

Jim: Uh, just, uh, I got in a fight with my old lady and, uh, I decided to go get hammered and then, uh, meet up with a friend of mine.

Tom: And how far was this bar from your house?

Jim: Umm, it's about a mile from my house.

Tom: A mile from your house? Okay, so you're driving a mile home with a gallon of beer in ya.

Jim: Yep.

Tom: All right. All right, now you've never been pulled over, never been caught doin' this? Have you ever done it before?

Jim: Uh, yeah, I've done it before. I've never been caught. Um, I'm pretty good at it, I guess.

Tom: Pretty good at it? You're a pretty good drunk driver?

Jim: [laughs] Yeah, I know it sounds stupid, but, I don't know. I do it every once in a while and ...

Tom: Do you, uh, are you one of the people who believes that there are some who are better at it than others?

Jim: Ah, yes sir, I do.

Tom: Yeah, so you're one of those?

Jim: Yes.

Tom: Okay. Just checking. [Jim laughs]. All right, Jim.

Leykis also took calls from people who disapproved of drunk driving. Those callers were also invited to confront the individuals who were driving drunk, which led to some heated debates on the subject. An example of such a debate, between callers Mike and Steven, follows:

Steven: Dude, everybody and Mike, including Mike, are friggin' morons for drinking and driving. You can kill somebody! You can kill a child! An innocent little child! And you're gonna friggin' sit there and say "I'm proud of drinkin' and drivin'"? You're a moron!

Mike: Hey, I never said I was proud of it. I never said I was proud of it. I got a problem.

Steven: Dude, you're drinking and driving, bro! Dude, you're drinking and driving, bro! If you kill a child, do you know how, that just kills you inside! But I don't know. Because you're drinking and you're drunk, so I guess you really wouldn't know what you did, huh?! You're a friggin' moron, bro!

Mike: Well I just stopped. I just stopped. But you know what? When there's nobody to help you out when you have a problem like so many people out there like us in California –

Steven: Dude, dude! I don't, I deliver food all day long for 12 hours a day, okay? And I don't drink and I don't do drugs, okay, during the time that I'm workin' because I know that the car can be a vehicular killing machine! Okay?!

Mike: [mocking voice] A vehicular killing machine.

Steven: I go home, I go home and I do it at home when I'm done with everything. When I know I'm not gonna go out anymore. You guys are friggin' morons for drinking and driving or doing, being stoned and driving and whatever! You guys are friggin' morons!

[...]

Mike: When you're 21 in this country you can do what you please, believe it or not. Unless you get caught –

Steven: And I'll tell you what. If I was behind you, I'd friggin' pull your ass over and I'd knock the [edited word] outta you. You're a friggin' moron, bro!

Mike: Well if I was in front of you, I'd step on the gas and run you over. Run your fat ass over, son.

Steven: No, you're horrible. Do you have kids, bro? Do you have kids?

Mike: I got three of 'em. I got three of 'em.

Steven: Now, do you drink, do you drink and drive with your kids in the car?

Mike: Yeah.

Steven: Oh, okay. So let's say you get into an accident and maybe one or two or maybe all three of them get killed and you survive. What're you gonna feel like then? You're a moron!

A listener filed a complaint on the date of the broadcast (the full text of that complaint and all other correspondence can be found in Appendix B). He wrote that the host had “urged callers who [were] drinking and driving to call in and congratulated them on their great abilities in drinking, driving, shifting, use of a cell phone. This is unacceptable radio programming urging young people to drink and drive.”

MOJO Radio responded to the complainant on January 3, 2003. The Program Director's letter indicated that the station targets an audience composed of males aged 25 to 54 and "offers frank and open debate on diverse and often controversial issues." With respect to the December 10th episode of the *Tom Leykis Show*, MOJO stated that the host was "trying to demonstrate to the listeners that we are ambivalent in our society about punishing drunk drivers" and that, as his explanation revealed, "he was merely making a point and encouraging people to think about their actions, and not encouraging people to drink and drive." They allowed that the discussion may have been controversial, but that it was presented in an acceptable manner.

The complainant wrote back to the CBSC on January 3, indicating his dissatisfaction with MOJO's response. The complainant insisted that the "true intention of this yearly gala is to glamorize drinking and driving and a sure way for listeners to get their 15 minutes of fame on air so long as they are drunk and driving. End result being great ratings and huge advertising Dollars for the radio stations, at the expense of victims in the ensuing carnage on our roads." He concluded his letter by stating that radio stations must understand their social responsibility and that this episode showed a lack of judgment.

THE DECISION

The CBSC's British Columbia Regional Panel examined the complaint under Clause 6 (Full, Fair and Proper Presentation) of the Canadian Association of Broadcasters' (CAB) *Code of Ethics* which reads as follows:

It is recognized that the full, fair and proper presentation of news, opinion, comment and editorial is the prime and fundamental responsibility of each broadcaster. This principle shall apply to all radio and television programming, whether it relates to news, public affairs, magazine, talk, call-in, interview or other broadcasting formats in which news, opinion, comment or editorial may be expressed by broadcaster employees, their invited guests or callers.

The Panel listened to a recording of the broadcast and reviewed all of the correspondence. The B.C. Regional Panel concludes that the broadcast did not violate Clause 6 of the *CAB Code of Ethics*.

Promoting Irresponsible Behaviour?

