

1978 BILL 63

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 63

**THE ATTORNEY GENERAL STATUTES
AMENDMENT ACT, 1978 (NO.2)**

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 63

1978

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1978 (NO.2)

(Assented to , 1978)

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

The Highway Traffic Act, 1975

1(1) The Highway Traffic Act, 1975 is amended by this section.

(2) The following is added after section 11:

11.1 With respect to a road or highway under his direction, control and management, the Minister of Recreation, Parks and Wildlife may by order

(a) control or prohibit the movement of vehicular, pedestrian or other traffic by means of signs posted along the road or highway;

(b) open or close a road or highway.

(3) Section 12 is amended

(a) by repealing subsection (1)(d) and substituting the following:

(d) in the case of a provincial park, the Minister of Recreation, Parks and Wildlife;

(e) in the case of a licence of occupation road, the Minister of Energy and Natural Resources;

(f) in the case of a highway through an Indian reserve, if the title to the highway is vested in the Crown in right of Alberta and the highway is not the subject of an agreement under *The Public Highways Development Act*, the Minister.

Explanatory Notes

The Highway Traffic Act, 1975

1(1) This section will amend chapter 56 of the Statutes of Alberta, 1975 (Second Session).

(2) This section gives the Minister of Recreation, Parks and Wildlife power to open and close highways and to control the movement of traffic within a provincial park.

(3) This amendment gives the Minister of Recreation, Parks and Wildlife control over speed limits in provincial parks and the Minister of Transportation control over highways in an Indian reserve.

Section 12(1) and (3) presently read in part:

12(1) In this section "speed authority" means,

(d) in the case of a local road as defined in The Provincial Parks Act, 1974, licence of occupation road, or a highway, through an Indian reserve, the title to which is vested in the Crown in right of Alberta and that is not the subject of an agreement entered into pursuant to section 18 of The Public Highways Development Act, the Minister of Energy and Natural Resources.

(3) In the case of a highway that is not a primary highway and that falls within a class referred to in section 52, subsection (5), the speed authority may, by order or by-law, as the case may require, prescribe a maximum speed therefor of not more than 100 kilometres per hour, and where the speed authority does so, it shall authorize and cause the placing, erecting or marking of traffic control devices at such locations as it considers necessary for the purpose of marking the maximum speed limit.

and

(b) in subsection (3) by striking out “In the case of a highway that is not a primary highway and that falls within a class referred to in section 52, subsection (5)” and substituting “In the case of a road or a highway that is not a primary highway and that falls within a class referred to in section 52(5) or (6)”.

(4) Section 14(1), clause 25 is amended by striking out “prescribed by the Lieutenant Governor in Council” and substituting “prescribed by the municipality or, if no form is prescribed by the municipality, by the Lieutenant Governor in Council”.

(5) Section 52 is amended

(a) by repealing subsection (5)(e), and

(b) by adding the following after subsection (5):

(6) Except where a higher rate of speed is authorized pursuant to section 12, no person shall drive on a road or highway that is subject to the direction, control and management of the Minister of Recreation, Parks and Wildlife at a greater speed than 80 kilometres per hour.

The Municipal Government Act

2(1) The Municipal Government Act is amended by this section.

(2) The following is added after section 400:

400.1 (1) The council may, by by-law, authorize the municipal secretary to consolidate any one or more of the by-laws of the municipality.

(2) In consolidating a by-law the municipal secretary may

(a) incorporate all amendments to it into one by-law, and

(b) omit any provision that has been repealed or that has expired.

(3) A printed document purporting

(a) to be a copy of a by-law consolidated pursuant to this section, and

(b) to be printed under the authority of the municipal secretary,

(4) Section 14(1) presently reads in part:

14(1) With respect to highways under its direction, control and management, the council of a municipality may make by-laws, not inconsistent with this Act and on matters for which no provision is made in this Act, for the regulation and control of vehicle, animal and pedestrian traffic and, without restricting the generality of the foregoing, may make by-laws

25. providing for the placing on a vehicle parked in contravention of this Act or a by-law under this section (including clause 6) of a parking tag in the form prescribed by the Lieutenant Governor in Council allowing the payment of a penalty to the municipality in lieu of prosecution for the offence and setting the penalty applicable to each such offence,

(5) Consequential to the amendments to section 12.

Section 52(5) presently reads in part:

(5) Except where a higher rate of speed is authorized pursuant to section 12, no person shall drive on a highway that is

(e) a local road as defined in The Provincial Parks Act, 1974, or at a greater rate of speed than 80 kilometres per hour.

The Municipal Government Act

2(1) This section will amend chapter 246 of the Revised Statutes of Alberta 1970.

(2) This section allows a council to authorize the consolidation of the by-laws of the municipality and authorizes the consolidation's admissibility as evidence.

(3) Section 404 presently reads:

404(1) Any penalty or fine under any by-law of the municipality shall, if no other provision is made respecting it, belong to and form part of the general revenue of the municipality.

