

1980 BILL 17

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 17

THE MOTOR VEHICLE ADMINISTRATION
AMENDMENT ACT, 1980

DR. C. ANDERSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 17
Dr. C. Anderson

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THE MOTOR VEHICLE ADMINISTRATION AMENDMENT ACT, 1980

(Assented to , 1980)

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

1 The Motor Vehicle Administration Act is amended by this Act.

2 Section 1 is amended

(a) by repealing clause 1.1,

(b) by adding the following after clause 17.1:

17.2. "private passenger vehicle" means a private passenger vehicle as defined in *The Motor Transport Act*;

(c) by repealing clause 18 and substituting the following:

18. "public vehicle" means a public vehicle as defined in *The Motor Transport Act*;

(d) in clause 19 by striking out "Motor Vehicle Branch" and substituting "Motor Vehicles Division", and

(e) by adding the following after clause 19:

19.1. "subsisting" means, when used in relation to an operator's licence, certificate of registration or permit issued under this Act, an operator's licence, certificate of registration or permit that has not at the relevant time expired or been suspended or cancelled;

Explanatory Notes

1 This Bill will amend Chapter 68 of the Statutes of Alberta, 1975 (Second Session).

2 Section 1 presently reads in part:

1 In this Act,

1.1. "commercial vehicle"

(i) means a truck, trailer or semi-trailer, except

*(A) a truck, trailer or semi-trailer that is a public service vehicle,
or*

*(B) a truck, trailer or semi-trailer or any class of vehicle that by
the regulations or by an order of the Alberta Motor Transport
Board is exempted from being classified as a commercial vehicle,*

and

(ii) includes

*(A) a motor vehicle from which sales are made of goods, wares,
merchandise or commodity, and*

*(B) a motor vehicle by means of which delivery is made of goods,
wares, merchandise or commodities to a purchaser or consignee
thereof;*

18. "public service vehicle"

*(i) means a motor vehicle, trailer or semi-trailer operated on a highway
by or on behalf of a person, firm, association or corporation for
compensation, whether such operation is regular or only occasional or
for a single trip, and*

*(ii) includes a motor vehicle kept by a person, firm or corporation for
the purpose, subject to the regulations, of being rented without a driver,
but*

3 Section 2(1) is amended by striking out “Motor Vehicle Branch” and substituting “Motor Vehicles Division”.

4 Section 5(3) is amended by striking out “6” and substituting “3”.

5 Section 11 is amended by adding the following after subsection (2):

(2.1) Subsection (2) does not apply to the issuance of a replacement or duplicate licence under this Act.

6 Section 34 is amended

(a) in subsection (3)

(i) by striking out “commercial vehicle or public service vehicle” and substituting “public vehicle”, and

(ii) in clause (a) by striking out “6” and substituting “3”,

and

(b) by adding the following after subsection (3):

(3.1) Subsections (1) and (4) do not prohibit the operation in Alberta of a vehicle, other than a public vehicle, in relation to which a temporary registration in the

(iii) does not include a motor vehicle used solely as an ambulance or hearse or for the transportation of the Royal Mail;

19. "Registrar" means the Registrar of the Motor Vehicle Branch of the Department of the Solicitor General and, for the purposes of signing a certificate as required in section 238, subsection (4) of the Criminal Code, a deputy Registrar;

3 Consequential to amendment in section 2(d) of this Bill.

4 Section 5(3) presently reads:

(3) If a person is the holder of a valid operator's licence issued to that person in a jurisdiction outside Alberta authorizing him to operate a motor vehicle of the type or class being operated by him he is exempt from the provision of subsection (1) if he does not remain in Alberta for more than 6 months.

5 Section 11 presently reads in part:

(2) An operator's licence shall not be issued to any person under the age of 18 years

(a) unless the application is also signed by a parent or guardian of the applicant, or

(b) where the person is self-supporting and is unable to obtain the signature of a parent or guardian, unless he proves to the satisfaction of the Minister that he is self-supporting and unable to obtain such consent, or

(c) unless he proves to the satisfaction of the Minister that he is a married person.

