

1971 Bill 114

Fourth Session, 16th Legislature, 20 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 114

An Act to amend The Highway Traffic Act (No. 2)

THE MINISTER OF HIGHWAYS AND TRANSPORT

First Reading

Second Reading

Third Reading

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BILL 114

1971

AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT (No. 2)

(Assented to _____, 1971)

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

1. *The Highway Traffic Act is hereby amended.*

2. *Section 2 is amended*

(a) *by adding after clause 8 the following clause:*

8.1 “financial responsibility card” means a card issued pursuant to Part 14 of this Act or Part 7 of The Alberta Insurance Act;

(b) *by adding after clause 10 the following clause:*

10.1 “insured motor vehicle” means a motor vehicle, the owner of which

(i) is insured pursuant to Part 7 of The Alberta Insurance Act, or

(ii) has deposited proof of financial responsibility in a form and in an amount satisfactory to the Minister under Part 14, or

(iii) is a corporation that has complied with section 248

in respect of that motor vehicle;

3. *Section 82, subsection (1), clause (c) is amended by striking out subclause (v) and by substituting the following:*

(v) a financial responsibility card in respect of that vehicle,

4. *Parts 14 and 15 are struck out and the following Part is substituted:*

Explanatory Notes

1. This Bill will amend chapter 169 of the Revised Statutes of Alberta 1970.

2. New definition.

3. Section 82, subsection (1), clause (c), subclause (v) presently reads:

82. (1) When an accident occurs on a highway, the driver or other person in charge of a vehicle that was directly or indirectly involved in the accident

(c) shall produce in writing to anyone sustaining loss or injury and to any peace officer and to a witness

(v) the financial responsibility card required in respect of that vehicle or a certificate issued by the Registrar under The Motor Vehicle Accident Claims Act stating that the uninsured motor vehicle fee has been paid in respect of that vehicle, or such of that information as is requested.

4. New Part 14

PART 14

FINANCIAL RESPONSIBILITY OF OWNERS AND DRIVERS

241. In this Part

- (a) “insurer” means a person licensed to carry on the business of automobile insurance in Alberta;
- (b) “state of the United States of America” includes the District of Columbia;
- (c) “policy” means an owner’s or non-owner’s motor vehicle liability policy in conformity with Part 7 of The Alberta Insurance Act.

242. Nothing in this Part shall be construed in such a way as to affect, diminish or derogate from any right of action, remedy or security that any person may have either at law or equity.

Judgment and Suspension

243. (1) Where a judgment for damages arising out of a motor vehicle accident is rendered against a person by a court in Alberta or in any other province of Canada, if that person fails, within 15 days from the date upon which the judgment became final, to satisfy the judgment, the Minister, subject to sections 244 and 245 may suspend the operator’s licence of that person and may suspend the registration of any or every motor vehicle registered in the name of that person.

(2) Where an operator’s licence and registration are suspended under subsection (1) the licence and registration remain suspended and shall not at any time thereafter be renewed, nor shall any new operator’s licence be issued to, or new registration be permitted to be made by the person liable, until the judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent of at least \$35,000, exclusive of interest and costs.

(3) Upon the Minister being satisfied that any state of the United States of America has enacted legislation similar in effect to subsection (1) and that the legislation extends and applies to judgments rendered and become final against residents of that state by any court of competent jurisdiction in Alberta, the Minister may, by order, extend and apply the provisions of subsection (1) or (2) to judgments rendered and become final against residents of Alberta by any court of competent jurisdiction in the state.

(4) If, after complying with subsection (2), any other judgment against the person for any accident that occurred before subsection (2) was complied with, is reported to the Minister, the operator’s licence and every registration of a motor vehicle of the person shall again be suspended and

it remains suspended until the judgment is satisfied and discharged, otherwise than by a discharge in bankruptcy, to the extent set out in subsection (2).

(5) If any person to whom subsection (1) applies is not resident in Alberta,

(a) the privilege of operating a motor vehicle in Alberta, and

(b) the privilege of operating in Alberta any motor vehicle registered in his name

shall be and is suspended and withdrawn forthwith by virtue of the judgment until he has complied with this section.

(6) Where an operator's licence or a certificate of registration of a motor vehicle has been suspended as a result of a judgment obtained against a person who was not driving the vehicle involved in the accident, the Minister in his absolute discretion may reinstate the licence or certificate of registration or both, notwithstanding any other provision of this section.

244. (1) A judgment debtor to whom this Part applies may on due notice to the judgment creditor apply to the court in which the trial judgment was obtained for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments.

