

1970 Bill 78

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 78

An Act to amend The Public Service Vehicles Act

THE MINISTER OF HIGHWAYS AND TRANSPORT

First Reading

Second Reading

Third Reading

BILL 78

1970

An Act to amend The Public Service Vehicles Act

(Assented to _____, 1970)

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

1. *The Public Service Vehicles Act* is hereby amended.
2. Section 2 is amended
 - (a) as to clause (c), subclause (i) by striking out paragraph (B) and by substituting the following:
 - (B) a truck, trailer or semi-trailer or any class of vehicle that by the regulations or by an order of the Board is exempted from being classified as a commercial vehicle,
 - (b) as to clause (f) by adding after the word "Highways" the words "and Transport",
 - (c) as to clause (h), subclause (ii) by inserting before the words "*The Highway Traffic Act*" the words "this Act or",
 - (d) by adding the following clauses after clause (i):
 - (i1) "peace officer" means a peace officer within the meaning of *The Highway Traffic Act*;
 - (i2) "permit" means a permit issued under this Act or the regulations;
 - (e) as to clause (j) by striking out subclause (ii) and by substituting the following:
 - (ii) includes a motor vehicle kept by a person, firm or corporation for the purpose, subject to the regulations, of being rented without a driver, and
 - (e) as to clause (j), subclause (ii) by striking out paragraph (B),
 - (f) by striking out clause (o) and by substituting the following:
 - (o) "vehicle" means a vehicle within the meaning of *The Highway Traffic Act*.

Explanatory Notes

1. This Bill will amend chapter 265 of the Revised Statutes.

2. Section 2 reads in Part:

- (c) "commercial vehicle"
 - (i) means a truck, trailer or semi-trailer, except
 - (A) a truck, trailer or semi-trailer that is a public service vehicle, or
 - (B) a truck, trailer or semi-trailer or a class or classes thereof that the Board after an examination of the circumstances certifies in any year is not to be regulated as a commercial vehicle in that year,
 - and
 - (j) "public service vehicle"
 - (i) means a motor vehicle, trailer or semi-trailer operated on a highway by or on behalf of a person, firm, association or corporation for compensation, whether such operation is regular or only occasional or for a single trip,
 - (ii) includes
 - (A) a motor vehicle kept by a person, firm or corporation for the purpose of being rented without a driver, and
 - (B) a motor vehicle operated by or on behalf of a person engaged in the business of processing cream or milk or dairy products and that is capable of being used for the purpose of transporting cream or milk or dairy products,
 - and
- (f) "Minister" means the Minister of Highways;

Other definitions are revised for conformity with The Highway Traffic Act.

3. Section 3 is amended by striking out subsection (4).

4. Section 7 is struck out and the following is substituted:

7. The Board may issue special permits authorizing the operation of a public service vehicle in any area where the operation of a public service vehicle is otherwise prohibited by this Act or the regulations and may

- (a) designate the person or persons to whom the special permits are to be issued,
- (b) specify the duration of the special permits, and
- (c) establish the conditions of operation to be observed by the recipient of the permit.

5. Section 8 is amended by renumbering the section as subsection (1) and by adding the following subsection after the renumbered subsection (1) :

(2) The Board has capacity to accept and exercise the powers conferred upon it by the *Motor Vehicle Transport Act* (Canada) and the *National Transportation Act* (Canada).

6. Section 9 is amended

- (a) as to subsection (1) by adding after the words "The Board" the words " , with the approval of the Lieutenant Governor in Council,"
- (b) by striking out subsection (2) and by substituting the following:

(2) The Board may, on the request of the Minister,

- (a) close a highway or a part of a highway to a class or classes of traffic,
- (b) increase, limit or restrict the load to be transported over any highway or part of a highway,
- (c) increase, limit or restrict the maximum weight that may be borne by a tire, an axle, or an axle group, or any of them, or the maximum weight that may be borne by a vehicle or combination of vehicles, and
- (d) limit or restrict the speed of a motor vehicle, or a class or classes of motor vehicles on any highway or part thereof.

7. Section 14 is amended by striking out clauses (n) and (o).

3. Section 3 (3) and (4) read:

(3) No person shall advertise or otherwise solicit or undertake to transport for compensation any passengers or freight unless he has the proper certificate, permit or licence required by the Board.

(4) No advertisement containing such an unauthorized solicitation shall be inserted in a newspaper published in the Province.

4. Special permits.

5. Powers of Board in interprovincial transport.

6. Section 9 (1) (a) and (2) presently read:

9. (1) The Board may, notwithstanding the provisions of this Act or of any other Act, make regulations

(a) limiting or restricting the weight, speed, width of wheels and the use of cleats, in respect of any or all traction engines, public service vehicles or commercial vehicles while operating on highways,

(2) When the regulations referred to in subsection (1) are approved by the Lieutenant Governor in Council they have the same effect as if set out in this Act.

