

1977 BILL 73

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Third Session, 18th Legislature, 26 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 73**

**THE MOTOR TRANSPORT ACT**

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THE MINISTER OF TRANSPORTATION

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First Reading .....

Second Reading .....

Third Reading .....

# THE MOTOR TRANSPORT ACT

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## BILL 73

1977

### THE MOTOR TRANSPORT ACT

(Assented to \_\_\_\_\_, 1977)

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

1(1) In this Act,

(a) “Appellate Division” means the Appellate Division of the Supreme Court of Alberta;

(a.1) “axle” means

(i) one or more shafts on which or with which 2 or more wheels revolve, and

(ii) the wheels on each shaft;

(b) “axle group” means 2 or more axles on a vehicle or combination of vehicles and situated as specified in the regulations;

(c) “Board” means the Alberta Motor Transport Board;

(d) “bus” means a motor vehicle designed for carrying more than 12 passengers that is used or intended to be used for the transportation of persons and includes any other motor vehicle designated by order of the Board as a bus;

(e) “certificate” means a document issued by the Board authorizing the operation of a public vehicle for the purpose stated in the document;

(f) “compensation” means rate, remuneration, reimbursement or consideration of any kind paid, payable or received, directly or indirectly;

(g) “goods” means any thing that is or may be carried by means of a vehicle, and for the transport of which compensation is payable;

## **Explanatory Notes**

### **1 Definitions.**

- (h) “highway” means a highway as defined in *The Highway Traffic Act, 1975*;
- (i) “livery” means a motor vehicle
- (i) that has a seating capacity of not more than 12 persons, exclusive of the operator,
  - (ii) that is hired for one specific trip,
  - (iii) that is used for the transportation exclusively of a passenger or passengers, and
  - (iv) for which one fare or charge only is collected or made with respect to a trip;
- (j) “Minister” means the Minister of Transportation;
- (k) “motor vehicle” means a motor vehicle as defined in *The Motor Vehicle Administration Act*;
- (l) “operating authority certificate” means a public vehicle operating authority certificate issued under this Act;
- (m) “owner” means, with respect to a vehicle,
- (i) a person in whose name the vehicle is registered under *The Motor Vehicle Administration Act*, or
  - (ii) where the vehicle is not registered or not required to be registered under this Act or *The Motor Vehicle Administration Act*, the legal owner or a person in lawful possession of the vehicle or a person who during all times material to this Act and the regulations has the exclusive use of the vehicle;
- (n) “passenger” means any person who is transported in a public vehicle excepting the operator of the vehicle;
- (o) “peace officer” means a peace officer as defined in *The Motor Vehicle Administration Act*;
- (p) “permit” means a permit issued under this Act or the regulations;
- (q) “private passenger vehicle” means a vehicle used solely for personal transportation,
- (i) including the transportation of goods which are the property of the owner and intended for the use or enjoyment of himself or members of his household, but
  - (ii) not including the transportation of goods in connection with any line of business except that of a salesman





conveying sample cases or display goods which are not for delivery or resale;

(r) “public vehicle” means a vehicle operated on a highway by or on behalf of a person for the transportation of

- (i) passengers,
- (ii) goods, or
- (iii) the vehicle itself,

but does not include a private passenger vehicle;

(s) “rural road” means a rural road as defined in *The Public Highways Development Act*;

(t) “secondary road” means a secondary road as defined in *The Public Highways Development Act*;

(u) “toll” or “rate” means a fee or rate charged, levied or collected

- (i) for the transportation of passengers or goods, or
- (ii) for the use of a public vehicle;

(v) “transportation” means the operation of a public vehicle and includes the

- (i) care,
- (ii) handling,
- (iii) assembly or storage in or for transit, or
- (iv) delivery

of passengers or goods;

(w) “vehicle” means a vehicle as defined in *The Motor Vehicle Administration Act*;

(x) “vehicle inspection station” means a site adjacent to a highway designed or used for the purpose of weighing or inspecting vehicles or their contents;

(y) “vehicle inspection sign” means a traffic control device that is located

- (i) adjacent to a highway, and
- (ii) immediately preceding a vehicle inspection station



and that is designed to indicate to the operator

(iii) whether the station is being operated, and

(iv) which vehicles are required to report to be weighed or inspected;

(z) “vehicle licence” means a licence plate issued under *The Motor Vehicle Administration Act* and includes the certificates of registration issued in conjunction therewith or any authorizing document issued in accordance with a reciprocal agreement under section 12 or 13.

(2) A reference in this Act to an Act of the Parliament of Canada means that Act as amended from time to time.



**PART 1**

**ALBERTA MOTOR TRANSPORT BOARD**

**2(1)** The Motor Transport Board is continued as a body corporate under the name "Alberta Motor Transport Board".

(2) The Board consists of those persons appointed by the Lieutenant Governor in Council as members of the Board.

(3) The members of the Board who are not officers or employees of the Crown, or officers or employees of an agency of the Crown, may be paid remuneration for their services at a rate prescribed by the Lieutenant Governor in Council.

(4) The members of the Board may be paid their reasonable travelling and living expenses while absent from their ordinary place of residence and in the course of their duties as members of the Board.

**3(1)** The Lieutenant Governor in Council shall designate one member of the Board as chairman and may designate one or more of the members as vice-chairmen.

(2) In the event of the absence or inability to act of the chairman, a vice-chairman shall act as chairman but if there is no vice-chairman or if no vice-chairman is present or able to act, the members of the Board present at a meeting of the Board may elect one of their number as acting chairman.