(2) Where the Provincial Treasurer has made a payment with respect to a judgment pursuant to The Motor Vehicle Accident Claims Act or The Motor Vehicle Accident Indemnity Act, the judgment debtor:

(a) may apply to the Minister for the privilege of paying the judgment to the Provincial Treasurer in instalments, in which case the Minister may cause an agreement to be entered into with the debtor for payment by instalments;

(b) may apply to the court pursuant to subsection (1) for the privilege of paying the judgment to the Provincial Treasurer, in which case the debtor shall give due notice of the application to the Administrator of The Motor Vehicle Accident Claims Act who may appear personally or by counsel and be heard on the application.

(3) Except in a case to which subsection (2) is applicable, a judgment debtor and the judgment creditor may enter into an agreement for the payment of the judgment in instalments.

(4) While the judgment debtor is not in default in payment of the instalments, he shall be deemed not in default for the purposes of this Part in payment of the judgment,

and the Minister in his absolute discretion may restore the operator's licence and registration of the judgment debtor but the operator's licence and registration shall again be suspended and remain suspended as provided in section 243 if the Minister is satisfied of default made by the judgment debtor in compliance with the terms of the court order or of the agreement.

245. (1) Where a person becomes liable to a suspension of his operator's licence or motor vehicle registration because of a final judgment for damages arising out of a motor vehicle accident being rendered against him outside of Alberta, he may make an application for relief to a judge of the Supreme Court of Alberta.

(2) Where an application for relief is made to a judge of the Supreme Court,

- (a) if the operator's licence of the applicant or the registration of motor vehicles registered in the name of the applicant has not then been suspended by the Minister, the judge, if the circumstances so warrant, may direct that the operation of section 243, subsection (1) be suspended, in respect of the suspension of licence or registration or both, upon such terms and conditions as to the judge seem proper, or
- (b) if the operator's licence of the applicant or the registration of motor vehicles registered in the name of the applicant has been suspended by the Minister, the judge if the circumstances so warrant may direct that the Minister remove the suspension of the licence or registration, or both, upon such terms and conditions as to the judge seem proper.

246. (1) The clerk or registrar or, where there is no clerk or registrar the judge of the Court in which any final order, judgment or conviction to which this Part applies is rendered shall forward to the Minister immediately a certified copy of the order, judgment or conviction or a certificate thereof in a form prescribed by the Minister.

(2) The certified copy or certificate is prima facie proof of the order, judgment or conviction.

(3) The clerk or other official charged with the duty of reporting to the Minister is entitled to collect and receive a fee of \$1 for each copy or certificate hereby required, which shall be paid as part of the court costs in case of a conviction by the person convicted, and in case of an order or judgment, by the person for whose benefit judgment is issued.

(4) If the defendant is not resident in Alberta, the Minister shall transmit to the Registrar or other officer or officers, if any, in charge of the registration of motor

vehicles and the licensing of operators in the province or state in which the defendant resides, a certificate of the order, judgment or conviction.

247. (1) Upon request, the Minister may in his discretion, furnish to an insurer or surety a certified abstract of the driving record of any person covering the three year period immediately preceding the request or such greater period as the Minister, in his discretion allows.

(2) The Minister, upon written request, shall furnish any person who may have been injured in person or property by any motor vehicle, with all information of record in his office pertaining to the proof of financial responsibility furnished pursuant to this Part of any owner or driver of any motor vehicle.

(3) Upon the receipt of an application from a driver, the Minister may issue an abstract of the driver's record to the driver's employer or a prospective employer.

(4) Upon request of a person, the Minister may, in his discretion, furnish a certified abstract of the driving record of the person to a barrister and solicitor.

(5) Upon request, the Minister may, in his discretion, furnish to a parent or guardian of any person requiring the signature of a parent or guardian on his licence application as provided in section 7, a certified abstract of the driving record of that person covering the three year period immediately preceding the request or such greater period as the Minister, in his discretion, allows.

Financial Responsibility

248. (1) Where the owner of a motor vehicle, being a corporation, produces to the Registrar a certificate issued by the Highway Traffic Board showing that

- (a) the corporation maintains a separate insurance fund for the purpose of satisfying therefrom liabilities it may incur resulting from bodily injury to or the death of any person, or damage to property, occasioned by or arising out of the ownership, maintenance, operation or use of the motor vehicle by the corporation, and
- (b) in the opinion of the Highway Traffic Board, the insurance fund is adequate to satisfy all liabilities that the corporation is likely to incur, subject, for each motor vehicle registered in the name of the corporation, to the limits as to amount and the accident insurance benefits specified in Part 7 of The Alberta Insurance Act,

the Registrar shall issue and deliver to the corporation a financial responsibility card, and shall, on request of the

corporation, issue and deliver to it an additional card, which shall be a copy of the card issued to the corporation, for each motor vehicle registered in the name of the corporation.

