

2020 Bill 21

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 21

PROVINCIAL ADMINISTRATIVE PENALTIES ACT

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 21

BILL 21

2020

PROVINCIAL ADMINISTRATIVE PENALTIES ACT

(Assented to , 2020)

Table of Contents

- 1 Interpretation
- 2 Purpose of Act
- 3 Application of Act
- 4 Provision of technical materials

Part 1 Contraventions

- 5 Issuance of notice of administrative penalty
- 6 Form of notice of administrative penalty
- 7 Request for review
- 8 Failure to respond to notice of administrative penalty or pay fine

Part 2 Reviews

Division 1 Designation and Assignment of Adjudicators

- 9 Designation of adjudication branch
- 10 Designation of Director and adjudicators
- 11 Assignment of adjudicator

Division 2
Records, Representations, Arguments and Evidence

- 12 Duty to provide records to recipient
- 13 Records, representations, arguments and evidence provided by recipient

Division 3
Review

- 14 Document deemed made under oath
- 15 Date of review
- 16 Means of review
- 17 Rules for review
- 18 Content of review
- 19 Failure to participate in or abandonment of review
- 20 Request for late review

Division 4
Decision of Adjudicator

- 21 Decision of adjudicator
- 22 Copy of adjudicator's decision
- 23 Delay in exceptional circumstances

Part 3
Judicial Review

- 24 Judicial review

Part 4
General Matters

- 25 Search warrants
- 26 Limitation period
- 27 Additional time to pay fine
- 28 Incomplete notice of administrative penalty
- 29 Application of money received
- 30 Civil recovery
- 31 Admissibility of confirmation of contravention
- 32 Signatures
- 33 Electronic signatures
- 34 Certified copies of documents

Part 5 Regulations

- 35** General regulations
- 36** Deficiency regulations
- 37** Consequential changes to regulations

Part 6 Consequential Amendments, Coordinated Amendment and Coming into Force

- 38-46** Consequential amendments
- 47** Coordinated amendment
- 48** Coming into force

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

Interpretation

1(1) In this Act,

- (a) “adjudicator” means an employee of the Crown designated as an adjudicator under section 10;
- (b) “administrative penalty” includes a fine and any other administrative consequence, including, without limitation, a sanction, restriction, prohibition, requirement, condition, suspension, disqualification or cancellation imposed on a person for contravention of a prescribed enactment, but does not include imprisonment;
- (c) “contravention” includes, without limitation,
 - (i) a failure to comply with a restriction, prohibition, requirement, rule, direction, order, term or condition imposed by or under a prescribed enactment,
 - (ii) conduct that is subject to sanction under a prescribed enactment, and
 - (iii) any other action prescribed as a contravention under this Act or a prescribed enactment;

- (d) “Crown” means the Crown in right of Alberta;
- (e) “Director” means the head of the adjudication branch designated under section 10;
- (f) “electronic document” means information or data that is created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage, and includes any display, printout or other output of the information or data;
- (g) “enactment” means any Act, regulation, order or bylaw enacted in relation to any matter over which the Legislature has legislative authority;
- (h) “fine” means a monetary penalty imposed in respect of a contravention;
- (i) “medical information” means information provided or created by a person who is licensed or authorized by law to practise medicine in the place where the person practises;
- (j) “Minister” means, except in section 10(1), the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “notice of administrative penalty” means a notice of administrative penalty issued under section 5;
- (l) “officer” means a peace officer and any person authorized under a prescribed enactment to enforce the enactment;
- (m) “peace officer” means
 - (i) a police officer under the *Police Act*, while the police officer is in the exercise or discharge of the police officer’s powers or duties,
 - (ii) a member of a police service under the *Police Act*, while the member is in the exercise or discharge of the member’s powers or duties,

