

2016 Bill 16

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Second Session, 29th Legislature, 65 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 16**

**TRAFFIC SAFETY  
AMENDMENT ACT, 2016**

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THE MINISTER OF TRANSPORTATION

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 16

2016

### TRAFFIC SAFETY AMENDMENT ACT, 2016

(Assented to \_\_\_\_\_, 2016)

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 39.3 is amended**

**(a) in subsection (1)**

**(i) by adding the following after clause (b):**

(b.1) determines the length of the term under section  
88.2(5)(b);

**(ii) by repealing clause (c);**

**(iii) by striking out “refusal, extension” and substituting  
“refusal, determination, extension”;**

**(iv) by striking out “refusal or extension” and substituting  
“refusal, determination or extension”;**

**(v) by striking out “88.2(2), (4)” and substituting  
“88.2(2), (4), (5)(b)”;**

**(b) in subsection (2)**

**(i) by adding the following after clause (c):**

## Explanatory Notes

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

**2** Section 39.3 presently reads in part:

*39.3(1) Where the Registrar*

*(c) refuses to grant an exemption under section 88.2(6)(a),*

*the person to whom the refusal, extension or imposition of a term or condition or further period of disqualification applies may appeal the refusal or extension or the imposition of a term or condition under section 88.2(2), (4) or (7) or of a further period of disqualification under section 88.2(7) to the Board.*

*(2) In determining an appeal commenced pursuant to this section, the Board may by order*

*(d) direct the Registrar to grant an exemption under section 88.2(6)(a),*

*and may make the order subject to any terms or conditions that the Board considers appropriate in the circumstances.*

(c.1) direct the Registrar to change the length of the term determined under section 88.2(5)(b);

(ii) **by repealing clause (d).**

**3 The following is added after section 41:**

**Appeals re administrative penalties re transportation network companies**

**41.1(1)** Where a transportation network company, as defined under section 129.4, is affected by a decision made or an action taken by the Registrar under section 129.2, the transportation network company may appeal that decision or action to the Board.

**(2)** In determining an appeal commenced pursuant to this section, the Board may

(a) confirm, vary or rescind the decision made by the Registrar, or

(b) set aside the decision made or action taken by the Registrar and make any decision or take any action that the Registrar is empowered to make or take.

**4 Section 83 is amended**

**(a) by adding the following after subsection (2):**

**(2.1)** In establishing for the purposes of subsection (2) whether a person has been found guilty of an offence under section 253 or 254 of the *Criminal Code* (Canada) anywhere in Canada and has been found guilty within the preceding 10 years of an offence under either of those sections anywhere in Canada, the only question to be considered is the sequence of the findings of guilt and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a finding of guilt.

**(b) by adding the following after subsection (3):**

**3** Appeals re administrative penalties re transportation network companies.

**4** Section 83 presently reads in part:

*83(1) When a person is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, that person on being found guilty becomes disqualified from driving a motor vehicle for a period of one year from the day of the finding of guilt.*

*(2) Notwithstanding subsection (1), if a person*

*(a) is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 10 years, been found guilty of an offence under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada,*

**(3.1)** In establishing for the purposes of subsection (3) whether a person

- (a) has been found guilty of an offence under section 253 or 254 of the *Criminal Code* (Canada) anywhere in Canada, and
- (b) has been found guilty within the preceding 10 years of
  - (i) 2 offences under section 253 or 254 of the *Criminal Code* (Canada), or
  - (ii) one offence under section 253 of the *Criminal Code* (Canada) and one offence under section 254 of the *Criminal Code* (Canada)

anywhere in Canada, unless those 2 offences arose out of the same incident,

the only question to be considered is the sequence of the findings of guilt and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a finding of guilt.

## **5 Section 87 is amended**

- (a) **in subsection (1) by striking out** “section 249.2 or 249.3 or subsection 249.4(1), (3) or (4)” **and substituting** “249.4(1)”;
- (b) **in subsection (2) by striking out** “, 249.1(3)” **and substituting** “or 249.1(3), section 249.2 or 249.3 or subsection 249.4(3) or (4)”.

