

Bill 45
Mr. Oberle

BILL 45

2005

MATERNAL TORT LIABILITY ACT

(Assented to , 2005)

Table of Contents

- 1 Definitions
- 2 Application
- 3 Exception to maternal tort immunity
- 4 Use or operation of automobile
- 5 Limit of liability

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

Definitions

- 1 In this Act,
 - (a) “birth” means birth as defined in the *Vital Statistics Act*;
 - (b) “insured” means insured as defined in section 608 of the *Insurance Act*;
 - (c) “motor vehicle liability policy” means a motor vehicle liability policy as defined in the *Insurance Act*.

Application

- 2 This Act applies in respect of the use or operation of an automobile after this Act comes into force.

Exception to maternal tort immunity

3 Sections 4 and 5 establish a limited exception to the immunity that a mother has at common law from actions in tort by her child for injuries suffered by the child on or after birth as a result of the mother's actions prior to the child's birth.

Use or operation of automobile

4 A mother may be liable to her child for injuries suffered by her child on or after birth that were caused by the mother's use or operation of an automobile during her pregnancy if, at the time of that use or operation, the mother was insured under a contract of automobile insurance evidenced by a motor vehicle liability policy.

Limit of liability

5(1) A mother's liability under section 4 is limited to the amount of insurance money payable under contracts of automobile insurance indemnifying the mother that the child can recover as a creditor under section 635 of the *Insurance Act*.

(2) Notwithstanding any other Act, a judgment against a mother resulting from the exception to tort immunity established by this Act may be enforced only under section 635 of the *Insurance Act*.