6 Section 34(3) presently reads:

(3) Notwithstanding subsections (1) and (4), if the owner of a vehicle, other than a commercial vehicle or public service vehicle, has complied with the laws of a jurisdiction outside Alberta with respect to the registration and licensing of that vehicle then, if the vehicle is carrying displayed on it the registration number plates assigned under those laws to the vehicle, he may use the vehicle within Alberta for the shorter of

(a) 6 months, and

(b) the period during which the registration and licensing of the vehicle under those laws subsists,

if the owner has a valid financial responsibility card under section 68(4) relating to that vehicle.

form of an in-transit permit issued by another jurisdiction in Canada is subsisting if

- (a) the operator of the vehicle carries the in-transit permit with him while he is operating the vehicle in Alberta,
- (b) the operator of the vehicle operates it in accordance with the terms and conditions of the in-transit permit, and
- (c) the owner of the vehicle has a valid financial responsibility card issued in relation to that vehicle under section 68(4).

7 Section 40 is amended

(a) by repealing subsections (1), (2) and (3) and substituting the following:

40(1) This section applies only to the registration of public vehicles.

(2) When the ownership of a registered public vehicle, other than a public vehicle used for the transportation of goods or passengers for compensation, passes from the registered owner to any other person, whether by an act of the owner or by operation of law, the registration of the public vehicle expires on the 14th day after the day upon which the ownership passes.

(3) When the ownership of a registered public vehicle used for the transportation of goods or passengers for compensation passes from the registered owner to any other person, whether by an act of the owner or by operation of law, the registration of the public vehicle expires at the time the ownership passes.

(b) in subsections (4), (5) and (6) by adding “public” before “vehicle” wherever it occurs,

(c) in subsection (7) by striking out “registered vehicle” and substituting “registered public vehicle”, and

(d) by repealing subsection (8) and substituting the following:

(8) When the ownership of a public vehicle, other than a public vehicle used for the transportation of goods or passengers for compensation, passes from one person to another and the new owner intends to apply for the registration of the public vehicle in his name and intends to apply

7 Section 40 presently reads:

40(1) This section applies only to the registration of commercial vehicles and public service vehicles.

(2) When the ownership of a registered commercial vehicle passes from the registered owner to any other person, whether by an act of the owner or by the operation of law, the registration of the vehicle expires upon the 14th day after the day upon which the ownership passes.

(3) When the ownership of a registered public service vehicle passes from the registered owner to any other person, whether by an act of the owner or by the operation of law, the registration of the vehicle expires at the time the ownership passes.

(4) The registered owner of the vehicle or his legal representative shall, not later than the 14th day after the ownership so passes, deliver to the Minister the certificate of registration or permit issued under this Act of the vehicle.

(5) The new owner of the vehicle or his legal representative may, not later than the 14th day after the ownership passes, apply to the Minister for

(a) the registration of the vehicle in the name of the new owner or his legal representative, and

(b) the transfer of the licence plates accordingly.

(6) When the ownership of a registered vehicle passes from the registered owner to any other person, the licence plates issued upon registration may, not later than 14 days after the passing of ownership, be reissued to the registered owner for use upon another vehicle owned by him, upon

(a) compliance with the regulations,

(b) production of satisfactory proof of ownership of the other vehicle, and

(c) payment of the prescribed fee.

(7) Where the ownership of a registered vehicle passes from the registered owner, either by an act of the owner or by the operation of law, to a person engaged in the business of selling or dealing in vehicles, whether new or otherwise, or engaged in the business of automobile wreckage, that person, if the licence plates

(a) to have transferred to him the licence plates issued to the registered owner of that public vehicle, or

(b) to have reissued to him for use on that public vehicle licence plates issued to him upon the registration of another motor vehicle,

then, notwithstanding sections 34 and 51, the new owner may display those licence plates on the public vehicle and operate or permit another person to operate the public vehicle on a highway for not more than 14 days after the ownership passes to him.

8 Section 41(1) is amended by striking out “commercial vehicles or public service vehicles” and substituting “public vehicles”.

