

1992 BILL 42

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Fourth Session, 22nd Legislature, 41 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 42

**MOTOR TRANSPORT ACT**

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THE MINISTER OF TRANSPORTATION AND UTILITIES

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## **BILL 42**

1992

### **MOTOR TRANSPORT ACT**

*(Assented to*

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

Interpretation

**1(1)** In this Act,

- (a) “Administrator” means
  - (i) the Assistant Deputy Minister of the Motor Transport Services Division of the Department of Transportation and Utilities, or
  - (ii) any other person as designated by the Minister;
- (b) “axle” means
  - (i) one or more shafts on which or with which 2 or more wheels revolve, and
  - (ii) the wheels on each shaft;
- (c) “axle group” means 2 or more axles that are on a vehicle and that are situated on the vehicle as specified in the regulations;
- (d) “Board” means the Alberta Motor Transport Board;
- (e) “bus” means a motor vehicle

- (i) that is designed for carrying 11 or more persons including the person driving the vehicle, and
- (ii) that is used or intended to be used for the transportation of persons,

and includes any other motor vehicle designated by the regulations as a bus;

- (f) “carrier” means an owner of a commercial vehicle in respect of which a commercial authority is issued or who holds a commercial authority;
- (g) “certificate of registration” means a certificate of registration that is issued under the *Motor Vehicle Administration Act* and includes a document that is recognized under that Act as a certificate of registration;
- (h) “commercial authority” means the authority to operate a commercial vehicle that is granted under this Act or the regulations;
- (i) “commercial vehicle” means a vehicle operated on a highway by or on behalf of a person for the purpose of providing transportation but does not include a private passenger vehicle;
- (j) “compensation” means any rate, remuneration, reimbursement or consideration of any kind paid, payable or received, directly or indirectly;
- (k) “driver” means a person who is driving or is in actual physical control of a vehicle and includes a co-driver of the vehicle who is travelling in the vehicle;
- (l) “exempted operator” means the owner of a commercial vehicle in respect of which a commercial authority is not required;
- (m) “goods” means any thing that is or may be carried by means of a vehicle;
- (n) “highway” means a highway as defined in the *Highway Traffic Act*;
- (o) “licence plate” means a licence plate that is issued under the *Motor Vehicle Administration Act* and

includes an object that is recognized under that Act as a licence plate;

- (p) “maximum allowable weight” means the weight that may be borne by a single axle, an axle group or all of the axles of a vehicle;
- (q) “Minister” means the Minister of Transportation and Utilities;
- (r) “motor transport regulatory legislation” means
  - (i) this Act and the regulations made under this Act,
  - (ii) a commercial authority,
  - (iii) a permit,
  - (iv) a written direction made under section 46,
  - (v) an undertaking entered into under section 51, and
  - (vi) any terms or conditions to which a commercial authority or permit is subject;
- (s) “motor vehicle” means a motor vehicle as defined in the *Highway Traffic Act*;
- (t) “municipality” means a city, town, new town, village, summer village, county, municipal district or rural district;
- (u) “operator’s licence” means an operator’s licence that is issued under the *Motor Vehicle Administration Act* and includes a document that is recognized under that Act as an operator’s licence;
- (v) “owner” means the person who owns a vehicle and includes any person renting a vehicle or having the exclusive use of a vehicle under a lease that has a term of more than 30 days or otherwise having the exclusive use of a vehicle for a period of more than 30 days;
- (w) “passenger” means any person, other than the driver of a vehicle, who is transported in or on a vehicle;
- (x) “peace officer” means

- (i) a member of the Royal Canadian Mounted Police;
  - (ii) a member of a municipal police service;
  - (iii) a special constable if under that person's appointment as a special constable that person is empowered to carry out the duties of a peace officer under or enforce the provisions of this Act;
  - (iv) a park warden appointed pursuant to the *National Parks Act* (Canada) while that person is carrying out duties under this Act in a national park established under the *National Parks Act*;
- (y) "permit" means a permit issued under this Act;
- (z) "private passenger vehicle" means a vehicle used solely for personal transportation,
- (i) including the carriage of goods that are the property of the owner of the vehicle and intended for the use or enjoyment of the owner or members of the owner's household, but
  - (ii) not including, in respect of a person's business, work or employment, the carriage of passengers or of goods except for sample cases or display goods that are conveyed by a salesman and that are not for delivery or resale;
- (aa) "record" includes
- (i) any document, agreement, account, book, return, statement, report or other memorandum of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
  - (ii) the results of the recording of details of electronic data processing systems to illustrate what the systems do and how they operate;

- (bb) “Registrar of Corporations” means the Registrar as defined in the *Business Corporations Act*;
- (cc) “Registrar of Motor Vehicles” means the Registrar as defined in the *Motor Vehicle Administration Act*;
- (dd) “road ban” means the maximum gross weight that may be borne on a highway by
  - (i) a tire, an axle or an axle group of a commercial vehicle, or
  - (ii) a commercial vehicle,pursuant to a regulation made under section 37(1) or a by-law made under section 6(1);
- (ee) “scheduled bus” means a commercial vehicle that is a bus and that is operated
  - (i) at regular intervals,
  - (ii) in accordance with a set time schedule, or
  - (iii) over a specified route;
- (ff) “taxi” means a motor vehicle
  - (i) that has a seating capacity of not more than 10 persons including the person driving the vehicle, and
  - (ii) that is used to transport passengers and their baggage to a requested destination,but does not include a motor vehicle that is operated outside an urban area
  - (iii) at regular intervals,
  - (iv) in accordance with a set time schedule, or
  - (v) over a specified route;
- (gg) “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 commercial vehicle;
- (hh) “traffic control device” means any sign, signal, marking or device placed, marked or erected under the authority of this Act or the *Highway Traffic Act* for the purpose of regulating, warning or guiding traffic;
- (ii) “transportation” includes one or more of the following:
  - (i) the driving or utilization of a vehicle;
  - (ii) the carrying of goods or passengers, or both, on or in a vehicle;
  - (iii) the care, handling, assembly or storage of goods that are being carried in or on a vehicle or that are in the possession or under the control of a carrier, permit holder or exempted operator or of a person on behalf of a carrier, permit holder or exempted operator and awaiting carriage or delivery by means of a vehicle;
  - (iv) the handling of passengers awaiting carriage by means of a vehicle;
- (jj) “urban area”
  - (i) means a city, town, new town, village or summer village, and
  - (ii) includes a hamlet with a population in excess of 10 000 persons;
- (kk) “vehicle” means a device in, on or by which a person or thing may be transported or drawn on a highway and includes a combination of vehicles;
- (ll) “vehicle inspection sign” means a traffic control device that is designed to indicate to the driver of a vehicle that the driver of a vehicle is required to report to a vehicle inspection station;
- (mm) “vehicle inspection station” means a site or facility that is used by persons who are under the administration of or providing services on behalf of the Minister for the purposes of carrying out inspections under section 40 and other duties and

other functions under motor transport regulatory legislation.

(2) For the purposes of this Act and the regulations, a person operates a commercial vehicle if

- (a) the person drives the vehicle, or
- (b) the person owns or otherwise has control over the vehicle and uses the vehicle for the provision of transportation in respect of that person's undertaking, business, work or employment whether or not that person actually drives the vehicle.

## **PART 1**

### **ADMINISTRATION**

Staff      **2** In accordance with the *Public Service Act* there may be appointed officers and employees as may be required for the administration of this Act.

Delegation of power      **3(1)** The Administrator may in writing authorize

- (a) an employee of the Government, or
- (b) a peace officer,

to do any act or thing, other than make regulations, that the Administrator is empowered to do under this Act or the regulations.

(2) An authorization made under subsection (1) may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

(3) When an authorization

- (a) purports to be signed by the Administrator, and
- (b) states that the person named in it is authorized to do the act or thing set forth in the authorization,

that authorization or a copy of it shall be admitted in evidence as prima facie proof of that person's authorization to do the act or

thing without proof of the signature or official character of the Administrator.

(4) Notwithstanding that the Administrator has given an authorization under this section, the Administrator may do that act or thing in respect of which the authorization was given.

(5) Where authorized by the Minister,

- (a) the Administrator,
- (b) the Board with respect to the operation of buses, or
- (c) an employee of the Government designated by the Minister,

may accept and exercise powers conferred on that person or body pursuant to the *National Transportation Act, 1987* (Canada) or the *Motor Vehicle Transport Act, 1987* (Canada).

Service of  
documents

**4(1)** Unless otherwise provided for in this Act, any notice or document given or made under this Act or the regulations may be served on the person to whom it is directed by

- (a) personal service, or
- (b) by being
  - (i) sent by registered or certified mail addressed to the latest address of that person, or
  - (ii) transmitted by electronic means to that person at the latest number at which the transmission can be received,

that is shown on the records of the Administrator, the Registrar of Motor Vehicles or the Registrar of Corporations.

