

1981 BILL 89

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 89

**SOLICITOR GENERAL STATUTES AMENDMENT ACT,
1981**

THE SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 89

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1981

SOLICITOR GENERAL STATUTES AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

Motor Vehicle Accident Claims Act

*1(1) The Motor Vehicle Accident Claims Act is amended by this
section.*

*(2) Section 8(1)(b) is amended by striking out “\$100” and substi-
tuting “\$200”.*

(3) Section 9 is amended

*(a) in subsection (1)(b) by striking out “\$100” and substituting
“\$200”;*

*(b) in subsection (2)(b) by striking out “\$100” and substituting
“\$200”.*

Explanatory Notes

Motor Vehicle Accident Claims Act

1(1) This section will amend chapter 243 of the Revised Statutes of Alberta 1970.

(2) Section 8(1) presently reads:

8(1) Where a person has a cause of action against the owner or operator of an uninsured motor vehicle for damages for

(a) bodily injury to or the death of a person, or

(b) loss of or damage to property in an amount exceeding \$100,

arising out of the use or operation within Alberta of the motor vehicle, that person may apply to the Administrator, in the prescribed form, for payment out of the Fund in respect of the bodily injury or death, or loss of or damage to property.

(3) Section 9 presently reads in part:

9(1) Where in an action for damages for

(a) bodily injury to or the death of a person, or

(b) loss of or damage to property in an amount exceeding \$100,

arising out of the use or operation within Alberta of a motor vehicle, a plaintiff notes a defendant in default, the plaintiff shall forthwith serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until 30 days after the service of the notice.

(2) Where in an action for damages for

(4) Section 10(1)(b) is amended by striking out “\$100” and substituting “\$200”.

(5) Section 13(1) is amended by striking out “\$100” and substituting “\$200”.

(6) Section 15(7) is amended by adding the following after clause (a):

- (a) *bodily injury to or the death of a person, or*
- (b) *loss of or damage to property in an amount exceeding \$100,*
arising out of the use or operation within Alberta of a motor vehicle,
- (c) *a defendant's statement of defence is struck out, or*
- (d) *a defendant fails to appear by counsel at the trial, or*
- (e) *a plaintiff receives notice that a defendant's solicitor has ceased to act,*

the plaintiff may serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until 30 days after the service of the notice.

(4) Section 10(1) presently reads:

10(1) Where a person recovers in a court in Alberta a judgment for damages for

- (a) *bodily injury to or the death of a person, or*
- (b) *loss of or damage to property in an amount exceeding \$100,*

arising out of the use or operation within Alberta of a motor vehicle, he may, upon the determination of all proceedings, including appeals, apply to the Administrator, in the prescribed form, for payment out of the Fund of the amount of the judgment or of the amount of the unsatisfied portion thereof.

(5) Section 13(1) presently reads:

13(1) Where bodily injury to or the death of a person or damage to property in an amount exceeding \$100 arises out of the use or operation within Alberta of a motor vehicle, and

- (a) *the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or*
- (b) *the name of the operator is not known or ascertainable and the owner may not be liable to an action for damages for injury or death or property damage,*

any person who has a cause of action against the unknown owner or operator in respect of that bodily injury or death or property damage may bring an action against the Administrator as nominal defendant, either alone or as a co-defendant with others alleged to be responsible for the injury or death or property damage.

(6) Section 15(7) presently reads:

(7) From the amount payable to a person as calculated in accordance with subsections (3) to (6) there shall be deducted

(a.1) \$200, in the case of a claim arising out of loss of or damage to property,

Motor Vehicle Administration Act

2(1) The Motor Vehicle Administration Act is amended by this section.

(2) Section 5(3) is amended by striking out “operator’s licence” and substituting “licence or permit”.

(3) Section 7(2) is repealed and the following is substituted:

(2) No person shall apply for or secure or attempt to secure the issuance of an operator’s licence to himself

(a) during a period when his operator’s licence is cancelled or suspended, whether or not the period for which the licence was issued has expired,

(b) during a period when he is disqualified from holding an operator’s licence, or

(c) during the period when his licence or permit to operate a motor vehicle issued to him in any province or his privilege to secure a licence or permit to operate a motor vehicle is suspended or cancelled in any province whether or not the period for which the licence or permit was issued has expired.

(4) Section 80(1) is amended by striking out “\$350” and substituting “\$500”.

