

2013 Bill 32

First Session, 28th Legislature, 62 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 32

ENHANCING SAFETY ON ALBERTA ROADS ACT

THE MINISTER OF TRANSPORTATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 32

2013

ENHANCING SAFETY ON ALBERTA ROADS ACT

(Assented to _____, 2013)

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

Highways Development and Protection Act

Amends SA 2004 cH-8.5

**1(1) The *Highways Development and Protection Act* is
amended by this section.**

**(2) Section 1(1)(l) is amended by adding “, except in section
38.1,” after “ “street” ”.**

(3) The following is added after section 38:

Closure of unsurveyed highway

38.1(1) In this section, “highway” means land that is used as a public highway or authorized by a highway authority to be used as a public highway, a bridge forming part of a public highway and any structure incidental to the public highway, but that has not been surveyed for use as a public highway, or in respect of which a road plan has not been registered.

Explanatory Notes

Highways Development and Protection Act

1(1) Amends chapter H-8.5 of the Statutes of Alberta, 2004.

(2) Section 1(1) presently reads in part:

1(1) In this Act,

(l) “highway”, “road” or “street” means land that is authorized by a highway authority to be used or surveyed for use as a public highway, road or street, and includes a bridge forming part of a public highway, road or street and any structure incidental to the public highway, road or street;

(3) Closure of unsurveyed highway.

(2) In addition to the Minister's powers under sections 20 and 38, the Minister may, by order, close the whole or any portion of a highway the title to which is vested in the Crown.

(3) If an urban or a rural municipality has the direction, control and management of a highway or a portion of a highway that is the subject of an order under subsection (2), the highway or portion of the highway is no longer subject to the direction, control and management of the municipality.

(4) Section 51 is amended

- (a) in subsection (1) by adding “, without justification or excuse,” after “A person who”;
- (b) in subsection (3) by striking out “, in the opinion of the highway authority,”.

Traffic Safety Act

Amends RSA 2000 cT-6

2(1) The *Traffic Safety Act* is amended by this section.

(2) Section 1(1)(bb) is repealed and the following is substituted:

- (bb) “operator’s licence” or “driver’s licence” means an operator’s licence or a driver’s licence that is issued under this Act and includes a document or information and other data contained in an electronic form that is recognized under this Act as an operator’s licence or a driver’s licence;

(3) Section 3(5) is amended by striking out “, 1987”.

(4) Section 51 presently reads in part:

51(1) A person who

(a) obstructs or deposits any material on a highway, or

(b) interferes with or damages a highway,

is guilty of an offence.

(3) When, in the opinion of the highway authority, any person contravenes subsection (1), the highway authority concerned may remove the obstruction or material deposited on the highway or repair the highway, as the case may be, and recover its expenses incurred in doing so from that person in an action in debt.

Traffic Safety Act

2(1) Amends chapter T-6 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(bb) presently reads:

1(1) In this Act,

(bb) “operator’s licence” means an operator’s licence that is issued under this Act and includes a document or information and other data contained in an electronic form that is recognized under this Act as an operator’s licence;

(3) Section 3(5) presently reads:

(5) Where authorized by the Minister,

(4) Section 5(1)(h) is repealed and the following is substituted:

- (h) the person performing the functions of the provincial authority as defined in the *Motor Vehicle Transport Act* (Canada),

(5) Section 23(3) is amended by striking out “chair” and substituting “Chair”.

(6) Section 35(1) is amended

- (a) in clause (b) by adding “suspends or” before “cancels”;
- (b) by adding “suspension,” after “appeal the refusal.”

- (a) *the Registrar,*
- (b) *the Board, or*
- (c) *an employee of the Government designated by the Minister,*

may accept and exercise powers conferred on that person or body pursuant to the Canada Transportation Act (Canada) or the Motor Vehicle Transport Act, 1987 (Canada).

(4) Section 5(1)(h) presently reads:

5(1) Every document that purports to be signed or issued by

- (h) *the person performing the functions of the provincial transport board as defined under the Motor Vehicle Transport Act, 1987 (Canada),*

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the document without proof of the signature or official character of the person who signed the document, if any.

(5) Section 23(3) presently reads:

(3) If the Chair and the Vice-chairs are not present or are unable to act, the Chair may appoint one of the members of the Board to act as the chair.

(6) Section 35(1) presently reads:

35(1) Where the Registrar

- (a) *refuses to issue a permit to a person under section 62,*
- (b) *cancels a person's permit under section 62, or*
- (c) *imposes a term or condition to which the permit is subject,*

that person may appeal the refusal, cancellation or imposition of the term or condition to the Board.

