

1988 BILL 26

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Third Session, 21st Legislature, 37 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 26**

**MOTOR VEHICLE ADMINISTRATION  
AMENDMENT ACT, 1988**

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MR. OLDRING

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 26  
Mr. Oldring

## BILL 26

1988

### MOTOR VEHICLE ADMINISTRATION AMENDMENT ACT, 1988

(Assented to \_\_\_\_\_, 1988)

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 *The following is added after section 5:*

**5.1(1)** In this section, “suspended person” means a person

(a) whose operator’s licence is suspended, or

(b) who is disqualified from holding an operator’s licence,

under this Act by reason of that person’s being convicted under

(c) section 237, 238 or 242(4) of the *Criminal Code* (Canada),  
or

(d) section 120 of the *National Defence Act* (Canada) for con-  
travening section 237 or 238 of the *Criminal Code* (Canada).

(2) No person who has a motor vehicle in his possession or under  
his care or control shall knowingly or willingly permit a sus-  
pended person to operate that motor vehicle unless it is a vehicle  
that the person is permitted to operate under this Act.

3 *The following is added after section 8:*

**8.1** Where a person is permitted to operate a motor vehicle

(a) under section 19.1, the Driver Control Board may make  
any operator’s licence held by or issued to that person subject  
to any terms or conditions that the Board considers appro-  
priate in the circumstances, or

(b) under section 19.2, the Registrar may make any opera-  
tor’s licence held by or issued to that person subject to any  
terms or conditions that the Registrar considers appropriate  
in the circumstances.

4 *The following is added after section 19:*

**19.1** Where, by reason of a person’s being found guilty under  
section 237 or 238 of the *Criminal Code* (Canada),

(a) that person’s operator’s licence is suspended, or

## **Explanatory Notes**

- 1** This Bill will amend chapter M-22 of the Revised Statutes of Alberta 1980.
- 2** Prohibition against permitting a suspended person from operating a motor vehicle.
- 3** Conditions and restrictions respecting operators' licences.
- 4** Setting aside the operation of a suspension or disqualification.

(b) that person is disqualified from holding an operator's licence,

the Driver Control Board may, on the application of that person, do 1 or both of the following:

(c) at the expiration of a suspension or disqualification imposed by a court set aside the operation of the suspension or disqualification imposed under this Act on the condition that the person who is subject to the suspension or disqualification

(i) not operate a motor vehicle unless the vehicle is equipped with an alcohol sensing device that meets the approval of the Board, and

(ii) comply with any terms or conditions imposed by the Board;

(d) at the expiration of the suspension or disqualification imposed under this Act direct that the reinstatement or issuance of an operator's licence to the person who was subject to the suspension or disqualification be on the condition that the person, in addition to complying with the requirements imposed under section 17,

(i) not operate a motor vehicle unless the vehicle is equipped with an alcohol sensing device that meets the approval of the Board, and

(ii) comply with any terms or conditions imposed by the Board.

**19.2** Where a person's operator's licence is suspended or cancelled by reason of the accumulation of demerit points, the Registrar may, on the application of that person, set aside the operation of the suspension or cancellation and reinstate that person's operator's licence on the condition that the person comply with any terms or conditions imposed by the Registrar.

**19.3** Where the terms or conditions referred to in section 19.1 or 19.2 are not complied with,

(a) the Registrar may by order reinstate the operation of the suspension or disqualification referred to in section 19.1 or 19.2, and

(b) the suspension or disqualification, as the case may be, shall be treated as if its operation had not been set aside under section 19.1 or 19.2.

5 *Section 21(3) is repealed.*

6 *The following is added after section 21:*

**21.1** Where the Registrar makes a decision under section 19.2, the Board may, on the application of the person who is the subject of the decision, review the decision made by the Registrar, and

(a) confirm the decision of the Registrar, or

**5** Section 21(3) presently reads:

*(3) In making a decision the Board may take into consideration the person's accident record, conviction record, driver attitude, driving skill and knowledge, driving disabilities and any other factors it considers relevant.*

**6** Decision by the Board.

(b) set aside the decision of the Registrar and take any action that the Registrar is empowered to take.

7 *Section 23 is amended*

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

**23(1)** If the Board has

(a) under section 19.1,

(i) decided that the operation of the suspension or disqualification referred to in section 19.1(c) not be set aside,

(ii) imposed terms or conditions under section 19.1(c) or (d), or

(iii) decided under section 19.1(d) that, notwithstanding the expiration of the suspension or disqualification imposed under this Act, a person not be permitted to operate a motor vehicle unless the vehicle is equipped with an alcohol sensing device,

(b) under section 21, suspended a person's operator's licence for an indefinite period or for a period in excess of 6 months, or

(c) under section 21.1, reviewed the decision of the Registrar,

the person who is subject to the action taken by the Board under section 19.1, 21 or 21.1 may apply to the Board to have the matter reviewed by the Board again.

