

1975 Bill 66  
(Second Session)

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First Session, 18th Legislature, 24 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 66**

**THE MOTOR VEHICLE ACCIDENT CLAIMS AMENDMENT ACT, 1975**

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THE ATTORNEY GENERAL

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**First Reading** .....

**Second Reading** .....

**Third Reading** .....

## BILL 66

1975

(Second Session)

### THE MOTOR VEHICLE ACCIDENT CLAIMS AMENDMENT ACT, 1975

(Assented to \_\_\_\_\_, 1975)

**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 adding the following clause after clause (d):*

(d1) "life insurance" means insurance whereby an insurer undertakes to pay insurance money

(i) on death, or

(ii) on the happening of an event or contingency dependent on human life, or

(iii) at a fixed or determinable future time, or

(iv) for a term dependent on human life,

and includes accidental death insurance as defined by *The Alberta Insurance Act*, but does not include any contract of insurance that is, or any insurance under any contract of insurance that is,

(v) accident insurance, or

(vi) automobile insurance, or

(vii) disability insurance,

as defined in *The Alberta Insurance Act*;

(b) *as to clause (f), subclause (i), by striking out the words " , off-highway vehicles as defined in The Off-highway Vehicle Act",*

(c) *as to clause (g) by adding after the word "Act" the words "or The Off-highway Vehicle Act, as the case may be",*

(d) *as to clause (h) by adding after the word "Act" the words "or The Off-highway Vehicle Act, as the case may be",*

## Explanatory Notes

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

**2.** This amendment will remove the present exclusion of off-highway vehicles from the Act and will provide a definition of life insurance for the purposes of the Act.

Section 2, clauses (f), (g), (h), (i) and (j) presently read:

**2.** In this Act,

- (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, off-highway vehicles as defined in The Off-highway Vehicle Act and vehicles that run only upon rails, and
  - (ii) except machines designed for use primarily in connection with the building or maintenance of highways or other construction works and not required to be licensed under The Highway Traffic Act or The Public Service Vehicles Act,  
but including a tractor required to be registered under The Public Service Vehicles Act or the regulations thereunder:
- (g) "owner" means an owner as defined in The Highway Traffic Act;
- (h) "Registrar" means the Registrar as defined in The Highway Traffic Act;
- (i) "registration" means registration under The Highway Traffic Act or the issue of a certificate under The Highway Traffic Act or The Public Service Vehicles Act.
- (j) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle within the meaning of The Highway Traffic Act.

- (e) as to clause (i) by adding after the words "Vehicles Act" the words "or registration under The Off-highway Vehicle Act, as the case may be",
- (f) as to clause (j) by adding after the words "The Highway Traffic Act" the words "or that is not an insured off-highway vehicle within the meaning of The Off-highway Vehicle Act".

3. Section 3, subsection (2) is amended by striking out the word "Minister" and by substituting the words "Solicitor General".

4. Section 4 is amended by striking out subsection (1) and by substituting the following:

4. (1) The owner of every motor vehicle shall, in each year,

- (a) when applying for registration of the motor vehicle pursuant to *The Highway Traffic Act* or *The Off-highway Vehicle Act*, and
- (b) in addition to the registration fee required to be paid under *The Highway Traffic Act* or *The Off-highway Vehicle Act*,

pay to the Solicitor General a fee in respect of that motor vehicle in the amount prescribed by the Lieutenant Governor in Council.

5. Section 7 is struck out and the following section is substituted:

7. The Registrar shall not register any motor vehicle under *The Highway Traffic Act* or *The Off-highway Vehicle Act* unless the fee payable under section 4 is paid.

6. Section 8 is amended

- (a) as to subsection (1), clause (b) by striking out the figure "\$50" and by substituting the figure "\$100",
- (b) as to subsection (6)
  - (i) by striking out the word "Minister" and by substituting the words "Solicitor General",
  - (ii) in clause (a), by adding after the word "person," the words "in the case of an operator of a motor vehicle other than an off-highway vehicle as defined in *The Off-Highway Vehicle Act*,"
- (c) as to subsection (8) by striking out the word "Minister" and by substituting the words "Solicitor General".

