

2003 Bill 206

Third Session, 25th Legislature, 52 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 206

**TRAFFIC SAFETY (SEIZURE OF VEHICLES
IN PROSTITUTION RELATED OFFENCES)
AMENDMENT ACT, 2003**

MR. CENAIKO

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 206

2003

TRAFFIC SAFETY (SEIZURE OF VEHICLES IN PROSTITUTION RELATED OFFENCES) AMENDMENT ACT, 2003

(Assented to _____, 2003)

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

Amends RSA 2000 cT-6

1 The *Traffic Safety Act* is amended by this Act.

2 Section 40 is amended

**(a) in subsections (1) and (2) by adding “or 173.1” after
“section 173”;**

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

**(3) In determining an appeal of a seizure or immobilization
under section 173.1, the Board may order the release of the
motor vehicle if the Board is satisfied that**

- (a) the owner could not reasonably have known that the
vehicle was being operated in the course of
committing an offence referred to in section 173.1,**
- (b) at the time the vehicle was seized, the driver was in
possession of it without the knowledge and consent of
its owner, or**
- (c) it is the first time that the person has been charged
with an offence referred to in section 173.1 and that
person is eligible for, and consents to be dealt with by
way of, a program of alternative measures under
section 717(1)(a) of the *Criminal Code* (Canada).**

3 Section 64 is amended in clause (k) by striking out “sections 172 and 173” and substituting “sections 172, 173 and 173.1”.

4 Section 77(1) is amended in clause (i) by striking out “section 172 or 173” and substituting “section 172, 173 or 173.1”.

5 Section 170(8) is amended by adding “or 173.1” after “section 173”.

6 The following is added after section 173:

Seizure of vehicle in prostitution related offences

173.1(1) Where a person has been charged with an offence under section 211, 212 or 213 of the *Criminal Code* (Canada), a peace officer, the Registrar or a person authorized by a peace officer or the Registrar may seize or immobilize the motor vehicle that was being operated by that person at the time that the person was charged.

(2) Where a motor vehicle is seized or immobilized under subsection (1), a peace officer may release the vehicle to the registered owner, or a person authorized by the registered owner, if the officer is satisfied that

- (a) the vehicle was stolen,
- (b) every person
 - (i) who was in the vehicle at the time it was seized, and
 - (ii) who the peace officer had reasonable grounds to believe had committed an offence referred to in subsection (1),

is eligible for, and consents to be dealt with by way of, a program of alternative measures authorized under section 717(1)(a) of the *Criminal Code* (Canada), or

(c) seizure of the vehicle is causing or will cause undue financial hardship.

(3) Subject to subsection (2) and any decision of the Board in an appeal commenced pursuant to section 40, when a person who is in a motor vehicle at the time it is seized or immobilized under subsection (1) is convicted of an offence referred to in that subsection, the vehicle is forfeited to the Government subject to any security interest registered under the *Personal Property Security Act* before the seizure or immobilization.

(4) If no person is convicted of an offence in respect of which a motor vehicle is seized under this section, the Registrar shall release the vehicle.

7 Sections 174 and 175 are amended by striking out “section 172 or 173” and substituting “section 172, 173 or 173.1”.

8 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter T-6 of the Revised Statutes of Alberta 2000.

2 Section 40 presently reads:

40(1) Subject to the regulations, where a person's motor vehicle is seized or immobilized under section 173, that person or another person who has an interest in that motor vehicle may appeal the seizure or immobilization to the Board.

(2) In determining an appeal commenced pursuant to this section, the Board may, subject to the regulations, confirm, vary or rescind the decision made or action taken under section 173.

3 Section 64 presently reads in part:

64 The Minister may make regulations

(k) governing the seizure and the immobilization of vehicles under sections 172 and 173 and appeals under section 40;

4 Section 77(1) presently reads in part:

77(1) A peace officer may cause any vehicle to be removed and taken to and stored in a suitable place when the vehicle

(i) is seized under section 172 or 173.

5 Section 170(8) presently reads:

(8) This section does not apply in respect of a motor vehicle that is seized or immobilized under section 173.

6 Seizure of vehicle in prostitution related offences.

7 Sections 174 and 175 presently read:

174 Where

- (a) a motor vehicle has been seized or immobilized under section 172 or 173,*
- (b) the person driving the vehicle at the time of the seizure or immobilization was not the owner of the vehicle, and*
- (c) the owner of the vehicle incurs expenses in respect of the release of the vehicle,*

the owner of the motor vehicle may claim against the person who was driving the vehicle at the time of the seizure or immobilization any expenses incurred by the owner with respect to the release of the vehicle from the seizure or immobilization.

175(1) In this section, “personal property” means personal property other than personal property that is a part of a motor vehicle.

(2) Where personal property is in or on a motor vehicle that is seized or immobilized under section 172 or 173, that personal property is not subject to the seizure or immobilization and, subject to the regulations, shall, on request, be returned to the person having claim to that personal property.

8 Coming into force.