(3) Where a member of the Board other than the chairman has acted for and in the place of the chairman, he shall be deemed to have so acted pursuant to subsection (2).

**4** In accordance with *The Public Service Act* there may be appointed a secretary and all officers and employees required for the purpose of carrying on the business and affairs of the Board.

**5(1)** The members of the Board shall meet at the times and places specified by the chairman.

(2) The Board may prescribe rules of procedure

(a) for the conduct of its business generally;

(b) governing the procedure for hearings before it;

**2 Alberta Motor Transport Board.**

**3 Chairman of the Board.**

**4 Personnel.**

**5 Conduct of business.**

(c) governing the conduct of inquiries on its behalf.

(3) Subject to section 9, the Board may fix the number of members required for a quorum which shall be not less than 3 members of the Board.

**6(1)** The powers, duties and functions delegated to the Board by the Minister under section 3 of *The Highway Traffic Act, 1975* shall be exercised, performed and administered by the Board.

(2) The Minister may impose or confer on the Board any additional duties or functions relating to public transport that he considers necessary and appropriate.

(3) The Board has the capacity to accept and exercise powers conferred upon it pursuant to the *Motor Vehicle Transport Act (Canada)* and the *National Transportation Act (Canada)*.

**7** Fees and other money collected under this Act shall be deposited in the General Revenue Fund.

**8(1)** Application for a certificate shall be

(a) made to the Board in such form and manner as the Board may require, and

(b) accompanied by the prescribed fee.

(2) A person may apply for a certificate before obtaining a certificate of registration under *The Motor Vehicle Administration Act* but no certificate may be issued until that person produces a subsisting certificate of registration for each vehicle to which the certificate applies.

**9(1)** The Board shall consider each application for a certificate and may, where it considers appropriate or necessary,

(a) appoint and direct a person to make an inquiry and report to the Board respecting

(i) an application, or

(ii) a complaint, dispute or other matter before the Board in connection with an application,

or

(b) hold a public hearing with respect to the application.

(2) The chairman may authorize 2 or more members of the Board to conduct the hearing of an application and the members



**6** Additional powers.

**7** Deposit of fees and other money.

**8** Application for certificates.

**9** Authorization and delegation.

so authorized may exercise any powers of the Board in the conduct of the hearing.

(3) Where the Board decides to hold a hearing jointly with a similar body of another province or territory, the Board may authorize 2 or more of its members to hear the application for authority to operate a public vehicle jointly with members of another province or territory.

(4) A decision made pursuant to an authorization under subsection (2) or (3) is a decision of the Board.

(5) The Board may delegate any of its administrative functions under this Act to one or more officers or employees of the Department of Transportation.

**10(1)** The secretary of the Board and each member of the Board is authorized to administer oaths to any witnesses at hearings under this Act.

(2) A witness may be examined on oath on all matters relevant to the hearing.

(3) A person who refuses to be sworn or to answer any question at a hearing is liable to attachment upon the order of a judge of the District Court.

**11(1)** The Board shall, after the end of each fiscal year of the Government, make a report to the Minister of its activities during that fiscal year.

(2) Upon the receipt of the report referred to in subsection (1) by the Minister, the Minister shall lay a copy of it before the Legislative Assembly if it is then sitting and if it is not then sitting, within 15 days after the commencement of the next sitting.

**10** Testimony under oath.

**11** Annual report.

## PART 2

### POWERS OF THE MINISTER

**12(1)** The Minister may enter into an agreement on behalf of the Government of Alberta with any other government to apportion registration and licence fees on public vehicles in respect of fleets of public vehicles engaged in interprovincial or international travel on the basis of distance travelled by those fleets within each jurisdiction whose government is a party to the agreement.

(2) The Minister may enter into a reciprocal arrangement or agreement on behalf of the Government of Alberta with the government of another province

(a) to grant exemptions, partial exemptions, privileges or concessions to a class or classes of owners of public vehicles who are ordinarily resident in that other province, in respect of the application of the provisions of this Act to their operations in Alberta, and

(b) to provide for the granting by that other province of similar exemptions, privileges or concessions to owners of public vehicles who are ordinarily resident in Alberta in respect of their operations in that other province.

(3) No person is entitled to an exemption, privilege or concession under any arrangement or agreement made pursuant to this section unless

(a) he has first complied with the law of his place of residence and carries or produces such evidence thereof including licences, certificates and number plates as prescribed by the law of that place, and

(b) he has complied with all conditions and restrictions set out in the arrangement or agreement.

(4) An arrangement or agreement made pursuant to this section may contain provisions denying any exemptions, benefits or privileges granted by the arrangement or agreement to any person who breaches a condition contained in it or who contravenes any regulation for the administration of the prorating or reciprocal arrangement or agreement.

(5) No arrangement or agreement may be made or entered into pursuant to this section to provide an exemption, concession or privilege with respect to fuel taxes or any other fees or taxes levied, charged or assessed against the use of highways or the operation or ownership of vehicles except registration and licence fees.

**12 Reciprocal agreements and arrangements.**

**13(1)** Subject to subsection (2), the Minister may grant exemptions, partial exemptions, privileges or concessions to a class or classes of owners of public vehicles who are ordinarily resident in one of the states of the United States of America, respecting the application of the provisions of this Act to their operations in Alberta.

(2) No person ordinarily resident in a state of the United States of America is entitled to an exemption, privilege or concession under this section unless

(a) the state in which that person resides has adopted and maintains similar exemptions, privileges or concessions applicable to residents of Alberta who are owners of vehicles registered in Alberta, and

(b) his vehicle is registered in, and he is licensed as an operator in accordance with the law of, the state of which he is a resident.