(1.1) Within 30 days from the day of receiving an application under subsection (1), the Board shall give the applicant an opportunity to be heard.

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

(4) Any person who considers himself aggrieved by a decision of the Board arising out of a review held by the Board under subsection (1) may, within 30 days from the day that the decision arising out of the review is sent to him at his latest address as recorded with the Board, appeal that decision to the Court of Queen's Bench.

8 *The following is added after section 23:*

**23.1** In making a decision under this Act, the Board may take into consideration a person's accident record, conviction record, driver attitude, driving skill and knowledge, driving disabilities and any other factors it considers relevant.

9 *Section 59(1) is amended by adding the following after clause (e):*

(e.1) governing fees with respect to the seizing or immobilization of vehicles;

(e.2) governing the payment of expenses and fees respecting the installation, use, maintenance and removal of alcohol sensing devices;

**7** Section 23 presently reads:

*23(1) If the Board has suspended the operator's licence of a person for an indefinite period or for a period in excess of 6 months, the person may apply to the Board for a review of the suspension and the Board shall, within 30 days, give him an opportunity to be heard.*

*(2) No person may apply for a review under subsection (1) more often than once every 6 months.*

*(3) On a review under subsection (1), the Board may confirm, modify or set aside any earlier decision by it.*

*(4) Any person who considers himself aggrieved by a decision of the Board may, within 30 days after the decision of the Board is sent to his latest address as recorded with the Board, appeal the decision of the Board to the Court of Queen's Bench.*

*(5) The Court may confirm, modify or set aside the decision of the Board.*

**8** Matters to be considered by the Board.

**9** Section 59(1)(e) presently reads:

*59(1) The Lieutenant Governor in Council may make regulations*

*(e) prescribing fees for supplying information relating to the licensing of persons and vehicles, and for supplying copies of or extracts from driving records and accident reports;*

*10 Section 101 is amended*

*(a) by adding the following after subsection (2):*

(2.1) A person who is guilty of an offence under section 5.1 is liable to a fine of not less than \$300 nor more than \$2000 and in default of payment to imprisonment for a term of not less than 14 days nor more than 6 months.

*(b) in subsection (7)(a) by striking out “\$400” and substituting “\$600 and not more than \$2500”;*

*(c) in subsection (8)*

*(i) as to clause (a) by striking out “\$1000 and not more than \$2500” and substituting “\$1500 and not more than \$3000”;*

*(ii) as to clause (b) by striking out “\$1500 and not more than \$3000” and substituting “\$2000 and not more than \$3500”.*

*11 Section 109 is amended*

*(a) in subsection (1) by striking out “6 months” and substituting “1 year”;*

*(b) in subsection (4) by striking out “12 months” and substituting “3 years”;*

*(c) in subsection (5) by striking out “36 months” and substituting “5 years”;*

*(d) in subsection (8)(b) by striking out “6 months” and substituting “1 year”.*



**10** Section 101(7) and (8) presently read in part:

*(7) A person, other than a corporation, who is guilty of an offence under section 70(5), 71 or 72 is liable*

*(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*

*(8) A corporation that is guilty of an offence under section 71 or 72 is liable*

*(a) for a first offence to a fine of not less than \$1000 and not more than \$2500, and*

*(b) for any subsequent offence to a fine of not less than \$1500 and not more than \$3000.*

**11** Section 109(1), (4), (5) and (8) presently read in part:

*109(1) When a person is found guilty under section 237 or 238 of the Criminal Code (Canada) anywhere in Canada,*

*(a) that person thereupon becomes disqualified from holding an operator's licence, and*

*(b) any operator's licence held by that person thereupon becomes suspended,*

*for a period of 6 months from the date of the finding of guilt.*

*(4) Notwithstanding subsection (1), if a person*

*(a) is found guilty under section 237 or 238 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 5 years, been found guilty of an offence under section 237 or 238 of the Criminal Code (Canada) 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, when a person*

*(a) is found guilty under section 237 or 238 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 5 years, been found guilty of*

*(i) 2 offences under section 237 or 238 of the Criminal Code (Canada), or*

*(ii) 1 offence under section 237 of the Criminal Code (Canada) and 1 offence under section 238 of the Criminal Code (Canada)*