9 Section 51(b) is amended by adding “or park” after “operate”.

10 Section 54 is amended by adding “or park” after “operate”.

11 Section 96 is amended

(a) by repealing subsection (4) and substituting the following:

(4) If a vehicle stored pursuant to this section is not registered in Alberta or is not, within 60 days of its removal, claimed by the registered owner or someone on his behalf in return for full payment of the removal and storage costs actually paid, the vehicle may, with the approval in writing of the Administrator of *The Motor Vehicle Accident Claims Act* or his appointee, be disposed of as the Administrator or his appointee may direct, if written notice of the proposed disposal is given to the holders of encumbrances registered in respect of the vehicle at the Central Registry of the Department

issued to the registered owner come into his possession, shall return the plates forthwith to the Minister.

(8) Where the ownership of a commercial vehicle passes from one person to another and the new owner intends to apply for the registration of the vehicle in his name, and

(a) to have transferred to him the licence plates issued to the registered owner of that vehicle, or

(b) to have reissued to him for use on that vehicle licence plates issued to him upon the registration of another motor vehicle,

then, notwithstanding sections 34 and 51, the new owner may display those licence plates on the vehicle and operate or permit another person to operate the motor vehicle on a highway for not more than 14 days after the ownership passes to him.

8 Section 41(1) presently reads:

41(1) This section applies to the registration of vehicles other than commercial vehicles or public service vehicles to which section 40 applies.

9 Section 51 presently reads:

51 No person shall

(a) attach to a motor vehicle or trailer, or

(b) operate a motor vehicle or trailer to which is attached,

a licence plate other than a licence plate authorized for use on that motor vehicle or trailer.

10 Section 54 presently reads:

54 No person shall operate a motor vehicle or trailer on a highway with an expired licence plate displayed thereon.

11 Section 96 presently reads in part:

(4) Where a vehicle stored pursuant to this section

(a) is not registered in Alberta, or

(b) is not, within 30 days of its removal, claimed by the registered owner or someone on his behalf in return for full payment of the removal and storage costs actually paid,

the vehicle may, upon the approval in writing of the sheriff of that judicial district, be disposed of by public auction or otherwise as the sheriff shall direct, subject to the giving of written notice of the proposed sale to the holders of encumbrances registered in respect of the vehicle at the Central Registry of the Department of

of the Attorney General, and the proceeds of the disposal shall be expended in the following order:

- (a) to pay the debt owing to the Crown under this section;
- (b) to pay the balance owing on any encumbrances referred to in this section, to the rightful persons;
- (c) to pay any remaining portion to the Registrar.

(4.1) The Registrar shall deposit any money he receives under subsection (4)(c) in the Motor Vehicle Accident Claims Fund established under *The Motor Vehicle Accident Claims Act* and that money

(a) shall be paid by the Registrar to any person who provides proof satisfactory to the Registrar that he is entitled to it if the claim is made and proof of the claim is established within one year of the removal of the vehicle under subsection (1), or

(b) shall constitute a part of the Motor Vehicle Accident Claims Fund if no claim is made and established as provided in clause (a).

(b) in subsection (5) by striking out “sale or auction” and substituting “disposal”, and

(c) in subsection (6) by adding “, salvage yard or municipal dump” after “ground”.

12 Section 103 is amended

(a) by adding the following after subsection (1):

(1.1) A person who is guilty of an offence under section 5(6) is liable on summary conviction

(a) for a first offence, to a fine of not more than \$2000 and in default of payment, to imprisonment for a term of not less than 14 days or more than 6 months, and

(b) for each subsequent offence committed within one year after the commission of the offence referred to in clause (a), to imprisonment for a term of not less than 14 days or more than 6 months.