(3) A reference in this section to a state shall be construed to include the District of Columbia.

**14(1)** The Minister may by order authorize the council of a municipal district or county, or the Minister of Municipal Affairs in the case of a special area or improvement district, to

(a) prohibit the use of a secondary road or rural road by a traction engine or public vehicle, or by a class or classes thereof, for such period or periods as the council or the Minister of Municipal Affairs may determine,

(b) limit or restrict the speed of a traction engine or public vehicle, or of a class or classes thereof, using a secondary road or rural road, for such period or periods as the council or the Minister of Municipal Affairs may determine, and

(c) increase, limit or restrict the maximum gross weight that may be borne by a tire, an axle or an axle group, or any of them, or the maximum gross weight that may be borne by a vehicle or combination of vehicles on a secondary road or rural road, for such period or periods as the council or the Minister of Municipal Affairs may determine,

where the council or the Minister of Municipal Affairs is of the opinion that the prohibition, limitation or restriction is necessary for the preservation of the secondary road or rural road.

(2) The council or the Minister of Municipal Affairs shall cause signs to be erected along the secondary road or rural road, as the council or the Minister of Municipal Affairs considers necessary to notify persons using the road of the prohibition, limitation, increase or restriction imposed.

**13** Reciprocal exemptions to American residents.

**14** Authorization of local governments.

(3) The power which a council is authorized to exercise under this section may be delegated by the council to a committee of the council.

**15** The Solicitor General, with the approval of the Minister, may make regulations prescribing fees for registration of public vehicles under *The Motor Vehicle Administration Act*.



**15** Registration fees.

### **PART 3**

#### **AUTHORITY OF THE BOARD**

**16**(1) The Board, after considering an application for a certificate, may grant or refuse an application in whole or in part and may make the exercise of any authority conferred by the certificate subject to any conditions it considers appropriate.

(2) Where the Board grants a certificate for the operation of a public vehicle restricted to a particular route or routes, the certificate shall specify the route or routes.

**17** No certificate may be issued unless the applicant has filed with the Board

(a) any of the following insurance policies that may be required by the Board:

(i) a policy of inland transportation insurance against loss of or damage to goods, wares or merchandise or property of any kind in transit or in the custody or control of the transporter;

(ii) a policy of guarantee insurance covering

(A) the payment to the consignor of sums collected by the transporter on behalf of the consignor,

(B) the payment of fees or charges under this Act, and

(C) the faithful performance of conditions contained or referred to in the certificate;

and

(b) a written statement from an insurer authorized to carry on the business of automobile insurance in Alberta that the insurer has issued to or for the benefit of the person named a motor vehicle liability policy that at the date of the statement is in full force and effect and that designates therein by adequate reference all motor vehicles to which the policy applies, in respect of all motor vehicle liability policies required by the Board

(i) to provide for any loss or damage

(A) resulting from bodily injury to or the death of a person being carried in or upon, or entering or

**16** Disposition of applications.

**17** Insurance.

getting onto, or alighting from, a motor vehicle, having regard to the number of passengers, and

(B) to personal property of passengers carried in or upon the motor vehicle,

(ii) to provide for loss or damage resulting from bodily injury to or the death of a person other than a person mentioned in subclause (i), or

(iii) to provide for loss or damage to property other than that mentioned in subclauses (i) and (ii),

if the statement covers the motor vehicle to be licensed under a certificate in the name of the applicant and the statement certifies that the motor vehicle liability policy mentioned will not be cancelled or expire except upon 15 days' prior written notice to the Board, and that until that notice is given the statement is valid and sufficient to cover the term of any renewal by the insurer of the motor vehicle liability policy mentioned in the statement and of any renewal by the Board of the term of the applicant's certificate.

**18(1)** The Board may issue an operating authority certificate authorizing intraprovincial or extraprovincial transportation of goods or passengers.

(2) The Board may exempt the transportation of any goods or the operation of any vehicle or class of vehicles from the requirement of an operating authority certificate.

(3) No operating authority certificate confers exclusive rights on the holder of it or precludes the Board in any way from granting any other operating authority certificates that the Board considers appropriate.

**19** The Board may issue a permit to the non-resident owner of a public vehicle who

(a) has complied with the law of his place of residence as to the registration of motor vehicles, and

(b) desires to operate the public vehicle for a single conveyance of goods or passengers,

and the permit is authority for that operation of the public vehicle, notwithstanding any provision of *The Motor Vehicle Administration Act*.

**20** The Board may issue a special permit authorizing the operation of a public vehicle in any instance where the operation of a public vehicle is otherwise prohibited under this Act or any

**18** Operating authority certificates.

**19** Non-resident permits.

**20** Special permits.

order under this Act, and may specify the duration of the special permit.

**21(1)** No certificate, right or privilege granted under this Act may be capitalized, sold, assigned, leased or transferred except with the prior written approval of the Board.

(2) The Board may require the directors of a corporation that is the holder of an operating authority certificate to report to the Board any issue or transfer of shares of its capital stock.

(3) Where the Board is of the opinion that the number of shares issued or transferred has affected the actual control of the corporation, the issue or transfer shall be deemed to constitute a transfer of all operating authority certificates held by the corporation.

**22(1)** Where a judgment is outstanding against the holder of a certificate which in the opinion of the Board arises out of the exercise by him of the authority granted by the Board, a certified copy of the judgment may be filed with the Board by a party to the action and the Board shall not thereafter approve a transfer of the certificate unless there is filed with the Board

(a) a memorandum of satisfaction of the judgment, or

(b) a consent to the transfer executed on behalf of all parties to the action.

