

1971 Bill 108

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Fourth Session, 16th Legislature, 20 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 108**

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

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THE MINISTER OF HIGHWAYS AND TRANSPORT

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 108

1971

## AN ACT TO AMEND THE MOTOR VEHICLE ACCIDENT CLAIMS ACT

(Assented to \_\_\_\_\_, 1971)

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

1. *The Motor Vehicle Accident Claims Act is hereby amended.*

2. *Section 2 is amended*

(a) *by striking out clause (b),*

(b) *by striking out clause (d),*

(c) *by adding the following clause after clause (i):*

(j) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle within the meaning of The Highway Traffic Act.

3. *Section 3, subsection (2) is amended by striking out the words "sections 4 and 5" and by substituting the words "section 4".*

4. *Section 4, subsection (2) is amended*

(a) *by striking out the words "an insured" and by substituting the word "a",*

(b) *as to clause (c) by striking out the word "insured".*

5. *Section 5 is struck out.*

6. *Section 6 is amended by striking out the words "sections 4 and 5" and by substituting the words "section 4".*

7. *Section 7 is amended*

(a) *as to subsection (1) by striking out the words "or 5, as the case may be,"*

(b) *by striking out subsections (2), (3) and (4).*

## Explanatory Notes

**1.** This Bill will amend chapter 243 of the Revised Statutes of Alberta 1970.

**2.** Section 2(b) and (d) presently read:

- (b) "automobile insurance" means automobile insurance as defined in The Alberta Insurance Act;
- (d) "insured motor vehicle" means a motor vehicle, the owner of which
  - (i) is insured under an owner's policy as defined in The Alberta Insurance Act, or
  - (ii) has given a bond as required by Part 14 of The Highway Traffic Act, or
  - (iii) has deposited with the Minister a sum of money or securities for money as required by The Highway Traffic Act, or

**3.** Section 3(2) presently reads:

- (2) The Minister shall pay to the Provincial Treasurer the fees collected pursuant to sections 4 and 5.

**4.** Section 4(2) presently reads:

- (2) The owner of an insured motor vehicle who has paid the fee required under subsection (1) in respect of that motor vehicle is not required to pay a further fee under subsection (1)
  - (a) when the number plates of that motor vehicle are exchanged for a different class of licence plates, or
  - (b) when new plates are issued in substitution for the original number plates, or
  - (c) when the number plates of that motor vehicle are transferred to another insured motor vehicle to be registered in his name.

The reference to an "insured" motor vehicle is unnecessary in view of the registration requirements of The Highway Traffic Act.

**5.** Section 5 presently reads:

- 5. (1) The owner of an uninsured motor vehicle shall, in each year,
  - (a) when applying for registration of the motor vehicle pursuant to The Highway Traffic Act, and
  - (b) in addition to the registration fee required to be paid under that Act and the fee required to be paid under section 4,pay to the Minister a fee in respect of that motor vehicle of the amount prescribed by the Lieutenant Governor in Council.
- (2) The owner of an uninsured motor vehicle who has paid the fee required under subsection (1) in respect of that motor vehicle is not required to pay a further fee under subsection (1) or under section 4
  - (a) when the number plates of that motor vehicle are exchanged for a different class of licence plate, or
  - (b) when new plates are issued in substitution for the original number plates, or
  - (c) when the number plates of that motor vehicle are transferred to another motor vehicle to be registered in his name.

**6.** Section 6 presently reads:

- 6. Notwithstanding anything contained in this Act, the Lieutenant Governor in Council may by regulation define and exempt any classes of motor vehicles from the application of sections 4 and 5.