The CBSC has no precedents which it can apply to the appreciation of the nature and purpose of this annual Leykis show. Moreover, the Panel's determination must be

made in the context of the underlying right to freedom of expression. The complainant asserts that the host was *urging* listeners to behave irresponsibly in the sense that he was allegedly *applauding* their “multi-tasking” ability to drink, drive, shift and use a cell phone. In his second letter, he contended that the “true intention of this yearly gala is to glamorize drinking and driving” and he observed that it was a sure way for callers to attain the Andy Warhol prediction of achieving 15 minutes of fame “on air so long as they are drinking and driving.” The cynical goals he attributed to the broadcasters of the show were “great ratings and huge advertising dollars [...] at the expense of victims in the ensuing carnage on our roads.”

The Panel wishes it to be perfectly clear that it has no stomach for the promotion of drinking and driving. Accordingly, the Adjudicators have very carefully scrutinized the words exchanged in the broadcast to evaluate their direction and import. Having done that analysis, they come to the conclusion that the goal of the show was decidedly *not* irresponsible and that an objective listen to the tape (or read of the transcript) will lead a fair-minded person to that conclusion.

The Panel considers that this broadcast sought to criticize “societal ambivalence” on the issue of drinking and driving. That preambular point was made in concrete language by the host himself at an early point in the show. Following the first commercial break, the host stated that the purpose of the show was, to some extent, to prove the futility of the system and the hypocrisy of public attitudes regarding drinking and driving, particularly at the festive time of year. He said, in part:

We do it to prove that despite all of the public service announcements and all of the warnings about driving drunk and all of the claims that they've increased enforcement, that many of you are still doing it right now.

He then agreed that law enforcement representatives are doing the *right* thing. The problem, he said, is public equivocation on the issue.

This is no fault of cops, highway patrol people or anybody like that. Uh, believe me, these boys do the right thing. You know the problem is that we are ambivalent in our society about punishing drunk driving. On the one hand, we talk tough and say “oh yeah, yeah, throw the book at him.” On the other hand, I think we're all worried that we're the ones who're gonna get caught.

He returned to that point in concluding his introductory remarks:

But we keep saying that we're doin' something about this and we don't. Bottom line.

Thereafter, the program made its point by not giving the outrageous callers a free ride. Without calling them on their drinking allegations himself, Tom Leykis basically relied on pit bull counterpoint delivered by other callers. For Chuck, there was Erin, who spent approximately twice as long in dialogue with Chuck than Tom Leykis had. For Mike,

there was Steven. There was then further counterpoint for Steven in Kenny. The point, from the Panel's perspective, is that the anti-drinking and driving advocates had the upper hand. The advocates of drinking and driving (whether they were or were not, in fact, practitioners) were, to the Panel, unconvincing in their assertions. At worst, though, even if a listener's assessment was that it was a draw, there was clearly no advocacy or promotion of drinking and driving by the Leykis show itself.

The Panel understands that the complainant does not believe that the broadcast of Leykis' method of dealing with the issue of drinking and driving was the correct approach to solving the problem. In any event, in attempting to assess the realistic significance of the complainant's concern with "the ensuing carnage on the roads" resulting from this broadcast, the Panel notes that there is no way to be certain that the callers had actually *drunk* anything before calling in or that they were actually *driving* while impaired. While it is, of course, possible that some or all of them had been drinking, it is equally possible that, consistent with the complainant's observation that the more "outrageous" callers were likelier to get on the air, the most outlandish concoctions of "facts" would win the day with the producers, whether or not they were accurate.

In the end, therefore, the critical issue is the impression left by that annual episode of the Leykis show. The CHMJ broadcast was a legitimate way of treating the issue and within the boundaries supported by the principle of freedom of expression. It goes without saying that the Panel's determination takes into account the fact that the advocates of drinking and driving were not given an uncontested or unchallenged platform from which to broadcast their views. Had the presentation been unbalanced in that way, this decision would almost certainly have been different. Accordingly, there is no breach of Clause 6 of the *Code of Ethics* here.

Broadcaster Responsiveness

In all CBSC decisions, Adjudicating Panels consider the broadcaster's responsiveness to the complainant. While it is understood that the broadcaster is under no obligation to agree with the complainant, it is expected that its representatives charged with replying to complaints will address the complainant's concerns in a thorough and respectful manner. The B.C. Regional Panel concludes that CHMJ-AM has met its responsibilities of membership in this regard on this occasion.

This decision is a public document upon its release by the Canadian Broadcast Standards Council. It may be reported, announced or read by the station against which the complaint had originally been made; however, in the case of a favourable decision, the station is under no obligation to announce the result.

APPENDIX B

CBSC File 02/03-0423 CHMJ-AM re Tom Leykis Show (Drunk Driving)

I. The Complaint

The following complaint dated December 10, 2002 was sent to the CRTC and forwarded to the CBSC:

The program in question. MOJO radio 730 on the AM dial. Tom Leykis Show Tuesday December 10th, 2002.

Host urged callers who are drinking and driving to call in and congratulated them on their great abilities in drinking, driving, shifting, use of a cell phone. This is unacceptable radio programming urging young people to drink and drive.

II. Broadcaster Response

The broadcaster responded to the complainant on January 3, 2003 with the following:

The Canadian Broadcast Standards Council ("CBSC") has asked us to respond to your email to the CBSC of December 10, 2002. In your email, you raised concerns regarding comments made on the *Tom Leykis Show* (the "Program") that was aired on MOJO Radio CHMJ-AM (the "Station") on December 10, 2002.

MOJO Radio is a talk radio station that directs its programming fare to a male audience between the ages of twenty-five to fifty-four years. Its programming format is diverse and covers topics that range from health and fitness, sex, sports, computers, career, business, law, money, investment tips, gears, gadgets, cars, beer, and other lifestyle issues. Our daily programming also consists of current pop-culture subjects, controversial issues and current affairs phone-in shows.