7. Section 14 (n) and (o) read:

14. The Board may do all that is necessary for the proper conduct of its business, and in particular, but without restricting the generality of the foregoing, may make regulations or orders

(n) governing the hours of employment and wages of drivers of public service and commercial vehicles,

(o) governing the installation, use and inspection of meters in any vehicle used by a liveryman in his business,

8. Section 22, subsection (1) is amended by adding at the end thereof the words "in whole or in part".

9. Section 26 is amended by striking out subsection (3) and by substituting the following:

(3) Where the Board is satisfied that the person to whom a certificate, permit or other authority has been issued pursuant to this Act has, either by himself or his agent or employee, contravened this Act, *The Highway Traffic Act*, *The Fuel Oil Tax Act, 1968*, *The Fuel Oil Licensing Act* or the *Criminal Code*, or the regulations under any of those Acts, the Board, in its discretion, may suspend the certificate, permit or other authority, either for a specified period or indefinitely, or revoke it.

(4) Where the Board suspends or revokes a certificate pursuant to this section, the holder shall return to the Board any licence plates issued in conjunction with the certificate.

10. The following section is added after section 26:

26a. (1) Where a person

(a) is convicted under section 225, subsection (3) of the *Criminal Code*, and

(b) has, at any time before, been convicted under section 225, subsection (3) of the *Criminal Code* anywhere in Canada,

the convicting judge may order that the certificate of registration of any public service vehicle or commercial vehicle being driven at the time of the latest offence be suspended for a period of 30 days in accordance with this section.

(2) Where an order is made under subsection (1), the registered owner shall deliver the certificate of registration and the licence plates of the vehicle to the Board and the period of suspension commences

(a) in the case of personal delivery, from the date the certificate of registration and the licence plates are delivered to the Board, or

(b) in the case of delivery by mail, from the date on the postmark of the post office of origin.

(3) A registered owner who does not within 14 days from the date of notice deliver both the certificate of registration and licence plates to the Board in accordance with subsection (2) is guilty of an offence and liable on summary conviction to a fine of not less than \$10 or more than \$20 for each day thereafter until he delivers both the certificate of registration and the licence plates.

8. Section 22 (1) presently reads:

22. (1) The Board after considering an application for a certificate may grant or refuse the application.

9. Section 26 (3) presently reads:

(3) The Board, where satisfied that the person to whom a certificate or permit has been issued pursuant to this Act, either by himself, or his agent or employee has contravened a provision of this Act or a regulation made pursuant to this Act, or a provision of The Fuel Oil Licensing Act or a regulation made pursuant to that Act, may in its discretion suspend, either for a specified period or indefinitely, or cancel, the certificate or permit.

10. Suspension of public service vehicle and commercial vehicle registrations on conviction of 2nd offence under section 225 (3) of the Criminal Code.

(4) Subject to section 245 of *The Highway Traffic Act*, the certificate of registration and licence plates shall be returned by the Board to the registered owner upon the expiry of the suspension period.

(5) Notwithstanding anything in this section, if the convicted person was not the registered owner of the vehicle at the time the offence was committed

(a) the registered owner may apply to the Board for the provisions of subsection (1) to be waived, and

(b) the Board, if it is of the opinion that the registered owner's application is a proper case for relief, may waive the provisions of subsection (1).

(6) The owner of a motor vehicle for which the registration has been suspended pursuant to this section shall not

(a) re-register or attempt to re-register the motor vehicle, or

(b) register or attempt to register any other motor vehicle in his name,

before the period of suspension prescribed by this section has expired.

(7) Any person who contravenes subsection (6) is guilty of an offence and liable on summary conviction to a fine of not less than \$50 or more than \$200 or to imprisonment for a term not exceeding 90 days or to both such fine and imprisonment.

11. Section 28 is amended by renumbering the section as subsection (1) and by adding the following subsections after the renumbered subsection (1) :

(2) Where the authority conferred by a public service vehicle certificate is not exercised for a continuous period of 30 days, the authority terminates and the certificate shall be deemed to be cancelled.

(3) The Board, in its discretion, may reinstate a certificate upon such terms and conditions as it prescribes.

12. Section 29 is amended by striking out subsections (2), (3) and (4).

13. Section 30 is amended by striking out subsection (4) and by substituting the following :

(4) Where by reason of the purchase referred to in subsection (2), there is possible a consolidation of certificates, and in the opinion of the Board public convenience and necessity would be better served, the Board may authorize the consolidation.