- (iii) a peace officer appointed under the *Peace Officer Act*, while the peace officer is in the exercise or discharge of the peace officer's powers or duties,
- (iv) a person who is employed or retained by the Government, a municipality or a Metis settlement and whose duties include written authorization to issue notices of administrative penalty, while the person is in the exercise or discharge of that duty and while the person is issuing a notice of administrative penalty,
- (v) a park warden designated under the *Parks Canada Agency Act* (Canada) and a park warden or enforcement officer designated under the *Canada National Parks Act* (Canada), while they are in the exercise or discharge of their powers or duties in a national park established under the *Canada National Parks Act* (Canada),
- (vi) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 156 of the *National Defence Act* (Canada), while the person is in the exercise or discharge of the person's powers or duties in a defence establishment as defined in that Act, and
- (vii) any other person employed by a municipality, a Metis settlement, the Government of Alberta or the Government of Canada for the preservation and maintenance of the public peace, while the person is in the exercise or discharge of the person's powers and duties;
- (n) "prescribed" means prescribed by regulation;
- (o) "prescribed enactment" means an enactment prescribed under this Act as an enactment to which this Act applies;
- (p) "recipient" means a person to whom a notice of administrative penalty is issued;
- (q) "request for review" means a request for review filed by a recipient under section 7;
- (r) "review" means a review conducted under Part 2;

- (s) “surcharge” means a surcharge under the *Victims of Crime Act*.

(2) In this Act, a reference to the issuance of a notice of administrative penalty to a person includes the service of that notice on that person.

Purpose of Act

2 The purpose of this Act is to

- (a) adopt a simplified form and process for administratively enforcing contraventions,
- (b) establish a consistent framework for the resolution of contraventions enforced by issuance of an administrative penalty,
- (c) ensure that the process used to administratively enforce contraventions and the procedural safeguards applicable in administrative enforcement proceedings are proportionate to the regulatory nature of the contravention,
- (d) resolve disputes in relation to administrative penalties in an expedient manner consistent with the procedural protections mandated by this Act,
- (e) affirm that the consequences for a contravention enforced by issuance of an administrative penalty may not include imprisonment, and
- (f) enhance access to justice by establishing an administrative enforcement process that can be readily understood and provides for a simple method of disputing a notice of administrative penalty.

Application of Act

3(1) Subject to subsection (3), the regulations and any express provision in this or any other Act, this Act and the procedures under this Act apply to any case in which a person commits or is suspected of having committed a contravention for which that person may be liable to an administrative penalty.

(2) Subject to any express provision in another enactment, every person who commits a contravention is liable to an administrative penalty.

(3) This Act does not apply in respect of a contravention in respect of which an information has been laid or a violation ticket has been issued under the *Provincial Offences Procedure Act*.

(4) No person is liable to imprisonment as a consequence of a notice of administrative penalty.

Provision of technical materials

4 The Director may, in accordance with the regulations or the regulations under a prescribed enactment, establish and maintain publicly accessible scientific, technical or medical information and documents in any format, which may be relied on as evidence in a review.

Part 1 Contraventions

Issuance of notice of administrative penalty

5 An officer who has reasonable grounds to believe that a person has committed a contravention may issue a notice of administrative penalty to that person.

Form of notice of administrative penalty

6 A notice of administrative penalty must be in a form and contain the content satisfactory to the Minister.

Request for review

7(1) If a recipient wishes to dispute a notice of administrative penalty, the recipient shall, within 7 days after the notice of administrative penalty is issued, file with the Director a request for review in a form and containing the content satisfactory to the Minister and pay the prescribed fee.

(2) The filing of a request for review of a notice of administrative penalty does not stay the administrative penalty.

(3) A prescribed enactment may provide for relief for persons other than recipients who are affected by the imposition of an administrative penalty under this Act or a prescribed enactment.

Failure to respond to notice of administrative penalty or pay fine

8 Subject to any extension granted under section 27, if a recipient has not

- (a) filed a request for review in accordance with section 7, or
- (b) paid any applicable fine and any applicable surcharge to the Crown within the period specified by the regulations under this Act or under a prescribed enactment,

the fine and any applicable surcharge and late payment charge, as specified in the regulations, are immediately payable to the Crown.

**Part 2
Review**

**Division 1
Designation and Assignment of
Adjudicators**

Designation of adjudication branch

9 The Lieutenant Governor in Council may designate a part of the public service as an adjudication branch to conduct reviews under this Act.

Designation of Director and adjudicators

10(1) The Minister responsible for an enactment pursuant to section 16 of the *Government Organization Act* may designate any person as the Director of the adjudication branch for reviews under this Part of notices of administrative penalty issued with respect to contraventions of that enactment.

(2) The Director may designate employees of the Crown as adjudicators for the purposes of the reviews referred to in subsection (1).

(3) The Director may in writing delegate to any employee of the Crown any power, duty or function conferred or imposed on the Director by this Act.