We believe our programming is an intelligent, yet sometimes irreverent alternative to much of the mainstream talk shows available in this market, as it offers frank and open debate on diverse and often controversial issues.

On December 10, 2002, the Program explored the topic of drinking and driving. The Program host was trying to demonstrate to the listeners that we are ambivalent in our society about punishing drunk drivers. Before asking callers who were drinking and driving to call into the Program, the Program host explained that he was seeking to prove that despite all of the public service announcements, all of the warnings about driving drunk, and all the public claims of increased enforcement of drunk drivers, many people are still driving drunk. To prove his point, he asked callers who were drinking and driving to call. In so doing, he was merely making a point and encouraging people to think about their actions, and not encouraging people to drink and drive, contrary to your suggestion.

We appreciate that you may find this approach to this controversial issue to be in poor taste. However, the Canadian Association of Broadcasters codes (the "Codes"), administered by the CBSC have clarified that "the broadcaster's programming responsibility does not extend to questions of good taste."¹ The CBSC applies current social norms in its interpretation of the Codes. The CBSC has acknowledged that a program "will not be everyone's 'cup of tea' and it assumes that some members of society would be offended ... *That* is not, however, the criterion by which the program must be judged."²

The Codes recognize that healthy controversy is essential to the maintenance of democratic institutions and accordingly encourage broadcasters to present news and opinion on any controversy, which contains an element of the public interest.³

Moreover, the recently revised Codes also specify that programming broadcast on a local radio station shall take into consideration the demographic composition of the station's audience, and the station's format.⁴ We believe that the tone and content of this Program broadcast on MOJO Radio was appropriate having regard to its format, demographic audience and current social standards.

Please be assured that our programming producers are sensitive to the substance of the various topics presented on the Station, while at the same time ensuring that controversial topics of public interest are aired on the Station. In this instance, we believe that while the manner of presentation of the subject matter may have been controversial, it did not breach the Codes. We have, however, reviewed your concerns internally and have had discussions with our on-air staff about appropriate on-air content and we will continue to exercise greater diligence on such matters.

We regret that the Program offended you for that was not our intent. Please be assured that we take our responsibilities as a broadcaster very seriously. At the Station, we work to ensure all our programming complies with the *Broadcasting Act*, the *Radio Regulations* and the Codes and standards expected of us as a member of the CBSC.

We trust the foregoing responds to the concerns you raised in your letter regarding the Program. At MOJO Radio, we recognize the importance of listener feedback and appreciate all comments. We thank you for taking the time and initiative to share your concerns with us.

¹ Clause 1 – *CAB Code of Ethics* Commentary

² *CFJP-TV (TQS) re "Quand l'amour est gai"* (CBSC Decision 94/95-0204, December 6, 1995)

³ Clause 7 – *CAB Code of Ethics* (revised June 2002)

⁴ *CAB Code of Ethics* – Revised June 2002 – Clause 9

III. Additional Correspondence

The complainant returned his Ruling Request form on January 3 with the following e-mail:

I have received the response from MOJO Radio and find it unsatisfactory. MOJO Radio's management has grossly misinterpreted the true intentions of the host of the *Tom Leykis Show* on December 10th. It is their belief that Tom Leykis was merely trying to educate the public on our ambivalence with the drinking and driving laws. Trying to show us that the laws

are not working when in fact study after study show that drinking and driving related accidents and deaths are down dramatically.

Every year on or around December 10th Tom Leykis asks people, mainly young men in their teens and early 20s to call in only if they were presently drunk and driving. This is a man referred to by his listeners as the professor. This is a man who continuously boasts about his program being heard by over 20 Million people. This is a man who openly admits that his producers will not allow callers on air unless they are outrageous. Therefore when he runs a same program on or around December 10th every year celebrating drinking and driving, it goes far beyond bad taste or a lesson to the public. The true intention of this yearly gala is to glamorize drinking and driving and a sure way for listeners to get their 15 minutes of fame on air so long as they are drunk and driving. End result being great ratings and huge advertising Dollars for the radio stations, at the expense of victims in the ensuing carnage on our roads.

MOJO Radio's explanation or justification of this sort of programming shows an obscene lack of understanding of the social responsibility they owe the general public when they use public airwaves. My complaint is not in regards to the bad taste or lack of judgement used by this host or MOJO for airing it, but the airing of such promotions for drinking and driving for their young listeners.

APPENDIX A

CBSC File 02/03-0423 CHMJ-AM re Tom Leykis Show (Drunk Driving)

The following is a transcript of the segment broadcast on the *Tom Leykis Show* (Drunk Driving) December 10 2002, between 3:00 and 7:00 pm.

Tom Leykis: Thank you for tuning in. Thank you for being part of the program. We appreciate it and, um, it's become a holiday tradition. You know we have many holiday traditions in America. On television, you have TV shows like *It's a Wonderful Life*, the movie with Jimmy Stewart that runs incessantly at this time of year. Various versions of Charles Dickens' *A Christmas Carol*, *A Charlie Brown Christmas*. And we on the *Tom Leykis Show* have our own holiday tradition. We've been doin' it every year now for a long time. And you might want to gather your family around the radio for a truly inspiring and almost spiritual holiday event that we do every year. Just put your feet up, enjoy a little egg nog and listen in as folks at the *Tom Leykis Show* present another holiday tradition. And we're proud of it.

Every year at this time we talk to those of you who have, um, enjoyed holiday cheer. As you know, this time of year everybody's getting together with friends, co-workers, family to celebrate the season. You may be one of those people. And many of you, when you go to holiday events, holiday parties, some of you just get together with the guys after work and have a few belts, good stiff belts. Some of you may be drinking for other reasons, you are depressed this time of year. Your family's shunned you, maybe you're just depressed in general. Angry, maybe you broke up with your wife or you're not going to be with your kids for Christmas. Could be anything, any reason at all.