(a) any amount the applicant has recovered or can recover from the debtor,

(b) any amount paid out of the Fund pursuant to section 25 to the applicant or on his behalf,

(c) any amount paid or payable for and on behalf of the applicant under The Alberta Hospitals Act, and

(d) any amount that the applicant has recovered or can recover by reason of the existence of any prepaid medical, dental or hospital services or a contract of insurance, other than a contract of life insurance,

and the amount so determined is the amount payable out of the Fund by the Provincial Treasurer.

Motor Vehicle Administration Act

2(1) This section will amend chapter 68 of the Statutes of Alberta, 1975 (Second Session).

(2) 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 3 months.

(3) Section 7(2) presently reads:

(2) No person shall apply for or procure or attempt to procure the issuance of an operator's licence to himself

(a) during a period when his licence is cancelled or suspended, whether or not the period for which the licence was issued has expired, or

(b) during a period when he is disqualified from holding a licence.

(4) Section 80(1) presently reads:

(5) Section 96(6) is amended by adding “Minister, Registrar,” before “peace”.

(6) Section 107 is amended by adding the following after subsection (5):

(6) Notwithstanding section 103(1.1), if a person is found guilty of an offence under section 5(6) and the offence was committed when

- (a) his operator’s licence was suspended or cancelled,
- (b) he was disqualified under this Act from holding an operator’s licence,
- (c) his licence or permit to operate a motor vehicle in any province was suspended or cancelled, or
- (d) his privilege to secure a licence or permit to operate a motor vehicle was suspended or cancelled in any province

then in addition to a fine or term of imprisonment referred to in section 103(1.1)

- (e) his operator’s licence is suspended and he is disqualified from holding an operator’s licence for a period of 6 months, and
- (f) if at the time of finding of guilt
 - (i) he is disqualified from holding an operator’s licence,
 - (ii) his operator’s licence is suspended or cancelled,
 - (iii) his licence or permit to operate a motor vehicle in

80(1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of \$350 or more, the driver shall forthwith make a written report in the form prescribed by the Minister and containing such information as may be required thereby to

(a) a peace officer having jurisdiction where the accident occurred, or

(b) an employee of a police force having jurisdiction where the accident occurred who is authorized to receive such reports.

(5) Section 96(6) presently reads

(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, salvage yard or municipal dump for disposal.

(6) Section 103 presently reads in part:

(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.

Section 107 presently reads in part:

(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,

(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.

a jurisdiction outside Alberta is suspended or cancelled,
or

(iv) his privilege to secure a licence or permit to operate
a motor vehicle was suspended or cancelled in any prov-
ince

the period of disqualification and suspension shall run con-
secutively to that disqualification, suspension or cancellation.

(7) *Section 109(5)(b) is repealed and the following is substituted:*

(b) has in the preceding 5 years been found guilty of 2 offences
under any 1 or more of sections 234, 234.1, 235 or 236 of the
Criminal Code anywhere in Canada unless those 2 offences arose
out of the same incident,

(8) *Section 113 is amended*

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

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

(a) a judge of the Court of Appeal or of the Court of
Queen's Bench orders that the suspension be stayed pend-
ing 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 document by which the application
to stay the suspension of his licence is commenced,

(7) Section 109(5) presently reads:

(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 5 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.

(8) Section 113 presently reads:

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) 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

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

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

(1.1) An application for stay of suspension under subsection (1) shall

(a) if it is in the same court as the appeal, application for leave to appeal or application to quash the conviction, be brought by notice of motion, or

(b) if it is not in the same court as the appeal, application for leave to appeal or application to quash the conviction, be brought by originating notice,

and a copy of the notice and supporting documents shall be served on the Attorney General or his agent on not less than 2 days' notice.

(2) If an appeal or application described in subsection (1) of a person whose suspension is stayed under subsection (1) is abandoned, withdrawn, discontinued or dismissed, the suspension that has been stayed under subsection (1) is automatically revived on the date the appeal or application is abandoned, withdrawn, discontinued or dismissed and the period of time during which the suspension was stayed shall not be included in calculating the termination date of the suspension.

Off-Highway Vehicle Act

3(1) The Off-Highway Vehicle Act is amended by this section.

(2) Section 16(1) is amended by striking out "\$350" and substituting "\$500".

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.

shall be deemed to have knowledge of that fact and no notice under section 19 need be served on him.

Off-Highway Vehicle Act

3(1) This section will amend chapter 73 of the Statutes of Alberta, 1972.

(2) Section 16(1) presently reads:

16(1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of \$350 or more, the operator or person in charge of an off-highway vehicle involved in the accident shall forthwith make a written report in the form provided by the Registrar and containing such information as may be required thereby, to a peace officer having jurisdiction where the accident occurred.