

1968 Bill 100

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 100

An Act to amend The Motor Vehicle Accident Claims Act

THE MINISTER OF HIGHWAYS

First Reading

Second Reading

Third Reading

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An Act to amend The Motor Vehicle Accident Claims Act

(Assented to _____, 1968)

HER 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 Claims Act* is hereby amended.

2. Section 2, clause (f), subclause (i) is amended by adding after the word "buses," the words "power toboggans".

3. Section 8, subsection (4) is amended by adding after the words "file a defence," the words "examine for discovery,".

4. The following section is added after section 9:

9a. No court shall make an order authorizing the service of any document upon the Administrator in substitution for service upon a defendant.

5. Section 11 is amended by adding the following subsection after subsection (1):

(1a) No action may be brought against the Administrator pursuant to subsection (1) unless a notice in writing is served upon the Administrator within 90 days after the cause of action arose or within such longer period as the court may allow.

6. Section 12 is amended by adding after the words "or death" wherever they occur the words "or property damage".

7. The following sections are added after section 14b:

14c. Notwithstanding anything in this Act, no payment shall be made out of the Fund for damage

(a) to an aircraft, or

(b) to any pipe, pole, line or equipment forming part of the distribution system of a public utility, or

Explanatory Notes

1. This Bill will amend chapter 56 of the Statutes of Alberta, 1964.

2. Section 2 (f) (i) presently reads:

(f) "motor vehicle" means every vehicle propelled by any power other than muscular power

(i) except aircraft, tractors, whether equipped with rubber tires or not, traction engines, implements of husbandry, trolley buses, and vehicles that run only upon rails, and

.....

3. Section 8 (4) presently reads:

(4) After making the investigation the administrator in his discretion may, on behalf of and in the name of the defendant, file a defence, make payment into court, appear by counsel for trial, consent to judgment in whatever amount he considers proper in all the circumstances or take any other action that the defendant could have taken under the Consolidated Rules of the Supreme Court or any other action he considers appropriate.

4. Substitutional service on Administrator is prohibited.

5. Section 11 (1) reads:

11. (1) Where bodily injury to or the death of a person or damage to property arises out of the use or operation within Alberta of a motor vehicle, and

(a) the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or

(b) the name of the operator is not known or ascertainable and the owner may not be liable to an action for damages for injury or death or property damage,

any person who has a cause of action against the unknown owner or operator in respect of that bodily injury or death or property damage may bring an action against the Administrator as nominal defendant, either alone or as a codefendant with others alleged to be responsible for the injury or death or property damage.

6. Section 12 (1) reads:

12. (1) Where judgment has been obtained under section 11 against the Administrator as nominal defendant, the Administrator may at any time thereafter, by originating notice, apply to a judge of the court where judgment was obtained for an order declaring that any person was at the time of the accident the owner or operator of the motor vehicle that caused the bodily injury or death in respect of which the judgment was obtained.

7. Self-explanatory.

(c) to a railway train or to a railway track or any barrier or operating equipment along the track.

14d. Notwithstanding anything in this Act, no payment shall be made out of the Fund in respect of bodily injury to or the death of any person for which any compensation or award has been or is likely to be paid to a person by the Workmen's Compensation Board of any province or territory of Canada.

8. The following section is added after section 19:

19a. Subject to the approval of the Lieutenant Governor in Council, the Administrator may, in settlement with a person liable to pay money to the Fund, accept a cash sum of less than the amount due to the Fund.

9. This Act comes into force on the day upon which it is assented to.

8. Lump sum settlements authorized.