

1974 Bill 26

Third Session, 17th Legislature, 23 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

The Off-Highway Vehicle Amendment Act, 1974

DR. MCCRIMMON

First Reading

Second Reading

Third Reading

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1974

THE OFF-HIGHWAY VEHICLE AMENDMENT ACT, 1974

(Assented to _____, 1974)

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

1. *The Off-highway Vehicle Act is hereby amended.*

2. *Section 1 is amended*

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

(a1) "financial responsibility card" means a card issued pursuant to section 4.1 of this Act or Part 7 of *The Alberta Insurance Act*;

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

(b1) "insured off-highway vehicle" means an off-highway vehicle the owner of which is insured by a policy of insurance approved under Part 7 of *The Alberta Insurance Act* and containing the coverage and limits fixed by that Part for automobiles in relation to public liability, property damage and accident benefits in respect of that off-highway vehicle;

(b2) "insurer" means a person licensed under *The Alberta Insurance Act* to carry on the business of automobile insurance in Alberta;

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

(l1) "policy" means a policy of insurance in conformity with Part 7 of *The Alberta Insurance Act* in respect of an insured off-highway vehicle;

3. *The following sections are added after section 4:*

4.1 (1) Every insurer who issues a policy in respect of an off-highway vehicle or a policy of the type commonly known as a garage and sales agency liability 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,

Explanatory Notes

1. This Bill will amend chapter 73 of the Statutes of Alberta, 1972. Insurance is presently covered by way of regulations under section 23 of the Act.

2. Adding definitions in this Bill consequential to amendments.

4.1 Insurer must issue financial responsibility cards and, in the case of drive-yourself vehicles, certify that there is coverage.

which shall be a copy of the financial responsibility card delivered to the insured, for each person who commonly drives the off-highway vehicle to which the card refers and for each off-highway vehicle in respect of which the policy is issued.

(2) Every insurer who issues a policy in respect of an off-highway vehicle that is kept for hire by a person engaged in renting off-highway vehicles on a drive-yourself basis shall file with the Registrar a certification of the insurer

- (a) that the insurer has issued, to or for the benefit of the person named therein, a policy that at the date of the certification is in effect,
- (b) specifying all off-highway vehicles to which the policy applies,
- (c) that the policy covers all off-highway vehicles then registered in the name of the insured which are rented on a drive-yourself basis,
- (d) that the policy will not be cancelled or expire except upon 15 days written notice to the Minister, and
- (e) that until such notice is given the certificate is valid and sufficient to cover the term of any renewal of that policy by the insurer or the term of the insured's registration.

(3) A financial responsibility card issued under subsection (1) shall be in a form approved by the Superintendent of Insurance under *The Alberta Insurance Act*.

4.2 (1) A person who

- (a) applies for the registration of an off-highway vehicle when it is not an insured off-highway vehicle, or
 - (b) obtains the registration of an off-highway vehicle when it is not an insured off-highway vehicle,
- is guilty of an offence.

(2) Subject to subsection (4), a registered owner of an off-highway vehicle that is not an insured off-highway vehicle who

- (a) operates that off-highway vehicle, or
 - (b) permits any other person to operate that off-highway vehicle,
- is guilty of an offence.

(3) Subject to subsection (4), a person who operates an off-highway vehicle that is not an insured off-highway vehicle is guilty of an offence.

(4) A person is not guilty of an offence under subsection (2) or (3) where the off-highway vehicle is operated

4.2 Offences.

- (a) on his own land, or
- (b) on land owned by some other person if that other person has expressly or impliedly consented to such operation thereon.

(5) Where the registration of an off-highway vehicle is suspended it is still a registered off-highway vehicle for the purposes of this section.

4.3 Upon the conviction of a person for a second or subsequent offence under section 4.2, the Minister may in his discretion require the convicted person to file with him proof of financial responsibility in a form and in an amount satisfactory to him.

4.4 (1) The operator of an off-highway vehicle who is required under this Act to be insured shall, upon the request of a peace officer, produce a financial responsibility card for that off-highway vehicle and the peace officer shall give the operator of the off-highway vehicle reasonable time within which to produce the financial responsibility card.

(2) The operator of an off-highway vehicle who fails to produce a financial responsibility card as required by subsection (1) is guilty of an offence.

(3) The operator of an off-highway 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.

4.5 In a prosecution under section 4.2, the onus is on the accused person to prove that his off-highway vehicle was at all relevant times an insured off-highway vehicle and in a prosecution under section 4.4, 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.

4. Section 11, subsection (3) is struck out and the following subsection is substituted:

(3) Upon receipt of an application for a drive-yourself rental certificate and upon payment of the fee prescribed by the regulations, the Registrar may issue a drive-yourself rental certificate if he is satisfied that each off-highway vehicle to which the certificate relates is an insured off-highway vehicle.

4.3 Second or subsequent conviction.

4.4 Production of financial responsibility card.

4.5 Onus of proof.

4. Section 11 (3) presently reads:

(3) Upon receipt of an application for a drive-yourself rental certificate and upon payment of the fee prescribed by the regulations, the Registrar may issue a drive-yourself rental certificate if he is satisfied that each off-highway vehicle to which the certificate relates is covered by a policy of insurance in conformity with and insuring such persons or classes of persons for such amounts as the regulations may require.

5. *Section 15, subsection (1), clause (c) is amended*

- (a) *by striking out the word “and” at the end of subclause (ii) and by adding the word “and” at the end of subclause (iii),*
- (b) *by adding the following subclause after subclause (iii):*
 - (iv) a financial responsibility card in respect of that vehicle, if it is an insured off-highway vehicle,

6. *The following section is added after section 20:*

20.1 Any fine or penalty imposed under this Act

- (a) on a conviction for an offence occurring in a city, town, village or summer village belongs to the city, town, village or summer village, and
- (b) on a conviction for an offence occurring in a county or municipal district, belongs to the county or municipal district,

but in all other cases the fines and penalties belong to the Government of Alberta.

7. *Section 23 is amended*

- (a) *by striking out clause (h) and by substituting the following clause:*
 - (h) authorizing and governing the suspension and cancellation of certificates of registration and licence plates for a contravention of this Act or the regulations;
- (b) *as to clause (n) by adding after the word “regulations” the words “on such terms and conditions as may be prescribed”.*

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

5. Section 15, subsection (1) presently reads:

15. (1) When an accident occurs the operator or other person in charge of an off-highway vehicle that was directly or indirectly involved in the accident,

- (a) shall remain at or immediately return to the scene of the accident,
- (b) shall render all reasonable assistance, and
- (c) shall produce in writing to anyone sustaining loss or injury and to any peace officer and to a witness
 - (i) his name and address,
 - (ii) the name and address of the registered owner of the off-highway vehicle, and
 - (iii) the registration number of the off-highway vehicle, or such of that information as is requested.

6. Distribution of fines.

7. Section 23, clauses (h) and (n) presently read:

23. The Lieutenant Governor in Council may make regulations

- (h) prescribing the amount and type of insurance coverage that shall be supplied in respect of off-highway vehicles;
- (n) exempting any off-highway vehicle or class of off-highway vehicles from any or all of the provisions of this Act or the regulations;