(2) Where an appeal has been commenced from a judgment referred to in subsection (1), the Board may approve a transfer of the certificate upon the holder paying to the Board security in a form satisfactory to the Board and in an amount sufficient to satisfy the judgment if the appeal is not successful.

**23** Where new evidence concerning a matter is submitted to the Board either within 30 days after the Board has made a determination of that matter or, where the Board has reserved its determination, within 30 days after the Board has sent notification to all parties of its determination, the Board may

(a) reconsider the matter or reopen any hearing on the matter, and

(b) rescind, vary, affirm or make its decision on the basis of all the evidence before it,

unless an appeal has been commenced pursuant to section 29.

**24(1)** Where the Board is satisfied that the person to whom a certificate has been issued pursuant to this Act has, either by himself or his agent or employee, contravened this Act or the

**21** Certain transactions prohibited.

**22** Prohibition against transfers.

**23** New evidence.

**24** Suspension, revocation or amendment of certificates.

regulations, *The Highway Traffic Act, 1975, The Motor Vehicle Administration Act, The Fuel Oil Tax Act, The Fuel Oil Licensing Act, The Municipal Government Act, The Unfair Trade Practices Act, the Criminal Code (Canada), the Motor Vehicle Transport Act (Canada)* or any regulations or by-laws under any of those Acts, the Board may for that reason or for any other cause, suspend the certificate, either for a specified period or indefinitely, or revoke it.

(2) Where the Board proposes to suspend, revoke or amend a certificate pursuant to subsection (1), it shall provide to the holder by registered mail not less than 10 days' notice of its proposed action and the reason for it.

(3) If the holder of a certificate who receives a notice under subsection (2) so requests, the Board shall not suspend, revoke or amend the certificate without giving him an opportunity to be heard.

**25**(1) No holder of a certificate may, without the permission of the Board, abandon or discontinue a service authorized under the certificate except as provided in the regulations.

(2) The Board may from time to time review a certificate granted by it and if it is of the opinion that the authority conferred thereby has not been exercised or has not been fully exercised

(a) within a period of 6 months from the date of issue of the certificate, or

(b) during any period of 12 consecutive months,

the Board may

(c) cancel the certificate if the authority was not exercised, or

(d) amend the certificate to accord with the actual extent of the exercise of the authority.

**26**(1) Where the Board suspends or cancels a certificate, the holder shall surrender to the Board or its agent any vehicle licence issued under *The Motor Vehicle Administration Act* respecting any vehicle to which the certificate applies and the certificate.

(2) Where a certificate or vehicle licence is required to be surrendered under subsection (1) and there is no compliance with the requirement within 10 days, the Board may require a peace officer, or a person authorized on its behalf, to seize the certificate or vehicle licence and deliver it to the Board or detain it until the Board authorizes its return.



**25** Dormancy.

**26** Enforcement.

**27**(1) The costs of and incidental to proceedings before the Board are in the discretion of the Board and may be fixed in any case at a sum certain or may be taxed in accordance with the prescribed tariff.

(2) The Board may order by whom and to whom costs are to be paid and by whom they are to be taxed and allowed.

**28** Where a fee or charge imposed by or under this Act is not paid, the Board may suspend or cancel any certificate granted under this Act to the person in default.

**29**(1) An appeal lies from the Board to the Appellate Division upon a question of jurisdiction or upon a question of law.

(2) On the hearing of an appeal the Court may draw all inferences not inconsistent with the facts expressly found by the Board that are necessary to determine the question of jurisdiction or of law, as the case may be, and shall certify its opinion to the Board which shall confirm or vary its order or redetermine the matter or make a new order or take whatever other steps are necessary in accordance with that opinion.

(3) The Board is entitled to be heard upon the argument of an appeal.

**30**(1) The Appellate Division may fix the costs and fees to be taxed, allowed and paid upon the appeal.

(2) Neither the Board nor any member of the Board is in any case liable to payment of costs in respect of an appeal.

**31** Except as otherwise provided in this Act, every decision or order of the Board is final.

**32** Upon request and payment of the prescribed fee the secretary of the Board

(a) shall provide to the person so requesting a certified copy of any order, decision, certificate or other document issued by the Board, and

(b) may provide a certified copy of any other document filed with the Board.

**33** The Board may

(a) classify all buses as either public vehicles or private vehicles;

**27** Awarding of costs.

**28** Non-payment of fees or charges.

**29** Appeal on questions of law or jurisdiction.

**30** Costs.

**31** Decision final.

**32** Certified copies.

**33** Control of buses.

(b) regulate, limit or restrict the use or operation of buses in each class;

(c) exempt any motor vehicle from being classified or regulated as a bus.

**34** The Board may exempt a vehicle or class of vehicle from requiring any equipment required by this Act or the regulations or *The Highway Traffic Act, 1975*, or the regulations under that Act.