## **6 Section 88.2 is amended**

*that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 3 years from the day of the finding of guilt.*

*(3) Notwithstanding anything in this section, when a person*

*(a) is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 10 years, been found guilty of*

*(i) 2 offences under section 253 or 254 of the Criminal Code (Canada), or*

*(ii) one offence under section 253 of the Criminal Code (Canada) and one offence under section 254 of the Criminal Code (Canada)*

*anywhere in Canada, unless those 2 offences arose out of the same incident,*

*that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt..*

**5** Section 87 presently reads in part:

*87(1) When a person is found guilty under subsection 249(1) or 249.1(1), section 249.2 or 249.3 or subsection 249.4(1), (3) or (4) 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.*

*(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), (2.1), (2.2), (3), (3.1) or (3.2) 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.*

**6** Section 88.2 presently reads in part:

**(a) by repealing subsection (5) and substituting the following:**

**(5)** The term during which the person must not operate a motor vehicle without an alcohol-sensing device as described in subsections (2) and (4) is

- (a) for convictions under section 253 or 254 of the *Criminal Code* (Canada),
  - (i) one year for a first conviction;
  - (ii) 3 years for a 2nd conviction within 10 years;
  - (iii) 5 years for a 3rd or subsequent conviction within 10 years;
- (b) for convictions under section 255 of the *Criminal Code* (Canada), up to 5 years, as determined by the Registrar.

**(5.1)** A conviction under section 255 of the *Criminal Code* (Canada) is deemed to be a conviction in determining whether a conviction is a 2nd, 3rd or subsequent conviction for the purposes of subsection (5)(a).

**(b) by repealing subsection (6)(a).**



*(2) The Registrar may set aside the operation of a disqualification imposed under this Act only on the condition that the person who is subject to the disqualification*

- (a) does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device satisfactory to the Registrar, and*
- (b) complies with any terms or conditions imposed by the Registrar.*

*(4) The Registrar may reinstate or issue an operator's licence only on the condition that the person, in addition to complying with the other requirements imposed under this Act,*

- (a) does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device that meets the approval of the Registrar, and*
- (b) complies with any terms or conditions imposed by the Registrar.*

*(5) The term during which the person must not operate a motor vehicle without an alcohol-sensing device as described in subsection (2) and (4) is*

- (a) one year from the expiration of the disqualification for a first conviction;*
- (b) 3 years from the expiration of the disqualification for a 2nd conviction within 10 years;*
- (c) 5 years from the expiration of the disqualification for a 3rd or subsequent conviction within 10 years.*

*(6) Notwithstanding subsection (5), the Registrar may*

- (a) consider and grant or refuse applications for exemption from subsection (5)(a) from persons whose blood alcohol content was less than 160 milligrams of alcohol in 100 millilitres of blood,*
- (b) order the extension of the requirement for the use of an alcohol-sensing device beyond the periods stated in subsection (5) until such time as, in the opinion of the*

**7 Section 90(2) is amended by adding “or approved instrument” after “approved screening device”.**

**8 Section 124 is amended by adding the following after subsection (6):**

(7) Subsection (6)(b) does not apply where the person also produces the subsisting financial responsibility card issued in respect of the vehicle.

*Registrar, the person no longer poses a significant risk to public safety, or*

- (c) consider and grant or refuse applications for exemption from subsection (5) where it is not feasible for the disqualified person to comply with the requirement for the use of an alcohol-sensing device as prescribed in this section.*

**7** Section 90(2) presently reads:

*(2) If a peace officer reasonably suspects that the driver of a motor vehicle who is a novice driver, having consumed alcohol, drove the motor vehicle, the peace officer may require that the novice driver forthwith provide a breath sample into an approved screening device.*

**8** Section 124 presently reads in part:

*124(1) On the request of a peace officer, a person driving an off-highway vehicle shall produce to the peace officer for inspection the following documents as requested by the peace officer:*

- (a) the person's subsisting operator's licence if the vehicle is being operated on a highway;*
- (b) the subsisting certificate of registration issued in respect of that vehicle;*
- (c) the subsisting financial responsibility card issued in respect of that vehicle.*

*(6) A person driving an off-highway vehicle is guilty of an offence if, when requested to produce a financial responsibility card under subsection (1), the person produces*

- (a) a document that purports to be a financial responsibility card but that was not issued pursuant to the Insurance Act, or*
- (b) a financial responsibility card relating to an insurance policy that is not in force or is otherwise invalid at the time of production.*

**9 The following is added after section 129:**

**Part 6.1  
Transportation  
Network Companies**

**Transportation network companies**

**129.1** A transportation network company may only operate in accordance with the regulations under this Part.

**Administrative penalties**

**129.2(1)** Where the Registrar is of the opinion that a transportation network company has contravened or failed to comply with this Part or the regulations under this Part, the Registrar may, subject to the regulations, by notice in writing given to the transportation network company, require that transportation network company to pay to the Government an administrative penalty in an amount set out in the notice, not to exceed \$50 000

- (a) for the contravention or failure to comply, or
- (b) for each day or part of a day that the contravention or failure to comply occurs or continues.

