

2009 Bill 201

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Second Session, 27th Legislature, 58 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 201**

**TRAFFIC SAFETY (VEHICLES  
WITH UNLAWFULLY POSSESSED FIREARMS)  
AMENDMENT ACT, 2009**

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MR. HEHR

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 201*  
*Mr. Hehr*

## **BILL 201**

2009

### **TRAFFIC SAFETY (VEHICLES WITH UNLAWFULLY POSSESSED FIREARMS) AMENDMENT ACT, 2009**

*(Assented to \_\_\_\_\_, 2009)*

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 subsection (1) by striking out “section 173 or 173.1,”  
and substituting “section 173, 173.1 or 173.2.”;**
- (b) in subsection (2) by striking out “section 173 or 173.1.”  
and substituting “section 173, 173.1 or 173.2.”;**
- (c) in subsection (3) by striking out “section 173.1,” wherever  
it occurs and substituting “section 173.1 or 173.2.”.**

## 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 or 173.1, 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 or 173.1.*

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

- (a) the registered 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, or*
- (b) at the time the vehicle was seized, the driver was in possession of it without the knowledge and consent of its registered owner.*

**3 Section 64(k) is amended by striking out “173 and 173.1” and substituting “173, 173.1 and 173.2”.**

**4 Section 77(1)(i) is amended by striking out “173 or 173.1” and substituting “173, 173.1 or 173.2”.**

**5 The following is added after section 115:**

**Prohibited operation of vehicle with unlawfully possessed firearm**

**115.1(1)** In this section,

- (a) “firearm” means a firearm within the meaning of the *Criminal Code* (Canada);
- (b) “unlawfully possessed firearm” means any firearm whose possession is not authorized under the *Firearms Act* (Canada).

(2) No person shall drive on a highway a motor vehicle in which there is an unlawfully possessed firearm.

(3) A person who is guilty of contravening subsection (2) is liable to a fine of not less than \$2500 and not more than \$25 000 or to imprisonment for not more than 6 months, or to both the fine and imprisonment.

(4) When a person is found guilty of contravening subsection (2), a court may suspend the person’s operator’s licence

- (a) for the first conviction under this section, for one year,
- (b) for the first subsequent conviction, for 5 years, and
- (c) on the second subsequent conviction under this section, indefinitely.

(5) If a peace officer reasonably suspects that the driver of a motor vehicle has committed an offence under subsection (2),

**3** Section 64(k) presently reads:

*64 The Minister may make regulations*

*(k) governing the seizure and the immobilization of vehicles under sections 172, 173 and 173.1 and appeals under section 40;*

**4** Section 77(1)(i) presently reads:

*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, 173 or 173.1.*

**5** Offence to operate a vehicle with unlawfully possessed firearm.

the officer may require the driver to surrender the driver's operator's licence to the peace officer.

**(6)** On being required by a peace officer to surrender the driver's operator's licence under subsection (5), the driver

- (a) is disqualified from driving a motor vehicle in Alberta for a period of 24 hours, and
- (b) shall forthwith surrender the driver's operator's licence, if the driver is the holder of an operator's licence, to the peace officer.

**(7)** The refusal or failure of a driver to surrender an operator's licence under subsection (6) does not prevent the disqualification from driving under that subsection from taking effect.

**6 Section 157(1)(a) is amended by adding "115.1," after "115(2)."**

**7 Section 170(8) is amended by striking out "173 or 173.1" and substituting "173, 173.1 or 173.2".**

**6** Section 157(1)(a) presently reads:

*157(1) A person is guilty of an offence who contravenes or fails to comply with one or more of the following:*

- (a) section 51, 52(1), 53, 54(1), 61(2), 65, 66(5), 68(2), 69(1), 69(2), 69(3), 69(4), 69(5), 69(6), 70, 71, 76(1), 80, 90(3), 94(2), 111, 115(2), 119(1), 120(2), 120(3), 121, 123(2), 123(3), 126, 131(1), 137, 138, 140(1), 145, 147, 166(2), 166(3), 166(4), 173(5), 176(2), 183 or 188;*

**7** Section 170 presently reads:

*170(1) In this section, “vehicle” includes any contents in the vehicle or goods being carried by the vehicle.*

- (2) Where a peace officer believes, on reasonable and probable grounds,*
  - (a) that any of the offences referred to in section 169 has been committed with or in relation to any vehicle,*
  - (b) that examination or testing of the vehicle will furnish evidence relevant to the offence, and*
  - (c) that the evidence could be lost if the vehicle is not seized at that time,*





*the peace officer may seize that vehicle and cause it to be removed, taken and stored in a suitable place pending the granting of an order pursuant to subsection (4).*

*(3) When a peace officer has seized a vehicle pursuant to subsection (2), the peace officer shall, as soon as practicable after the seizure, apply to the Provincial Court for an order permitting the examination, testing or detention of the seized vehicle.*

*(4) On application under subsection (3), the Provincial Court may, if it considers it appropriate in the circumstances, do one or more of the following:*

- (a) order the examination or testing of the seized vehicle;*
- (b) order the further detention and storage of the vehicle;*
- (c) order the release of the vehicle to any person with a rightful claim to it, with or without a requirement that the person deposit with the Court security not exceeding the amount that the Court may grant in damages under the Provincial Court Act.*

*(5) An order made under subsection (4) may be renewed, amended or extended on application to the Provincial Court.*

*(6) In hearing an application pursuant to subsection (4), the Provincial Court may, if it orders the vehicle to be released to a person with a rightful claim to it without the requirement of any deposit of security with the Court, order that the costs referred to in section 63(1) be paid*

- (a) in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*
- (b) in any other case, by the Crown in right of Alberta.*

*(7) In hearing a trial of any offence relating to any vehicle seized pursuant to this section the Provincial Court may, if the person with a rightful claim to the vehicle is not convicted of any offence relating to the vehicle, order that the costs referred to in section 63(1) be paid*

- (a) in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*
- (b) in any other case, by the Crown in right of Alberta.*

*(8) This section does not apply in respect of a motor vehicle that is seized or immobilized under section 173 or 173.1.*

**8 The following is added after section 173.1:**

**Seizure of vehicle with unlawfully possessed firearm**

**173.2(1)** Where a person has been charged with an offence under section 115.1(2), a peace officer or a person authorized by a peace officer may seize or immobilize the motor vehicle that was being operated at the time 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 the vehicle was stolen.

(3) Subject to subsection (2) and any decision of the Board in an appeal commenced pursuant to section 40, when a motor vehicle is seized or immobilized under subsection (1) and a person is convicted of an offence referred to in that subsection, the vehicle involved in the offence 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, a peace officer shall release the vehicle to the registered owner or a person authorized by the registered owner.

**9 Section 174(a) amended by striking out “173 or 173.1,” and substituting “173, 173.1 or 173.2,”.**

**10 Section 175(2) is amended**

- (a) **by adding** “, other than an unlawfully possessed firearm,” **after** “Where personal property”;
- (b) **by striking out** “173 or 173.1,” **and substituting** “173, 173.1 or 173.2,”.

**8** Seizure of vehicle with unlawfully possessed firearm.

**9** Section 174(a) presently reads:

*174 Where*

- (a) a motor vehicle has been seized or immobilized under section 172, 173 or 173.1,*

*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.*

**10** Section 175(2) presently reads:

*(2) Where personal property is in or on a motor vehicle that is seized or immobilized under section 172, 173 or 173.1, 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.*

**11 This Act comes into force on Proclamation.**

**11** Coming into force.





# Record of Debate

STAGE	DATE	MEMBER	FROM	TO	TOTAL	CUMULATIVE TOTAL