(7) Section 40(1) and (2) are amended by striking out “172.1” and substituting “172.1(1)(b) or (3)”

(8) Section 61(1)(b) is amended by striking out “, 1987”.

(9) Section 62(3) is amended by adding “suspend or” before “cancel”.

(10) Section 77(2) is amended by striking out “and probable”.

(11) Section 87 is amended

(a) in subsection (1) by striking out “, 249.1(1)” and substituting “or 249.1(1), section 249.2 or 249.3 or subsection 249.4(1), (3) or (4)”;

(b) in subsection (2) by striking out “255(2) or (3)” and substituting “255(2), (2.1), (2.2), (3), (3.1) or (3.2)”.

(7) Section 40 presently reads in part:

40(1) Subject to the regulations, where a person's motor vehicle is seized or immobilized under section 172.1, 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 172.1, 173 or 173.1.

(8) Section 61(1)(b) presently reads:

61(1) In this section, "document" means

(b) a subsisting licence issued under the Motor Vehicle Transport Act, 1987 (Canada);

(9) Section 62(3) presently reads:

(3) Where the Registrar is of the opinion that a person to whom a permit is issued is not complying with or is contravening the terms or conditions of the permit, the Registrar may cancel the permit.

(10) Section 77(2) presently reads:

(2) When the Registrar, a peace officer or another person authorized by the Registrar believes on reasonable and probable grounds that a vehicle referred to in subsection (1) is worthless, that person may, subject to the regulations, cause the vehicle to be moved to a nuisance ground, salvage yard or municipal dump for disposal or to be otherwise dealt with under the regulations.

(11) Section 87 presently reads in part:

87(1) When a person is found guilty under subsection 249(1), 249.1(1) or 252(1) of the Criminal Code (Canada) anywhere in Canada, that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of one year from the day of the finding of guilt.

(12) Section 87.1 is amended by adding the following after clause (b):

- (c) a member of the military police as defined in section 250 of the *National Defence Act* (Canada).

(13) Section 88 is amended

- (a) by renumbering the portion of section 88 that precedes subsection (2) as section 88(1);
- (b) in subsection (2)
 - (i) in clause (a) by striking out “and probable”;
 - (ii) in clause (b)
 - (A) by striking out “and probable”;
 - (B) by adding “or approved instrument” after “approved screening device”.

(2) When a person is found guilty under subsection 249(3) or (4), 249.1(3), 252(1.2) or (1.3) or 255(2) or (3) of the Criminal Code (Canada) anywhere in Canada, that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

(12) Section 87.1 presently reads:

87.1 In sections 88, 88.1 and 90, “peace officer” means

- (a) a police officer as defined in section 1 of the Police Act;*
- (b) a person appointed under the Peace Officer Act as a peace officer for the purposes of sections 88, 88.1 and 90 of this Act who*
 - (i) has been authorized under section 7(2)(e) of the Peace Officer Act to use the title of sheriff,*
 - (ii) has satisfied any applicable terms and conditions under the Peace Officer Act, and*
 - (iii) has been designated by the Minister of Justice and Solicitor General as qualified to enforce sections 88, 88.1 and 90 of this Act.*

(13) Section 88 presently reads in part:

88 In this section,

- (a) “approved instrument” means a device that is designed to receive and make an analysis of a sample of the breath of a person in order to measure the concentration of alcohol in that person’s blood and that is*
 - (i) an approved instrument within the meaning of section 254 of the Criminal Code (Canada), or*
 - (ii) approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;*
- (b) “approved screening device” means a device that is designed to ascertain the presence of alcohol in a person’s blood and that is*

- (i) *an approved screening device within the meaning of section 254 of the Criminal Code (Canada), or*
- (ii) *approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;*
- (c) *“notice of disqualification” means a notice of disqualification served under subsection (2);*
- (d) *“notice of suspension” means a notice of suspension served under subsection (2).*

(2) *Where*

- (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 has reasonable and probable grounds by means of analysis of a sample of breath using an approved screening device to believe that the person has consumed alcohol in such a quantity that the concentration of alcohol in that person’s blood is equal to or exceeds 50 milligrams of alcohol in 100 millilitres of blood,*

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 person’s operator’s licence, 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 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 in Alberta, and*
 - (ii) *disqualifying that person from applying for or holding an operator’s licence;*

(14) Section 90(4) is amended by adding “or approved instrument” after “approved screening device”.

(15) Section 107 is amended by adding the following after subsection (4):

(5) Notwithstanding subsection (2)(b), with respect to a playground zone that is located within a municipality, the council of the municipality may, for a highway in respect of which it may by bylaw prescribe speed limits, by bylaw increase or decrease the length of the periods of time referred to in the regulations during which the speed limit is in effect for that playground zone.