**3. Corrects a cross-reference. Section 3, subsection (2) reads as follows:**

(2) The Minister shall pay to the Provincial Treasurer the fees collected pursuant to section 4.

**4. Section 4, subsection (1) presently reads:**

4. (1) The owner of every 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, pay to the Minister a fee in respect of that motor vehicle of the amount prescribed by the Lieutenant Governor in Council.

**5. 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 is paid.
- (2) - (4) Repealed 1971, c. 72, s. 7 (Eff. Feb. 1/72).

**6. This amendment will raise the minimum property damage claim under the Act to \$100 from \$50. Section 8, subsections (1), (6) and (8) presently read:**

8. (1) Where a person has a cause of action against the owner or operator of an uninsured motor vehicle 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 the motor vehicle, that person may apply to the Administrator, in the prescribed form, for payment out of the Fund in respect of the bodily injury or death, or loss of or damage to property.

(6) 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,

who executes an agreement pursuant to subsection (3) until the full amount owing on the undertaking has been paid or the person commences payment under an agreement made pursuant to subsection (7).

(8) Where a person who has commenced payment of the amount owing on the agreement is in default in any payment for a period of 30 days, the Minister may suspend the operator's licence of that person and the registration of every motor vehicle registered in the name of that person.

7. *Section 9 is amended*

- (a) *as to subsection (1), clause (b) by striking out the figure "\$50" and by substituting the figure "\$100",*
- (b) *as to subsection (2), clause (b) by striking out the figure "\$50" and by substituting the figure "\$100",*
- (c) *by adding the following subsection after subsection (6):*

(6.1) The Administrator may disclose in any pleading by which he is taking steps under this section that he is appearing on behalf of and in the name of the defendant pursuant to this section.

- (d) *by striking out subsection (8) and by substituting the following:*

(8) The defendant shall be deemed to consent and agree with any steps or action taken by the Administrator pursuant to this section and performed by the solicitor acting upon instructions from the Administrator.

(8.1) Nothing in this section and no action or steps taken under this section shall be construed to the effect that a solicitor acting on the instructions of the Administrator is actually acting on behalf of the defendant.

8. *Section 10, subsection (1), clause (b) is amended by striking out the figure "\$50" and by substituting the figure "\$100".*

9. *Section 13, subsection (9) is amended by striking out the figure "\$500" and by substituting the figure "\$2000".*

10. *Section 26 is amended by striking out the words "Lieutenant Governor in Council" and by substituting the words "Treasury Board".*

11. (1) *This Act, except section 2, clauses (b), (c), (d), (e), (f) and sections 4 and 5, comes into force on the day upon which it is assented to.*

(2) *Section 2, clauses (b), (c), (d), (e), (f) and sections 4 and 5 come into force on April 1, 1976.*

**7.** These amendments will ensure that the Administrator will be able to appear on the Statement of Defence and that his solicitor will not be deemed to be acting for the defendant. Section 9 (1), (2) and (5) to (8) presently read:

9. (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.
- (2) 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,
  - (c) a defendant's statement of defence is struck out, or
  - (d) a defendant fails to appear by counsel at the trial, or
  - (e) 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.
- (5) 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.
- (6) 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 Alberta Rules of Court or any other action he considers appropriate.
- (7) All acts done by the Administrator in accordance with subsection (6) 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.
- (8) 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.

**8. Section 10, subsection (1) presently reads:**

10. (1) Where a person recovers in a court in Alberta a judgment 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, he may, upon the determination of all proceedings, including appeals, apply to the Administrator, in the prescribed form, for payment out of the Fund of the amount of the judgment or of the amount of the unsatisfied portion thereof.

**9. Section 13, subsection (9) presently reads:**

- (9) Notwithstanding anything in this section, where there is a claim for \$500 or less, the Administrator may permit a claim to be made without a judgment, in accordance with those provisions of section 8 that are applicable to it.

**10. Section 26 reads as follows:**

26. Subject to the approval of the Lieutenant Governor in Council, the Administrator may, in settlement with a person liable to pay money to the Fund, accept a cash sum of less than the amount due to the Fund.