**7.** Section 7 presently reads:

- 7. (1) The Registrar shall not register any motor vehicle under The Highway Traffic Act unless the fee payable under section 4 or 5, as the case may be, is paid.
- (2) Unless the owner of a motor vehicle satisfies the Registrar that the motor vehicle is an insured motor vehicle, the Registrar shall register it as an uninsured motor vehicle to which section 5 applies.
- (3) When a registered motor vehicle ceases to be an insured motor vehicle, the registration of the motor vehicle is suspended until the Registrar is satisfied that the motor vehicle is reinsured or the fee payable under section 5 is paid.
- (4) Upon the registration of an uninsured motor vehicle, or upon receipt of the notice and fee mentioned in subsection (3), the Registrar shall issue to the owner of the motor vehicle a certificate in the prescribed form stating that the uninsured motor vehicle fee has been paid in respect of that vehicle.

8. Section 8 is amended by striking out subsection (5).

9. Section 14, subsection (3), clause (b) is amended by striking out the words "including the right to recover any moneys that would have been payable in respect of the bodily injury or death or property damage under any contract of automobile insurance that was in force at the time of the accident".

10. Section 18 is amended

(a) by renumbering the section as subsection (1),

(b) by adding the following subsection after subsection (1):

(2) Subsection (1) does not apply to payments out of the Fund made pursuant to section 189, subsection (5) of The Highway Traffic Act.

11. Section 20 is struck out and the following is substituted:

**20.** In the discretion of the Minister and notwithstanding anything in The Workmen's Compensation Act, where compensation or an award is made by the Workmen's Compensation Board of any province or territory of Canada in respect of bodily injury or death of any person as a result of an automobile accident, and there is a larger judgment or settlement for the same injury or death made in respect of a claim under this Act, then

(a) there shall be paid out of the Fund the difference between the compensation or award made by the Workmen's Compensation Board and the judgment or settlement under this Act, and

(b) the Workmen's Compensation Board is not subrogated to the rights of the claimant, his legal personal representatives or his dependants and has no right whatsoever in respect of the sum paid pursuant to clause (a).

12. Section 27, subsection (2) is amended

(a) by striking out clause (a),

(b) by striking out clause (h) and by substituting the following:

(h) prescribing the fees to be paid under this Act on the registration of a motor vehicle,

(c) by adding the word "and" at the end of clause (l) and by adding the following clause after clause (l):

**8. Section 8(5) presently reads:**

- (5) Where an amount is paid out of the Fund pursuant to subsection (3), the Minister shall suspend
  - (a) the operator's licence of every person, and
  - (b) the registration of every motor vehicle registered in the name of every person,to whom notice was sent pursuant to subsection (2) until that person files proof of financial responsibility in accordance with Part 14 of The Highway Traffic Act.

**9. Removes unnecessary wording.**

**10. Section 18 presently reads:**

- 18. Notwithstanding anything in this Act, no payment shall be made out of the Fund to the Government of Canada, the government of a province or territory of Canada, any agency thereof, or to any municipality or other unit of local government within any province or territory of Canada.

The amendment will permit the payment of money to the various authorized agencies for removal and storage of abandoned or stored motor vehicles, where the sale price is not sufficient to cover the cost.

**11. Section 20 presently reads:**

- 20. 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.

Payment out of the Fund in addition to compensation under The Workmen's Compensation Act.

**12. Section 27(2)(a) and (h) presently read:**

- (2) The Lieutenant Governor in Council may make regulations for the purpose of carrying out this Act according to its intent and of supplying any deficiency in this Act, and without limiting the generality of the foregoing may make regulations
  - (a) prescribing the evidence that may be accepted by the Registrar as satisfactory proof that a motor vehicle is an insured motor vehicle,
  - (h) prescribing the fees to be paid under this Act on the registration of an uninsured motor vehicle and on the registration of an insured motor vehicle,

(m) prescribing, in addition to the amounts payable under the other provisions of this Act, the accident insurance benefits payable in the same manner and to the same limit and extent that they are payable under Part 7 of The Alberta Insurance Act, for a motor vehicle accident occurring on or after April 1, 1972.