*anywhere in Canada unless those 2 offences arose out of the same incident,*

*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.*

12 Section 110(1) is amended by adding “reasonably” after “a peace officer”.

13 The following is added after section 110:

**110.1** Where

- (a) a person has been charged with an offence under
  - (i) section 237 or 238 of the *Criminal Code* (Canada), or
  - (ii) section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 or 238 of the *Criminal Code* (Canada),
- and
- (b) a peace officer reasonably suspects that the person charged may within 24 hours of being charged again commit an offence under
  - (i) section 237 or 238 of the *Criminal Code* (Canada), or
  - (ii) section 120 of the *National Defence Act* (Canada) by reason of contravening section 237 or 238 of the *Criminal Code* (Canada),

the peace officer or another person authorized by the peace officer may, for a period of time not exceeding 24 hours from the time that the person was charged, seize or otherwise immobilize the motor vehicle that was being operated by the person charged.

14 Section 111 is amended

- (a) in subsection (1) by striking out “233, 236 or 239(2) or (3)” and substituting “233(1) or 236”;
- (b) by adding the following after subsection (1):
  - (1.1) When a person is found guilty anywhere in Canada of an offence under section 233(3) or (4) or 239(2) or (3) of the *Criminal Code* (Canada), that person thereupon becomes disqualified from holding an operator’s licence for a period of 5 years from the date of the finding of guilt and any operator’s licence held by that person thereupon becomes suspended for the same period.
- (c) in subsection (2) by striking out “6 months” and substituting “5 years”.

*(8) If a person is found guilty of 2 or more offences under sections 237 or 238 of the Criminal Code (Canada) 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 6 months and shall run from the date of the earliest finding of guilt respecting those offences.*

**12** Section 110(1) presently reads:

*110(1) When a peace officer suspects that the driver of a motor vehicle has consumed alcohol or otherwise introduced into his body any alcohol, drug or other substance in such a quantity as to affect the driver's physical or mental ability, the peace officer may require the driver to surrender his operator's licence to the peace officer.*

**13** Seizure or immobilization of motor vehicles.

**14** Section 111(1) and (2) presently read:

*111(1) When a person is found guilty anywhere in Canada of an offence under section 233, 236 or 239(2) or (3) of the Criminal Code (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

*(2) When a person is found guilty anywhere in Canada of an offence under section 203, 204 or 219 of the Criminal Code (Canada) committed by means of a motor vehicle, that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

15 Section 112 is amended

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

**112(1)** When a person

(a) is found guilty under section 242(4) of the *Criminal Code* (Canada), and

(b) has, at any time before, been found guilty under section 242(4) of the *Criminal Code* (Canada) anywhere in Canada,

the judge hearing the case may order one or both of the following:

(c) that the certificate of registration of the motor vehicle being driven at the time of the latest offence be suspended in accordance with this section for a period of time that is not greater than the period of time for which the person's operator's licence is suspended or for which the person is disqualified from holding an operator's licence;

(d) that the motor vehicle being driven at the time of the latest offence be seized or immobilized by a peace officer or other person as directed by the judge for a period of time that is not greater than the period of time for which that person's operator's licence is suspended or for which that person is disqualified from holding an operator's licence.

(b) by adding the following after subsection (7):

(8) Notwithstanding that a motor vehicle is seized or immobilized under subsection (1)(d), the Registrar shall, where the vehicle is transferred to or registered in the name of a person other than the person who was found guilty of the offence, order that the seizure or immobilization of the vehicle be removed.

(9) Notwithstanding that a motor vehicle

(a) has been seized or immobilized under subsection (1)(d), and

(b) remains registered in the name of the person found guilty of the offence,

the Registrar may, for the purposes of permitting another person to use the vehicle, order, subject to any terms or conditions that the Registrar considers appropriate in the circumstances, that the seizure or immobilization of the vehicle be removed.

(10) Where the terms or conditions prescribed under subsection (9) are not complied with,

(a) the Registrar may order that the motor vehicle be again seized or immobilized by a peace officer or other person as directed by the Registrar, and

**15** Section 112(1) presently reads:

*112(1) When a person*

*(a) is found guilty under subsection 242(4) of the Criminal Code (Canada), and*

*(b) has, at any time before, been found guilty under subsection 242(4) of the Criminal Code (Canada) anywhere in Canada,*

*the judge hearing the case may order that the certificate of registration of the motor vehicle being driven at the time of the latest offence be suspended for a period of 30 days in accordance with this section.*

(b) the motor vehicle on being seized or immobilized under clause (a) shall be treated as if the Registrar had not made an order under subsection (9) removing the seizure or immobilization of the vehicle.