(b) in subsection (2) by striking out “section 5, subsection (6) or”, and

the Attorney General and the proceeds of the sale shall be expended in the following order:

(c) to pay the debt owing to the Crown under this section;

(d) to pay the balance owing on any encumbrances referred to in this section, to the rightful persons;

(e) to pay any remaining portion to the Registrar who shall deposit the amount in the Motor Vehicle Accident Claims Fund established under The Motor Vehicle Accident Claims Act whereupon the amount

(i) shall be paid by the Registrar to any person who provides proof satisfactory to the Registrar that the person is entitled thereto if the claim is made and proof thereof is established within one year of the removal of the vehicle under subsection (1), or

(ii) shall constitute a part of the Motor Vehicle Accident Claims Fund if no claim is made and established as provided in subclause (i).

(5) If the proceeds realized from the sale or auction of the abandoned or stored motor vehicle are not sufficient to cover the costs of removal and storage, the person authorized to remove and store the motor vehicle may apply to the Registrar for payment of the outstanding amount and the Registrar, upon being satisfied that the claim is proper, may order payment to be made from the Motor Vehicle Accident Claims Fund subject to the limitations prescribed in the regulations under The Motor Vehicle Accident Claims Act.

(6) Where the peace officer or district engineer on reasonable and probable grounds believes that the vehicle referred to in subsection (1) is worthless he may cause the vehicle to be moved directly to a nuisance ground for disposal.

12 Section 103 presently reads in part:

(2) A person who is guilty of an offence under section 5, subsection (6) or section 34, subsection (4) or (5) is liable on summary conviction

(a) for a first offence to a fine of not more than \$200 and in default of payment to imprisonment for a term not exceeding 30 days, and

(b) for any subsequent offence to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding 60 days.

(6) A person other than a corporation who is guilty of an offence under section 70, subsection (5), section 71 or section 72 is liable on summary conviction

(a) for a first offence to a fine of not less than \$400 and not more than \$2,000, and

(b) for any subsequent offence to a fine of not less than \$750 and not more than \$2,000,

and in default of payment to imprisonment for a term not exceeding 90 days.

(c) by repealing subsection (6) and substituting the following:

(6) A person, other than a corporation, who is guilty of an offence under section 70(5), 71 or 72 is liable on summary conviction

(a) for a first offence, to a fine of not less than \$400 and in default of payment, to imprisonment for a term of not less than 14 days or more than 6 months, and

(b) for each subsequent offence committed within one year after the commission of the offence referred to in clause (a), to imprisonment for a term of not less than 30 days or more than 6 months.

13 Section 105 is amended

(a) by repealing clauses (a) and (b) and substituting the following:

(a) that at a stated time there was, or was not,

(i) a certificate of registration or permit in respect of a described motor vehicle or trailer issued under this Act, or that such a certificate or permit was or was not issued under this Act to the person named in the certificate, or

(ii) a licence issued under this Act in respect of the person named in the certificate,

(b) that a licence, certificate of registration or permit referred to in clause (a) was, at a stated time, restricted, suspended, cancelled or expired, or

and

(b) by adding the following after subsection (3):

(4) A certificate referred to in this section is admissible in evidence in all actions to which *The Alberta Evidence Act* applies.

14 Section 107(5) is repealed and the following is substituted:

(5) If a person is found guilty under section 238(3) of the *Criminal Code* anywhere in Canada or section 110(7) of this Act,

13 Section 105 presently reads in part:

105(1) A certificate purporting to be signed by the Registrar or his deputy and certifying

(a) that the person named therein is, or was, at a stated time, the registered owner of a described motor vehicle or trailer, or the holder of an operator's licence, or

(b) that a licence issued under this Act to the person named therein is, or was, at a stated time, suspended, restricted or revoked, or

(c) as to the last recorded address of the person named therein as shown on the records of the Registrar,

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.

14 Section 107(5) presently reads:

(5) Where a judge convicts a person of an offence under section 238, subsection (3) of the Criminal Code or section 110, subsection (7) of this Act,

(a) the convicted person is thereupon disqualified from holding an operator's licence for a period of six months, and

(a) that person is thereupon disqualified from holding an operator's licence for a period of 6 months, and

(b) if that person is under suspension or under a prohibition at the time of the finding of guilt, the period of disqualification shall run consecutively with that suspension or prohibition.