**(2)** A transportation network company who pays an administrative penalty in respect of a contravention or failure to comply shall not be charged under this Act with an offence in respect of that contravention or failure to comply.

**(3)** Where a transportation network company fails to pay an administrative penalty in accordance with a notice under subsection (1), the Government may recover the amount owing in respect of the penalty by an action in debt.

**Injunction**

**129.3** The Court of Queen's Bench, on application by the Registrar, may grant an injunction enjoining any person from contravening or failing to comply with this Part or the regulations under this Part notwithstanding any penalty or sanction that may be provided by this Part or the regulations under this Part in respect of that contravention or failure to comply.

**9** Part 6.1 Transportation Network Companies: Transportation network companies; Administrative penalties; Injunction; Regulations.

### **Regulations**

**129.4** The Lieutenant Governor in Council may make regulations respecting any matter concerning the operation of a transportation network company, including, without limitation, regulations

- (a) defining any word used in this Part or the regulations under this Part and not defined in this Act;
- (b) respecting requirements to be met by transportation network companies;
- (c) providing for and governing sanctions that may be imposed for contraventions or failures to comply with this Part or the regulations under this Part;
- (d) respecting the form and contents of notices of administrative penalties for the purposes of section 129.2;
- (e) prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed by the Registrar, not to exceed the maximum set out in section 129.2(1);
- (f) prescribing limitation periods for the giving of notices of administrative penalties;
- (g) respecting any other matter necessary for the administration of the system of administrative penalties;
- (h) providing for any other matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this Part.

**10 Section 167 is amended by adding the following after subsection (8):**

**(9)** Subsection (8)(b) does not apply where the person also produces the subsisting financial responsibility card issued in respect of the motor vehicle.

**10** Section 167 presently reads in part:

*167(1) On the request of a peace officer, a person driving or otherwise having the care or control of a motor vehicle or trailer shall produce to the peace officer for inspection the following documents as requested by the peace officer:*

*(a) the person's subsisting operator's licence;*

**11 Section 190 is repealed.**



- (b) *the subsisting certificate of registration issued in respect of the motor vehicle and any trailer attached to the motor vehicle and, in the case of a vehicle in a prescribed class of commercial vehicles, either the subsisting certificate of registration or a copy of the certificate of registration;*
- (c) *the subsisting financial responsibility card issued in respect of that motor vehicle;*
- (d) *the customs permit issued in respect of the motor vehicle where a customs permit has been obtained in respect of the motor vehicle's entry into Canada.*

*(8) A person driving a motor vehicle is guilty of an offence and liable to the penalty and any other sanction provided for under section 54(4) to (7) if, when requested to produce a financial responsibility card under subsection (1), the person produces*

- (a) a document that purports to be a financial responsibility card but that was not issued pursuant to Part 7 of the Insurance Act, or*
- (b) a financial responsibility card relating to an insurance policy that is not in force or is otherwise invalid at the time of production.*

**11** Section 190 presently reads:

*190(1) In this section,*

- (a) "Schedule" means the Schedule to this Act;*
- (b) a reference to a suspension or disqualification is a reference to a suspension or disqualification under the Schedule and that is still in effect on the coming into force of sections 39 and 88 of this Act;*
- (c) a reference to an ongoing appeal is a reference to an appeal commenced under section 3 of the Schedule and that is still continuing on the coming into force of sections 39 and 88 of this Act;*
- (d) a reference to a right of appeal is a reference to a right of appeal provided for under section 3 of the Schedule and that*

**12(1) The following provisions are amended by striking out “motor cycle” wherever it occurs and substituting “motorcycle”:**

section 1(1)(i) and (w);  
section 51(f.1), (f.2) and (f.3);  
section 80(b) and (c).

**(2) Sections 1(1)(w) and 117(a)(iii) are amended by striking out “motor cycles” and substituting “motorcycles”.**

**13 Sections 3 and 9 come into force on Proclamation.**

*has not expired before the coming into force of sections 39 and 88 of this Act.*

- (2) On the coming into force of sections 39 and 88 of this Act,*
- (a) all suspensions and disqualifications continue under those provisions;*
  - (b) all ongoing appeals continue and shall be determined under those provisions;*
  - (c) all rights of appeal continue under and are subject to those provisions;*
  - (d) notwithstanding clause (c), a right of appeal expires on the day provided for in the Schedule as if the Schedule had not been repealed.*

**12** Updates terminology.

**13** 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