Assignment of adjudicator

11(1) The Director shall, after receiving a request for review and the prescribed fee, assign an adjudicator to conduct the review.

(2) A review shall be conducted by a single adjudicator.

**Division 2
Records, Representations,
Arguments and Evidence****Duty to provide records to recipient**

12(1) The Director shall, after receiving a request for review and the prescribed fee, provide to the recipient, in accordance with the regulations, relevant records as prescribed in the regulations or the regulations under a prescribed enactment.

(2) Unless required by the regulations or the regulations under a prescribed enactment, the Director is not required to provide a recipient with any records, representations or arguments in respect of an alleged contravention beyond the records referred to in subsection (1).

(3) Where the Director is unable to provide relevant records in accordance with subsection (1), the Director may cancel the notice of administrative penalty.

Records, representations and arguments provided by recipient

13(1) Subject to subsection (2) and the regulations or the regulations under a prescribed enactment, a recipient may provide to the Director records, representations, arguments or evidence in support of a request for review.

(2) Any written representations, written arguments or records provided as evidence must be provided to the Director at least 2 days before the date of the review.

(3) If the recipient does not provide the records, representations, arguments or evidence referred to in subsection (2) within the period specified in subsection (2), the adjudicator shall not consider those records, representations, arguments or evidence in the review.

Division 3 Review

Document deemed made under oath

14 A report, notes or other document confirmed by an officer in accordance with the regulations is deemed to have been made under oath.

Date of review

15 Subject to section 23, where a review has been requested and the prescribed fee has been paid, the Director shall schedule a review, which must be held within 21 days from issuance of the notice of administrative penalty.

Means of review

16(1) A review may be conducted orally or in writing as prescribed, but shall not be conducted in person.

(2) Oral reviews may be held by electronic means, including any method of telecommunication, in accordance with the regulations.

(3) No person may be cross-examined in a review of a notice of administrative penalty.

Rules for review

17 The Director may set rules, prohibitions and limits for evidence and submissions under section 13, including, without limitation,

- (a) maximum numbers of pages or documents submitted,
- (b) maximum duration for video and audio submissions, and
- (c) types and formats of content.

Content of review

18(1) The burden of proof in a review is on the person requesting the review.

(2) An adjudicator may, in conducting a review, consider the following records, representations, arguments and evidence before making a decision:

- (a) a copy of the notice of administrative penalty;
- (b) any records, representations, arguments and evidence submitted by the recipient;
- (c) the report of the officer who issued the notice of administrative penalty;
- (d) any other relevant records and representations of the officer who issued the notice of administrative penalty or any other officer, including peace officers' reports that have not been sworn or solemnly affirmed;
- (e) any relevant scientific, technical or medical information and documents referred to in section 4;
- (f) any other prescribed evidence or information.

(3) The adjudicator may determine the weight to be given to any documents, records, representations or evidence.

(4) In conducting a review, the adjudicator is not bound by the rules respecting evidence applicable to judicial proceedings.

Failure to participate in or abandonment of review

19(1) Subject to subsection (2), if a recipient, after filing a request for review, fails

- (a) where the recipient requests an oral review, to attend at the review, or
- (b) where the recipient requests a written review, to provide any material in support of the recipient's request,

the request for review is deemed to be abandoned, the notice is confirmed and any fine and any applicable surcharge and late payment charge are payable to the Crown in accordance with the regulations.

(2) Where a recipient requests an oral review and fails to attend at the review, but provides material in support of the request, the review must be conducted as a written review.

(3) At any time after a recipient has filed a request for review under section 7 and before the time at which a review is scheduled, the recipient may abandon the request by

- (a) notifying the Director, or
- (b) paying the fine and any applicable surcharge and late payment charge to the Crown,

and the notice of administrative penalty is confirmed.

Request for late review

20(1) Notwithstanding sections 8 and 19, if a recipient wishes to request a late review of an administrative penalty under this section, the recipient may, within 12 months of the date the notice of administrative penalty is issued, file with the Director a request for review in a form and containing the content satisfactory to the Minister and pay the prescribed fee.

(2) The Director may accept a request for late review if the Director is satisfied that the recipient has prescribed exceptional circumstances for

- (a) failing to file a request within the period specified in section 7, or
- (b) failing to participate in a review as referred to in section 19.

(3) The Director shall notify the recipient in writing of the decision under subsection (2) in accordance with the regulations or the regulations under a prescribed enactment.

