

1976 Bill 38

Second Session, 18th Legislature, 25 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 38

THE HIGHWAY TRAFFIC AMENDMENT ACT, 1976

THE MINISTER OF TRANSPORTATION

First Reading

Second Reading

Third Reading

BILL 38

1976

THE HIGHWAY TRAFFIC AMENDMENT ACT, 1976

(Assented to _____, 1976)

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

1. *The Highway Traffic Act, 1975 is hereby amended.*
2. *The following sections are added after section 101:*

101.1 Every peace officer who on reasonable and probable grounds believes that any person has committed an offence against any of the provisions hereinafter enumerated may arrest the person without warrant:

- (a) Part 3 relating to the speed of motor vehicles;
- (b) section 101 relating to the requirement that drivers stop when so requested by a peace officer in uniform;
- (c) section 102 relating to driving a motor vehicle without due care and attention or driving a motor vehicle on a highway without reasonable consideration for persons using the highway;
- (d) section 103 relating to driving a motor vehicle in a race or on a bet or wager;
- (e) section 113 relating to tampering with a motor vehicle;
- (f) section 118 relating to defacement of signs;
- (g) section 144 relating to a pedestrian giving his name to a peace officer.

101.2 (1) Every peace officer who on reasonable and probable grounds believes that any of the offences enumerated in section 101.1 has been committed may seize and detain any motor vehicle in respect of which the offence has been committed until the final disposition of any proceedings that may be taken under this Act.

(2) A peace officer seizing a motor vehicle pursuant to subsection (1) may cause the vehicle to be removed and taken to and stored in a suitable place and may cause any tests or examinations to be made thereto that he considers necessary.

Explanatory Notes

1. This Bill will amend chapter 56 of the Statutes of Alberta, 975 (Second Session).

2. This amendment will give certain powers of arrest and seizure to peace officers.

(3) Except where subsection (4) applies, all costs of removal, transportation and storage of the motor vehicle are a lien upon the vehicle and the provisions of section 96 of *The Motor Vehicle Administration Act* apply with all necessary modifications.

(4) If a charge is not laid respecting a contravention of this Act within 10 days after the motor vehicle is seized and detained pursuant to subsection (1), the motor vehicle shall be forthwith returned to the owner thereof, and the costs referred to in subsection (3) shall be paid

(a) in any case where the seizure was effected by a member of a municipal police force, by the municipality concerned, or

(b) in any other case, by the Crown in right of Alberta.

(5) If a charge is laid respecting a contravention of this Act and the accused is acquitted thereof, the court may order that the costs referred to in subsection (3) shall be paid

(a) in any case where the seizure was effected by a member of a municipal police force, by the municipality concerned, or

(b) in any other case, by the Crown in right of Alberta.

3. Section 157 is struck out and the following section is substituted therefor:

157. Where a person sustains loss or damage arising out of the operation of a motor vehicle upon a highway and where that motor vehicle is operated in contravention of any provision of this Act, the onus of proof in any civil proceeding that the loss or damage did not arise by reason of the contravention of this Act is upon the owner or driver thereof.

4. Section 158 is amended by striking out subsection (1) and by substituting therefor the following subsection:

158. (1) Where a person sustains loss or damage by reason of a motor vehicle in motion, the onus of proof in any civil proceeding that the loss or damage did not entirely or solely arise through the negligence or improper conduct of the owner or driver of the motor vehicle is upon the owner or driver thereof.

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

3. This amendment will make the section uniform with the corresponding provision in The Motor Vehicle Administration Act.

4. This amendment will make the provision uniform with the corresponding provision in The Motor Vehicle Administration Act.