**35(1)** The Board may make orders

(a) governing routes, tolls and express rates relating to passenger transportation;

(a.1) prescribing standards and conditions for the operation of public vehicles providing passenger transportation services;

(b) governing the licensing, supervision, maintenance and operation of public vehicle depots;

(b.1) governing the establishment and operation of tariff bureaus;

(c) governing the classification of public vehicles;

(c.1) exempting, in whole or in part, in relation to any agreement under section 12, any public vehicles from all or any of the provisions of this Act or any order under this Act, including the payment of fees, either in respect of travel on any designated highways or upon any prescribed terms or conditions considered appropriate;

(d) exempting the operation of any public vehicle or class of public vehicles from the necessity of obtaining an operating authority certificate;

(d.1) governing travel agencies, tour wholesalers and passenger carriers on highways with respect to bus tours and bus charter trips;

(e) governing the service to be provided on routes or highways by public vehicles;

(e.1) governing the amount and nature of any bond, deposit or insurance required to be deposited by the owner of a public vehicle;

(f) governing the nature of goods and passengers that may be carried by public vehicles;

**34** Power to exempt from equipment requirements of other Acts.

**35** Board orders.

- (f.1) relating to the protection or maintenance of routes, highways or areas on which public vehicles may be operated;
- (g) governing the nature of goods that public vehicles may carry, and the size and weight of packages;
- (h) governing the time schedules of public vehicles operating on a specified route;
- (i) governing the abandonment or discontinuation of a service authorized under a certificate;
- (j) prescribing the form, content and use of a bill of lading and of the conditions of carriage;
- (k) respecting containers that may be used in shipments of goods;
- (l) prescribing the form of certificates to be issued by the Board and the period in respect of which any certificate is issued;
- (m) governing restrictions on the use of public vehicles;
- (n) governing the speed, equipment and dimensions of public vehicles;
- (o) limiting or restricting the weight and the use of cleats in respect of public vehicles operating on highways;
- (p) increasing, limiting or restricting the load or passenger capacity which may be transported by a public vehicle over any highway;
- (q) increasing, limiting or restricting the maximum gross weight that may be borne by a tire, an axle or an axle group, or any of them, or the maximum gross weight that may be borne by a public vehicle or combination of public vehicles on a highway;
- (r) governing rules to ensure safety in the operation of public vehicles;
- (s) prescribing the types, contents and location of signs required to be displayed on public vehicles;
- (t) giving effect to agreements entered into pursuant to section 12 or 13 and in particular governing prorationing and reciprocity of registration and certificate fees;
- (u) defining classes or types of public vehicle carriers;
- (v) governing trust accounts and the conditions under which trust accounts must be established and maintained;



(w) governing the style and nature of contracts between the holder of a certificate and a person proposing to exercise the authority granted under the certificate on behalf of the holder;

(x) prescribing fees;

(y) prescribing tariffs of fees for proceedings before the Board;

(z) prescribing matters in relation to Board hearings for which the Board may charge costs to a party to the hearing.

(2) *The Regulations Act* does not apply to an order of the Board under subsection (1)(q).

(3) The Board may delegate to the Director of the Motor Transport Branch of the Department of Transportation the power to make any of the orders enumerated in this section.





## PART 4

### PROHIBITIONS AND REQUIREMENTS

**36** No person may operate a public vehicle on a highway for the purpose of transporting goods or passengers unless

(a) the operation is carried out pursuant to the authority of an operating authority certificate or an exemption has been obtained under this Act with respect to the particular operation,

(b) the vehicle is the object of a subsisting certificate of registration under *The Motor Vehicle Administration Act* or a certificate issued pursuant to a reciprocal agreement under section 12 or 13, and

(c) the operation is carried out in accordance with the terms and conditions of the operating authority certificate and with the provisions of this Act and the regulations.

**37**(1) Subject to the regulations, no person may carry on the business of an agent arranging for the transportation of goods or passengers upon any highway unless he has been appointed as an authorized agent by the holder of an operating authority certificate.

(2) An authorized agent of a holder of an operating authority certificate shall be appointed in writing and the appointment

(a) shall be signed by the certificate holder, and

(b) shall at all times be kept displayed in a conspicuous place on the premises at which the agent conducts the agency business.

(3) No person may solicit or undertake to arrange the transportation of passengers or goods by means of a vehicle operated on a highway unless the person by, for or on behalf of whom the vehicle is operated, is authorized under this Act to transport passengers or goods in accordance with the solicitation or undertaking.

**38**(1) No operator of a public vehicle authorized to transport passengers on a specified route may refuse to carry a person who

(a) offers himself for carriage at a regular stopping place, and

**36** Unauthorized operation of public vehicle.

**37** Agency restrictions.

**38** Refusal to transport passengers.

(b) tenders the regular fare to a regular stopping place on the route of the vehicle or between the terminals thereof,

unless at the time of the offer the seats of the vehicle are fully occupied.

(2) Notwithstanding subsection (1), an operator may refuse transportation to a person who

- (a) is intoxicated, or
- (b) conducts himself in a boisterous or disorderly manner, or
- (c) uses profane or obscene language, or
- (d) is obviously in such a condition or acts in such a manner as to be offensive to other passengers in the vehicle.

**39** No operator of a public vehicle may refuse to carry the type of goods stated in the holder's certificate if the goods are offered for carriage in a suitable condition unless, at the time of the offer,

- (a) the vehicle is loaded to capacity, or
- (b) owing to climatic conditions the goods are liable to perish in transit.

**40** No operator of a public vehicle authorized to transport passengers may, without a permit from the Board,

- (a) allow passengers to ride on the outside of the vehicle or on a part of the vehicle other than its seats, or
- (b) transport a greater number of persons than the seats of the vehicle are designed to carry.

**41** No bus may

- (a) be used to transport an object that extends beyond the extreme width of the body of the vehicle, and
- (b) be operated with a trailer attached,

unless authorized by the Board.

**42** Public vehicles shall have displayed any signs or lettering prescribed by the orders of the Board and in the locations prescribed by the orders.