15 *Section 109 is amended*

(a) *by repealing subsection (4) and substituting the following:*

(4) Notwithstanding subsection (1) or (3), if a person

(a) is found guilty under section 234, 234.1, 235 or 236 of the *Criminal Code* anywhere in Canada, and

(b) has, in the preceding 5 years been found guilty of an offence under section 234, 234.1, 235 or 236 of the *Criminal Code* anywhere in Canada,

that person thereupon becomes disqualified from holding an operator's licence for a period of 12 months from the date of the finding of guilt and any operator's licence held by the person thereupon becomes suspended for the same period.

(b) *in subsection (5)(b) by striking out "10" and substituting "5", and*

(c) *by adding the following after subsection (7):*

(8) If a person is found guilty of 2 or more offences under sections 234, 234.1, 235 and 236 of the *Criminal Code* anywhere in Canada, and if the offences arose out of the same incident,

(a) the findings of guilt for those offences shall, for the purposes of subsections (4)(b) and (5)(b), be considered to constitute only one finding of guilt, which shall be considered to have occurred on the date of the earliest finding of guilt respecting those offences, and

(b) for the purposes of subsection (1), the period of disqualification and suspension shall be

(i) 3 months if all of the findings of guilt were under section 234.1 or 235, or

(ii) 6 months if one or more of the findings of guilt was under section 234 or 236,

(b) if the convicted person is under suspension or under a prohibition at the time of the conviction, the period of disqualification shall run consecutively with that suspension or prohibition.

15 Section 109 presently reads in part:

(4) Notwithstanding subsection (1) or (3), where a person

(a) is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code anywhere in Canada, and

(b) has, in the preceding five years been found guilty of an offence under section 234, 234.1, 235 or 236 of the Criminal Code anywhere in Canada, that person thereupon becomes disqualified to hold an operator's licence for a period of 12 months from the date of the finding of guilt and any operator's licence held by the person thereupon becomes suspended for the same period.

(5) Notwithstanding anything in this section, where a person

(a) is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code anywhere in Canada, and

(b) has, at any time within 10 years of the date of the offence with respect to which there has been a finding of guilt, been found guilty on two previous occasions under either section 234, 234.1, 235 or 236 of the Criminal Code anywhere in Canada,

that person thereupon becomes disqualified from holding an operator's licence and any operator's licence held by that person becomes suspended for a period of 36 months from the date of the finding of guilt.

and the period of disqualification and suspension shall run from the date of the earliest finding of guilt respecting those offences.

16 Section 113 is repealed and the following is substituted:

113(1) If a person whose licence has been suspended appeals against his conviction or applies to quash the conviction, the suspension applies unless

(a) a judge of the court being appealed to or to which the application is made orders that the suspension be stayed pending the disposition of the appeal or application, and

(b) the appellant or applicant serves on the Registrar by personal service or by registered or certified mail

(i) a copy of the notice of appeal, stated case, notice of motion or other document by which the appeal or application is commenced,

(ii) a copy of the order staying the suspension, and

(iii) a notice setting out his full name, address, date of birth and operator's licence number.

(2) If the court on an appeal or application under subsection (1) confirms the conviction, a suspension that has been stayed under subsection (1) is automatically revived on the date the conviction is confirmed and the period of time during which the suspension was stayed shall not be included in calculating the termination date of the suspension.

(3) If a suspension is revived under subsection (2), the licence holder shall be deemed to have knowledge of that fact and no notice under section 19 need be served on him.

17 A reference in any Act, regulation, order or other document to the Motor Vehicle Branch of the Department of the Solicitor General is deemed to be a reference to the Motor Vehicles Division of the Department of the Solicitor General.

18 The Summary Convictions Act, 1978 is amended by repealing section 49(7)(e) and (10).

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

16 Section 113 presently reads:

113 If a person whose licence has been suspended enters an appeal against his conviction, the suspension does not apply until the conviction is sustained on appeal or the appeal is abandoned or struck out.

17 Consequential to the amendment in section 2(d) of this Bill.

18 Consequential to the amendments made by section 12(c) and 16 respectively of this Bill.