(2) An electronic means may be used under subsection (1)(b)(ii) only if it produces to the person receiving the electronic message at least a printed image of the contents of the notice or document that is being served.

Agreements

**5** The Minister may on behalf of the Government of Alberta enter into agreements with a person, a municipality, the Government of Canada, the government of another province or the government of a jurisdiction outside of Canada, with respect to the following matters:

- (a) the operation of programs referred to in section 27(e);
- (b) with respect to safety or inspection programs relating to the operation of commercial vehicles,
  - (i) standards to be complied with by drivers of commercial vehicles that are registered outside of Alberta but are operated in Alberta, and
  - (ii) standards to be complied with by drivers of commercial vehicles that are registered in Alberta but are operated outside of Alberta;
- (c) standards to be complied with by commercial vehicles that are registered outside of Alberta but are operated in Alberta;
- (d) standards to be complied with by commercial vehicles that are registered in Alberta but are operated outside of Alberta;
- (e) standards to be complied with by carriers or holders of permits.

Powers of municipalities

**6(1)** Subject to this Act, the *Highway Traffic Act* and the *Transportation of Dangerous Goods Control Act*, a council of a municipality may, with respect to the physical preservation of a highway under its direction, control and management, make by-laws doing the following:

- (a) governing the weight of a commercial vehicle or a commercial vehicle and its load;
- (b) governing the weight that may be borne by an axle or an axle group of a commercial vehicle;
- (c) governing the use of commercial vehicles;
- (d) designating routes for commercial vehicles;

- (e) governing the maximum weight of a commercial vehicle or a commercial vehicle and its load that may be transported over a bridge;
- (f) imposing and governing road bans;
- (g) providing for penalties in respect of the contravention of a by-law made under this section.

**(2) Where there is a conflict between**

- (a) a by-law made under subsection (1), and
- (b) a provision of this Act, a regulation made under this Act or a permit issued under this Act,

this Act, the regulation made under this Act or the permit, as the case may be, prevails.

**(3) The council of a municipality may by by-law delegate to an employee of the municipality or a committee established by the council the power to impose road bans.**

**(4) Where under subsection (1) a council of a municipality imposes a prohibition, limitation, condition or restriction in respect of a highway, the council shall cause signs to be erected along the highway as the council considers necessary to notify persons using the highway of the prohibition, limitation, condition or restriction.**

**(5) The council of a municipality shall not impose a fee or charge in respect of the operation of a commercial vehicle by a person who is a carrier, a holder of a permit or an exempted operator, other than**

- (a) a business tax, where the person maintains an office within the boundaries of the municipality, or
- (b) a property tax, where a city is authorized to impose a property tax.

**(6) Subsection (5) does not apply to the imposition of a fee or charge by a council of an urban area on a person who is a carrier, a holder of a permit or an exempted operator carrying on business within the limits of the urban area if the major portion of that person's revenue is obtained within the boundaries of that urban area.**

**(7) Where**

- (a) a penalty is provided for pursuant to subsection (1)(g) in respect of overweight vehicles, axles or axle groups, and
- (b) the penalty is greater than the penalty provided for under Part 4, Division 2 for a similar matter,

the penalty provided for under Part 4, Division 2 shall apply as if it had been provided for under subsection (1)(g).

(8) In respect of an improvement district or a special area,

- (a) where a council of a municipality is empowered to make by-laws under subsection (1),
  - (i) the Minister, in the case of an improvement district, or
  - (ii) the Minister of Municipal Affairs, in the case of a special area,

may make regulations in respect of the matters for which a council may make by-laws under subsection (1);

- (b) a regulation made under this section shall be treated for the purposes of this Act as if it were a by-law made under this Act;
- (c) in the case of an improvement district, the Minister may in writing delegate to an employee of the Government the power to make regulations for the purposes of imposing and governing road bans under subsection (1)(f);
- (d) in the case of a special area, the Minister of Municipal Affairs may in writing delegate to the Minister or an employee of the Government or authorize the Minister to delegate to an employee of the Government the power to make regulations for the purposes of imposing or governing road bans under subsection (1)(f).

Certified  
copies re  
Administrator

**7** On the request by a person and payment of the prescribed fee, the Administrator shall provide to that person a certified copy of any public document issued by the Minister or the Administrator under this Act.

Regulations

**8 The Minister may make regulations**

- (a) governing the forms that may be used under this Act;
- (b) governing fees that may be charged for services provided in respect of this Act;
- (c) governing the filing of notices of appeal under this Act;
- (d) prescribing a tariff of fees respecting proceedings before the Board.

**PART 2**

**ALBERTA MOTOR TRANSPORT BOARD**

Alberta Motor  
Transport  
Board

**9(1)** The Alberta Motor Transport Board is continued as a corporation with the name "The Alberta Motor Transport Board".

**(2)** The Board shall consist of not fewer than 3 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 of an agency of the Crown may be paid remuneration and expenses while engaged in the business of the Board at a rate prescribed by the Lieutenant Governor in Council.

Chair of the  
Board

**10(1) The Lieutenant Governor in Council**

- (a) shall designate one member of the Board as the chair of the Board, and
- (b) may designate one or more of the members of the Board as a vice-chair of the Board.

**(2)** In the event of the absence or inability of the person who is the chair to act, a person who is a vice-chair shall act as the chair.

**(3)** If there is not a vice-chair or if a person who is a vice-chair is not present or able to act,

- (a) the person who is the chair may designate a member of the Board to act as the chair, or
- (b) if no designation is made under clause (a), the members of the Board present at a meeting of the

Board may elect one of their number to act as the chair at that meeting.

(4) When a member of the Board other than the chair or a vice-chair has acted as the chair under subsection (3), that person shall be deemed to have so acted as if that person were the chair.

**Conduct of  
business**

**11(1)** The members of the Board shall meet at the times and places specified by the person who is the chair.

(2) Subject to section 13, the Board may prescribe rules of procedure for the conduct of its business generally.

(3) Three members of the Board constitute a quorum of the Board.

**Inquiries and  
hearings**

**12** The Board shall consider each matter referred to it and may, when it considers appropriate, appoint a person to make an inquiry into the matter and report to the Board in respect of that matter.

**Rules  
governing  
hearings**

**13(1)** For the purposes of conducting hearings with respect to appeals or other matters before the Board, the following rules apply:

- (a) notice in writing of the date, time, place and purpose of the hearing shall be served within a reasonable amount of time prior to the hearing on the person who is the subject of the hearing;
- (b) in addition to any person on whom notice is required to be served under clause (a), notice in writing of the date, time, place and purpose of the hearing shall be served within a reasonable amount of time prior to the hearing on any other person who, in the opinion of the Board, is substantially affected by the hearing;
- (c) the Board has, subject to clause (d), the same power as is vested in the Court of Queen's Bench for the trial of civil actions
  - (i) to summon and enforce the attendance of witnesses,
  - (ii) to compel witnesses to give evidence on oath or otherwise, and
  - (iii) to compel witnesses to produce records, contracts and things;



- (d) the failure or refusal of a person summoned as a witness under clause (c) to attend the hearing, to answer questions or to produce records, contracts and things that are in his custody or possession makes that person, on application to the Court of Queen's Bench by the Board, liable to be committed for contempt by the Court of Queen's Bench in the same manner as if that person were in breach of an order or judgment of that Court;
- (e) the Board shall receive any evidence that is relevant to the matter being heard;
- (f) the rules of evidence applicable to judicial proceedings do not apply;
- (g) all oral evidence received shall be taken down in writing or recorded by electronic means;
- (h) all the evidence taken down in writing or recorded by electronic means and all documentary evidence and things received in evidence form the record of the proceeding;
- (i) except where an appeal has been commenced under section 15, if new evidence is submitted to the Board
  - (i) within 30 days from the day that the Board has made a decision, or
  - (ii) in the case where the Board has reserved its decision, within 30 days from the day that the Board notifies the parties of its decision,

the Board may, in respect of a matter before or heard by the Board,

- (iii) reconsider the matter or reopen a hearing, and
- (iv) rescind, vary, affirm or make a new decision based on all the evidence before the Board;
- (j) notice of every decision together with a copy of the written reasons for it shall within 30 days from the conclusion of the hearing or review be sent to

- (i) every person to whom notice of the hearing was served, and
  - (ii) any person that, in the opinion of the Board, is substantially affected by it;
- (k) a person appearing at a hearing may be represented by legal counsel;
- (l) a hearing is open to the public unless the person presiding over the hearing considers it in the public interest to order otherwise;
- (m) notwithstanding anything in this section, with the consent of the parties to the matter referred to the Board,
  - (i) the Board may consider the matter without holding a hearing, and
  - (ii) all matters concerning the matter being considered may be submitted in writing or otherwise to the Board;
- (n) the Board may direct that a party to a matter being considered before the Board pay costs, in any amount considered appropriate by the Board, to
  - (i) one or more of the other parties,
  - (ii) the Crown in right of Alberta, or
  - (iii) one or more of those other parties and the Crown in right of Alberta;
- (o) any evidence taken down in writing or recorded under clause (g) may be destroyed at any time after 6 months has expired from
  - (i) the expiration of the appeal period under section 15, or
  - (ii) if an appeal is held under section 15, the final conclusion of the appeal;
- (p) where a person is served with a written notice of a hearing pursuant to clause (a) or (b) or is summoned under clause (c) and does not attend, the Board may proceed and determine the matter in the same manner as if the person had attended the hearing;

- (q) where the Board is reviewing anything done by the Administrator or a peace officer, the Administrator is entitled to be present and make representations in respect of the matter being reviewed;
- (r) for the purposes of clauses (a) and (b), the Board may, considering the circumstances, determine what constitutes a reasonable amount of time within which a notice must be served on a person;
- (s) the provisions of the Alberta Rules of Court relating to the payment of conduct money or witness fees apply to applications or other matters heard before the Board.

