

1969 Bill 72

Second Session, 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 72

**An Act to amend The Motor Vehicle Accident
Claims Act**

THE MINISTER OF HIGHWAYS

First Reading

Second Reading

Third Reading

BILL 72

1969

An Act to amend The Motor Vehicle Accident Claims Act

(Assented to _____, 1969)

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 striking out the words "power toboggans" and by substituting the words "motorized snow vehicles".
3. Section 8 is amended
 - (a) as to subsection (4) by striking out the words "Consolidated Rules of the Supreme Court" and by substituting the words "Alberta Rules of Court",
 - (b) by adding the following after subsection (6):
 - (7) Where the defendant is an infant, the Administrator may exercise the rights of and defend the action in the name of the defendant without the appointment of a guardian *ad litem* and may assert a counterclaim on behalf of the infant without a next friend.
4. Section 18 is amended by striking out the words "Consolidated Rules of the Supreme Court" and by substituting the words "Alberta Rules of Court".
5. Section 21, subsection (1), clause (a) is amended by striking out the words "*The Vehicles and Highway Traffic Act*" and by substituting the words "*The Highway Traffic Act*".
6. This Act comes into force on the day upon which it is assented to.

Explanatory Notes

1. This Bill amends 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, power toboggans and vehicles that run only upon rails, and

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but including a tractor required to be registered under The Public Service Vehicles Act or the regulations thereunder;

This reference is changed in accordance with the terminology used in the proposed new legislation relating to motorized snow vehicles.

3. Section 8 presently reads:

8. (1) Where in an action for damages for

(a) bodily injury to or the death of a person, or

(b) loss of or damage to property in an amount exceeding \$50, arising out of the use or operation within Alberta of a motor vehicle, a plaintiff notes a defendant in default, the plaintiff shall forthwith serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until 30 days after the service of the notice.

(1a) Where in an action for damage for

(a) bodily injury to or the death of a person, or

(b) loss of or damage to property in an amount exceeding \$50, arising out of the use or operation within Alberta of a motor vehicle,

(c) a defendant's statement of defence is struck out or a defendant fails to appear by counsel at the trial, or

(d) a plaintiff receives notice that a defendant's solicitor has ceased to act,

the plaintiff may serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until 30 days after the service of the notice.

(2) Where a notice is served pursuant to subsection (1) or (1a), a copy of the statement of claim and every subsequent pleading in the action shall be served on the Administrator by the party to the action who issues or files it.

(3) The Administrator may at any time within the 30 days mentioned in subsection (1) or (1a) notify the plaintiff that he intends to make an investigation and the plaintiff shall not take the next step in the action until 30 days after being so notified by the Administrator.

(3a) When a defendant is represented by counsel in an action where it appears that a claim may be made against the Fund, the Administrator may upon notice to the plaintiff and defendant apply to be added as a party and thereupon may take any steps he considers proper to protect the interests of the Fund.

(4) After making the investigation the Administrator in his discretion may, on behalf of and in the name of the defendant, file a defence, examine for discovery, 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.

(5) All acts done by the Administrator in accordance with subsection (4) shall be deemed to be the acts of the defendant and the Administrator shall not be named as a defendant in the action and no judgment shall be given against the Administrator.

(6) Where the Administrator instructs a solicitor to act for him under this section, all acts done by the solicitor shall be deemed to have been done by the solicitor while acting upon instructions from the defendant.

(a) A reference is updated, and

(b) the Administrator empowered to act for an infant defendant as if the infant were an adult defendant.

4. A reference is updated. Section 18 presently reads:

18. Except as otherwise provided by this Act, the Consolidated Rules of the Supreme Court apply to applications and actions brought under this Act.

5. A reference is corrected.