I know many of you have a good few stiff belts, this time of the year, [and] you get right into the car and drive home. And I know that many of you are out there on the road right now. I know this from years of our holiday tradition. Talking to so many of you who are driving drunk this holiday season. And so we have cleared all the phone lines and we will be patient because it might take you a little longer to dial in. But what we like to do this time of year is talk to the many holiday revellers out there, those of you who like to have a good few stiff belts and then get in the car. We'd like to talk to those of you who are driving drunk right now. In celebration of the season of course. You are celebrating the birth of our Lord, Jesus Christ, with a few good shots of J & B or Jack or Jaeger. Some of your most trustworthy, long-running friends, the people you love the most. Your good buddies Jim Beam and José Cuervo, you know, all your good friends. You've been spending the holidays with your best friends and now you're in the car. And some of the friends are still in the car with you. Imagine being in a car with Jim Beam, José Cuervo and Jack Daniel. They're all sittin' in the back seat. So, believe me, they're some of our best friends around the *Tom Leykis Show*. Don't get me wrong, these are all fine products and we love them to death.

Many of you out there are headin' home now. And you're whistling, you know, "Chestnuts Roasting on an Open Fire" or something spiritual maybe. Look at the phones. Every time we do this show the phones just light right up. So in keeping with our holiday tradition, those of you who live in New York may remember years ago channel 11 used to run that 23 second loop of what they called the "Yule Log". Where was a shot of the fireplace at Gracie Mansion, the home of the mayor of New

York City, and they would just run this loop over and over and play Christmas music for people who lived in New York City apartments who couldn't have a fireplace. And very much like one of those old Christmas traditions, I wanted to give you the opportunity to call in on our traditional Christmas programming and tell us about your drunk driving that you're doing right now. 'Kay, you're out there in the car right now. You've been boozin' and now you're cruisin'. So if you've been drinking and now you are driving, I mean right now, now is the time to call us and tell us about it.

[commercial break]

Advisory: The *Tom Leykis Show* on MOJO Radio may contain content of an adult nature and is intended for mature audiences only. Please listen responsibly.

Tom: It's the *Tom Leykis Show*, thanks for tuning in. And for those of you calling to yell and scream at me about this, let me just remind you of why we do it. We do it to prove that despite all of the public service announcements and all of the warnings about driving drunk and all of the claims that they've increased enforcement, that many of you are still doing it right now. And we've been proving this point every year for years. So those of you who say "oh, drunk driving is on the decline, people are doing less of it", I don't believe it. And I'll prove it to you right now. Toll free at 1-800-5800-TOM. Dial us right now.

By the way, I want to say this also 'cause we have a number of people in the law enforcement community who listen to this show. This is no fault of cops, highway patrol people or anybody like that. Uh, believe me, these boys do the right thing. You know the problem is that we are ambivalent in our society about punishing drunk driving. On the one hand, we talk tough and say "oh yeah, yeah, throw the book at him." On the other hand, I think we're all worried that we're the ones who're gonna get caught. And the result is that we have these laws that let people get out time and time and time again and keep driving drunk. And most people know that even if they get caught, yeah they'll spend some money, but the reality is you're not going to be doin' ten years in prison. It's just not gonna happen. So that's my point of proving all of this here on the air. I happen to know that the cops do the right thing. I happen to know that beer, wine and liquor distributors all want you to, you know, be responsible with their product. They don't want to get in any trouble. But we keep saying that we're doin' something about this and we don't. Bottom line.

All right, it's 1-800-5800-TOM. Let's talk to those of you driving drunk right now. Jim on a cell phone, you're on the *Tom Leykis Show*, hello.

Jim: Hellloo Tom.

Tom: Hello Jim.

Jim: What's up Tom? How's it goin'?

Tom: It's goin' pretty good, Jim. How about with you?

Jim: Um, all right. I just left the bar. I've had about four schooners of Budweiser and, uh.

Tom: Four. Tell everybody what a schooner is.

Jim: Schooner? A schooner is about 32 ounces of beer.

Tom: So you've drunk a gallon of beer?

Jim: Basically. I guess.

Tom: A gallon.

Jim: Yeah.

Tom: Four. That's, 32 ounces is a quart. Four quarts is a gallon. And for those of you in Canada, a gallon is slightly less than a litre. No it isn't. It's slightly less than, it's slightly more than three litres, slightly less than four litres, you know the deal. All right, there we go.

Jim: Ten-four.

Tom: I don't know the metric system. It's slightly more than three litres. Okay. So there you are, you've drunk a gallon of beer and now, now we don't have your phone number, we don't know anything about you. What, what freeway are you on right now?

Jim: I'm on the 7-10 South headed toward downtown Long Beach.

Tom: With a gallon of beer in ya?

Jim: Ten-four.

Tom: Now you know what they say, they say that three, um, three beers can make you impaired enough that they could arrest you. Are you worried about that?

Jim: Uh, no sir, I'm not.

Tom: No? Do you do this often?

Jim: Uh, no, I'm not. It's a special occasion.

Tom: Special occasion? Is it the holidays or something else?

Jim: Uh, just, uh, I got in a fight with my old lady and, uh, I decided to go get hammered and then, uh, meet up with a friend of mine.

Tom: And how far was this bar from your house?

Jim: Umm, it's about a mile from my house.

Tom: A mile from your house? Okay, so you're driving a mile home with a gallon of beer in ya.

Jim: Yep.

Tom: All right. All right, now you've never been pulled over, never been caught doin' this? Have you ever done it before?