(2) A member of the Board may administer an oath to any person who is giving evidence before the Board.

(3) Where the Administrator is summoned to attend a hearing or other matter before the Board, the Administrator may in writing designate an employee of the Government who

- (a) is under the administration of the Minister, and
- (b) is, in the opinion of the Administrator, knowledgeable in respect of the subject-matter in respect of which the hearing is being held,

to attend the hearing on behalf of the Administrator and that designated person shall be deemed to have been the person summoned to attend the hearing.

Board decision  
is final

**14** Subject to section 15, every decision or order of the Board is final.

Appeal re  
jurisdiction,  
etc.

**15(1)** An appeal lies from the decision of the Board to the Court of Appeal on a question of jurisdiction or on a question of law.

(2) An appeal under this section shall not be commenced at any time after 30 days has expired from the day that the Board has served written notice of its decision on the person who was the subject of that decision.

(3) The Board is entitled to be represented at an appeal conducted pursuant to this section and to make representations in respect of any matter before the Court that is related to the appeal.

Certified  
copies re  
Board

**16** On the request by a person and payment of the prescribed fee, the Board shall provide to that person a certified copy of any order, decision, certificate or other public document issued or granted by the Board that is requested by that person.

Annual report

**17(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)** On the receipt by the Minister of the report referred to in subsection (1), 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.

### **PART 3**

#### **COMMERCIAL AUTHORITIES AND PERMITS**

Requirement  
for operation  
of commercial  
vehicles

**18** A person shall not operate a commercial vehicle on a highway unless

(a) the operation of that vehicle

(i) is carried out under a commercial authority,  
or

(ii) is exempted from the requirement of a  
commercial authority,

and

(b) the operation of that vehicle is carried out

(i) within the requirements of this Act and the  
regulations, and

(ii) in the case where a commercial authority is  
required in respect of that vehicle, within  
the terms and conditions of the commercial  
authority granted in respect of that vehicle.

Granting of  
commercial  
authority

**19(1)** On receiving an application for a commercial authority, the Administrator may, subject to this Act and the regulations, grant a commercial authority to the applicant.

**(2)** At the time of granting a commercial authority under subsection (1) or at any time after the granting of a commercial

authority under subsection (1), the Administrator may impose any terms or conditions to which the commercial authority is subject that the Administrator considers appropriate in the circumstances.

Cancellation of  
commercial  
authorities,  
etc.

**20(1)** In this section, “transportation legislation” means

- (a) motor transport regulatory legislation;
- (b) the *Highway Traffic Act* and the regulations made under that Act;
- (c) the *Motor Vehicle Administration Act*, any regulations made under that Act and any certificate or authorization issued or granted under that Act or those regulations;
- (d) any provision of the *Municipal Government Act*, any regulations made under that Act, any by-laws made under that Act and any certificate or authorization issued or granted under that Act or those regulations or by-laws that relates to transportation;
- (e) any provision of the *Fuel Tax Act*, any regulations made under that Act and any certificate or authorization issued or granted under that Act or those regulations that relates to transportation;
- (f) the *Transportation of Dangerous Goods Control Act*, any regulations made under that Act and any certificate or authorization issued or granted under that Act or those regulations;
- (g) any provision of the *Unfair Trade Practices Act*, any regulations made under that Act and any certificate or authorization issued or granted under that Act or those regulations that relates to transportation;
- (h) the *Motor Vehicle Transport Act, 1987* (Canada), any regulations made under that Act and any licence, certificate or authorization issued or granted under that Act or those regulations;
- (i) the *Transportation of Dangerous Goods Act* (Canada), any regulations made under that Act and any certificate or authorization issued or granted under that Act or those regulations;
- (j) any provision of the *Criminal Code* (Canada) that relates to transportation.

(2) Where with respect to the operation of a commercial vehicle the Administrator is of the opinion that

- (a) a carrier, or
- (b) a driver of the commercial vehicle who is employed or otherwise engaged by a carrier,

is not complying with or is contravening any transportation legislation, the Administrator may, on 14 days' written notice to the carrier, cancel or suspend the carrier's commercial authority.

(3) Where a commercial authority is granted to a carrier that is a corporation and the corporation is dissolved, the Administrator may, on 14 days' written notice to the carrier, cancel the carrier's commercial authority.

(4) Where with respect to the operation of a commercial vehicle the Administrator is of the opinion that

- (a) a carrier, or
- (b) an exempted operator,

is not complying with or is contravening any transportation legislation, the Administrator may in writing to the Registrar of Motor Vehicles request that the Registrar do one or more of the following under the *Motor Vehicle Administration Act*:

- (c) cancel or suspend the certificate of registration of the commercial vehicle;
- (d) cause the licence plates issued in respect of the commercial vehicle to be seized and detained.

(5) Notwithstanding that a 14-day notice period is prescribed under subsection (2), if the Administrator is of the opinion that the safety of the public is in jeopardy with respect to the operation of a commercial vehicle, the Administrator may take action under subsection (2) at the time of giving the notice to the person in respect of whom the action is being taken.

(6) In giving a notice under subsection (2) or (3) the Administrator may give the notice or direction subject to any terms or conditions that the Administrator considers appropriate in the circumstances.

(7) Where the Administrator cancels or suspends a commercial authority, the carrier shall, within 10 days from the day that the carrier's commercial authority is suspended or cancelled, or such

shorter or longer period of time as set by the Administrator, deliver to the Administrator the document held by that carrier that evidences the granting of the commercial authority.

(8) Where a carrier does not comply with subsection (7), a peace officer shall, when directed to do so by the Administrator, attend upon the carrier and take possession of the document held by the carrier that evidences the granting of the commercial authority.

(9) Where a commercial authority is or is to be suspended or cancelled pursuant to this section, that suspension or cancellation may take place without a hearing being conducted or an opportunity for representations being given but

(a) an appeal in respect of the suspension or cancellation may be commenced under section 23, and

(b) interim relief may be granted under section 23(4),

at any time after the giving of the notice respecting the suspension or cancellation, whether or not the suspension or cancellation is in effect.

#### Permits

**21(1)** Notwithstanding anything in this Act, the *Highway Traffic Act*, the *Motor Vehicle Administration Act*, a commercial authority or the regulations made under this Act, the *Highway Traffic Act* or the *Motor Vehicle Administration Act*, the Administrator may on receiving an application issue a permit doing one or more of the following:

(a) authorizing a person to operate on a highway in Alberta a commercial vehicle

(i) that is not registered in Alberta, or

(ii) for which a commercial authority has not been granted;

(b) authorizing a person to operate a commercial vehicle in a manner or for a purpose not permitted under the commercial authority granted in respect of that commercial vehicle;

(c) exempting a commercial vehicle or its operation from one or more requirements of this Act, the *Highway Traffic Act*, the *Motor Vehicle Administration Act*, a commercial authority or the regulations made under this Act, the *Highway Traffic Act* or the *Motor Vehicle Administration Act*;

- (d) authorizing a person to operate a commercial vehicle on a highway when the weight
  - (i) of the vehicle and its load, or
  - (ii) borne by an axle or an axle group,
 exceeds the maximum weight specified in the certificate of registration issued in respect of that vehicle;
- (e) authorizing a person to operate a commercial vehicle on a highway when the weight
  - (i) of the vehicle and its load, or
  - (ii) borne on an axle or an axle group,
 exceeds the maximum allowable weight permitted under the regulations for the vehicle, axle or axle group;
- (f) authorizing a person to operate a commercial vehicle on a highway when that vehicle or its load does not comply with dimensional requirements specified under the regulations;
- (g) authorizing a vehicle or equipment, for which a certificate of registration has not been issued, to be operated on a highway;
- (h) authorizing a person to carry out a function or activity prohibited by this Act, the *Highway Traffic Act* or a regulation made under this Act or the *Highway Traffic Act*.