(4) The date the Director notifies the recipient of the decision to accept the request under subsection (2) is deemed to be the date of the issuance of the notice of administrative penalty under section 5.

Division 4 Decision of Adjudicator

Decision of adjudicator

21(1) After conducting a review, the adjudicator shall, subject to subsection (2),

- (a) if the adjudicator is not satisfied that the prescribed grounds for cancelling the notice of administrative penalty have been met, confirm the notice of administrative penalty, or

- (b) if the adjudicator is satisfied that the prescribed grounds for cancelling the notice of administrative penalty have been met, cancel the notice of administrative penalty.

(2) Where the adjudicator is satisfied that a contravention was committed but

- (a) the administrative penalty imposed for that contravention is applicable to a 2nd or subsequent contravention and the recipient has not previously committed that contravention, or
- (b) the administrative penalty imposed for that contravention is applicable to a 3rd or subsequent contravention and the recipient has only committed a single contravention,

the adjudicator may, subject to the regulations or the regulations under a prescribed enactment, substitute the administrative penalty applicable to that contravention under a prescribed enactment and confirm the notice of administrative penalty.

(3) If the adjudicator confirms the notice of administrative penalty, any fine and any applicable surcharge are payable to the Crown within the period specified by the regulations.

(4) If the adjudicator cancels the notice of administrative penalty, the following are to be repaid to the recipient:

- (a) any fine imposed on and paid by the recipient and any applicable surcharge on that fine;
- (b) subject to subsection (5), any expenses or costs incurred by the recipient related to completing or satisfying any non-monetary portion of the administrative penalty imposed pursuant to the notice of administrative penalty.

(5) The expenses or costs referred to in subsection (4)(b) must be specified under the enactment in respect of the contravention of which the notice of administrative penalty was issued.

Copy of adjudicator's decision

22(1) As soon as practicable after making a decision under section 21, and, subject to section 23, within 30 days of issuance of the notice of administrative penalty, the adjudicator shall provide a

copy of the adjudicator's decision to the recipient in the prescribed manner.

(2) Subject to section 24, a decision of the adjudicator is final.

Delay in exceptional circumstances

23(1) In prescribed exceptional circumstances, the Director may extend the periods referred to in sections 15, 20(1), 22 and 27.

(2) Where the Director extends the period referred to in sections 15, 20(1), 22 and 27, the Director may provide relief as set out in the regulations or the regulations under a prescribed enactment.

Part 3 Judicial Review

Judicial review

24(1) Subject to subsection (2), no decision or order of the Director or adjudicator is to be questioned or reviewed in any court by application for judicial review or otherwise, and no order is to be made, process entered or proceedings taken in any court, whether by way of certiorari, injunction, declaratory judgment, prohibition, mandamus, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any decision or order of the Director or adjudicator or any of the Director's or adjudicator's proceedings.

(2) A decision or order of the Director or adjudicator may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court of Queen's Bench and served on the Director or adjudicator no later than 30 days after the date on which the decision or order was received by the applicant.

(3) On an application for judicial review under subsection (2), the standard of review is reasonableness.

Part 4 General Matters

Search warrants

25 Except to the extent that they are inconsistent with this Act, and subject to the regulations, all provisions of Part XV of the

Criminal Code (Canada) respecting search warrants and production orders apply in respect of every matter to which this Act applies.

Limitation period

26(1) Subject to any express provision in another enactment, no notice of administrative penalty may be issued more than 12 months after the time when the alleged contravention occurred.

(2) In the case of a contravention that is of a continuing nature, a contravention constitutes a separate contravention in respect of each day or part of a day on which it continues, and no notice of administrative penalty may be issued more than 12 months after the last occurrence of the alleged contravention.

Additional time to pay fine

27 Subject to the regulations or the regulations under a prescribed enactment, the Director may, on application by a recipient within 30 days after a notice of administrative penalty is issued, grant the recipient an additional period of time to pay any fine imposed and any applicable surcharge.

Incomplete notice of administrative penalty

28 Failure to complete any information required in a notice of administrative penalty does not affect the validity of a notice of administrative penalty or any part of it if

- (a) the recipient is identified with reasonable clarity,
- (b) the provision of the enactment the recipient is stated to have contravened is specified,
- (c) the date on which the contravention is stated to have occurred is specified, and
- (d) the place at or near which the contravention is stated to have occurred is specified.