(2) When any person is committed to jail by reason of a breach of any by-law of the municipality, there is chargeable to the municipality such part of the expenses paid by the Province for the transport of the person to jail and for his maintenance while there as may be designated by the Lieutenant Governor in Council.

Repeals provisions that are duplicated in sections 115(5) and 116.

shall be admitted in evidence as prima facie proof of the original by-law, of all by-laws amending it and of the fact of the passage of the original and all amending by-laws.

(3) *Section 404 is repealed.*

The Provincial Parks Act, 1974

3(1) *The Provincial Parks Act, 1974 is amended by this section.*

(2) *The following is added after section 7:*

7.1 A road or highway in a provincial park is subject to the direction, control and management of the Minister.

(3) *Section 9(1)(c) is amended by striking out “traffic or”.*

(4) *Section 11(b), (c) and (d) are repealed.*

The Summary Convictions Act, 1978

4(1) *The Summary Convictions Act, 1978 is amended by this section.*

(2) *Section 8(2) is amended by striking out “Court” and substituting “court”.*

(3) *Section 13 is amended by adding the following after subsection (1):*

(1.1) If the offence for which a person is convicted is created by an enactment of a municipality, the municipality

The Provincial Parks Act, 1974

3(1) This section will amend chapter 51 of the Statutes of Alberta, 1974.

(2) This section gives the Minister of Recreation, Parks and Wildlife jurisdiction over roads and highways in a park.

(3) Section 9(1)(c) presently reads:

9(1) The Lieutenant Governor in Council may make regulations with respect to parks

(c) regulating or prohibiting traffic or any kind of business;

(4) Consequential to amendments to The Highway Traffic Act, 1975 and The Summary Convictions Act, 1978. See sections 1 and 4 of this Bill.

Section 11 presently reads in part:

11 The Minister may by order

(b) prescribe by signs posted along any road within a park the speed limit to be observed on it, or any part of it by all vehicles or by any class or classes of vehicles;

(c) prescribe by signs posted along any road within a park or any part of it directions controlling or prohibiting the movement of any vehicle, pedestrian or other traffic;

(d) open or close a road within a park at any time;

The Summary Convictions Act, 1978

4(1) This section will amend chapter 33 of the Statutes of Alberta, 1978.

(2) Corrects a drafting error.

(3) Civil recovery by a municipality.

may enter the amount of a fine adjudged to be payable by the convicted person for that offence as a judgment under subsection (1).

(4) *Section 17(1) is amended by striking out “Part or Part 2” and substituting “Act”.*

(5) *Section 20 is amended by adding the following after subsection (3):*

(3.1) A summons may be issued by a peace officer.

(6) *Section 27(f) is repealed.*

(7) *Section 33 is repealed and the following is substituted:*

33 If the fine imposed under section 29, 31 or 32 is not paid forthwith or within the time allowed by the justice for payment, then, notwithstanding those sections, a justice shall grant default judgment in favour of the Crown in right of Alberta against the defendant

(a) in an amount equal to twice the amount of the fine, if the fine is less than \$500, or

(b) in an amount equal to the amount of the fine plus \$500 if the fine is \$500 or more.

(8) *Section 34 is amended*

(a) *in clause (a) by striking out “20” and substituting “23”, and*

(b) *by repealing clause (e) and substituting the following:*

(e) convict the defendant of the offence and impose a fine upon the defendant

(i) in the amount of the specified penalty, if a specified penalty has been established for the offence,

(ii) in the amount which the local authority has by by-law established for payment in lieu of prosecution, if no penalty has been specified for the offence, or

(iii) in accordance with the relevant by-law, if no penalty has been specified and no amount has been established for payment.

(4) Section 17(1) presently reads:

17(1) The Attorney General or his agent, or any person affected by a judgment or order to which this Part or Part 2 applies, may appeal a judgment or order of a justice to the District Court at the judicial district in which the trial was held.

(5) Clarifies the fact that a summons may be issued by a peace officer as well as a justice.

(6) Consequential to amendments in this Bill to The Provincial Parks Act, 1974 and The Highway Traffic Act, 1975. Section 27 presently reads in part:

27 This Part applies only to offences under the following enactments:

(f) The Provincial Parks Act, 1974, sections 9(1)(c) and 11(b), (c) and (d);

(7) Default judgments.

(8) Amends a cross-reference and increases the alternates available to a justice. Section 34 presently reads in part:

34 Where a defendant is charged with an offence under a municipal by-law to which this Part applies and the defendant

(a) does not answer the summons in accordance with section 20,

a justice may

(e) proceed to

(i) convict the defendant of the offence,

(ii) impose a fine upon the defendant in an amount not less than the amount of the specified penalty if a penalty has been prescribed for the offence, or in accordance with the relevant by-law if no penalty has been specified for the offence, and

(iii) grant default judgment in favour of the Crown in right of Alberta against the defendant in an amount equal to the lesser of

(A) the fine imposed plus \$25 representing the costs of administration and a filing fee, and

(B) the maximum fine prescribed for the offence in the relevant by-law.