(2) Where the Administrator issues a permit, the Administrator may, on the permit or in an appendix to the permit,

- (a) restrict the operation of a commercial vehicle or equipment to a specified route;
- (b) restrict the hours, days, months or seasons during which the commercial vehicle or equipment may be operated under the permit;
- (c) prescribe the minimum or maximum weight, or both, of the commercial vehicle and its load that may be carried pursuant to the permit;



- (d) prescribe the minimum or maximum dimensions, or both, of a commercial vehicle or its load;
- (e) require that the commercial vehicle or equipment be accompanied by persons or accompanying vehicles, or both, as specified by the Administrator;
- (f) set out the time of day or the date on which the permit comes into effect;
- (g) set out the time of day or the date on which the permit expires;
- (h) set out the period of time during which the permit is valid;
- (i) set out the service to be provided by the owner or driver of a commercial vehicle;
- (j) set out any term or condition not referred to in clauses (a) to (i) that the Administrator considers appropriate in the circumstances.

**Cancellation of permits**

**22** Where the Administrator is of the opinion that a person to whom a permit is issued is not complying with or is contravening the terms or conditions of the permit, the Administrator may cancel the permit.

**Appeals**

**23(1)** Where the Administrator

- (a) refuses to grant a commercial authority to an applicant under section 19, the applicant may, by filing a notice of appeal under this section, appeal to the Board the refusal to grant the commercial authority,
- (b) imposes a term or condition under section 19(2), the carrier may, by filing a notice of appeal under this section, appeal to the Board the imposition of the term or condition,
- (c) makes an order under section 20(2) suspending or cancelling a commercial authority, the carrier may, by filing a notice of appeal under this section, appeal to the Board the suspension or cancellation of the commercial authority, or

- (d) cancels a permit under section 22, the person to whom the permit was issued may, by filing a notice of appeal under this section, appeal to the Board the cancellation of the permit.
- (2) An appeal may be commenced by filing a notice of appeal accompanied by the prescribed fee, if any, with the Administrator within 30 days from the day that the person requesting the appeal is notified in writing of, as the case may be,
  - (a) the refusal to grant a commercial authority,
  - (b) the imposition of a term or condition,
  - (c) the suspension or cancellation of a commercial authority, or
  - (d) the cancellation of a permit.
- (3) Where a notice of appeal is filed with the Administrator, the Administrator shall refer the appeal to the Board.
- (4) On the commencement of an appeal,
  - (a) the Administrator may grant interim relief and make the interim relief subject to any terms or conditions that the Administrator considers appropriate in the circumstances, or
  - (b) the Board may, if the Administrator does not grant interim relief under clause (a), grant interim relief under clause (a) in the same manner as if the Board were the Administrator.
- (5) The interim relief granted under subsection (4) may include the granting of an interim commercial authority or interim permit that is valid for a period of time that does not extend beyond the point in time at which the Board renders its decision in respect of the appeal, or for a shorter period of time set by the Administrator.
- (6) Where an appeal is referred to the Board, the Board shall conduct an appeal and on concluding the appeal, the Board may by order do one or more of the following in respect of the matter being appealed:
  - (a) reaffirm any action taken by the Administrator that the Board considers appropriate in the circumstances;

- (b) direct the Administrator to grant or not to grant a commercial authority;
- (c) direct the Administrator to reinstate a commercial authority or permit;
- (d) remove or vary any term or condition imposed in respect of a commercial authority or permit;
- (e) make the order subject to any terms or conditions that the Board considers appropriate in the circumstances.

Motor Vehicle  
Transport Act,  
1987  
(Canada)

**24(1)** In this section,

- (a) “extra-provincial bus undertaking” means an extra-provincial bus undertaking as defined in the *Motor Vehicle Transport Act, 1987* (Canada);
- (b) “extra-provincial truck undertaking” means an extra-provincial truck undertaking as defined in the *Motor Vehicle Transport Act, 1987* (Canada).

**(2)** Where

- (a) a person
  - (i) is engaged in an extra-provincial bus undertaking or an extra-provincial truck undertaking, and
  - (ii) in respect of that undertaking, is operating a commercial vehicle in Alberta,

and

- (b) that undertaking is required to be carried out under and in accordance with a licence issued under the authority of the *Motor Vehicle Transport Act, 1987* (Canada),

that person shall not operate that commercial vehicle on a highway in Alberta unless the operation of that vehicle is carried out under and in accordance with a licence issued under the authority of the *Motor Vehicle Transport Act, 1987* (Canada).

Non-payment  
of fees or  
charges

**25** When a fee or charge provided for pursuant to this Act, or a fee or charge provided for pursuant to the laws of a jurisdiction

outside of Alberta that is similar in nature to a fee or charge provided for pursuant to this Act,

- (a) is imposed on a carrier but not paid, the Administrator may suspend or cancel any commercial authority or permit granted or issued to that carrier, or
- (b) is imposed on an exempted operator but not paid, the Administrator may suspend or cancel any permit issued to that exempted operator.

Transactions  
re commercial  
authority

**26(1)** A commercial authority that is granted in respect of a commercial vehicle other than a scheduled bus is not transferable.

(2) A commercial authority that is granted in respect of a scheduled bus may be capitalized, sold, assigned, leased or amalgamated, in whole or in part, with the prior written approval of the Administrator.

(3) Any transaction that capitalizes, sells, assigns, leases or amalgamates, in whole or in part, a commercial authority referred to in subsection (2) without the prior written approval of the Administrator is void.

Regulations

**27** The Minister may make regulations

- (a) exempting
  - (i) any person, commercial vehicle or class of persons or commercial vehicles from any provision of this Act or regulations made under this Part, or
  - (ii) the operation of a commercial vehicle or class of commercial vehicles from the requirement of a commercial authority;
- (b) prescribing the type, amount and conditions of insurance and bonding coverage to be held by a carrier;
- (c) governing the amount and nature of bonds, deposits and insurance to be deposited with the Administrator by the owner of a commercial vehicle;

- (d) establishing and governing the criteria to be met by a person in order for the person to hold or be granted a commercial authority;
- (e) with respect to carriers, establishing a program under which a record of defaults is maintained that is based on
  - (i) the contravention of or failure to comply with
    - (A) any transportation legislation as defined in section 20(1),
    - (B) any provision of the *Litter Act* or the *Liquor Control Act* that relates to transportation,
    - (C) the laws of another province that are similar in nature to the laws referred to in paragraphs (A) and (B), and
    - (D) the laws of any jurisdiction outside of Canada that are similar in nature to the laws referred to in paragraphs (A) and (B),
  - and
  - (ii) the driving records of persons who operate commercial vehicles on behalf of or under the supervision of a carrier;
- (f) governing the operation of a program referred to in clause (e);
- (g) in respect of the program referred to in clause (e), providing for
  - (i) the suspension or cancellation of a commercial authority or a permit, and
  - (ii) the making of written requests by the Administrator to the Registrar of Motor Vehicles requesting
    - (A) the suspension or cancellation under the *Motor Vehicle Administration Act* of the

certificate of registration of a commercial vehicle, and

- (B) the seizure and detention under the *Motor Vehicle Administration Act* of licence plates issued in respect of a commercial vehicle;
- (h) governing the suspensions or cancellations referred to in clause (g)(i);
- (i) requiring that a person who does not own a commercial vehicle or a class or type of commercial vehicle but who, as an integral part of that person's business, uses the services of a commercial vehicle, be treated under this Act and the regulations as if that person were the owner of that commercial vehicle;
- (j) governing routes, tolls and rates relating to the operation of scheduled buses;
- (k) classifying buses as either commercial vehicles or private vehicles;
- (l) governing the abandonment, discontinuance or alteration of service provided by a carrier who is operating a scheduled bus;
- (m) subject to this Part, governing the making of applications for and the granting of commercial authorities under section 19;
- (n) with respect to commercial authorities for scheduled buses,
  - (i) exempting the operation of scheduled buses from the provisions of section 19;
  - (ii) requiring that applications for commercial authorities be made to the Board;
  - (iii) governing the making of applications referred to in subclause (ii);
  - (iv) governing the granting of commercial authorities;

- (v) governing the imposition at any time of terms or conditions to which a commercial authority is subject;
- (vi) providing for a review by the Board where an application for a commercial authority is rejected;
- (vii) providing for a review by the Board of objections to the granting of a commercial authority or the imposition of a term or condition to which a commercial authority is subject;
- (viii) providing for a review by the Board of objections to the abandonment, discontinuance or alteration of a scheduled bus service;
- (ix) providing for the filing
  - (A) of notices of review by applicants whose application for a commercial authority is rejected,
  - (B) of notices of objection by third parties to the granting of a commercial authority,
  - (C) of notices of objection by applicants or third parties to the imposition of a term or condition, and
  - (D) of notices of objection by third parties to the abandonment, discontinuance or alteration of a scheduled bus service;
- (x) subject to section 13,
  - (A) providing for hearings to be conducted by the Board in respect of reviews referred to in subclauses (vi), (vii) and (viii), and
  - (B) respecting the granting of remedies, including interim

remedies, that may be granted by the Board.