Application of money received

29(1) Subject to section 8(5) of the *Victims of Crime Act* and any express provision in another enactment, the proceeds of a fine and any applicable surcharge under this Act belong to the Crown.

(2) Notwithstanding any other enactment, the proceeds of a late payment charge under this Act belong to the Crown.

(3) Where, under an enactment,

- (a) the Crown collects an amount of money in respect of a penalty, fine or sum of money payable under the enactment or the proceeds of a forfeiture, and
- (b) the amount collected by the Crown does not belong to the Crown,

the Crown may, notwithstanding any Act and subject to the regulations, retain a portion of that amount to offset the expenses incurred by the Crown with respect to the collecting of penalties, fines, sums of money or forfeitures arising under any enactment or to fund programs that support or improve the administration of justice or government initiatives, and that portion that is retained by the Crown belongs to the Crown and shall be deposited in the General Revenue Fund.

Civil recovery

30(1) In this section,

- (a) “confirmation of contravention” means a form established by the Minister that confirms the commission of a contravention;
- (b) “reserve” and “band” have the meanings assigned to them in the *Indian Act* (Canada).

(2) When a fine is imposed on a recipient and the fine is not paid within the longer of the period referred to in section 8(b) or the period allowed by the Director under section 28, the Minister or a person authorized by the Minister may, by filing the confirmation of contravention, enter as a judgment in the Court of Queen’s Bench the amount of the fine and any applicable surcharge and late payment charge, and the judgment is enforceable against the recipient in the same manner as if it were a judgment rendered against the recipient in that Court in a civil proceeding.

(3) If an enactment provides that any fine or penalty imposed

- (a) in respect of a contravention occurring in a city, town or village, enures to the benefit of the city, town or village, or
- (b) in respect of a contravention occurring in a summer village, municipal district, Metis settlement or reserve, elsewhere than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the summer village, municipal district, Metis settlement or band,

and the confirmation of contravention has not been entered as a judgment under subsection (2), an agent of the city, town, village, summer village, municipal district, Metis settlement or band, as the case may be, may enter the amount of a fine payable by the recipient for that contravention as a judgment under subsection (2).

Admissibility of confirmation of contravention

31 A document that appears to be a confirmation of contravention as defined in section 30(1) shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the document in any proceeding in respect of the alleged contravention set out in the document without proof of the signature or official character of the person who signed the document, if any.

Signatures

32 Where a document used under this Act is to be signed, that document, whether in electronic or non-electronic form, may, instead of being signed, be marked, subscribed, endorsed, acknowledged or given any other form of signification or be otherwise dealt with if so provided for under the regulations.

Electronic signatures

33 A requirement under this Act that a document be signed is satisfied by an electronic signature only if

- (a) the electronic signature identifies the person purporting to sign the document,
- (b) the electronic signature relates to the document, and
- (c) the electronic signature meets the requirements set out in the regulations.

Certified copies of documents

34 On the request by a person and payment of the prescribed fee, the Director may provide to that person a certified copy of any decision issued by an adjudicator that is requested by the person.

Part 5 Regulations

General regulations

35(1) The Lieutenant Governor in Council may make regulations prescribing enactments to which this Act and the procedures under this Act apply.

(2) The Minister may make regulations

- (a) respecting information to be included on a notice of administrative penalty;
- (b) prescribing the amounts of fines imposed in respect of contraventions;
- (c) respecting the imposition and amounts of applicable surcharges and late payment charges in respect of contraventions;
- (d) respecting the payment of fines, applicable surcharges and late payment charges to the Crown, including, without limitation, the period within which those payments must be made;
- (e) permitting agents of the Crown to receive payments of fees, fines and any applicable surcharges and late payment charges, including, without limitation, regulations
 - (i) governing the qualifications of and requirements to be met by persons who wish to act as agents of the Crown;
 - (ii) governing the carrying out of duties and functions by those agents;
 - (iii) governing the holding and handling of money by those agents;

