

2008 Bill 49

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 49

TRAFFIC SAFETY AMENDMENT ACT, 2008

MR. BERGER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 49
Mr. Berger

BILL 49

2008

TRAFFIC SAFETY AMENDMENT ACT, 2008

(Assented to , 2008)

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 39 is amended

(a) in subsection (1)

- (i) by adding “drug-related driving of a motor vehicle,”**
after “alcohol-related driving of a motor vehicle,”;
- (ii) by adding “drug-related driving of a motor vehicle,”**
after “mean alcohol-related driving of a motor vehicle,”;

**(b) in subsection (2) by adding “the drug-related driving of a
motor vehicle, or both,” after “alcohol-related driving of a
motor vehicle,”;**

(c) in subsection (5)

- (i) by striking out “or” at the end of clause (a) and by
adding the following after clause (a):**

- (a.1) the person drove a motor vehicle having consumed a
drug, alcohol or a combination of a drug and alcohol
in such a quantity that the person’s ability to operate

Explanatory Notes

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

2 Section 39 presently reads in part:

39(1) In this section, “alcohol-related driving of a motor vehicle”, “peace officer” and “temporary operator’s permit” mean alcohol-related driving of a motor vehicle, peace officer and temporary operator’s permit as defined in section 88.

(2) Where, with respect to the alcohol-related driving of a motor vehicle,

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

(b) a person is disqualified from acquiring or holding an operator’s licence or from operating a motor vehicle

under section 88, the person may appeal that suspension or disqualification to the Board.

(5) If, after conducting an appeal under this section, the Board is satisfied that

the motor vehicle was impaired at any time within 3 hours after having driven a motor vehicle, or

(ii) in clause (b) by striking out “to supply a sample of that person’s breath or blood”;

(d) in subsection (6)

(i) by striking out “or” at the end of clause (a) and by adding the following after clause (a):

(a.1) that the person did not drive a motor vehicle having consumed a drug, alcohol or a combination of a drug and alcohol in such a quantity that the person’s ability to operate the motor vehicle was impaired at any time within 3 hours after having driven a motor vehicle, or

(ii) in clause (b)(i) by striking out “to supply a sample of that person’s breath or blood”.

3 Section 88 is amended

(a) in subsection (1)

(i) in clause (a) by striking out “(b)” and substituting “(b)(i) and (ii)”;

(ii) by adding the following after clause (a):

- (a) *the person drove a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in that person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, or*
- (b) *the person, with respect to the driving of a motor vehicle, failed or refused, without a reasonable excuse, to comply with a demand made on that person to supply a sample of that person's breath or blood under section 254 of the Criminal Code (Canada),*

the Board must confirm the suspension or disqualification.

(6) *If, after conducting an appeal under this section, the Board is satisfied*

- (a) *that the person did not drive a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in that person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, or*
- (b) *that, with respect to the driving of a motor vehicle,*
 - (i) *the person did not fail or refuse to comply with a demand made on that person to supply a sample of that person's breath or blood under section 254 of the Criminal Code (Canada), or*
 - (ii) *the person had a reasonable excuse for failing or refusing to comply with the demand referred to in subclause (i),*

the Board must cancel the suspension or disqualification and direct the return to that person of any fees paid to the Government by the person in respect of the appeal conducted under this section.

3 Section 88 presently reads in part:

88(1) In this section,

- (a) *“alcohol-related driving of a motor vehicle” means those circumstances referred to in subsection (2)(a) and (b);*

(2) *Where*

- (a.1) “drug-related driving of a motor vehicle” means those circumstances referred to in subsection (2)(a) and (b)(i.1) and (iii);

(b) in subsection (2)(b)

- (i) in subclause (i) by striking out** “by reason of an analysis of the breath or blood of the person,”;
- (ii) by striking out “or” at the end of subclause (i) and by adding the following after subclause (i):**

(i.1) has reasonable and probable grounds to believe that the person’s ability to operate a motor vehicle is impaired by a drug, alcohol or a combination of a drug and alcohol,

- (iii) in subclause (ii) by striking out** “to supply a sample of that person’s breath or blood”;

- (iv) by adding “or” at the end of subclause (ii) and by adding the following after subclause (ii):**

(iii) has reasonable and probable grounds to believe that the person while having a drug, or a combination of a drug and alcohol, in that person’s body failed or refused, without a reasonable excuse, to comply with a demand made on that person under section 254 of the *Criminal Code* (Canada),

- (c) in subsection (6) by adding** “or drug-related driving of a motor vehicle, or both,” **after** “alcohol-related driving of a motor vehicle”.