## **PART 4**

### **OPERATION OF COMMERCIAL VEHICLES**

#### **Division 1 General**

Operation by  
carriers, etc.

**28** Neither a carrier, the holder of a permit nor an exempted operator shall operate a commercial vehicle in a manner that is prohibited under or does not comply with motor transport regulatory legislation or a by-law made under this Act.

Transportation  
of passengers  
and goods

**29(1)** A person engaged in the transportation of passengers in a commercial vehicle shall exercise due care and diligence so that the passengers are transported in a safe manner.

**(2)** A person engaged in the transportation of goods for compensation in or on a commercial vehicle shall exercise due care and diligence to protect the goods from loss or damage.

**(3)** Nothing in this section shall be construed so as to limit the obligations or duties that the owner of a commercial vehicle has by agreement or by the operation of law.

**(4)** Any agreement to restrict or to give up the benefits provided by subsections (1) and (2) is void.

Unauthorized  
dumping

**30** A person shall not dump or unload on a highway or at a vehicle inspection station the load, any contents of the load or any goods carried in or on a commercial vehicle unless otherwise authorized to do so by

- (a) a peace officer,
- (b) an employee of the Government who is under the administration of the Minister, or
- (c) a person performing services on behalf of or for the Minister.



**31** The Minister may make regulations

- (a) governing the goods that may be carried by commercial vehicles;
- (b) requiring and governing the use of bills of lading and other documents used in respect of the transportation of goods;
- (c) prescribing the form of bills of lading and other documents used in respect of the transportation of goods;
- (d) governing the conditions of carriage;
- (e) governing restrictions on the use of commercial vehicles;
- (f) governing the hours of service to be provided in respect of service provided by commercial vehicles;
- (g) governing the hours of service of drivers of commercial vehicles;
- (h) governing signs that are to be displayed on commercial vehicles;
- (i) governing records to be maintained by carriers, permit holders, exempted operators and drivers of commercial vehicles;
- (j) requiring and governing the inspection, testing and evaluation of commercial vehicles;
- (k) governing the persons who may inspect, test or evaluate commercial vehicles;
- (l) prescribing and governing records that must be kept and maintained in respect of commercial vehicles;
- (m) requiring and governing pre-trip and post-trip inspections of commercial vehicles;
- (n) governing the safe operation of commercial vehicles;
- (o) governing the load or passenger capacity of a commercial vehicle;
- (p) governing the standards and conditions with respect to commercial vehicles that are buses and taxis;

- (q) governing the use or operation of commercial vehicles or classes of commercial vehicles that are buses;
- (r) governing bus tours and charter trips;
- (s) governing the passengers that may be carried by buses;
- (t) governing the time schedules of scheduled buses operating on specific routes;
- (u) governing services to be provided by a carrier who is operating a scheduled bus;
- (v) governing the transportation of persons or goods on or in a scheduled bus;
- (w) governing the operation of scheduled buses on specified routes.

## Division 2 Weights and Dimensions

### Definitions

**32** In this Division,

- (a) “commercial vehicle” or “vehicle” includes any goods or any load carried on or in a vehicle;
- (b) “overdimensional vehicle” means a commercial vehicle that exceeds the dimensions prescribed by the regulations.

### Operation re weights and dimensions

**33(1)** A person shall not do any of the following:

- (a) except where authorized by permit, operate a commercial vehicle on a highway when
  - (i) the weight of the vehicle exceeds the maximum allowable weight provided for under the regulations,
  - (ii) the weight borne by an axle or an axle group of the vehicle exceeds the maximum allowable weight allowed by the regulations for that axle or axle group, or

- (iii) the weight of the vehicle exceeds the maximum weight specified on the certificate of registration issued in respect of that vehicle;
- (b) operate a commercial vehicle on a highway when
  - (i) the weight of the vehicle exceeds the maximum allowable weight specified in a permit issued in respect of that vehicle, or
  - (ii) the weight borne by an axle or an axle group of the vehicle exceeds the maximum allowable weight specified for that axle or axle group in a permit issued in respect of that vehicle;
- (c) except where authorized by permit, operate a commercial vehicle on a bridge when the weight of the vehicle exceeds the maximum weight specified for that bridge;
- (d) operate a commercial vehicle on a bridge when the weight of the vehicle exceeds the maximum weight specified in a permit issued in respect of that vehicle;
- (e) operate a commercial vehicle on a highway if any portion of the vehicle exceeds the dimensions prescribed in a permit or by the regulations;
- (f) operate an overdimensional vehicle on a highway other than in accordance with the terms and conditions as specified in the permit or by the regulations.

**(2)** For the purposes of subsection (1)(c), where a sign is erected indicating the maximum allowable weight that may be carried on a bridge by a commercial vehicle, the weight indicated on the sign is the maximum weight specified for the bridge in respect of which the sign is erected.

Prohibited  
operation of  
vehicles re  
road bans

**34(1)** In this section, “permit” means a permit issued to a person specifically allowing a commercial vehicle to be operated on a highway that is subject to a road ban when the weight

- (a) of the vehicle, or
- (b) borne on an axle or an axle group of the vehicle

is in excess of that allowed under the road ban.

(2) A person shall not do any of the following:

- (a) except where authorized by permit, operate a commercial vehicle on a highway that is subject to a road ban when
  - (i) the weight of the vehicle exceeds the maximum weight allowed under the road ban, or
  - (ii) the weight borne by an axle or an axle group of the vehicle exceeds the maximum weight allowed under the road ban for that axle or axle group;
- (b) operate a commercial vehicle on a highway that is subject to a road ban when
  - (i) the weight of the vehicle exceeds the maximum weight specified in a permit issued in respect of that vehicle, or
  - (ii) the weight borne by an axle or an axle group of the vehicle exceeds the maximum weight specified for that axle or axle group in a permit issued in respect of that vehicle.

Reduction of  
weight

**35(1)** When a peace officer determines that

- (a) the weight of a commercial vehicle, or
- (b) the weight being borne on an axle or an axle group of a commercial vehicle

exceeds the weight permitted under this Act, the regulations or a permit, the peace officer may require the driver of the vehicle to stop the vehicle in a suitable place and remain there until a sufficient portion of the load is redistributed or removed, as the case may require, to reduce weight so that the weight of the vehicle or being borne on an axle or axle group of the vehicle complies with that permitted under this Act, the regulations or the permit.

(2) Where a load or any portion of it is redistributed or removed under subsection (1), the handling and storage, as the case may be, of the load or any portion of it remains the responsibility of the driver of the commercial vehicle, the owner of the commercial

vehicle and the carrier in the case where the carrier is not the owner of the vehicle.

Fine re excess  
weight

**36** Where a person is guilty of an offence by reason of that person's contravening or failing to comply with any provision of this Division, a regulation made under this Division or a permit with respect to the maximum weight that may be borne by a commercial vehicle or an axle or an axle group of the vehicle, that person is liable to a penalty as prescribed by regulation.

Regulations

**37(1)** The Minister may make regulations

- (a) governing the weight that may be carried by a commercial vehicle on a highway;
- (b) governing the weight that may be carried by an axle or an axle group of a commercial vehicle on a highway;
- (c) governing the weight that may be carried by tires of a commercial vehicle on a highway;
- (d) governing tires, axles and axle groups of a commercial vehicle that may be operated on a highway;
- (e) prescribing penalties or a graduated series of penalties to be imposed for the purposes of section 36;
- (f) imposing and governing road bans;
- (g) governing dimensions of commercial vehicles;
- (h) exempting commercial vehicles or a class of commercial vehicles from the requirements of all or a portion of this Division;
- (i) prescribing terms or conditions to be met in respect of the operation of commercial vehicles exempted pursuant to regulations made under clause (h);
- (j) requiring the use of pilot and trail vehicles with respect to the movement of overdimensional vehicles;
- (k) governing the requirements to be met by pilot and trail vehicles;

- (l) governing how overdimensional vehicles are to be moved on a highway;
  - (m) governing safety procedures to be followed with respect to the movement of overdimensional vehicles;
  - (n) governing signs, lights and flags that are to be used in respect of vehicles to which this Division applies;
  - (o) governing the use on a highway of a commercial vehicle or class of commercial vehicles that may be a hazard to other users of the highway by reason of the vehicle's unusual or novel size, dimension or shape.
- (2) The Minister may in writing delegate to an employee of the Government the power to make regulations under subsection (1)(f).
- (3) The *Regulations Act* does not apply to a regulation made under subsection (1)(f) or pursuant to section 6(1)(f).