- (iv) permitting an agent to carry out other functions on behalf of the Crown with respect to notices of administrative penalties;
- (v) where an agent collects from a member of the public a voluntary payment, or otherwise provides a service to a member of the public in respect of a function carried out on behalf of the Crown, permitting the agent, for the agent's own benefit, to charge and collect from that member of the public a service charge for collecting the voluntary payment or in respect of providing a service;
- (vi) respecting the maximum and minimum amounts that may be charged by agents as service charges;
- (f) respecting the filing of requests for review with and the provision of records, representations and arguments to the Director;
- (g) respecting the provision of relevant records to a recipient under section 12, including, without limitation, providing for limits on the records;
- (h) respecting the grounds for a request for review under section 7 and for confirming or cancelling a notice of administrative penalty under section 21;
- (i) respecting the conduct of reviews, including, without limitation, regulations governing
 - (i) the procedure before an adjudicator;
 - (ii) adjournments of matters before an adjudicator;
 - (iii) the conduct of reviews by electronic means;
 - (iv) the taking and acceptance of evidence under oath;
 - (v) the applicability of the rules of evidence in reviews;
 - (vi) the receiving and recording of evidence;
 - (vii) the prescribed evidence or information an adjudicator may consider under section 18(2)(f);
- (j) respecting requests for late reviews under section 20;

- (k) prescribing exceptional circumstances for the purposes of sections 15, 20, 22 and 27;
- (l) respecting notifications by the Director to recipients of decisions under section 20 and by the adjudicator to recipients of decisions under section 22;
- (m) respecting the substitution by an adjudicator of applicable administrative penalties under section 21(2);
- (n) respecting the relief the Director may provide under section 23(2);
- (o) respecting applications under section 27 for an additional period of time to pay fines and applicable surcharges in respect of contraventions, including, without limitation, prescribing the maximum number of days the Director may grant a recipient to pay a fine and any applicable surcharge;
- (p) respecting the service, providing or sending of notices and any other documents under this Act, including, without limitation, regulations
 - (i) respecting a recipient's address for service;
 - (ii) respecting evidence of service of a notice of administrative penalty;
 - (iii) respecting the deemed service of notices and documents;
- (q) permitting and governing the use, processing and filing of electronic documents, including, without limitation, electronic notices of administrative penalty;
- (r) governing, where electronic documents are used, the issuance and use of any non-electronic documents that correspond to those electronic documents;
- (s) respecting the technological standards that electronic signatures authorized under this Act must meet;
- (t) establishing evidentiary presumptions in relation to electronic documents signed with electronic signatures;

- (u) respecting documents, whether in electronic or non-electronic form, that are to be signed, including, without limitation, regulations
 - (i) governing the signing of those documents, which may include dispensing with any requirement that the documents be signed;
 - (ii) providing for those documents, instead of being signed, to be marked, subscribed, endorsed, acknowledged or given any other form of signification or to be otherwise dealt with, and governing any matter relating to
 - (A) the marking, subscribing, endorsing, acknowledging or signification of or dealing with those documents, and
 - (B) the effect to be given to those documents;
- (v) notwithstanding anything in this Act, providing for and governing
 - (i) the carrying out of any functions under this Act by electronic means, and
 - (ii) the creation, registration, issuance, service, transmittal, storage, recording, presentation and handling of documents under this Act by electronic means;
- (w) respecting the fees payable with respect to any matter under this Act or the regulations, including, without limitation, respecting the refunding of those fees;
- (x) respecting forms to be used under this Act or the regulations;
- (y) respecting the collection, use and disclosure of information, including personal information, for the purposes of this Act;
- (z) respecting the confirmation by an officer of documents under section 14;
- (aa) respecting the applicability of provisions of Part XV of the *Criminal Code* (Canada) respecting search warrants

and production orders in respect of matters to which this Act applies;

- (bb) respecting confirmations of contraventions, including, without limitation, the use of confirmations in other proceedings;
- (cc) prescribing or otherwise specifying, in whole or in part, the enactments or the penalties, fines or sums of money or forfeitures to which section 29(3) applies;
- (dd) respecting the portions of amounts that may be retained by the Crown under section 29(3);
- (ee) prescribing anything required to be prescribed under this Act or that this Act refers to as prescribed;
- (ff) defining any word or expression used but not defined in this Act;
- (gg) respecting any other matter or thing that the Minister considers necessary to carry out the intent of this Act.

Deficiency regulations

36(1) The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister considers are not provided for or are insufficiently provided for in this Act.

(2) A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act or any other enactment,
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1), and
- (c) 5 years after the regulation comes into force.

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

(4) A regulation may not be made under subsection (1) after the expiration of 5 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of the 5-year period remains in force until it is repealed under subsection (2).