16 *Section 112.1 is amended*

(a) *in subsection (1) by striking out “6 months” and substituting “1 year”;*

(b) *in subsection (2) by striking out “12 months” and substituting “3 years”;*

(c) *in subsection (3) by striking out “36 months” and substituting “5 years”;*

(d) *in subsection (4)(b) by striking out “6 months” and substituting “1 year”;*

(e) *in subsection (6) by striking out “233, 236 or 239(2) or (3)” and substituting “233(1) or 236”;*

(f) *by adding the following after subsection (6):*

(6.1) When a person is found guilty anywhere in or out of Canada of an offence under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 233(3) or (4) or 239(2) or (3) of the *Criminal Code* (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 5 years from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.

(g) *in subsection (7) by striking out “6 months” and substituting “5 years”.*

**16** Section 112.1(1), (2), (3), (4), (6) and (7) presently read:

*112.1(1) When a person is found guilty under section 120 of the National Defence Act (Canada) by reason that the person contravened section 237 or 238 of the Criminal Code (Canada) anywhere in or out of Canada,*

*(a) that person thereupon becomes disqualified from holding an operator's licence, and*

*(b) any operator's licence held by that person thereupon becomes suspended,*

*for a period of 6 months from the date of the finding of guilt.*

*(2) Notwithstanding subsection (1), if a person*

*(a) is found guilty under section 120 of the National Defence Act (Canada) by reason that the person contravened section 237 or 238 of the Criminal Code (Canada) anywhere in or out of Canada, and*

*(b) has, in the preceding 5 years, been found guilty of an offence under section 120 of the National Defence Act (Canada) by reason that the person contravened section 237 or 238 of the Criminal Code (Canada) anywhere in or out of 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.*

*(3) Notwithstanding anything in subsection (1) or (2), when a person*

*(a) is found guilty under section 120 of the National Defence Act (Canada) by reason that the person contravened section 237 or 238 of the Criminal Code (Canada) anywhere in or out of Canada, and*

*(b) has, in the preceding 5 years, been found guilty of 2 offences under the National Defence Act (Canada) by reason that the person, in the preceding 5 years,*

*(i) twice contravened section 237 or 238 of the Criminal Code (Canada), or*

*(ii) once contravened section 237 of the Criminal Code (Canada) and once contravened section 238 of the Criminal Code (Canada),*

*anywhere in or out of Canada unless those 2 offences arose out of the same incident,*

*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.*

*(4) If a person is found guilty of 2 or more offences under section 120 of the National Defence Act (Canada) by reason that the person contravened section 237 or 238 of the Criminal Code (Canada) anywhere in or out of 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 (2)(b) and (3)(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*

17 *Section 113 is repealed and the following is substituted:*

**113** For the purposes of sections 109, 111, 112 and 112.1, a person who pleads guilty to an offence referred to in any of those sections is deemed to have been found guilty of that offence.

18(1) *In this section, “operator’s licence” means an operator’s licence as defined in the Motor Vehicle Administration Act.*

(2) *Where,*

*(a) before the coming into force of this Act, a person is charged with an offence under*

*(i) section 233, 236, 237, 238, 239(2) or (3) or 242(4) of the Criminal Code (Canada), or*

*(ii) section 120 of the National Defence Act (Canada) by reason that the person contravened section 233, 236, 237, 238, 239(2) or (3) or 242(4) of the Criminal Code (Canada),*

*and*

*(b) after the coming into force of this Act, the person charged is found guilty or pleads guilty to the offence referred to in clause (a),*

*that person’s operator’s licence shall be suspended and that person is disqualified from holding an operator’s licence under the Motor Vehicle Administration Act as that Act read immediately before the coming into force of this Act.*

19 *This Act comes into force on Proclamation.*



*(b) for the purposes of subsection (1), the period of disqualification and suspension shall be 6 months and shall run from the date of the earliest finding of guilt respecting those offences.*

*(6) When a person is found guilty anywhere in or out of Canada of an offence under section 120 of the National Defence Act (Canada) by reason that the person contravened section 233, 236 or 239(2) or (3) of the Criminal Code (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

*(7) When a person is found guilty anywhere in or out of Canada of an offence under section 120 of the National Defence Act (Canada) committed by means of a motor vehicle by reason that the person contravened section 203, 204 or 219 of the Criminal Code (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

**17** Section 113 presently reads:

*113 For the purposes of sections 109, 111 and 112,*

*(a) a person who pleads guilty to,*

*(b) repealed 1984 cY-1 s37,*

*an offence referred to in any of those sections is deemed to have been found guilty of that offence.*

**18** Transitional.

**19** Coming into force.