## PART 5

### COMPLIANCE

- |                         |  |
|-------------------------|--|
| Definition              | <b>38</b> In this Part, "commercial vehicle" includes any vehicle that a peace officer has reasonable grounds to believe is a commercial vehicle and includes any load, contents of any load or any goods carried in or on the vehicle.  |
| Purposes of inspections | <p><b>39</b> For the purposes of</p> <ul style="list-style-type: none"> <li>(a) administering motor transport regulatory legislation,</li> <li>(b) fostering compliance with motor transport regulatory legislation,</li> <li>(c) fostering the safe operation of commercial vehicles, and</li> <li>(d) preserving the physical condition of highways,</li> </ul> <p>a peace officer may carry out inspections under sections 40 and 44 and determine weight pursuant to section 43.</p> |

Inspections of  
commercial  
vehicles

**40** A peace officer may carry out an inspection of a commercial vehicle and in respect of that inspection may do one or more of the following:

- (a) require the driver of the vehicle to stop the vehicle for the purposes of inspecting the vehicle;
- (b) enter the vehicle;
- (c) inspect the vehicle;
- (d) inspect
  - (i) any load, contents of any load or goods being carried in or on the vehicle, and
  - (ii) any record relating to any load, contents of any load or goods being carried in or on the vehicle;
- (e) weigh the vehicle and any load being carried in or on the vehicle;
- (f) weigh the amount of weight being borne by an axle or an axle group of the vehicle;
- (g) inspect any record relating to, issued or required under transportation legislation as defined in section 20(1);
- (h) inspect any record, object or thing that relates to the vehicle, its operation or any load or goods being carried in or on the vehicle;
- (i) make inquiries of any person who operates the vehicle inspected under this section;
- (j) perform or cause to be performed tests or examinations of or in respect of the vehicle or any load or goods carried in or on the vehicle.

Stopping for  
peace officer

**41** For the purposes of enabling an inspection to take place under section 40 or weight to be determined pursuant to section 43, a driver of a commercial vehicle shall,

- (a) on being signalled or requested to do so by a peace officer in uniform, forthwith bring the vehicle to a stop, and

- (b) if requested to do so by the peace officer, forthwith take the vehicle to a vehicle inspection station as directed by the peace officer.

Vehicle  
inspection  
stations

**42** When a vehicle inspection station sign

- (a) indicates that the vehicle inspection station is in operation, and
- (b) directs that a commercial vehicle or class of commercial vehicles is to be taken to the vehicle inspection station,

the driver of a commercial vehicle that is subject to that direction shall, for purposes of enabling an inspection to take place under section 40,

- (c) forthwith take the vehicle to the vehicle inspection station, and
- (d) subject to any directions given by the person operating the vehicle inspection station,
  - (i) permit an inspection to take place, and
  - (ii) remain at the vehicle inspection station until the driver is informed by the person operating the vehicle inspection station that the inspection has been completed and that no further action arising out of the inspection is to be taken.

Checking of  
weight by  
portable  
scales, etc.

**43(1)** When a peace officer has reason to believe that

- (a) the weight of a commercial vehicle, or
- (b) the weight being borne on an axle or an axle group of a commercial vehicle,

exceeds the weight permitted under this Act, the regulations or a permit, the peace officer may require the driver of the vehicle to allow the weight to be measured by means of a portable scale.

**(2)** When a portable scale is used to measure weight under subsection (1), the peace officer shall advise the driver of the commercial vehicle that the driver has the right to take the vehicle forthwith to a vehicle inspection station or other weigh scale that is capable of measuring the weight of the vehicle on a stationary



scale that is certified under the *Weights and Measures Act* (Canada).

(3) Where a driver elects to exercise the right provided for under subsection (2), that driver shall ensure that no alteration in or redistribution of the weight of the commercial vehicle occurs

- (a) while the vehicle is being taken to the vehicle inspection station or stationary scale, or
- (b) while the weight of the vehicle is being measured.

Inspections of  
transportation  
business  
premises

**44(1)** In this section,

- (a) “safety services” means inspections, evaluations, repairs and other services provided
  - (i) in respect of a commercial vehicle so that a commercial authority may be granted or maintained in respect of that vehicle, or
  - (ii) to or on behalf of a person so that a commercial authority may be granted to or maintained by that person;
- (b) “transportation business” means any undertaking by a carrier or the holder of a permit under which
  - (i) goods are received, shipped or transported,
  - (ii) commercial vehicles are operated, or
  - (iii) persons are transported;
- (c) “transportation business premises” means premises that are used with respect to
  - (i) the operation of a commercial vehicle by a carrier or the holder of a permit,
  - (ii) the operation of a transportation business, or
  - (iii) the provision of safety services.

(2) The Administrator or a peace officer may do any one or more of the following:

- (a) during any time that any transportation business premises are open to the public or are in use, enter and inspect
  - (i) those premises, and
  - (ii) any commercial vehicle that is at the time of inspection located at or in the premises;
- (b) inspect any records, objects or things that relate to
  - (i) the provision of safety services to a commercial vehicle, or
  - (ii) the operation of a transportation business;
- (c) make inquiries of any person who
  - (i) drives a commercial vehicle that is operated by a carrier or the holder of a permit, or
  - (ii) is employed in the transportation business or providing safety services;
- (d) make inquiries of any carrier or holder of a permit.

(3) Notwithstanding subsection (2)(a), neither the Administrator nor a peace officer shall enter a private residence without the permission of an adult resident of that residence.

Production of documents

**45(1)** A person who is subject to an inspection under section 40 or 44 shall, when requested to do so by a peace officer, produce for inspection any record, object or thing that may be inspected under section 40 or 44.

(2) A peace officer may remove the record, object or thing being inspected and make copies or take photographs of it.

(3) Where a peace officer removes a record, object or thing under subsection (2), the peace officer

- (a) may retain possession of the record, object or thing only for the period of time that is reasonably required to make the copies or take photographs of it, and

- (b) shall, on the copy being made or photograph taken, return the record, object or thing to the person from whom it was taken.

(4) Notwithstanding subsection (3), when, on inspecting a record, object or thing, a peace officer is of the opinion that for the purposes of this Part the peace officer must retain possession of the record, object or thing for a longer period of time than that permitted under subsection (3), the peace officer may retain possession of the record, object or thing for a longer period of time if the peace officer gives to the person from whom the record, object or thing was taken a receipt for it.

(5) Where a peace officer retains possession of a record, object or thing pursuant to subsection (4), the peace officer shall, once the record, object or thing has served the purposes for which it was retained, forthwith return the record, object or thing to the person from whom it was taken.

(6) If a peace officer retains possession of a record, object or thing under subsection (4), the peace officer shall, where requested to do so by the person from whom the record, object or thing was taken and if practicable to do so, provide to that person a copy or a photograph of that record, object or thing.

Direction to  
comply

**46(1)** Where the Administrator or a peace officer is of the opinion that a person who is a carrier, a holder of a permit or an exempted operator is not complying with, or a commercial vehicle is not being operated by a person in compliance with, motor transport regulatory legislation, the Administrator or the peace officer, as the case may be, may by written directions served on that person do one or both of the following:

- (a) direct that the person comply with the motor transport regulatory legislation;
- (b) give directions to that person as to the actions to be taken in order to ensure that the motor transport regulatory legislation will be complied with.

(2) Where written directions are served on a person under subsection (1), that person may appeal to the Board the issuing of or the contents of the written directions.

(3) An appeal may be commenced by filing a notice of appeal accompanied by the prescribed fee, if any, with the Administrator within 30 days from the day that the person requesting the appeal is given the written directions.

**(4)** On the filing of a notice of appeal under subsection (3), the Administrator shall refer the appeal to the Board.

**(5)** Where an appeal is referred to the Board, the Board shall conduct an appeal and on concluding the appeal the Board may do one or more of the following:

- (a) reaffirm the written directions;
- (b) direct the Administrator to rescind the written directions;
- (c) make recommendations to the Administrator to vary the written directions.

**Detention of  
vehicle**

**47(1)** If the Administrator or a peace officer is of the opinion that in order

- (a) to determine or confirm the ownership of a commercial vehicle,
- (b) to determine whether a person who is a carrier, a holder of a permit or an exempted operator is complying with motor transport regulatory legislation,
- (c) to determine whether a commercial vehicle meets the requirements of motor transport regulatory legislation, or
- (d) to determine whether a commercial vehicle is being operated in accordance with motor transport regulatory legislation,

it is necessary to detain the vehicle, the Administrator or the peace officer may, subject to section 48, detain the vehicle for not more than 72 hours or such longer period that is reasonable under the circumstances.

**(2)** Where a commercial vehicle is detained, the Administrator or a peace officer may

- (a) cause the vehicle to be removed to and stored in a suitable place, and
- (b) carry out any functions that could be carried out under section 40 or 44.

(3) All costs of removal, transportation and storage of the detained commercial vehicle are a lien on the vehicle and section 93 of the *Motor Vehicle Administration Act* applies with all necessary modifications.

Review by  
Court

**48(1) Where**

- (a) a person has been served with written directions under section 46, and
- (b) the person on whom the written directions are served,

does not comply with the written directions, the Administrator may apply to the Court of Queen's Bench for an order directing the person to comply with the written directions.

(2) Where the Administrator or a peace officer is unable to detain a commercial vehicle under section 47, the Administrator or the peace officer, as the case may be, may apply to the Court of Queen's Bench for an order directing that the vehicle be seized for the purposes of section 47.