(5) A regulation may not be made under subsection (1) altering the provisions of subsection (2) or extending the 5-year period provided for in subsection (4).

Consequential changes to regulations

37(1) The Lieutenant Governor in Council may, by regulation, amend any regulations filed under the *Regulations Act* to reflect changes made by this Act.

(2) An amendment made under subsection (1) may be made even though the regulation being amended was made by a member of the Executive Council or some other body or person.

Part 6 Consequential Amendments, Coordinated Amendment and Coming into Force

Consequential Amendments

Amends RSA 2000 cC-23

38 The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Alberta Transportation Safety Board”.

Explanatory Notes

Consequential Amendments

38 Amends chapter C-23 of the Revised Statutes of Alberta 2000.
Part 3 of the Schedule presently reads in part:

Part 3

Other Disqualifying Offices

The Lieutenant Governor in Council may by regulation amend this Part to add any office the Lieutenant Governor in Council considers appropriate for the purposes of this Act.

The office of chair or member of any of the following:

Alberta Transportation Safety Board

Amends RSA 2000 cD-4

39(1) The *Dangerous Goods Transportation and Handling Act* is amended by this section.

(2) Section 1(a.1) is repealed.

(3) Section 30.1(4) is amended by striking out “or wins an appeal under section 30.2” and substituting “or has the decision of the Director to impose the administrative penalty cancelled by the Director on a reconsideration under section 31.1”.

(4) Sections 30.2 and 30.3 are repealed

39(1) Amends chapter D-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1 In this Act,

(a.1) “Board” means the Alberta Transportation Safety Board constituted by section 22 of the Traffic Safety Act;

(3) Section 30.1(4) presently reads:

(4) A person on whom an administrative penalty is imposed under this section and who ultimately pays it or wins an appeal under section 30.2 is not liable to be charged under this Act with an offence in respect of the same contravention, and a person who is charged with an offence against this Act may not be charged an administrative penalty under this section arising out of the same contravention.

(4) Sections 30.2 and 30.3 presently read:

30.2(1) A person charged an administrative penalty under section 30.1(1) may appeal that charge to the Board within 30 days after the date of the service of the Director’s order by filing with the Secretary of the Board a notice of appeal accompanied with the prescribed fee, if any.

(2) In determining an appeal under subsection (1), the Board may make an order confirming, varying or rescinding the Director’s order.

(3) An appeal under this section does not, except as otherwise directed by the Board, operate as a stay of the Director’s order.

(4) The provisions of the Traffic Safety Act and the regulations under it relative to an appeal to the Board under section 41(1) of that Act, including the fees payable in respect of an appeal, apply with respect to an appeal under this section and, in particular, the Board has the powers and the duties in respect of the appeal under this section that it has under that Act in respect of an appeal under that section 41.

(5) The following is added after section 31:

Reconsiderations by Director

31.1(1) Where the Director makes an order under section 30.1(1), the Director shall, on the application of the person that is the subject of the order, reconsider the order.

(2) The application referred to in subsection (1) must be made within 30 days of service of the order.

(3) The Director may extend the time referred to in subsection (2) if in the opinion of the Director the circumstances in respect of the matter have substantially changed from the time of the making of the order.

(4) The Director may confirm, cancel or vary the Director's order.

(5) Once an order under section 30.1(1) has been reconsidered by the Director under subsection (1), the Director may refuse to reconsider the order again.

(6) A reconsideration commenced under this section does not, except as otherwise directed by the Director, stay the order made by the Director under section 30.1(1).

Transitional — appeals

31.2(1) In this section,

- (a) “appeal” means an appeal under section 30.2 of this Act as it read immediately before the coming into force of this section;
- (b) “Board” means the Alberta Transportation Safety Board referred to in section 22 of the *Traffic Safety Act*.

(2) Subject to section 189.4 of the *Traffic Safety Act*, if an appeal has commenced but is not concluded before the coming into force of this section, the appeal is to be continued under and in conformity with this Act, section 41(1) of the *Traffic Safety Act* and the provisions of that Act and the regulations under it relative to an appeal to the Board under section 41(1) of that Act as they read immediately before the coming into force of this section.

30.3 An order of the Board under section 30.2 is final.

(5) Reconsiderations by Director; transitional — appeals;
transitional — regulations.