Jim: Uh, yeah, I've done it before. I've never been caught. Um, I'm pretty good at it, I guess.

Tom: Pretty good at it? You're a pretty good drunk driver?

Jim: [laughs] Yeah, I know it sounds stupid, but, I don't know. I do it every once in a while and ...

Tom: Do you, uh, are you one of the people who believes that there are some who are better at it than others?

Jim: Ah, yes sir, I do.

Tom: Yeah, so you're one of those?

Jim: Yes.

Tom: Okay. Just checking. [Jim laughs]. All right, Jim.

Jim: All right, take me out with a bong hit.

Tom: Here it comes. That's just what you need right now. Here it comes. [sound effect of gurgling noise and man coughing] It's 1-800-5800-TOM. Let's say hi to Chuck on a cell phone. Chuck, you're on the *Tom Leykis Show*. Hello.

Chuck: Helloo Tom!

Tom: Hello Chuck.

Chuck: Hey, I've had four 24-ounce cans and a couple of bowls and I'm doin' just fine.

Tom: Four 24-ounce cans? So that's three quarts of beer?

Chuck: Yes, sir.

Tom: Or malt liquor?

Chuck: Uh, just beer. Just Bud Light, you know, I'm tryin' to watch the darling figure and all that.

Tom: Uh huh?

Chuck: But, uh, I think these drunk driving laws are ridiculous 'cause the old man could go down the road havin' a bottle of scotch, drive straight as an arrow. It's a tolerance issue, it's not just a, a consumption issue.

Tom: Uh huh?

Chuck: And I think it's silly because, you know, I'm gettin' ready to get on the 60 right now, I've had two DUIs when I was 19, I'm 31 now. Uh ...

Tom: So when you got the two DUIs when you were 19, that didn't stop you from driving drunk, did it?

Chuck: No, it sure didn't. It taught me how to go to, pay more money, huh, for senseless classes and not about just being smart, you know, not, not just burnin' rubber, not doin' anything stupid. You know, I'm 31, I can get on the road, a little bit of grey hair and, uh, never have a problem.

Tom: Let me ask you a question. Now you had the, uh, you had three quarts of beer in ya. Now did you do anything else?

Chuck: Oh yeah. I just had a couple of bowls, you know, loaded up and –

Tom: Smoked a couple of bowls. So you smoked a couple of bowls and you drank three quarts of beer?

Chuck: Yes sir.

Tom: And what freeway are you on right now?

Chuck: I'm, uh, ha, about to get on the 60.

Tom: The 60 freeway?

Chuck: Yes sir. And I'm very careful and –

Tom: So you're headin' from downtown L.A. out through all the, like the Mexican suburbs there right?

Chuck: You got it, the Latina babies. You know all about that Tom.

Tom: Are you kiddin' me? That's how I know the 60 freeway. I know all the places: Montebello, City of Industry, Covina, Pomona, hello.

Chuck: You got it.

Tom: I think I dated girls named Covina, Pomona [laughs].

Chuck: Exactly. And then there's West Covina, her sister.

Tom: Yes.

Chuck: You know what I'm talkin' about.

Tom: I do.

Chuck: [laughs] But, yeah, everything's grand. And, like I said, I haven't had an accident in 12 years. I don't agree with, you know, drinking hard booze and gettin' too wasted and drivin'. It's better to have a designated driver. I'm not advocating, you know, drunk driving at all, but, uh, the tolerance laws is really my issue and I think it's silly that Uh, it should be based on perception, not on BAC.

Tom: Hang on a second, Chuck. Don't go anywhere, okay. I wanna put Erin on here. Erin, what do you think about what Chuck is saying here? Chuck's drunk three quarts of beer, he smoked a little weed and now he's heading east on the 60 freeway. What do you think?

Erin: I think he's an idiot. I think you're a complete idiot. There are countries that shoot people like you. There are countries in South America, if you get pulled over one time with even one beer in your blood, you are shot on the side of the road.

Tom: What country is that?!

Erin: I don't know, but I learned it in my tolerance class in college and I never forgot that because our country is so lenient. And look at how many thousands of people are killed each year because of idiots like you.

Chuck: Ah, I'm sorry honey, that's communism, that's not, uh, the American way. We have lowered the BAC to .08 as opposed to –

Erin: Okay, but let me ask you a question. Let me ask you a question.

Chuck: Yes?

Erin: Supposing that that was the law.

Chuck: Uh huh?

Erin: Would you be stupid enough to get in your car and drive and drink?

Chuck: Well, let me ask you this sweetheart: Do you drink?

Erin: I do, but I do not drive.

Chuck: How much have you – ?

Erin: I take taxis. I take taxis.

Chuck: Oh, that, that sounds fantastic. You're destroying the inner city?

Erin: No, I don't, actually I live in a city that's very spread out. It takes me 25 to 30 dollars to go home when I go out downtown. But it's worth it.

Chuck: Again, my point was tolerance, sweetheart. Some people have one beer and they drive like an idiot and the other people drink three quarts –

Erin: No, I agree with you. I agree with you. But it's proven that it impairs your ability and I think that there's too many people at risk. How would you feel if you killed a baby? Or a –

Chuck: Have you ever heard of a drug called, like, Zoloft or something like that? Now are they any different than somebody who's had a couple of beers? I mean, come on. Some people take prescriptions, some people self-medicate. I mean, really.

Erin: Self-medicate is different than having a prescription?

Chuck: Yeah.

Erin: Yes, I think it impairs you all around. And I think that somebody that is gonna self-medicate themselves and drive is no different than someone that drinks and drives. But all I'm asking you - and be blatantly honest. If you got in a car –

Chuck: So why should it be illegal?