**39** Refusal to carry goods.

**40** Limitation on number of passengers.

**41** Prohibited use of buses.

**42** Display of required signs, etc.

**43** A person owning or operating a public vehicle used for the transportation of goods shall

- (a) use the form of bill of lading prescribed by the regulations, and
- (b) ensure that the bill of lading for the goods being transported accompanies each shipment,

unless otherwise exempted or authorized by order of the Board.

**44** A holder of a certificate issued under this Act who operates a public vehicle engaged in passenger transportation over a specified route or routes shall, insofar as road conditions permit, operate in accordance with the schedule approved by the Board for arrival and departure from each point specified therein.

**45** No person shall deface or alter

- (a) a certificate or permit, or
- (b) a schedule of times or of tolls or rates required to be displayed by this Act.

**46(1)** A shipper, depot operator, consignee or holder of a certificate shipping or receiving goods by a public vehicle shall permit inspection during normal business hours by the Board or an agent of the Board or a peace officer, of his books, accounts and other records pertaining to the shipping and to the goods transported.

(2) The operator of a public vehicle shall, on demand of a peace officer or an agent of the Board, produce for inspection the bill of lading, shipping bill, customs permit or any other document pertaining to the goods being transported by the vehicle.

(3) A person required by this Act to produce for inspection, or to permit the inspection of, any document shall also, if required by the person inspecting it, make the document available for copying by that person.

**47(1)** A consignor who is entitled to recover from a transporter a sum the payment of which is guaranteed by virtue of a policy of guarantee insurance referred to in section 17 is, notwithstanding that he is not a party to the policy, entitled

- (a) to recover the sum from the guarantor, and
- (b) for that purpose to bring and maintain an action against the guarantor.

**43** Bills of lading.

**44** Use of authorized routes and approved schedules.

**45** Mutilation of documents.

**46** Inspection of documents.

**47** Insurance policies.

(2) Where more than one consignor is entitled to recover from a transporter a sum the payment of which is guaranteed by virtue of a policy of guarantee insurance referred to in section 17 and where the aggregate of the sums recoverable by the several consignors is in excess of the face value of the policy then, notwithstanding subsection (1)(a), the guarantor is not liable for more than the face value of the policy and each consignor is entitled to recover from the guarantor only a pro rata portion of the sum otherwise recoverable by him.

(3) The right of a consignor to recover a sum referred to in subsection (1), or to bring and maintain an action, is not prejudiced by reason of

(a) an assignment, waiver, surrender, cancellation or discharge of the policy, or of an interest therein, made by the transporter after the happening of the event giving rise to a claim under the policy, or

(b) a violation of the *Criminal Code* or of a law or statute of a province, state or country, by the transporter or his employees or agents.

(4) At least 15 days before the date of a cancellation or expiration of any insurance policy or bond required under this Act or any orders made under this Act, the insurer or the guarantor under a bond shall notify the Board of the impending cancellation or termination, and in the absence of any such notice the policy or bond, as the case may be, remains in full force and effect until the required 15 days' notice has been given.

(5) No person shall transfer an insurance policy mentioned in this section from one person to another or from one motor vehicle to another unless

(a) when the policy is transferred to another person, the certificate for the public vehicle to which the policy applies is also transferred to the other person, or

(b) when the policy is transferred to another vehicle,

(i) the certificate for the first vehicle is cancelled or transferred to the other vehicle, or

(ii) new proof of insurance on the first vehicle is filed pursuant to section 17,

and any transfer of a policy contrary to this section is void.

**48** No person may operate a public vehicle on a highway when the weight of the vehicle or combination of vehicles and the load thereon is in excess of the maximum weight specified in the registration certificate issued under *The Motor Vehicle Admin-*



**48** Overweight vehicles.

*istration Act* for that vehicle unless so authorized by a permit issued by the Board.

**49** No person may operate a public vehicle on a highway when the weight being borne by an axle or an axle group of the public vehicle is in excess of the maximum weight specified in the regulations unless so authorized by a permit issued by the Board.

**50** No operator of a public vehicle may dump or unload, or permit any other person to dump or unload, on a highway or at a vehicle inspection station, the goods or any part of the goods being transported by the public vehicle or combination of public vehicles unless the dumping or unloading is authorized by a peace officer or a person appointed by the Board.

**51(1)** A city, town, village, municipal district or county, or the Minister of Municipal Affairs in the case of an improvement district or special area, shall not impose a fee or charge in respect of the operation of a public vehicle by a person who holds a certificate under this Act, except

(a) a business tax where the certificate holder maintains an office within its boundaries, or

(b) a property tax where a city is authorized to impose such a tax.

(2) Subsection (1) does not apply to the imposition of a fee or charge by a city, town or village on a certificate holder carrying on business within the limits of the city, town or village if the major portion of his revenue is obtained within the boundaries of the city, town or village.

**52** No person may carry on a livery business unless he

(a) has obtained a certificate from the Board for that purpose,

(b) complies with the conditions prescribed in the regulations, and

(c) is authorized to do so under the relevant municipal by-law, if any.

**53(1)** In this section, “mayor” includes a person authorized by the mayor in writing to discharge any of the powers and duties conferred on the mayor by this section.

**49** Overweight on axle or axle group.

**50** Unauthorized dumping.

**51** Taxes, fees and other charges.

**52** Livery operations.

**53** Livery operators.

(2) No person who carries on business as a liveryman in a city or town may employ any person as a livery operator unless that person is the holder of a permit in writing authorizing him to so act issued by the mayor of the city or town, as the case may be.

(3) The mayor may, in his discretion, issue or refuse to issue a permit under this section.