- (a) *a peace officer has reasonable and probable grounds to believe that a person drove a motor vehicle, and*
- (b) *in relation to that person driving that motor vehicle, the peace officer,*
 - (i) *by reason of an analysis of the breath or blood of the person, has reasonable and probable grounds to believe that the person has consumed alcohol in such a quantity that the concentration of alcohol in that person's blood exceeds 80 milligrams of alcohol in 100 millilitres of blood, or*
 - (ii) *has reasonable and probable grounds to believe that the person while having alcohol in that person's body failed or refused, without a reasonable excuse, to comply with a demand made on that person to supply a sample of that person's breath or blood under section 254 of the Criminal Code (Canada),*

the peace officer shall, on behalf of the Registrar,

- (c) *in the case of a person who holds an operator's licence,*
 - (i) *require that person to surrender to the peace officer that operator's licence and issue to that person a temporary operator's permit, and*
 - (ii) *serve on that person a notice of suspension of that person's operator's licence;*
- (d) *in the case of a person who holds a temporary operator's permit,*
 - (i) *require that person to surrender to the peace officer that temporary operator's permit, and*
 - (ii) *serve on that person a notice of suspension of that temporary operator's permit;*
- (e) *in the case of a person who holds a licence or permit issued in another jurisdiction that permits the person to operate a motor vehicle, serve on that person a notice of disqualification*
 - (i) *disqualifying that person from operating a motor vehicle, and*

- (ii) *disqualifying that person from applying for or holding an operator's licence;*
 - (f) *in the case of a person who does not hold an operator's licence, serve on that person a notice of disqualification disqualifying that person from applying for or holding an operator's licence.*
- (3) *Where*
- (a) *a person's operator's licence is surrendered and a temporary operator's permit is issued under subsection (2)(c),*
 - (i) *that person is immediately disqualified from driving a motor vehicle in Alberta and remains so disqualified until the temporary operator's permit comes into effect,*
 - (ii) *the temporary operator's permit comes into effect at the expiration of 24 hours from the time that the disqualification referred to in subclause (i) came into effect, and*
 - (iii) *the temporary operator's permit expires at the end of the 21st day following the day on which the temporary operator's permit came into effect;*
 - (b) *a notice of suspension is served on a person under subsection (2)(c), the suspension, with respect to the surrendered operator's licence, takes effect immediately on the expiration of the temporary operator's permit issued in respect of the surrendered operator's licence;*
 - (c) *a notice of suspension is served on a person under subsection (2)(d), the suspension, with respect to the surrendered temporary operator's permit, takes effect immediately on the service of the notice;*
 - (d) *a notice of disqualification is served on a person under subsection (2)(e),*
 - (i) *that person is immediately disqualified from driving a motor vehicle in Alberta, but that disqualification temporarily ceases to have effect at the end of 24 hours from the time that the notice of disqualification was served on that person, and*

- (ii) *that person is, at the end of the 21st day following the day on which the disqualification temporarily ceased to have effect under subclause (i), once again disqualified from driving a motor vehicle in Alberta;*
- (e) *a notice of disqualification is served on a person under subsection (2)(f), the disqualification takes effect immediately on the service of the notice.*
- (4) *A temporary operator's permit, during the period of time that it is in effect, stands in the place of the surrendered operator's licence and is subject to the same terms and conditions as those to which the surrendered operator's licence was subject.*
- (5) *A suspension or disqualification that comes into effect under subsection (3)(b), (d) or (e) is in effect, unless otherwise directed by the Board pursuant to an appeal under section 39, until the end of the 3-month period that commences on the day that the suspension or disqualification takes effect.*
- (6) *Notwithstanding subsection (5), where a peace officer on reasonable and probable grounds believes that the alcohol-related driving of a motor vehicle by a person has caused bodily harm to or the death of another person, a suspension or disqualification that comes into effect under subsection (3)(b), (d) or (e) is in effect, unless otherwise directed by the Board pursuant to an appeal under section 39, until the end of the 6-month period that commences on the day that the suspension or disqualification takes effect.*
- (6.1) *For the purposes of subsections (5) and (6), a disqualification referred to in subsection (3)(d) is deemed to come into effect when the disqualification once again comes into effect under subsection (3)(d)(ii).*
- (7) *Notwithstanding that a person refuses or fails*
 - (a) *to accept from a peace officer service of a notice of suspension or a notice of disqualification, that notice is deemed to have been served at the time that the peace officer attempted to serve that notice on that person;*
 - (b) *to surrender an operator's licence or a temporary operator's permit, that refusal or failure does not prevent the suspension or disqualification from taking effect;*

4 This Act comes into force on Proclamation.

(c) to accept service of a notice of suspension or a notice of disqualification, that refusal or failure does not prevent the suspension or disqualification from taking effect.

4 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To