*13. Section 28 is struck out.*

*14. Section 29 is struck out.*

*15. Section 30 is struck out.*

*16. (1) Sections 2, 3, 4, 5, 6, 7 and 8 come into force on February 1, 1972.*

*(2) Sections 12, 13, 14 and 15 come into force on April 1, 1972.*

*(3) Sections 1, 9, 10 and 11 and this section come into force on the day upon which this Act is assented to.*

**13. Section 28 presently reads:**

28. (1) The operator of a motor vehicle shall, upon request of a peace officer, produce

(a) a financial responsibility card in a form prescribed under The Highway Traffic Act for that vehicle evidencing that the vehicle is an insured motor vehicle, or

(b) a certificate issued by the Registrar under section 7 stating that the uninsured motor vehicle fee has been paid in respect of the motor vehicle.

(2) Where the motor vehicle is being operated

(a) with number plates issued pursuant to section 39 of The Highway Traffic Act, or

(b) by an appraiser who has custody of the vehicle for the purpose of appraisal, or

(c) by a mechanic who has custody of the vehicle for the purpose of repairs, or

(d) by the proprietor of or an employee of a service station who has, on behalf of the service station, the custody of a motor vehicle in the course of service station business duties relating to the vehicle,

the peace officer shall give the operator of the vehicle reasonable time within which to produce the financial responsibility card or the certificate.

(3) Where a newly acquired motor vehicle is being operated with number plates issued to another motor vehicle as permitted by section 32, subsection (3) of The Highway Traffic Act, and if the operator of the vehicle produces

(a) proof of the purchase, within the immediately preceding 14 days, of the newly acquired vehicle, and

(b) a financial responsibility card or certificate for the vehicle to which the number plates are issued,

the peace officer shall give the operator of the vehicle reasonable time within which to produce a financial responsibility card or certificate for the newly acquired vehicle.

(4) The operator of a motor vehicle who fails to produce evidence as required by this section when requested to do so, is guilty of an offence and is liable on summary conviction to a fine of not more than \$500.

(5) The operator of a motor vehicle who, when requested to produce evidence as required by this section, produces false evidence, is guilty of an offence and is liable on summary conviction to a fine of not more than \$500.

(6) The operator of a motor vehicle who, when required by this section to produce a financial responsibility card, produces a financial responsibility card relating to an insurance policy which is invalid at the time of production is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

(7) In a prosecution under this section the onus is on the accused to prove that he held subsisting insurance at the time he was required to produce a financial responsibility card.

(8) This section does not apply with respect to a motor vehicle that is registered in a country, state, territory or province other than Alberta or to a motor vehicle owned by the Crown or to a motor vehicle registered as an antique motor vehicle.

This section is re-enacted with some changes in The Highway Traffic Act.

**14. Section 29 presently reads:**

29. (1) A person who

(a) applies for the registration of a motor vehicle as an insured motor vehicle when in fact it is an uninsured motor vehicle, or

(b) obtains the registration of a motor vehicle as an insured vehicle when in fact it is an uninsured motor vehicle, or

(c) fails to maintain his vehicle as an insured motor vehicle is guilty of an offence and liable on summary conviction to a fine of not more than \$500, or to imprisonment for a term not exceeding 30 days, or to both the fine and imprisonment.

(2) In a prosecution under this section the onus is on the accused to prove that his motor vehicle was at all relevant times an insured motor vehicle.

This section is re-enacted with some changes in The Highway Traffic Act.

**15. Section 30 presently reads:**

30. (1) A registered owner of an uninsured motor vehicle who

(a) operates that uninsured motor vehicle, or

(b) permits any other person to operate that uninsured motor vehicle, while it is registered as an insured motor vehicle is guilty of an offence and liable on summary conviction to a fine of not more than \$500 or to imprisonment for a term of not more than one month, or to both fine and imprisonment.

(2) Where the registration of a motor vehicle is suspended under this or any other Act it is still a registered motor vehicle for the purposes of this section.

This section is re-enacted with some changes in The Highway Traffic Act.