(4) A person who carries on business as a liveryman in a city or town shall, not later than the 3rd day of each month, deliver to the mayor of the city or town a list of operators employed by him as of the last day of the preceding month.



## PART 5

### POWERS OF PEACE OFFICERS

**54** The Board or any agent of the Board or any peace officer may require a public vehicle or its contents to be inspected in any manner and by any person it or he considers appropriate in the circumstances.

**55(1)** A peace officer who has reason to believe that a public vehicle is being or has been operated in contravention of this Act or an order made under this Act may, without warrant, seize or detain the public vehicle and any goods carried in or on it.

(2) A peace officer seizing a public vehicle pursuant to subsection (1) may cause the vehicle to be removed, taken to and stored in a suitable place and all costs therefor are a lien upon the public vehicle which may be enforced in the manner provided by section 96 of *The Motor Vehicle Administration Act*.

(3) A peace officer may cause a public vehicle to be detained for either

(a) 7 days, or

(b) until he is satisfied that all requirements of this Act and any applicable orders under this Act have been complied with,

whichever is less.

(4) Notwithstanding anything in this section, where a public vehicle is seized pursuant to subsection (1), a provincial judge may upon application release the motor vehicle or any goods thereon pending the disposition of the matter upon security being given in such amount as the judge considers appropriate.

**56(1)** Where a peace officer has reason to believe that

(a) the weight of

(i) a public vehicle, or

(ii) a combination of public vehicles,

and the load being carried thereby, or

**54** Power of inspection.

**55** Power of seizure.

**56** Power to check weights.

(b) the weight being borne on an axle or axle group of a public vehicle

exceeds the weight permitted by this Act or any order under this Act, he may require the operator to allow the weight to be measured by means of a portable or stationary scale.

(2) Where a portable scale is used to measure weight under subsection (1) the peace officer shall advise the operator that he has the right to take the public vehicle or combination of public vehicles and the load forthwith to a vehicle inspection station or weigh scale capable of measuring the weight in question on a stationary scale certified under the *Weights and Measures Act* (Canada).

(3) The operator of the public vehicle or combination of public vehicles shall take such steps as he considers necessary to ensure that no alteration in the weight of the vehicle or combination of vehicles or the load being carried thereby occurs in transit to a vehicle inspection station or weigh scale.

**57** Where a peace officer determines under section 56 that

(a) the weight of

(i) a public vehicle, or

(ii) a combination of public vehicles,

and the load being carried thereby, or

(b) the weight being borne on an axle or axle group of a public vehicle

exceeds the weight permitted by this Act or any order under this Act, he may require the operator to stop the vehicle or combination of vehicles in a suitable place and remain there until a sufficient portion of the load is moved or removed to reduce the weight to within the weight authorized and in that case the safe handling and storage of the goods remains the responsibility of the operator.



**57** Power to require weight reductions.

## PART 6

### OFFENCES AND PROSECUTIONS

**58** A person who, by himself or by an agent or employee, contravenes any provision of this Act or of any order made under this Act in respect of the maximum weight that may be borne by an axle or an axle group is guilty of an offence and liable on summary conviction to a fine of not less than \$100 for each 500 kilograms of the weight borne by such axle or axle group in excess of the maximum allowable weight.

**59** A person who, by himself or by an agent or employee, contravenes any provision of this Act or the regulations or of any order made under this Act in respect of the maximum weight of a vehicle or combination of vehicles that may be borne on a highway is guilty of an offence and liable on summary conviction to a fine of not less than \$100 for each 500 kilograms of the weight borne by the vehicle or combination of vehicles in excess of the maximum allowable weight on that highway.

**60** An operator of a public vehicle or combination of vehicles

(a) who fails or refuses to stop and permit the vehicle or combination of vehicles to be inspected pursuant to section 54, or

(b) who fails or refuses, when directed by a peace officer or a vehicle inspection station sign, to permit the weighing of the vehicle or combination of vehicles or to stop the vehicle or combination of vehicles and otherwise comply with section 56 or 57,

is guilty of an offence.

**61** A person who contravenes a prohibition, limitation or restriction imposed under section 14(1), and published by signs erected pursuant to section 14(2), is guilty of an offence and liable on summary conviction to a fine of not more than \$200.

**62** A person carrying on business as a liveryman in a city or town, who

(a) employs as an operator of a livery a person who is not the holder of a licence issued pursuant to *The Motor Vehicle Administration Act*, or

**58** Offences relating to overweight axles or axle groups.

**59** Offences relating to overweight vehicles.

**60** Failure to comply with instructions.

**61** Municipal offences.

**62** Employing unauthorized livery operators.

(b) continues to employ a person as the operator of a livery after being notified that the person's licence has been cancelled,

is guilty of an offence and liable on summary conviction to a fine of not more than \$200.

**63** Where a certificate or permit authorizes the operation of a public vehicle over any highway, a person who, by himself or by an agent or employee, operates a public vehicle on the highway in such manner as to contravene any provision of this Act or any order made under this Act and for which no other penalty is provided is guilty of an offence and liable on summary conviction to a fine of not more than \$200 and in addition to having the public vehicle involved impounded for a period not exceeding 90 days.

**64** The owner of a public vehicle is liable for a contravention of any of the provisions of this Act or of an order made under this Act in connection with the operation of that public vehicle unless the owner proves to the satisfaction of the court that at the time of the offence the public vehicle was not being operated by him or by any other person with his consent, express or implied.

**65** Where the operation of a public vehicle contravenes any provision of this Act or of an order made under this Act, the shipper and the carrier are jointly and severally liable for the contravention unless the shipper or the carrier, as the case may be, proves to the satisfaction of the court that the contravention occurred without his consent, express or implied.