(2) In the case of an owner of 10 or more motor vehicles to whom this Part applies, proof of financial responsibility in a form and in an amount not less than \$100,000, satisfactory to the Minister, may be accepted as sufficient for the purposes of this Part.

(3) A financial responsibility card issued under this section shall be in a form approved by the Superintendent of Insurance.

(4) Where the owner of a motor vehicle to whom the Registrar has issued a financial responsibility card ceases to maintain, as required by this Part, the financial responsibility in respect of which the card was issued, he shall forthwith deliver to the Registrar for cancellation the card and all additional cards issued to him.

249. (1) Every insurer that issues an owner's policy shall, at the time of issue thereof, also issue and deliver to the named insured a financial responsibility card and shall, on request by the insured issue and deliver to him an additional card, which shall be a copy of the financial responsibility card delivered to the insured, for each person who commonly drives the motor vehicle to which the card refers, or for each motor vehicle in respect of which the policy is issued.

(2) A financial responsibility card issued under this section shall be in a form approved by the Superintendent of Insurance.

(3) Except where it issues an owner's policy outside Alberta, an insurer may print and prepare the financial responsibility card for issue and delivery to its insured if the financial responsibility card is in a form approved by the Superintendent of Insurance.

(4) An insurer that issues owners' policies outside Alberta may issue financial responsibility cards in respect of such policies, but

- (a) in the case of an insurer that is licensed to carry on in Alberta the business of automobile insurance, every card issued by it shall show that the policy thereon mentioned complies with Part 7 of The Alberta Insurance Act, and
- (b) in the case of an insurer that is not so licensed, the insurer shall file with the Superintendent of Insurance, in a form prescribed by him,
 - (i) a power of attorney authorizing the Superintendent of Insurance to accept service of notice or process for itself in any action or proceeding against it arising out of a motor vehicle accident in Alberta, and

(ii) an undertaking

- (A) to appear in any action or proceeding against it or its insured arising out of a motor vehicle accident in Alberta, and of which it has knowledge,
- (B) that upon receipt from the Superintendent of Insurance of any notice or process served upon him in respect of its insured, or in respect of its insured and another or others and sent by the Superintendent of Insurance to it as hereinafter provided, it will forthwith cause the notice or process to be personally served upon its insured, and
- (C) not to set up to any claim, action or proceeding under a motor vehicle liability policy issued by it any defence that might not be set up if such policy had been issued in Alberta in accordance with the law of Alberta relating to motor vehicle liability policies, and to satisfy up to the limits of liability stated in the policy and, in any event to an amount not less than the limits of liability fixed in Part 7 of The Alberta Insurance Act, any judgment rendered against it or its insured by a court in Alberta which has become final in any such action or proceeding.

(5) Where an insurer to which subsection (4) refers is not authorized to carry on in Alberta the business of automobile insurance, notice or process in any action or proceeding in Alberta against it or its insured arising out of a motor vehicle accident in Alberta may be effectually served upon the insurer or the insured, or upon both of them, by leaving three copies of the notice or process with the Superintendent of Insurance, but if the insurer is not a party to the action or proceeding the person who leaves with the Superintendent the copies of the notice or process shall at the same time leave with him a written statement signed by the person who issued or caused to be issued the notice or process and stating the full name and address of the insurer against whose insured the action or proceeding is taken.

(6) Upon receipt of notice or process under subsection (5) the Superintendent of Insurance shall forthwith mail two copies thereof, by registered mail, to the insurer at its address last known to him.

(7) In any action or proceeding against an insurer who has given to the Superintendent of Insurance an undertaking under subsection (4), clause (b), subclause (ii), the

plaintiff may give evidence of the undertaking, and the undertaking shall, for all purposes of the action or proceeding, be deemed to be a covenant for valuable consideration made by the insurer with the plaintiff.

(8) If an insurer that has filed the documents described in subsection (4) defaults thereunder, certificates of the insurer shall not thereafter be accepted as proof of financial responsibility so long as such default continues, and the Registrar shall forthwith notify the Superintendent of Insurance and the proper officers in charge of the registration of motor vehicles and the licensing of drivers in all provinces of Canada and in all states, territories or districts in the United States, where the certificates of the insurer are accepted as proof of financial responsibility, of such default.