Erin: If you got in a –

Chuck: I'm sorry, why should it, why should it be illegal?

Erin: Wait, let me finish my sentence. Let me finish just my sentence. If you got into your vehicle, and you had even two beers, when you know that two beers, even two beers is going to slightly impair you and you kill somebody –

Chuck: It's not.

Erin: And you kill somebody –

Chuck: It's not. Oh please. It's not gonna happen dear. I mean, I seen that happen every day. Yeah, that's from people who are, you know, out of control in some way or don't know their tolerance.

Erin: It's not going to happen?! Then why are these laws in place? Why would they have DUI and why would they have these, these laws –

Chuck: Rev-en-ue. It's called "revenue". Have you ever heard of that? The government makes money.

Erin: I know a million C, I know a million CHT officers in California and I can tell you some horrible stories from people that have drunk, been drinking and driving.

Chuck: Everybody can! But you know what the percentage of that is? It's very little. It's probably less than three percent.

Erin: It doesn't mean it's okay.

Chuck: I would say that it's probably less than one percent of people who drive somewhat Impaired?

Erin: Where are you getting your statistics?

Chuck: I don't know. Actually I'm not a statistician and I'm very uneducated. But I am educated on this issue.

Erin: Obviously! Obviously. You sound like an ignoramus. You're driving and drinking. That's really intelligent! Why don't you just –

Chuck: [laughs] You really should've been like, you really should've been like the walkin' vagina earlier. You're a typical one.

Erin: I know the effects of alcohol. Both of my parents have died from drinking and I have an uncle who is a complete alcoholic. Almost everyone in my family. I'm not saying it's not okay to drink once in a while, but –

Chuck: Then stop bringing up baggage.

Erin: No, we have, we have an obligation. Driving is a privilege. There's countries that don't even have the opportunity to drive.

Chuck: I have car insurance so that if I hit anybody and I have a problem, I can pay for that.

Erin: Your insurance is going to pay for it?

Chuck: Absolutely.

Erin: What if you kill somebody? What if you kill somebody? Or kill a child?

Chuck: Then I will assume responsibility for that.

Erin: So you're gonna take, you would be willing to put all of that on the line and walk around for the rest of your life knowing that you took someone's life because you made a bad choice. And it could have been prevented.

Chuck: It's not gonna happen sweetheart.

Erin: When it could have been prevented with a 30 dollar taxi ride!

Chuck: It's not gonna happen! I didn't drink a bottle of scotch, I just had a couple of beers and –

Erin: It doesn't matter! Tell that to, tell the CHT officer that when you rear end somebody.

Chuck: [laughs] I've talked to the CHT before, but I don't rear end anybody because I don't follow too close!

Erin: Okay, well maybe you're, maybe you're an exception to the norm, but –

Chuck: Exactly. There's always exceptions, just like Tom says. There's always exceptions to the rule.

Erin: To say it's okay for you is like saying it's okay for anybody else. For someone whose perception isn't good. Rules are in place for a reason.

Chuck: For somebody who has a weaker tolerance –

Erin: You can't base it on perception. How could I not say my perception is better than your perception? There's no perception test.

Chuck: Absolutely not. And I bet I could take an IQ test right now and be smarter than you. That's [...]

Erin: Oh I doubt that.

Chuck: Oh absolutely.

Erin: I doubt that. I doubt that.

Chuck: Well, the bottom line is it's okay to have a few and to drive *if* your tolerance level is there.

Erin: Who determines, who determines the tolerance level?

Chuck: Well, I, you know –

Erin: Who determines that?

Chuck: After 15 years –

Erin: Yourself?

Chuck: After 15 years of boozin' –

Erin: So go snort a line of coke and then go get hookers, because you have got the tolerance for it.

Chuck: Coke? That's a totally different issue. I would never do that.

Erin: No, it's not! It's not! Drinking is no different than drugs. Drinking is a more addictive drug than anything else!

Tom: All right. Erin, Chuck, thank you for the calls. It's toll free 1-800-5800-TOM. Are you driving drunk right now for this holiday season? Call us and tell us all about it.

[Break for traffic, weather, sports, promos. The show resumes at 35.25 on the counter.]

Tom: It's Alex on a cell phone. Alex you're on the *Tom Leykis Show*. Our annual holiday tradition, talking to people who are driving drunk. From their cell phones. Alex.

Alex: Hellloo Tom!

Tom: Hello Alex.

Alex: A long-time listener, second time caller.

Tom: Very good! Thank you for calling.

Alex: That's, so I'm the one.

Tom: You're the one. What are you doing out there?

Alex: I'm actually [laughs] driving [laughs].

Tom: You're driving. And what did you have to drink today?

Alex: Actually, um, vodka.

Tom: You had vodka today?

Alex: Yep.

Tom: Now did you have it at a bar or do you drink it in the car?

Alex: No, I'm actually driving with a drink, so I have it in the car.

Tom: I couldn't hear you 'cause your phone was cutting out. I understand you're calling from Malibu where the cell service is terrible. Uh, did you say you're drinking it in the car?

Alex: Yeah, I was drinking that in the car. I'm driving for a living.

Tom: Ohh. So you keep a bottle, what, under the front seat?

Alex: Actually no, somewhere in the back.

Tom: Somewhere in the back. Uh, what's your favourite kind? What kind are you

drinking?

Alex: Um, I don't like the Russian vodka, actually but vodka Sterling.

Tom: Ah, okay, mm hm. And how much have you had?

Alex: About, uh, three hundred, two hundred, three hundred fifty milligrams.

Tom: Millilitres.

Alex: So far, yeah.

Tom: Yeah. So about a third of a litre.

Alex: Yep.

