

Bill No. 38 of 1949.

A BILL TO AMEND THE MOTOR VEHICLE  
ACCIDENT INDEMNITY ACT.

---

NOTE.

This Bill amends *The Motor Vehicle Accident Indemnity Act*, being chapter 11 of the Statutes of Alberta, 1947.

Sections 4(1), 4(4) (a) (iii) and 6(1) are each amended by striking out the minimum property damage figure of twenty-five dollars and substituting seventy-five dollars. The price of motor vehicle repairs has risen greatly resulting in an increase in the number of accidents which must be reported under the Act. Most motorists are financially responsible for judgments up to seventy-five dollars and it is unnecessary for the Act to apply to accidents involving property damage which is apparently less than that amount.

Section 4 (3) is amended by striking out the same and substituting a new subsection. Subsection (3) deals with the production of proof of financial responsibility to the Minister. The subsection presently requires the written certificate of an insurer which takes time to obtain and causes expense to the insured. The purpose of the amendment is to provide that any proof satisfactory to the Minister may be accepted as proof of financial responsibility. This will be a convenience both to the Department and to the motorist in that in most cases proof of financial responsibility may be established more speedily and unnecessary expense to the motorist will be avoided.

Section 4 (4) is amended by the addition of a new clause to paragraph (a). Compliance with any one of the requirements listed in paragraph (a) of subsection (4) will enable a driver to get his license back after it has been suspended. The addition of the new clause provides an additional means whereby the suspended license may be obtained back. The new clause provides for the case where the driver has obtained the privilege of paying a judgment against him by instalments and he is not in default in payment of the instalments. In such a case he may get his license back as long as he is up to date with the payment of his instalments.

In clause (v) of paragraph (a) of subsection (4) of section 4 the word "have" is an error and the word "has" is accordingly substituted.

A new section 7a is added immediately after section 7. At present where a person suffers damages in a motor vehicle accident he may sue and recover a judgment for damages against the person whose negligence or fault caused the accident. If the defendant cannot pay the amount of

the judgment, or if the money cannot be recovered from him, the Unsatisfied Judgment Fund pays the injured person. Ordinarily a judgment cannot be recovered against a person who is not negligent or at fault. However, if the person sued does not defend he is assumed to admit negligence or fault and a judgment may be obtained against him by default. The plaintiff may then claim payment of such a judgment from the Fund. In the case of non-resident motorists who have no assets in Alberta, and also in the case of residents who have no assets in Alberta which could be seized to satisfy a judgment against them, judgments have been obtained against them by default. Even though these persons may have had a good defence to the action and may not have been negligent or at fault they do not bother to defend because either they are not subject to the jurisdiction of our courts, or they cannot be compelled to pay and therefore the judgment does not affect them. However, in such cases the Unsatisfied Judgment Fund may have to pay and it is possible that claims may be made upon it by persons whose own negligence or fault was wholly or partially responsible for the accident. The new section 7a is designed to give the Fund some protection in such cases.

Subsection (1) of the new section 7a requires a copy of the statement of claim and all pleadings to be served on the Superintendent in any action which may result in a claim upon the Fund.

Subsection (2) enables the Superintendent to be represented at the trial of any such action.

Subsection (3) requires notice to be served on the Superintendent after any defendant is noted in default and at least fifteen days before the plaintiff applies for an order for final judgment or assessment of damages.

Subsection (4) enables the Superintendent, within fifteen days of the receipt of such a notice, to file a statement of defence disputing the liability of the defendant to the plaintiff and to defend the action.

Subsection (5) enables the Superintendent, in the same manner as a defendant, to join third parties who may be liable in whole or in part.

Subsection (6) enables the court or judge to order that costs, including those of the Superintendent in defending the action, be paid by the defendant, or that the Superintendent pay the costs out of the Fund or to make such other order as to costs as may be considered just.

Section 8, subsection (1) is amended by striking out the words "originating notice" and substituting the words "notice of motion". A notice of motion is equally effective in bringing this matter for decision before a judge, and the costs are not as great. The amendment will result in some saving, both to the Unsatisfied Judgment Fund and to the judgment debtor who will have less money to repay to the Superintendent.

Section 12 (a) is amended by adding certain words at the end thereof. The purpose of the amendment is to provide that if an order has been made granting the privilege of payment of a judgment by instalments to the Provincial Treasurer, where the Provincial Treasurer has paid the creditor under this Act and the instalments are paid up to date the license of the judgment debtor may be given back to him so long as he maintains his instalments.

