

1995 BILL 212

Third Session, 23rd Legislature, 44 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 212

MOTOR VEHICLE ADMINISTRATION AMENDMENT ACT, 1995

MR. DOERKSEN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 212
Mr. Doerksen

BILL 212

1995

MOTOR VEHICLE ADMINISTRATION AMENDMENT ACT, 1995

(Assented to , 1995)

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

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

2 Section 9 is amended

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

(1.1) No person holding an operator's licence of a learner's category shall operate a motor vehicle between the hours of midnight and 5 a.m. unless that person is exempted by the Minister.

(1.2) No person holding an operator's licence of a learner's category shall operate a motor vehicle if that person has alcohol in his body.

(1.3) No person holding an operator's licence of a learner's category shall operate a motor vehicle unless there are seat belt assemblies as prescribed in section 65 of the *Highway Traffic Act* for each passenger.

(1.4) Any person who violates subsections (1.1), (1.2) or (1.3) is guilty of an offence.

Explanatory Notes

1 Amends chapter M-22 of the Revised Statutes of Alberta 1980.

(1.5) Every person who is issued an operator's licence of a learner's category must retain that status for at least one year from the date of issue of the operator's licence of a learner's category.

(b) by adding the following after subsection (2):

(2.1) No person accompanying a licensee under subsection (2) shall have a concentration of alcohol in the blood which exceeds 80 milligrams of alcohol in 100 millilitres of blood.

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

(3.1) No person holding an operator's licence of a learner's category issued under subsection (3) may operate a motor cycle, scooter or moped between the hours of midnight and 5 a.m.

(3.2) No person holding an operator's licence of a learner's category issued under subsection (3) shall operate a motor cycle, scooter or moped if that person has alcohol in his body.

(3.3) No person holding an operator's licence of a learner's category issued under subsection (3) shall carry passengers when operating a motor cycle, scooter or moped.

(3.4) Any person who violates subsections (3.1), (3.2) or (3.3) is guilty of an offence.

(3.5) Every person who is issued an operator's licence of a learner's category under subsection (3) must retain that status for not less than 60 days and not more than 90 days from the date of issue of the operator's licence of a learner's category.

3 The following is added after section 11:

11.1(1) When an operator's licence is issued to a person who has never held an operator's licence in Alberta or any other jurisdiction, it will be considered a probationary operator's licence until the expiration of 24 months from the date of issue.

(2) Subsection (1) does not apply to an operator's licence issued under section 9.

11.2(1) No person who holds a probationary operator's licence shall operate a motor vehicle if that person has alcohol in his body.

(2) No person who holds a probationary operator's licence shall operate a motor vehicle unless there are seat belt assemblies as prescribed in section 65 of the *Highway Traffic Act* for each passenger.

(3) Any person who violates subsections (1) or (2) is guilty of an offence.

4 *Section 59 is amended*

(a) *in subsection (1) by adding the following after clause (d):*

(d.1) with respect to the qualifications, terms and conditions of operator's licences of a learner's category and for probationary operator's licences.

(b) *in subsection (2) by adding the following after clause (c):*

(c.1) granting exemptions to holders of an operator's licence of a learner's category from section 9(1.1)

5 *The following is added after section 110.1:*

110.2(1) In this section "novice driver" means the holder of an operator's licence of a learner's category or a probationary operator's licence.

(2) Where a peace officer reasonably suspects that a novice driver has alcohol in his body the peace officer may, for the purpose of determining whether the novice driver is in compliance with this Act and the regulations, demand that the novice driver forthwith provide a sample of breath into an approved screening device as defined in section 254 of the *Criminal Code* (Canada).

(3) Where a novice driver has provided a breath sample which

registers "Warn", "Alert" or "Presence of Alcohol" a peace officer shall request the novice driver to surrender his operator's licence to the peace officer.

(4) Where an analysis of the breath of the novice driver under subsection (2) or (3) registers "Warn", "Alert" or "Presence of Alcohol", the novice driver may voluntarily undergo a test at a place designated by the peace officer and the if test indicates that there is no alcohol present, then the novice driver will not have to surrender his operator's licence.

(5) Where a novice driver refuses to provide a breath sample when requested to do so by a peace officer under subsection (2), the novice driver is guilty of an offence.

(6) Where a novice driver refuses to provide a breath sample when requested to do so by a peace officer under subsection (2), the peace officer shall request the novice driver to surrender his operator's licence.

(7) The request of a peace officer under subsections (3) or (6) suspends the operator's licence belonging to the driver to whom the request is made and the driver shall forthwith surrender any such licence to the peace officer, but the refusal or other failure of the driver to do so does not affect the suspension.

(8) A suspension arising pursuant to subsections (3) or (6) terminates on the expiration of 24 hours from the time the suspension or disqualification occurred.

101.3(1) Where a peace officer has stopped a person with an operator's licence of the learner's category and reasonably suspects that the accompanying driver has alcohol in his body, the peace officer may demand that the accompanying driver provide forthwith a sample of breath into an approved screening device as defined in section 254 of the *Criminal Code* (Canada) as if he was the person operating the motor vehicle.

(2) Where, upon demand of a peace officer made under subsection (1), an accompanying driver fails or refuses to provide a sample of breath or provides a sample of breath which, on analysis by an approved screening device, as defined in section 254 of the *Criminal Code* (Canada) registers, "Fail", the peace officer may direct the novice driver not to operate

the motor vehicle except in accordance with this Act.

6 *The following is added after section 112.1:*

112.2(1) When a person who is the holder of an operator's licence of the learner's category or a probationary operator's licence is convicted of an offence under sections 9, 11.2 or 110.2, any operator's licence held by that person becomes suspended and that person thereupon becomes disqualified from holding an operator's licence including an operator's licence of a learner's category or a probationary operator's licence for a period of 30 days.

7 *This Act comes into force on Proclamation.*