Tom: So that's just under a quart of vodka.

Alex: Yep.

Tom: Uh, you're drivin' around. And you drive for a living? Now without telling us too much about yourself, what kind of job do you have?

Alex: I have a delivery service.

Tom: You're a delivery service and you're drivin' around, drivin' around Malibu with, uh, almost a quart of vodka in you. And, uh, how's it goin'?

Alex: It's goin' great actually. [static in cell phone] I'm still feeling good.

Tom: You do this all the time?

Alex: Uh, not all the time. Not at all. But you know the people who's calling to your show actually don't think about the, uh, I actually, they don't actually talk about the people who's driving for a living. I mean, it's, I have actual driving a lot so it's basically, you know, we have to have fun sometimes too.

Tom: What made you decide to drink a quart of vodka *today*?

Alex: [I think just time, in the mood?]. That's it.

Tom: Really?!

Alex: Yep.

Tom: So, um, how often would you say you do it?

Alex: I don't know, a couple of times a week probably.

Tom: Couple of times a week, just drink a quart of vodka, drive around deliverin' packages. And you've never had a problem?

Alex: [...]

Tom: We're losin' you there Alex, but good luck. Thank you. 1-800-5800-TOM is our

telephone number. It's Mike on a cell phone. Mike, you're on the *Tom Leykis Show*. Hello.

Mike: Tommy boy.

Tom: Mikey, baby.

Mike: What's goin' on, buddy?

Tom: Not much. How are you, pal?

Mike: I'm on the 405 goin' south. Look out.

Tom: You're on the 405 goin' southbound, and what do we have in us today?

Mike: Uh, about seven seven-sevens and I got a little J & B in my hand, so.

Tom: You got a little J & B in your hand? What, do you have like a little green bottle right there in the car?

Mike: Yeah, we do, yeah we do. I'm coming back from Hermosa Beach and you know how that place just kicks your ass.

Tom: Yeah. Uh huh. So you were where, at a bar in Hermosa?

Mike: Yeah, which will remain nameless for lettin' me drive home. So we'll just keep that quiet. I don't wanna ruin anybody's time out there. But it is rough. We're doin' a little early holiday drinkin'. Gotta go back and see the girlfriend.

Tom: Doin' a little drinkin' and now goin' back to see the girlfriend. A little booty call here.

Mike: Only way I can tolerate it, Tom.

Tom: So you have to drink seven 7 and 7s just to tolerate lookin' at her face?

Mike: Yeah, she's [edited]. She's [edited words].

Tom: Got, got, we got both words in there. We can't say those two words.

Mike: Hey, I'm sorry, I'm sorry. But I'll tell you what, that girl Erin, that girl Erin who called earlier needs to bang herself. I don't understand what her problem is. But she wouldn't know fun if it kicked her square in her ass. Makes me sick, Tom.

Tom: Really?

Mike: Makes me sick.

Tom: So this bottle of J & B, is that like a little bottle that you got like at the Right Aid or where'd you get this?

Mike: Where I got this, there's a little liquor store right before you go on the 405.

Tom: Uh huh.

Mike: Right off Hermosa Beach.

Tom: Ah, easy in, easy out.

Mike: You know how we do.

Tom: Free –

Mike: Brown bag, brown baggin' it.

Tom: Freeway close.

Mike: Oh. It's a tough try, but I'm gettin' off in a few minutes. So if you guys are on the road, I'd pull off if I were you.

Tom: All right, pull off the 405 if you're out there. Mike is out there with the J & B in hand. By the way, you drivin' automatic or stick?

Mike: What's that, my man?

Tom: You drivin' automatic or stick?

Mike: Oh, I'm drivin' stick.

Tom: Drivin' stick. I'm trying to picture this. You got that, you only got two hands right? So you got the bottle of JB, you got the bottle of J & B, you got the steering wheel and you've got the stick shift. How do you do this?

Mike: I've got the bottle of JB in my lap and I kind of, you know –

Tom: The bottle's in your lap?

Mike: If I had three arms I'd be all right.

Tom: And you got the cell phone too. So how are you holding the cell phone steering, shifting the car and drinkin' J and B?

Mike: I got a head-piece on.

Tom: Okay, you have a head-piece. So you're wearin' like a head-set with the phone and how are you able to dial?

Mike: I just have you on voice dial. I just say "Tommy".

Tom: Oh. "Tommy" and it dials.

Mike: It goes on. So I do that a couple times, then I get through and here I am.

Tom: I see. Hang on a second there Mike. Let me get Steven on here. Steven, what do you want to say to Mike?

Steven: Dude, everybody and Mike, including Mike, are friggin' morons for drinking and driving. You can kill somebody! You can kill a child! An innocent little child! And you're gonna friggin' sit there and say "I'm proud of drinkin' and drivin'"? You're a moron!

Mike: Hey, I never said I was proud of it. I never said I was proud of it. I got a problem.

Steven: Dude, you're drinking and driving, bro! Dude, you're drinking and driving, bro! If you kill a child, do you know how, that just kills you inside! But I don't know. Because you're drinking and you're drunk, so I guess you really wouldn't know what you did, huh?! You're a friggin' moron, bro!

Mike: Well I just stopped. I just stopped. But you know what? When there's nobody to help you out when you have a problem like so many people out there like us in California –

Steven: Dude, dude! I don't, I deliver food all day long for 12 hours a day, okay? And I don't drink and I don't do drugs, okay, during the time that I'm workin' because I know that the car can be a vehicular killing machine! Okay?!

Mike: [mocking voice] A vehicular killing machine.

Steven: I go home, I go home and I do it at home when I'm done with everything. When I know I'm not gonna go out anymore. You guys are friggin' morons for drinking and driving or doing, being stoned and driving and whatever! You guys are friggin' morons!