(6) Where a council enacts a bylaw under subsection (5), the council shall cause traffic control devices to be displayed identifying the periods of time during which the speed limit for the playground zone is in effect.

(e) *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.*

(14) Section 90(4) presently reads:

(4) Where a person who is a novice driver provides a breath sample under subsection (3) and the breath sample registers a result on the approved screening device that indicates the presence of alcohol in that person's blood, the peace officer shall, on behalf of the Registrar, require that person to surrender to the peace officer that person's novice operator's licence and serve on that person a notice of suspension of that person's novice operator's licence.

(15) Section 107 presently reads:

107(1) In this section, "school zone" and "playground zone" mean that portion of a highway identified as a school zone or a playground zone by a traffic control device in the manner prescribed by regulations.

(2) Subject to a speed limit that is prescribed under section 108(1)(h) for a highway,

(a) 30 kilometres per hour is the maximum speed limit within a school zone, other than a school zone referred to in clause (c), during the periods of time and the days provided for or otherwise specified in the regulations;

(b) 30 kilometres per hour is the maximum speed limit within a playground zone, other than a playground zone referred to in clause (c), during the period of time and the days provided for or otherwise specified in the regulations;

(c) within a school zone or a playground zone that is identified by a traffic control device that shows rapid intermittent flashes of yellow light as provided for in the regulations when the traffic control device is activated, 30 kilometres per hour is the maximum speed limit during any period when the traffic control device is showing rapid intermittent flashes of yellow light.

(16) Section 116 is amended by adding the following after clause (l):

- (m) restricting the use of specified traffic lanes to vehicles carrying a prescribed number of passengers;
- (n) restricting the use of specified traffic lanes to specific vehicles or classes of vehicles.

(17) Section 127 is amended by striking out “and probable”.

(18) Section 168(1) is amended by striking out “and probable”.

(3) Notwithstanding subsection (2)(a), with respect to a school zone that is located within a municipality the council of the municipality may, for a highway in respect of which it may by bylaw prescribe speed limits and having regard to the hours of opening and closing of the school for which the school zone exists, by bylaw increase or decrease the length of the periods of time referred to in the regulations during which the speed limit is in effect for that school zone.

(4) Where a council enacts a bylaw under subsection (3), the council shall cause traffic control devices to be displayed identifying the hours during which the speed limit for the school zone is in effect.

(16) New Ministerial regulation-making powers.

(17) Section 127 presently reads:

127 A peace officer who on reasonable and probable grounds believes that section 71, 119 or 120(2)(a) or (b) has been contravened may seize and detain any off-highway vehicle in respect of which the offence was committed until the final disposition of any proceedings taken under this Act, and section 170 applies to that off-highway vehicle as if it were a vehicle to which section 169 applies.

(18) Section 168(1) presently reads:

168(1) If a peace officer has reasonable and probable grounds to believe

(a) that a vehicle is displaying licence plates that

(i) were not issued for that vehicle, or

(ii) were obtained by false pretenses,

(19) Section 169(1) is amended by striking out “and probable”.

(20) Section 170(2) is amended by striking out “and probable”.

(21) Section 171(1) is amended

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or

- (b) *that a vehicle is located on a highway in contravention of section 54,*

the peace officer may seize and take possession of the licence plates displayed on that vehicle.

(19) Section 169(1) presently reads:

169(1) A peace officer may arrest a person without warrant if the peace officer, on reasonable and probable grounds, believes that

- (a) *the person has committed an offence in respect of any of the provisions set out in subsection (2), and*
- (b) *the person*
 - (i) *will continue or repeat that offence if not arrested, or*
 - (ii) *has provided the peace officer with inadequate or questionable information as to the person's identification.*

(20) Section 170(2) presently reads:

(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).

(21) Section 171(1) presently reads:

- (a) **by striking out** “and probable”;
- (b) **by adding** “or immobilize” **after** “seize”.

(22) Section 172.1(2) is amended by striking out “shall seize” **and substituting** “may seize”.

(23) This section comes into force on Proclamation.

171(1) Where a peace officer believes, on reasonable and probable grounds, that a person has committed an offence in respect of section 52(1)(h) or 54(1)(a), (b) or (c) in relation to the operation of a motor vehicle, 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 (3).

(22) Section 172.1(2) presently reads:

(2) Where a person has been disqualified from driving under section 89, a peace officer or another person authorized by a peace officer shall seize or immobilize the motor vehicle that was being operated by that person at the time that the person was disqualified for 24 hours.

(23) Coming into force.