**66** The grant of a certificate or permit for any operation of a public vehicle is not a defence with respect to any contravention in the operation which occurred prior to the grant of the certificate or permit.

**67** Every document purporting to be signed by the chairman or any member or by the secretary of the Board shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the certificate.

**68(1)** In a prosecution under this Act or any order made under this Act, a certificate purporting to be issued and signed by an inspector under the *Weights and Measures Act* (Canada) and bearing a date not more than one year either before or after the date of the offence charged, shall be admitted in evidence as prima facie proof of the facts stated in the certificate without

**63** General offences.

**64** Vicarious liability of owners.

**65** Vicarious liability of shippers and carriers.

**66** Subsequent authorization not a defence.

**67** Documentary evidence.

**68** Certificates of weight.

proof of the signature or official character of the person signing the certificate.

(2) Notwithstanding subsection (1), in a prosecution under this Act or any order made under this Act, a certificate purportedly signed by a peace officer or a person appointed by the Board stating

(a) that the weight was measured on a portable scale,

(b) either

(i) the gross weight of

(A) a public vehicle, or

(B) a combination of public vehicles

and the load being carried thereby, or

(ii) the gross axle weight transferred to the road through any point or points of contact of the vehicle or combination of vehicles with the road,

and

(c) that the operator of the vehicle or combination of vehicles agreed to accept the weight determined as being accurate,

shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the certificate.

**69** In a prosecution under this Act or any order made under this Act, the bills of lading produced to a peace officer by the operator of a public vehicle, or certified true copies thereof, shall be admitted in evidence as prima facie proof of the origin and destination of the trip and description of the load carried, without proof of the signature or official character of the person signing the bills of lading or certifying the copies.

**69** Bills of lading as evidence.

## PART 7

### CONSEQUENTIAL AMENDMENTS

**70**(1) *Wherever it occurs in the following provisions “the Motor Transport Board” is struck out and “the Alberta Motor Transport Board” is substituted:*

*The Boilers and Pressure Vessels Act, 1975, section 26(3);*

*The Highway Traffic Act, 1975, section 1, clause 6;*

*The Motor Vehicle Administration Act, section 1, clause 1, subclause (i), paragraph (B).*

(2) *Wherever it occurs in the following provisions “The Motor Transport Board” is struck out and “the Alberta Motor Transport Board” is substituted:*

*The Fuel Oil Tax Act, section 2(i) (iii);*

*The Highway Traffic Act, 1975, section 3;*

*The Legislative Assembly Act, section 10(4) (e) (xvi);*

*The Litter Act, section 1 (b) (iii).*

**71** *Wherever it occurs in the following provisions “The Public Service Vehicles Act” is struck out and “The Motor Transport Act” is substituted:*

*The Boilers and Pressure Vessels Act, 1975, section 26(3);*

*The Fuel Oil Tax Act, section 2(j), section 5(2)(b) and section 16(1);*

*The Highway Traffic Act, 1975, section 152(1);*

*The Livestock Brand Inspection Act, section 3(3);*

*The Mobile Equipment Licensing Act, section 2(d) (iii) (A);*

*The Motor Vehicle Accident Claims Act, section 2(f) (ii) and section 2(i);*

*The Motor Vehicle Administration Act, section 17(2), section 36(4) and section 57(1) (a);*

*The Municipal Government Act, section 224(3) and section 225(1).*



**70** Consequential.

**71** Consequential.

**72(1)** *The Fuel Oil Tax Act* is amended in section 6(1) by striking out “licensed under *The Public Service Vehicles Act*” and substituting “authorized under *The Motor Transport Act*”.

(2) *The Motor Vehicle Administration Act* is amended

(a) in section 34(4) by adding “unless the person has been granted an exemption pursuant to an agreement under section 12 or 13 of *The Motor Transport Act* or section 35 of this Act” after “is guilty of an offence”, and

(b) in section 107(1)(b) by striking out “section 65, subsection (5) of *The Public Service Vehicles Act*” and by substituting “for contravening any order under *The Motor Transport Act* respecting speed”.

**73** Wherever a reference is made to *The Public Service Vehicles Act* or to The Motor Transport Board in any statutory provision not amended by this Act or in any regulation, order, direction or other instrument in force in Alberta, the reference shall, in the former instance, be deemed to be a reference to *The Motor Transport Act* and in all other instances shall be deemed to be a reference to the Alberta Motor Transport Board.

**72** Consequential.

**73** Other references.

## PART 8

### TRANSITIONAL PROVISIONS

**74** The chairman and members of The Motor Transport Board shall continue as chairman and members of the Alberta Motor Transport Board without the necessity of a further order of the Lieutenant Governor in Council as if they had been so designated or appointed under this Act.

**75** Any order, rule, regulation, direction or other instrument made by The Motor Transport Board pursuant to *The Public Service Vehicles Act* in force upon the commencement of this Act shall be deemed to be an order, rule, regulation, direction or instrument of the Alberta Motor Transport Board made pursuant to this Act.

**76** Any proceeding commenced pursuant to *The Public Service Vehicles Act* prior to the commencement of this Act shall be continued to its conclusion and treated for all purposes as if this Act had not come into force and the former Act had remained in force until such conclusion.

**77** *The Public Service Vehicles Act* is repealed.

**78** This Act comes into force on February 1, 1978.

**74** Continuation of Board members.

**75** Orders under former Act.

**76** Continuation of proceedings.

**77** Repeal.