Mike: All right. Hold on, buddy. I don't know where you're comin' from, but you gotta pull the tampon outta your ass.

Steven: Las Vegas, bro. Las Vegas, bro. And you know what? That tampon's just so far up your [edited word] butt. I'm sorry.

Mike: Hey, what? Hey, watch that mouth fella, watch that mouth.

Steven: You're just a moron, bro!

Mike: All right.

Steven: You're just a moron! You could kill somebody, bro! You could kill an innocent child! Do you have kids?

Mike: Are you still there son?

Steven: Yes. Do you have kids? And, whoa, I'm not your son, so don't ever call me "son", all right.

Mike: Oh, I'll call you "son".

Steven: Don't call me "son", bro.

Mike: I'll call you "boy".

Steven: I'm not your "boy". Excuse me, I'm 33, I'm 33.

Mike: When you're 21 in this country you can do what you please, believe it or not. Unless you get caught –

Steven: And I'll tell you what. If I was behind you, I'd friggin' pull your ass over and I'd knock the [edited word] outta you. You're a friggin' moron, bro!

Mike: Well if I was in front of you, I'd step on the gas and run you over. Run your fat ass over, son.

Steven: No, you're horrible. Do you have kids, bro? Do you have kids?

Mike: I got three of 'em. I got three of 'em.

Steven: Now, do you drink, do you drink and drive with your kids in the car?

Mike: Yeah.

Steven: Oh, okay. So let's say you get into an accident and maybe one or two or maybe all three of them get killed and you survive. What're you gonna feel like then? You're a moron!

Mike: Maybe not, but we'll have to see when that time comes [...]

Steven: Oh, okay, so you're gonna learn from that, you're gonna learn from that instead of learning from everybody else's mistakes. You're gonna learn from that?! You're a moron!

Mike: It's a, it's a

Steven: You're just gonna drive drunk even more.

Mike: Hey son, hey son, hey son, hey son, hey son, hey son. [...], you know what I'm sayin'?

Steven: If you kill your kids, that's -. Hold up, hold up, hold up.

Mike: Whenever you're through, whenever

Steven: If you kill your kids, if you kill your kids, bro, that's going to be more of an excuse for to drink and drive more, isn't it? You're just gonna say "well I killed my kids and, uh, I can't handle it, so I gotta drink and drive." You're a moron, bro!

Tom: All right. Hang on, hang on. Hang on guys, hang on a second, okay? Steven and Mike, let me bring in Kenny here. Kenny, what did you want to say to Steven?

Kenny: Well, I just want to know why Steven all of a sudden thinks he's the priest of the highway. Because he's a family man now? 'Cause I'll tell you what. When he was a teenager or when he was a younger adult, I guarantee most of these people here have drunk and drove. And if not, they were a passenger with one of their drunk friends. So don't sit there.

Steven: No.

Kenny: [...].

Steven: No, I made it a point when I was younger, I made it a point when I was younger never to get into a car with somebody that was drinking.

Kenny: Oh, you're a hypocrite, you're a hypocrite! 'Cause you did it!

Steven: And I don't drink and I don't drive! When I drink I don't drive, bro!

Kenny: Go back to your family then. Go watch big foot and shut the hell up.

Steven: I am so sick. 'Cause you guys are morons! You guys are gonna kill people and you're gonna sit there and go "well I killed somebody, I gotta drink more. And I gotta drive more." You're gonna use that as an excuse! You guys are weak!

Kenny: Well then stay off the freeway. [...] close it down.

Steven: You guys can't handle it! You can't handle the pressure! You can't handle being responsible! You are weak!

Kenny: Dude, I make more money than you ever will in a lifetime, dude. I got nothing better in my life. I know how [...].

Steven: You're weak, bro! You're weak! You're weak in the head, bro! You know, why don't you go for some counselling or something 'cause you need it. You're weak in the head.

Kenny: Dude, I think you should become Mother Teresa of the freeway, bro.

Steven: No, no, no, no. My thing is kids, dude. If somebody kills a kid because they're being stupid and weak and being immature, that is so much b.s. That is harsh, bro.

Kenny: No one's talkin' about gettin' totally plastered and runnin' over kids, dude.

Steven: You would not feel guilty killin' a kid if you were drunk?! Would you feel guilty? Would you feel guilty if you killed a kid when you were drunk?!

Kenny: Hey, hey, Father Steve, let's hold on a second here. Why don't we just sit there and think about this now. A lot of people, who have a long day, they have a couple of cocktails. They don't get totally hammered and go out and look for kids to hit, okay?

Steven: No, dude, they're not lookin' for it, bro. They're not lookin' for it. It just happens. All these people get hit!

Kenny: Okay, so I'll tell you what. I'll guarantee that people goin' through an intersection just like yesterday on TV and three cops get hit. Was there a drunk driver in there? No. Everyday in L.A. you have the opportunity to get killed 'cause it's too many hit and run risk.

Steven: I know you can cross the street and get hit by a car, bro. I understand that, but when you drink or when you're impaired driving, you can't think quickly. You cannot think as quickly. You are, you think that you're, that you're invincible.

Kenny: [...] so that idiots like you, I gotta watch out for you too because you're too worried about lookin' for drunk drivers in front...

Steven: No, no, no, no. I look at idiots like you swerving on the side of the street and I make sure that I stay far away from you. But I keep an eye on you just in case you get into an accident so I can tell the friggin' cop "Hey, that dude was swerving all over the place." And I will be there. Up in the person's face, tellin' him that you're a drunk moron.

Tom: All right, Kenny, Steven, thank you for the calls.