251. (1) Where a person is insured under a policy of the type commonly known as "a garage and sales agency policy" whereby he is insured against liability, to no lesser limits and matters as specified in Part 7 of The Alberta Insurance Act, the insurer who issues the policy shall

- (a) at the time of issue thereof, issue and deliver to the named insured a financial responsibility card, and
- (b) on request by the insured, issue and deliver to him an additional card, which shall be a copy of the financial responsibility card delivered to the insured, for any person who is authorized to drive the motor vehicle owned by the insured or in his charge.

(2) A financial responsibility card issued under this section shall be in a form approved by the Superintendent of Insurance and shall be signed in handwriting and in ink, with his normal signature, by the person for whose use the card or additional card is issued, and the card shall bear the number of the operator's licence held by him as at the date on which the card is issued.

Offences and Penalties

252. (1) The operator of a motor vehicle shall, upon the request of a peace officer, produce a financial responsibility card for that vehicle.

- (2) Where the motor vehicle is being operated
 - (a) with number plates issued pursuant to section 39, 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.

(3) Where a newly acquired motor vehicle is being operated with number plates issued to another motor vehicle pursuant to section 32, subsection (3), 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 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 for the newly acquired vehicle.

(4) The operator of a motor vehicle who fails to produce a financial responsibility card as required by subsection (1), (2) or (3) is guilty of an offence and is liable on summary conviction to a fine of not more than \$5.

(5) The operator of a motor vehicle who, when requested to produce a financial responsibility card as required by this section,

- (a) produces a false financial responsibility card, or
- (b) produces a financial responsibility card relating to an insurance policy which is invalid at the time of production

is guilty of an offence.

(6) 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.

253. (1) A person who

- (a) applies for the registration of a motor vehicle when it is not an insured motor vehicle, or
- (b) obtains the registration of a motor vehicle when it is not an insured motor vehicle, or
- (c) fails to maintain his vehicle as an insured motor vehicle

is guilty of an offence.

(2) A registered owner of a motor vehicle that is not an insured motor vehicle who

- (a) operates that motor vehicle on a highway, or
- (b) has on a highway that motor vehicle, or
- (c) permits any other person to operate that motor vehicle on a highway, or
- (d) permits any other person to have that motor vehicle on a highway

is guilty of an offence.

(3) A person who

- (a) operates a motor vehicle that is not an insured motor vehicle on a highway, or
- (b) has on a highway a motor vehicle that is not an insured motor vehicle

is guilty of an offence.

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

254. A person who

- (a) produces to a peace officer a financial responsibility card purporting to be issued pursuant to this Part or Part 7 of The Alberta Insurance Act when such is not the case, or
- (b) fails to deliver to the Registrar for cancellation as required by section 248, subsection (4) a financial responsibility card or any additional card issued to him, or
- (c) gives or loans to a person not entitled to have the same a financial responsibility card or additional card

is guilty of an offence.

255. (1) A corporation that is guilty of an offence under section 253 or section 254 is liable on summary conviction

- (a) for a first offence, to a fine of not less than \$1000 and not more than \$2500, and
- (b) for a second and subsequent offences, to a fine of not less than \$1500 and not more than \$3000.

(2) A person, other than a corporation, who is guilty of an offence under section 252, subsection (5), section 253 or section 254 is liable on summary conviction

- (a) for a first offence, to a fine of not less than \$250 and not more than \$1000, and
- (b) for a second and subsequent offences, to a fine of not less than \$500 and not more than \$1250

and in default of payment to imprisonment for a term not exceeding 90 days.

(3) Upon the conviction of a person or a corporation of a second or subsequent offence under section 252, subsection (5), section 253 or section 254 the Minister may in his discretion,

- (a) suspend the operator's licence of the convicted person,
- (b) require the licence plates in respect of every motor vehicle owned by the convicted person to be returned to him, and
- (c) require the convicted person to file with him proof of financial responsibility in a form and in an amount satisfactory to him

or either one of them.

Miscellaneous

256. A person who contravenes any provision of Part 2 for which no penalty is prescribed, is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 or in default of payment to imprisonment for a term not exceeding 90 days.

257. A person who contravenes any provision of this Part for which no penalty is expressly provided is guilty of an offence and is liable on summary conviction to a fine of not less than \$50 and not more than \$250, and in default of payment to imprisonment for a term not exceeding 30 days.

258. In a prosecution under this Part, the onus is on the accused person to prove that his motor vehicle was at all relevant times an insured motor vehicle and where he is required to produce a financial responsibility card, the onus is on the accused person to prove that he held subsisting insurance at the time he was required to produce the financial responsibility card.

5. This Act comes into force on April 1, 1972.