KENNETH A. MCKENZIE,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 38 of 1949.

An Act to amend The Motor Vehicle Accident Indemnity Act.

(Assented to \_\_\_\_\_, 1949.)

**H**IS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Motor Vehicle Accident Indemnity Act*, being chapter 11 of the Statutes of Alberta, 1947, is hereby amended as to section 4,—

(a) by striking out the words “twenty-five” where the same occur in subsection (1) and by substituting the words “seventy-five”;

(b) by striking out subsection (3) and by substituting the following:

“(3) Where a driver, whose license is subject to suspension under this section, produces proof satisfactory to the Minister that at the time of the accident there was in force for the said driver’s benefit a motor vehicle liability policy or a driver’s policy providing for the payment of public liability and property damage, the Minister shall not suspend the license and if it has been suspended he shall reinstate it.”;

(c) by striking out the words “twenty-five” where the same occur in clause (iii) of paragraph (a) of subsection (4), and by substituting the words “seventy-five”;

(d) by adding immediately after clause (iii) of paragraph (a) of subsection (4) the following new clause:

“(iiia) produces proof satisfactory to the Superintendent that he has obtained an order of the court pursuant to section 132 of *The Vehicles and Highway Traffic Act* giving him the privilege of paying by instalments any judgment recovered against him as a result of the accident; that he is not in default in payment of the instalments; and that there are no other unsatisfied claims against him as a result of the accident; or”;

(e) by striking out the word “have” where the same occurs in clause (v) of paragraph (a) of subsection (4) and by substituting the word “has”.

**2.** The said Act is further amended as to section 6 by striking out the words "twenty-five" where the same occur in subsection (1), and by substituting the words "seventy-five".

**3.** The said Act is further amended by adding immediately after section 7 the following new section:

"**7a.** (1) In any action for damages resulting from bodily injury to or the death of any person occasioned by or arising out of the operation or use of a motor vehicle where the damages claimed exceed the sum of one hundred dollars, a copy of the statement of claim and all subsequent pleadings shall be served upon the Superintendent by the party to the action who issues or files the same.

"(2) The Superintendent may, if he considers it expedient so to do, appear personally or by counsel at the trial of any such action and may examine and cross-examine witnesses, and may adduce such evidence as he may deem advisable.

"(3) In any action where the plaintiff notes the defendant in default he shall forthwith serve upon the Superintendent a notice in writing advising the Superintendent that the defendant has been noted in default and the plaintiff shall not apply for an order for final judgment or assessment of damages or otherwise, within fifteen clear days after service of the said notice.

"(4) Within fifteen days after service of the said notice the Superintendent may, by a statement of defence, dispute the liability of the defendant to the plaintiff and may defend the action.

"(5) The Superintendent may, in the same manner as the defendant, serve any other person against whom the defendant might have claimed with a third party notice and all the provisions of the Rules of the Supreme Court of Alberta relating to third parties shall apply in so far as applicable to any person served with such a notice.

"(6) Costs may be awarded in the discretion of the court or judge and in any action where the Superintendent has filed a statement of defence disputing the liability of the defendant to the plaintiff the court or judge may order that costs, including those of the Superintendent in defending the action, be paid by the defendant on whose behalf the Superintendent entered the statement of defence, or that the Superintendent pay the costs out of the Fund subject to the provisions of subsection (7) of section 8, or the court or judge may make such other order as to costs as may be considered just."

**4.** The said Act is further amended as to section 8 by striking out the words "originating notice" where the same occur in subsection (1), and by substituting the words "notice of motion".

**5.** The said Act is further amended as to section 12 by striking out the word "and" where the same occurs at the

end of paragraph (a), and by substituting the words "or obtained an order of the court pursuant to section 132 of *The Vehicles and Highway Traffic Act* giving him the privilege of paying to the Provincial Treasurer by instalments the amount so paid by the Provincial Treasurer together with interest thereon at four per cent per annum from the date of such payment by the Provincial Treasurer, and he is not in default in payment of the instalments; and".

**6.** This Act shall come into force on the day upon which it is assented to.

FIRST SESSION  
ELEVENTH LEGISLATURE  
13 GEORGE VI  
1949

---

---

**BILL**

An Act to amend The Motor Vehicle  
Accident Indemnity Act.

---

---

Received and read the

First time .....

Second time .....

Third time .....

---

---

HON. MR. GERHART.

---

---