(9) Section 35 is amended

(a) in subsection (1) by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following clause:

(c) in accordance with the relevant by-law, if no penalty has been specified and no amount established for payment in lieu of prosecution.

(b) by repealing subsection (2).

(10) Section 36 is repealed and the following is substituted:

36 If the fine imposed pursuant to section 34 or 35 is not paid forthwith or within the time allowed by the justice for payment, then, notwithstanding those sections, a justice shall grant default judgment in favour of the Crown in right of Alberta against the defendant in the amount of the fine imposed by the justice plus \$25.

36.1(1) A default judgment may be granted under section 33 or 36 notwithstanding that the amount of the default judgment is greater than the maximum penalty prescribed in the enactment for the offence of which the defendant was convicted.

(2) A default judgment under section 28(e) may be in the full amount of the penalty specified in the regulations for the offence, notwithstanding that the penalty specified is greater than the maximum penalty prescribed in the enactment for that offence.

(11) Section 42(l) is repealed and the following is substituted:

(l) specifying the penalty payable in respect of an offence in an amount that does not exceed the maximum penalty prescribed in the enactment for that offence by more than \$500;

(12) Section 48(3) and (5) is repealed.

(13) Section 49 is amended

(a) by repealing subsection (3) and substituting the following:

(3) Section 5(3) is amended by striking out “If” and substituting “Subject to section 112.2, if”.

(9) Penalties. Section 35(1) and (2) presently reads:

35(1) Where a justice accepts a plea of guilty from a defendant in respect of an offence under a municipal by-law to which this Part applies, the justice shall convict the defendant of the offence and impose a fine upon the defendant

(a) in the amount of the specified penalty, if a specified penalty has been established for the offence, or

(b) in the amount which the local authority has by by-law established for payment in lieu of prosecution, if no penalty has been specified for the offence.

(2) If no penalty has been specified and no amount established for payment, a justice shall impose a fine upon the defendant in accordance with the by-law.

(10) Default judgments and maximum penalties.

(11) Regulations specifying penalties.

(12) Consequential to amendments in this Bill to The Highway Traffic Act, 1975 and The Provincial Parks Act, 1974. Section 48(3) and (5) presently reads:

(3) Section 12(1)(d) is repealed and the following is substituted:

(d) in the case of a licence of occupation road, the Minister of Energy and Natural Resources;

(e) in the case of a road through an Indian reserve, if the title to the road is vested in the Crown in right of Alberta and the road is not the subject of an agreement under The Public Highways Development Act, the Minister.

(5) Section 52(5)(e) is repealed.

(13) Corrects drafting errors. Section 49(3) presently reads:

49(3) Section 5(3), (4) and (5) is amended by striking out "Subsection (1)" and substituting "Subject to section 112.2(1) and to subsection (1)".

(3.1) Section 5(4) and (5) is amended by striking out “Subsection (1)” and substituting “Subject to section 112.2, subsection (1)”.

(b) by renumbering subsection (11) as subsection (10).

The Trustee Act

5(1) The Trustee Act is amended by this section.

(2) Section 4(3) is repealed and the following is substituted:

*(3) An approved corporation, other than a trust company registered under *The Trust Companies Act*, shall file with the Alberta Securities Commission*

(a) a balance sheet, operating statement and such other supporting schedules as may be required by the Commission, on a quarterly or monthly basis, whichever the Commission directs, at the times directed by the Commission and in a form and certified in a manner approved by the Commission,

(b) a certified copy of its balance sheet as of the close of each fiscal year and the auditor’s report on it within 170 days of the date to which it is made up, and

(c) any statement, report or other information respecting its financial position or affairs that the Commission may require.

(3) Section 5(1) is amended by striking out “, 1945”.

6(1) This Act, except section 4, comes into force on the day upon which it is assented to.

(2) Section 4 comes into force on a date or dates to be fixed by proclamation.

The Trustee Act

5(1) This section will amend chapter 373 of the Revised Statutes of Alberta 1970.

(2) This amendment directs an approved corporation to file financial reports with the Alberta Securities Commission rather than with the Attorney General. Section 4(3) presently reads:

(3) An approved corporation, other than a trust company registered under The Trust Companies Act, shall file with the Attorney General

(a) a balance sheet, operating statement and such other supporting schedules as may be required, on a quarterly or monthly basis, whichever the Attorney General directs, at the times directed by him and in a form and certified in a manner approved by him,

(b) a certified copy of its balance sheet as of the close of the fiscal year and the auditor's report thereon, and

(c) any other statements, reports or other information pertaining to its financial position or affairs as the Attorney General may require.

(3) Corrects a cross-reference to the Bretton Woods Agreements Act (Canada).