11. Section 28 reads:

28. The authority conferred by a public service vehicle certificate terminates and the certificate shall be deemed to be cancelled unless the said authority is exercised within

- (a) a period of 30 days from the issue thereof, or
- (b) such further period as the Board may on application allow.

12. Section 29 (2) to (4) read:

(2) A person who holds a public service vehicle certificate and wishes to obtain a certificate for the ensuing year beginning on the first day of April may, before the first day of February in each year or such later day as the Board may allow, make application to the Board for a new certificate, and in which case such person shall forward with the application the prescribed fee.

(3) The Board shall

- (a) consider the applications for public service vehicle certificates, and
 - (b) deal with them in the manner set out in sections 21 and 22.
- (4) Where an application under this section is refused the applicant shall not operate a public service vehicle after the expiration of the certificate that he then holds.

13. Section 30, subsection (4) presently reads:

(4) Where by reason of the purchase referred to in subsection (2), there is a consolidation of certificates, and in the opinion of the Board a through service would be beneficial to the public, the Board may authorize the service.

14. Section 32, subsection (2) is amended by adding the word “or” at the end of clause (c) and by adding the following clause after clause (c) :

(d) is obviously in such a condition or acts in such a manner as to be offensive to other passengers in the vehicle.

15. Section 37 is struck out and the following is substituted:

37. (1) A public service or commercial vehicle shall be maintained in a safe condition.

(2) A public service vehicle used for the purpose of transporting passengers or carrying foodstuff for human consumption shall be kept in a sanitary condition.

(3) A public service or commercial vehicle is subject to inspection by the Board or a representative of the Board or a peace officer.

16. Section 42 is struck out and the following is substituted:

42. (1) The Board may issue a licence plate or plates for each public service vehicle and commercial vehicle to be displayed thereon in such manner as the Board prescribes.

(2) If a licence plate or plates is lost, destroyed or defaced

(a) the owner shall forthwith apply to the Board for a new plate or plates, as the case may be, returning the remaining plate, if any, and

(b) upon payment of the prescribed fee the Board shall issue a new plate or plates, as the case requires.

17. Section 46 is struck out.

18. Section 47 is struck out and the following is substituted:

47. Where a fee or charge imposed by or under this Act is not paid, the Board may suspend or revoke the certificate or permit and any other licence or authority granted under this Act to the person in default.

19. Section 52 is amended by adding the following subsection:

(3) The operator of a public service vehicle or commercial vehicle shall, on demand of a peace officer, produce the

14. Section 32 (2) presently reads:

- (2) Such a driver or operator may refuse transportation to a person who
- (a) is intoxicated, or
 - (b) conducts himself in a boisterous or disorderly manner, or
 - (c) uses profane or obscene language.

15. Section 37 presently reads:

37. A public service vehicle shall be maintained in a safe and sanitary condition, and is at all times subject to inspection by the Board or duly authorized representatives of the Board, a police officer, or a police constable.

16. Section 42 presently reads:

42. (1) The Board may issue
- (a) distinctive number plates to be displayed on the front and rear of public service and commercial vehicles except trailers, and
 - (b) for trailers a distinctive number plate to be displayed on the rear thereof.
- (2) If a number plate or plates is lost or destroyed the owner shall forthwith apply to the Board for a new plate or a new set of plates, as the case may be, returning the remaining plate, if any.
- (3) The owner shall
- (a) submit with the application an affidavit that the original plate or plates or one of them has been lost or destroyed, and
 - (b) on payment of the prescribed fee, receive a new plate or plates, as the case may be.
- (4) Repeal. (1959, c. 71, s. 7)

17. Section 46 reads:

46. (1) The fees payable in respect of a certificate or permit may be based on or determined by reference to all or any of the following matters:
- (a) the gross receipts from the operation of a public service vehicle or a commercial vehicle during the period for which the certificate or permit is issued;
 - (b) the passenger carrying capacity of a public service vehicle;
 - (c) the express freight carrying capacity of a public service vehicle;
 - (d) the mileage of a public service vehicle during the period for which the certificate or permit is issued;
 - (e) the carrying capacity of a commercial vehicle;
 - (f) the mileage of a commercial vehicle during the period for which the certificate or permit is issued;
 - (g) any other circumstance, matter or thing.
- (2) Vehicles of the same general class may be subclassified having regard to the class of roads or different classes of roads over which such vehicles are to be operated, and different fees may be fixed for the different subclasses of vehicles.

18. Section 47 presently reads:

47. Where a fee, charge or percentage of gross earnings imposed by or under the authority of this Act is not paid, the Board may
- (a) make a claim under the policy referred to in subclause (v) of clause (b) of subsection (1) of section 20, or
 - (b) revoke the certificate issued to the person in default.

