

2016 Bill 9

Second Session, 29th Legislature, 65 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 9

**AN ACT TO MODERNIZE ENFORCEMENT
OF PROVINCIAL OFFENCES**

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 9

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2016

AN ACT TO MODERNIZE ENFORCEMENT OF PROVINCIAL OFFENCES

(Assented to , 2016)

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

Amends RSA 2000 cP-34

1 *The Provincial Offences Procedure Act* is amended by this Act.

2 Section 7 is amended by adding the following after subsection (2):

(2.1) In proceedings commenced under Part 2 pursuant to section 22(3), a justice sentencing a defendant convicted of an offence shall consider the ability of the defendant to pay a fine and, notwithstanding any provision to the contrary in any other enactment, may refuse to impose a period of imprisonment in default of payment of the fine where imprisonment would not serve the public interest.

Explanatory Notes

1 Amends chapter P-34 of the Revised Statutes of Alberta 2000.

2 Section 7 presently reads:

7(1) Subject to any express provision in another enactment, every person who is convicted of an offence is liable to a fine of not more than \$2000 or to imprisonment for not more than 6 months or to both.

(2) Subject to any express provision in another enactment, if the imposition of a fine or the making of an order for the payment of money is authorized by an enactment but the enactment does not provide that imprisonment may be imposed in default of payment of the fine or compliance with the order, the Court may order that in default of payment of the fine or compliance with the order, as the case may be, the defendant shall be imprisoned for a period of not more than 6 months.

(3) This section does not apply if proceedings are commenced under Part 3.

3 Section 22(2) and (3) are repealed and the following is substituted:

(2) Where the procedure in the *Criminal Code* (Canada) for laying an information is not followed,

- (a) the procedure set out in Part 2 must be followed with respect to offences specified in the regulations, and
- (b) subject to subsection (3), the procedure set out in Part 3 must be followed with respect to offences for which a specified penalty of \$1000 or less, excluding any applicable surcharge, is provided for in the regulations.

(3) If it is in the public interest to commence proceedings under Part 2 for an offence for which the specified penalty is \$1000 or less, excluding any applicable surcharge, the peace officer shall issue a summons in accordance with the regulations.

4 Section 25(2) is repealed and the following is substituted:

(2) The complaint part of the violation ticket

- (a) must be completed and signed by a complainant who believes on reasonable and probable grounds that an offence has been committed, and
- (b) must be filed with the clerk prior to the initial appearance date indicated on the violation ticket,

and is deemed to have been made under oath.

(2.1) When new violation tickets are printed for the purposes of subsection (2),

- (a) the violation tickets previously printed may also be used until supplies of those previously printed tickets are exhausted, and
- (b) there is no requirement for the complaint part of the previously printed violation tickets to be sworn before a commissioner for oaths.

3 Section 22 presently reads in part:

(2) If the regulations provide that proceedings with respect to an offence may be commenced under either Part 2 or Part 3, the proceedings shall be commenced under Part 3 unless it is in the public interest to compel the defendant to appear before a justice in proceedings under Part 2.

(3) If the proceedings with respect to an offence referred to in subsection (2) are commenced under Part 2, the peace officer shall issue a summons in accordance with section 27(3).

4 Section 25(2) presently reads:

(2) The complaint part of the violation ticket shall be

- (a) sworn before a commissioner for oaths by a complainant who believes on reasonable and probable grounds that an offence has been committed, and*
- (b) filed with a clerk prior to the initial appearance date indicated on the violation ticket.*

5 Section 27(3) is repealed and the following is substituted:

(3) Notwithstanding anything in the regulations or in a bylaw or ministerial order referred to in section 44 that authorizes a voluntary payment to be made in respect of an offence, if it is in the public interest to compel the defendant to appear before a justice in proceedings under this Part, a peace officer shall issue a summons requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.

6 Section 42 is amended

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

(c.1) respecting voluntary payments to be made and specified penalties to be imposed in respect of any offence for which proceedings may be commenced under Part 2;

(b) in clause (j) by striking out “under sections 22(2) and 27(3)” **and substituting** “for the purposes of this Act”.

Amends RSA 2000 cT-6

7(1) The *Traffic Safety Act* is amended by this section.

(2) Section 57(a) and (b) are repealed and the following is substituted:

(a) any enactment or municipal bylaw, or any bylaw made under this Act, or

5 Section 27(3) presently reads:

(3) If it is in the public interest to compel the defendant to appear before a justice in proceedings under this Part, a peace officer may, if authorized by the regulations, issue a summons respecting any offence for which a voluntary payment may be made, requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.

6 Section 42 presently reads in part:

42 The Lieutenant Governor in Council may make regulations

- (j) respecting the determination of the public interest under sections 22(2) and 27(3);*

7 Amends chapter T-6 of the Revised Statutes of Alberta 2000.
Section 57 presently reads:

57 Notwithstanding anything in this Act, where a person has not paid a fine or penalty levied against that person under

- (a) this Act or a bylaw made under this Act,*
- (b) any other enactment or bylaw as prescribed by regulation, or*
- (c) any law in another jurisdiction that in the opinion of the Registrar deals with matters in that jurisdiction that are similar in nature to matters dealt with under this Act,*

the Registrar may,

- (d) in respect of that person, refuse to perform that function or service or to issue, renew or otherwise deal with any motor vehicle document or other document until the fine or penalty is paid, and*

8 Sections 2, 4 and 5 apply only in respect of offences committed on or after the day of the respective coming into force of each of those sections.

9 This Act comes into force on Proclamation.

(e) if authorized by regulation, refuse to register a vehicle in the name of the new owner if the ownership of a registered vehicle passes directly or through intermediary owners from the person who has not paid the fine or penalty to a person described by regulation.

8 Coming into force.

9 Coming into force.