(3) Where the Administrator or a peace officer wishes to detain a commercial vehicle under section 47 for a greater period of time than that permitted under section 47, the Administrator or the peace officer, as the case may be, may apply to the Court of Queen's Bench for an order authorizing the vehicle to be detained for a greater period of time.

(4) Where a commercial vehicle is detained under section 47, the owner or driver of the vehicle may apply to the Court of Queen's Bench for an order directing that the detained vehicle be released to the owner or the driver, as the case may be.

(5) An application under this section shall be by way of an originating notice.

(6) On the filing of an originating notice with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice or any shorter period of time that the Court may direct and make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

(7) An interim order under subsection (6) may be made ex parte if the Court considers it appropriate in the circumstances.

**(8) On hearing an application, the Court may do one or more of the following:**

- (a) in the case of an application made under subsection (1),

  - (i) direct that the person on whom the written directions were served comply with the written directions;
  - (ii) direct that the person on whom the written directions were served provide to the Government a bond or other security, in an amount determined by the Court, that will be forfeited to the Government if the person fails to comply with the written directions;
  - (iii) direct that a commercial vehicle be detained;
- (b) in the case of an application made under subsection (2), direct that the commercial vehicle be seized;
- (c) in the case of an application made under subsection (3),

  - (i) direct that the commercial vehicle be detained for a longer period of time, and
  - (ii) set out the period of time for which the commercial vehicle may be detained;
- (d) in the case of an application made under subsection (4), direct that a commercial vehicle be released from detention;
- (e) in the case where a commercial vehicle is detained under section 47 or is to be detained pursuant to a seizure referred to in clause (b),

  - (i) give directions as to where and how the vehicle shall be detained or seized;
  - (ii) direct that the vehicle be released subject to security being provided to the Government in the form and an amount determined by the Court;

- (iii) give directions as to the disposition of the security given;
- (f) dismiss the application;
- (g) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (h) award costs in respect of the matter.

Hindering  
officer

**49** A person shall not

- (a) hinder, molest or interfere with the Administrator or a peace officer in doing anything that the Administrator or the peace officer is authorized to do by or pursuant to this Act, or
- (b) prevent or attempt to prevent the Administrator or a peace officer from doing that thing.

Court order re  
hindering  
officer

**50(1)** If the Administrator or a peace officer

- (a) is refused entry into a commercial vehicle, transportation business premises or a private residence that the Administrator or the peace officer is authorized to inspect or examine under this Part,
- (b) has reasonable grounds to believe that the Administrator or the peace officer will be refused entry into a commercial vehicle, transportation business premises or a private residence referred to in clause (a), or
- (c) is impeded or has reasonable grounds to believe that the Administrator or the peace officer will be impeded in the carrying out of an inspection or examination of any record, object or thing,

the Administrator or the peace officer, as the case may be, may apply to the Court of Queen's Bench for an order granting the relief provided for under subsection (5).

(2) An application under this section shall be by way of an originating notice.

(3) On the filing of an originating notice with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice

and make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate in the circumstances.

(5) On hearing an application the Court may do one or more of the following:

- (a) authorize the Administrator or the peace officer to enter the commercial vehicle, the transportation business premises or the private residence, as the case may be, and carry out the duties permitted under this Act;
- (b) direct any occupant of the commercial vehicle or premises to assist the Administrator or the peace officer in any manner as the Court prescribes;
- (c) restrain any person from hindering, molesting, interfering with or impeding the Administrator or the peace officer from entering the commercial vehicle or premises or from carrying out any duties or functions under this Act;
- (d) dismiss the application;
- (e) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (f) award costs in respect of the matter.

**Undertaking**

**51(1)** Where the Administrator is of the opinion that a person who is a carrier or the holder of a permit is not complying with or is contravening any motor transport regulatory legislation, the *Highway Traffic Act* or the regulations under that Act or the *Motor Vehicle Administration Act* or the regulations under that Act, the Administrator may, in lieu of taking action under section 20 or 22, allow that person to enter into an undertaking with the Administrator under which that person shall do one or more of the following:

- (a) undertake to cease the activity that comprises the non-compliance or contravention;
- (b) undertake to comply with the motor transport regulatory legislation, the *Highway Traffic Act* and the regulations under that Act and the *Motor Vehicle*



*Administration Act* and the regulations under that Act;

- (c) provide to the Administrator a plan of operation for the purpose of ensuring that the undertakings referred to in clauses (a) and (b), or either of them, will be complied with;
- (d) provide to the Administrator a bond or other security in a form and an amount that is acceptable to the Administrator that may be forfeited to the Government if the person providing the bond or security fails to comply with the undertaking.

(2) If a person gives an undertaking under subsection (1) and in the opinion of the Administrator fails to comply with the undertaking, the Administrator may do one or both of the following:

- (a) realize on the bond or other security, if any, provided pursuant to the undertaking;
- (b) proceed to take action under section 20 or 22 in the same manner as if the person who gave the undertaking had failed to comply with any motor transport regulatory legislation.

## **PART 6**

### **OFFENCES AND PROSECUTIONS**

- Offence      **52(1)** A person who contravenes or fails to comply with
- (a) this Act and the regulations made under this Act,
  - (b) a commercial authority,
  - (c) a permit,
  - (d) any terms or conditions to which a commercial authority or permit is subject, or
  - (e) a by-law made under this Act

is guilty of an offence.

(2) When an information is laid or a summons or a violation ticket is issued by a person in respect of an offence referred to in subsection (1), that person shall on the information, summons or

violation ticket, as the case may be, refer to the provision that the accused is alleged to have contravened or failed to have complied with.

Penalty

**53(1)** A person who is guilty of an offence referred to in section 52 is subject to a fine of not more than \$25 000.

(2) A person who is guilty of an offence referred to in section 52 is not liable to imprisonment in respect of that offence.

(3) The Minister may make regulations governing fines referred to in subsection (1), including setting a maximum or minimum amount for a fine, but shall not increase a fine to an amount greater than the maximum amount prescribed under subsection (1).

(4) Subsection (1) does not apply where a penalty is otherwise prescribed under this Act or the regulations.

Disposition of  
fines and  
penalties

**54(1)** Subject to subsection (2), any fine or penalty imposed under this Act or the regulations belongs to the Crown in right of Alberta.

(2) Subject to any administration fee charged by the Government, any fine or penalty imposed under this Act or the regulations in respect of an offence occurring in

- (a) a municipality that is an urban area, belongs to that municipality;
- (b) a county, municipal district or rural district, other than on a highway designated as a primary highway pursuant to the *Public Highways Development Act*, belongs to the county, municipal district or rural district, and
- (c) an Indian reserve, other than on a highway designated as a primary highway or a highway designated as a secondary road pursuant to the *Public Highways Development Act*, belongs to the band.

(3) For the purposes of subsection (2)(c), “band” and “reserve” mean a band and reserve as defined in the *Indian Act* (Canada).

Proof of  
existence of  
traffic control  
device

**55** In a prosecution for contravening any provision of any motor transport regulatory legislation or a by-law made under this Act, the existence of a traffic control device is prima facie proof that the device was properly designated and erected by the proper authority without other or further proof.

Certificates of  
weight

**56(1)** In a prosecution under this Act or the regulations or a by-law made under this Act, a certificate or a statement of accuracy

- (a) purporting to be issued and signed by an inspector under the *Weights and Measures Act* (Canada), and
- (b) bearing a date that is not more than one year before or after the date on which the offence was charged,

shall be admitted in evidence as prima facie proof of the facts stated in the certificate or the statement of accuracy without proof of the signature or official character of the person who signed the certificate or the statement of accuracy.

**(2)** A certificate purporting to be signed by a peace officer

- (a) stating that the peace officer weighed a commercial vehicle on a scale, and
- (b) setting out either
  - (i) the gross weight of the vehicle or the vehicle and the load being carried by the vehicle, or
  - (ii) the gross weight of an axle or axle group transferred to the road through any point or points of contact of the vehicle with the road,

shall be admitted in evidence as prima facie proof of the facts stated in the certificate without proof of the signature or official character of the person who signed the certificate if the scale is inspected under the *Weights and Measures Act* (Canada) and a certificate described in subsection (1) is issued in respect of the scale.

**(3)** Notwithstanding subsection (1), in a prosecution under this Act or a regulation or a by-law made under this Act, a certificate purporting to be signed by a peace officer or a person authorized by the Administrator

- (a) stating that the weight of a commercial vehicle was measured on a portable scale or other scale,
- (b) setting out either
  - (i) the gross weight of the vehicle or the vehicle and the load being carried by the vehicle, or
  - (ii) the gross weight of an axle or axle group transferred to the road through any point or points of contact of the vehicle with the road,

and

- (c) stating that the driver of the vehicle agreed to accept the weight determined as being accurate,

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

Bills of lading,  
etc.