19. Production of bill of lading.

bill of lading, shipping bill, customs permit or any other document pertaining to the freight being transported by the vehicle.

20. Section 54 is amended by striking out subsection (3).

21. Section 55 is struck out.

22. Section 56 is amended by striking out the words "The owner" and by substituting the words "When requested by the Board, the owner".

23. Section 57 is amended by striking out the words "operated over a specified route or within a stated area".

24. Sections 58 and 59 are struck out.

25. Section 61 is struck out and the following is substituted:

61. No person shall deface or alter

- (a) a certificate or permit, or
- (b) a licence plate issued under this Act, or
- (c) a schedule of times and tolls or rates required to be displayed by this Act.

26. Section 62 is amended

- (a) by striking out subsection (1) and by substituting the following:

62. (1) A peace officer may

- (a) without warrant seize a motor vehicle, trailer or semi-trailer that in his opinion is being operated in contravention of this Act or the regulations or orders made under this Act, and
- (b) retain it in his custody
 - (i) until the peace officer is satisfied that all the requirements of this Act and the regulations and orders under this Act have been complied with, or
 - (ii) if an information is laid within seven days of the seizure, until the case is disposed of.
- (b) as to subsection (1a) by striking out the words "an inspector, traffic officer, peace officer or constable" and by substituting the words "a peace officer".

20. Section 54 (3) is removed and is being re-enacted as subsection (2) of section 9 of the Act. See Clause 6 of this Bill.

21. Section 55 reads:

55. No holder of a certificate shall employ a driver or operator who is not in possession of the proper operator's licence as required by The Highway Traffic Act.

22. Section 56 presently reads:

56. The owner of a public service vehicle who dismisses a driver or operator shall report the dismissal to the Board forthwith and give the reason for the dismissal.

23. Section 57 (a) presently reads:

57. Each owner of a public service vehicle operated over a specified route or within a stated area shall
(a) keep an accurate account of his business,

24. Sections 58 and 59 read:

58. Clause (a) of subsection (1) of section 20 and sections 39 and 59 do not apply to the owner of a public service vehicle whose principal business, in the opinion of the Board, is the operation of a taxi or dray service within the limits of a city, town or village.

59. (1) If arising from and in connection with an owner's operations an accident occurs that causes

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

(b) injury to property other than that of the owner,
the owner shall within 48 hours of the death or injury report the accident in detail to the Board.

(2) The Board if it thinks it necessary may hold an investigation.

25. Section 61 presently reads:

61. No person shall deface or alter a certificate, number plate or schedule of times, tolls or rates.

26. Section 62 (1) presently reads:

62. (1) An inspector, traffic officer, peace officer or constable may,

(a) without warrant seize a motor vehicle, trailer or semi-trailer that in his opinion is being operated in contravention of this Act or the regulations or orders made under this Act, and

(b) retain the same in his custody

(i) until the proper fees and charges are paid, or

(ii) if an information is laid within seven days of the date of the seizure, until the case is judicially disposed of.

27. Section 65, subsection (1) is amended by striking out the words “Board may with the approval of the Lieutenant Governor in Council” and by substituting the words “Minister may”.

28. Section 66, subsection (1) is amended by striking out the words “Board with the approval of the Lieutenant Governor in Council” and by substituting the word “Minister”.

29. Section 69 is amended

- (a) by striking out subsection (3),
- (b) as to subsection (6) by striking out the words “this Act or”,
- (c) by striking out subsections (8) and (9) and by substituting the following:

(8) Where permission of the Board is granted subsequent to any operation for which a certificate or permit is required by this Act or the regulations, that permission does not constitute a defence in a prosecution for a contravention which occurred prior to the granting of permission.

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

27. Section 65 (1) presently reads:

65. (1) The Board may with the approval of the Lieutenant Governor in Council enter into a reciprocal arrangement or agreement with the government of another province

- (a) to grant exemptions, partial exemptions, privileges or concessions, to a class or classes of owners or drivers of public service vehicles or commercial vehicles who are ordinarily resident in that other province, in respect of the application of the provisions of this Act to their operations in this Province, and
- (b) to provide for the granting by that other province of similar exemptions, privileges or concessions to owners or drivers of such vehicles who are ordinarily resident in this Province in respect of their operations in that other province.

28. Section 66 (1) reads:

66. (1) Subject to subsection (2), the Board with the approval of the Lieutenant Governor in Council may grant exemptions, partial exemptions, privileges or concessions, to a class or classes of owners or drivers of public service vehicles or commercial vehicles who are ordinarily resident in one of the States of the United States of America, in respect of the application of the provisions of this Act to their operations in Alberta.

29. The provisions here repealed provide fines for exceeding speed limits.