**57** In a prosecution under this Act, the regulations or a by-law made under this Act, a document that is a bill of lading, way bill, shipping bill or customs permit or any other document that pertains to the goods or passengers being transported by a commercial vehicle

- (a) that is produced to a peace officer by the carrier or the owner or driver of the vehicle,
- (b) that is a copy of that document and that is certified by a peace officer as being a true copy of the document, or
- (c) that is a copy of that document made under this Act,

shall be admitted in evidence as prima facie proof of

- (d) the origin and destination of the trip,
- (e) the description of the goods or passengers transported, and
- (f) the carrier, owner, driver or lessee of the vehicle,

without proof of the signature or official character of the person who signed or certified the copies of the document.

Documents  
signed by  
officials

**58** Every document that purports to be signed or issued by

- (a) the person who is the chair of the Board or a member of the Board,
- (b) the Administrator,
- (c) a person to whom an authorization is made under section 3, if the document relates to a function that the person is authorized to perform,
- (d) the Registrar of Motor Vehicles,
- (e) the Registrar of Corporations,
- (f) a person who, under the *Motor Vehicle Administration Act*, is authorized to perform a function of the Registrar of Motor Vehicles, if the document relates to a function that the person is authorized to perform,
- (g) an official of a jurisdiction other than Alberta who is a registrar of motor vehicles or performs a function for that jurisdiction similar to the function that the Registrar of Motor Vehicles performs for Alberta, or
- (h) the person performing the functions of the provincial transport board as defined under the *Motor Vehicle Transport Act, 1987 (Canada)*,

shall be admitted in evidence as prima facie proof of the facts stated in the document without proof of the signature, if any, or the official character of the person who signed the certificate.

Altered  
documents

**59(1)** In this section, “document” means

- (a) a subsisting document showing that a commercial authority has been granted;
- (b) a subsisting licence issued under the *Motor Vehicle Transport Act, 1987 (Canada)*;
- (c) a subsisting permit;
- (d) a subsisting document that is a bill of lading, way bill, shipping bill or customs permit or any other document that pertains to goods or passengers being transported by a commercial vehicle.

(2) A person shall not

- (a) mutilate, deface, alter or falsify a document,
- (b) have in that person's possession a document that is mutilated, defaced, altered or falsified if the person knew or reasonably ought to have known that the document was mutilated, defaced, altered or falsified, or
- (c) use a document that is mutilated, defaced, altered or falsified if the person knew or reasonably ought to have known that the document was mutilated, defaced, altered or falsified.

**PART 7**

**TRANSITIONAL, CONSEQUENTIAL, REPEAL  
AND COMMENCEMENT**

Transitional

**60(1)** *In this section, "former Act" means the Motor Transport Act, RSA 1980 cM-20.*

**(2)** *Any order, rule, regulation, direction, operating authority certificate, permit, instrument or document that is made, issued, registered or otherwise dealt with and every action that is taken or thing done under the former Act that could have been made, issued, registered, dealt with, taken or done under this Act if this Act had been in force then and which is still valid at the commencement of this section shall be deemed to have been made, issued, registered, dealt with, taken or done under this Act.*

**(3)** *The Minister may make regulations providing for transitional provisions respecting vehicles or classes of vehicles where the specifications for, the operations of or requirements governing the vehicles or their operation under the former Act are different from those provided for under this Act.*

Transitional re  
commercial  
authority

**61(1)** *On the coming into force of Part 3 of this Act, every person who operates a commercial vehicle is deemed to have been granted an interim commercial authority in respect of that vehicle.*

**(2)** *An interim commercial authority referred to in subsection (1) expires*

- (a) *when a commercial authority is granted under Part 3 to replace the interim commercial authority,*

(b) *when the interim commercial authority is cancelled,  
or*

(c) *one year after Part 3 comes into force,*

*whichever is the earliest.*

*(3) An interim commercial authority shall be treated and may be suspended or cancelled in the same manner as if it were a commercial authority granted under Part 3.*

Amends RSA  
1980 cB-8

**62** *The Boilers and Pressure Vessels Act is amended in section 26(3) by striking out “a patrol officer of the Alberta Motor Transport Board” and substituting “a person who is authorized to enforce the Motor Transport Act”.*

Amends SA  
1981 cB-15

**63** *The Business Corporations Act is amended in section 264(1)*

(a) *in clause (g) by striking out “public vehicle” and substituting “commercial vehicle”;*

(b) *in clause (h) by striking out “certificate issued by the Alberta Motor Transport Board” and substituting “commercial authority issued under the Motor Transport Act”;*

Amends SA  
1987 cF-22.5

**64** *The Fuel Tax Act is amended*

(a) *in section 1(1)(q)*

(i) *by striking out “public vehicle” and substituting “commercial vehicle”;*

(ii) *by striking out “public vehicles” and substituting “commercial vehicles”;*

(b) *in section 2(1)(d) by striking out “public vehicle” and substituting “commercial vehicle”;*

(c) *in section 4(3)(e) by striking out “public vehicle” and substituting “commercial vehicle”;*

(d) *in section 39(1)(a.1) by striking out “public vehicles” and substituting “commercial vehicles”.*

Amends RSA  
1980 cM-21

**65** *The Motor Vehicle Accident Claims Act is amended in section 1*

- (a) *in clause (e)*
  - (i) *by striking out “or the Motor Transport Act” and substituting “or for which a commercial authority is not required under the Motor Transport Act”;*
  - (ii) *by adding “under the Motor Vehicle Administration Act or for which a commercial authority is required” after “required to be registered”;*
- (b) *by repealing clause (h) and substituting the following:*
  - (h) “registration” means
    - (i) registration under the *Motor Vehicle Administration Act*,
    - (ii) a commercial authority issued under the *Motor Transport Act*,
    - (iii) a permit issued under the *Highway Traffic Act* or the *Motor Transport Act* authorizing the operation of an unregistered vehicle, or
    - (iv) registration under the *Off-highway Vehicle Act*;

Amends RSA  
1980 cM-22

**66** *The Motor Vehicle Administration Act is amended*

- (a) *in section 1*
  - (i) *by adding the following after clause (a):*
    - (a.1) “commercial vehicle” means a vehicle defined as a commercial vehicle in the *Motor Transport Act*;
  - (ii) *by repealing clause (t);*
- (b) *in section 34*



- (i) *in subsections (3) and (4) by striking out “public vehicle” and substituting “commercial vehicle”;*
  - (ii) *in subsection (5) by striking out “section 12 or 13 of the Motor Transport Act or section 35” and substituting “section 35, 35.1 or 35.2”;*
- (c) *by adding the following after section 35:*

**35.1(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 commercial vehicles in respect of fleets of commercial 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 commercial vehicles who are ordinarily resident in that other province in respect of the application 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 commercial 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 that person
  - (a) has first complied with the law of that person’s place of residence and carries or produces the evidence of that compliance, including licences, certificates and number or licence plates, that is prescribed by the law of that place, and

- (b) 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 prorationing 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 other than in respect of registration and licence fees.

**35.2(1)** Subject to subsection (2), the Minister may grant exemptions, partial exemptions, privileges or concessions to a class or classes of owners of commercial vehicles who are ordinarily resident in one of the states of the United States of America respecting the application 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) that person's vehicle is registered in, and that person is licensed as an operator in accordance with the law of, the state of which the person is a resident.

(3) In this section, "state" includes the District of Columbia.

(d) *in section 40*

- (i) *in subsection (1) by striking out “public vehicles” and substituting “commercial vehicles”;*
  - (ii) *in subsections (2), (3), (4), (6), (7) and (8) by striking out “public vehicle” wherever it occurs and substituting “commercial vehicle”;*
- (e) *in section 41(1) by striking out “public vehicles” and substituting “commercial vehicles”;*
- (f) *in section 59(1) by adding the following after clause (d):*
  - (d.1) governing the classification of commercial vehicles;
  - (d.2) governing the exemption, in whole or in part, in relation to any agreement under section 35.1, of any commercial 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 on any prescribed terms or conditions considered appropriate;
  - (d.3) giving effect to agreements entered into pursuant to section 35.1 or 35.2;
  - (d.4) governing prorationing and reciprocity of registration and certificate fees;
  - (d.5) defining classes or types of commercial vehicles and the owners of commercial vehicles;
- (g) *in section 106(1)(c) by adding “or regulation made or permit issued” after “order”.*

Amends RSA  
1980 cM-26

**67** *The Municipal Government Act is amended in section 317 by striking out “public vehicles” and substituting “commercial vehicles”.*

- References**      **68** *Any reference in any provision of an enactment, other than a provision that is amended by sections 62 to 67, to a vehicle that is a public vehicle as defined in the Motor Transport Act, RSA 1980 cM-20, is deemed to be a reference to a commercial vehicle.*
- Repeal**            **69** *The Motor Transport Act, RSA 1980 cM-20, is repealed on Proclamation.*
- Coming into force**      **70** *This Act comes into force on Proclamation.*