(3) Subject to section 189.4 of the *Traffic Safety Act*, where a right of appeal arose before the coming into force of this section but an appeal has not commenced before the coming into force of this section, the Board shall hear the appeal in conformity with this Act, section 41(1) of the *Traffic Safety Act* and the provisions of that Act and the regulations under it relative to an appeal to the Board under section 41(1) of that Act as they read immediately before the coming into force of this section.

Transitional — regulations

31.3 The Lieutenant Governor in Council may make regulations

- (a) respecting the transitional application of the amendments to this Act made by section 39 of the *Provincial Administrative Penalties Act*, including the interpretation of any provision amended, and
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the amendments.

Amends SA 2004 cH-8.5

40(1) The *Highways Development and Protection Act* is amended by this section.

(2) Section 57 is amended by striking out “to the right to appeal” and substituting “to the right to a reconsideration under section 58 of”.

(3) Section 58 is repealed and the following is substituted:

Reconsiderations by Minister

58(1) Where the Minister serves a notice of administrative penalty on a person under section 55, the Minister shall, on the application of the person on whom the Minister served the notice, reconsider the notice.

40(1) Amends chapter H-8.5 of the Statutes of Alberta, 2004.

(2) Section 57 presently reads:

57 Subject to the right to appeal a notice of administrative penalty, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

(3) Section 58 presently reads:

58 A person who is served with a notice of administrative penalty pursuant to section 55 may appeal the notice to the Alberta Transportation Safety Board, and the Board shall deal with the appeal as if it were an appeal under section 41 of the Traffic Safety Act.

(2) The application referred to in subsection (1) must be made within 30 days of service of the notice.

(3) The Minister may extend the period referred to in subsection (2) if in the opinion of the Minister the circumstances in respect of the matter have substantially changed from the time of the service of the notice.

(4) The Minister may confirm, cancel or vary the notice.

(5) Once the Minister reconsiders the notice under subsection (1), the Minister may refuse to reconsider the decision again.

(6) A reconsideration commenced under this section does not, except as otherwise directed by the Minister, stay the administrative penalty imposed by the notice.

(4) The following is added after section 63:

Transitional — appeals

63.1(1) In this section,

- (a) “appeal” means an appeal under section 58 of this Act as it read immediately before the coming into force of this section;
- (b) “Board” means the Alberta Transportation Safety Board referred to in section 22 of the *Traffic Safety Act*.

(2) Subject to section 189.4 of the *Traffic Safety Act*, if an appeal has commenced but is not concluded before the coming into force of this section, the appeal is to be continued under and in conformity with this Act and section 41 of the *Traffic Safety Act* as they read immediately before the coming into force of this section.

(3) Subject to section 189.4 of the *Traffic Safety Act*, where a right of appeal arose before the coming into force of this section but an appeal has not commenced before the coming into force of this section, the Board shall hear the appeal in conformity with this Act and section 41 of the *Traffic Safety Act* as they read immediately before the coming into force of this section.

Transitional — regulations

63.2 The Lieutenant Governor in Council may make regulations

(4) Transitional — appeals; transitional — regulations.

- (a) respecting the transitional application of the amendments to this Act made by section 40 of the *Provincial Administrative Penalties Act*, including the interpretation of any provision amended, and
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the amendments.

Amends RSA 2000 cM-26

41(1) The *Municipal Government Act* is amended by this section.

(2) Section 602.15(1)(a) is amended by striking out “or the Alberta Transportation Safety Board”.

Amends RSA 2000 cP-34

42(1) The *Provincial Offences Procedure Act* is amended by this section.

(2) Section 2 is amended by renumbering it as section 2(1) and by adding the following after subsection (1):

(2) Where a contravention under an enactment is enforced under this Act, the contravention is deemed to be an offence under that enactment and for the purposes of this Act.

(3) Notwithstanding subsection (1), this Act does not apply in respect of contraventions in respect of which a notice of administrative penalty has been issued under the *Provincial Administrative Penalties Act*.

(3) Section 4(2) is amended

41(1) Amends chapter M-26 of the Revised Statutes of Alberta 2000.

(2) Section 602.15(1) presently reads in part:

602.15(1) If

(a) there is a dispute between a commission and another commission or a commission and any municipal authority and the matter in dispute is not under the jurisdiction of the Alberta Utilities Commission or the Alberta Transportation Safety Board or any other board or tribunal created by an enactment, or

any party involved in the dispute may submit it to the Municipal Government Board.

42(1) Amends chapter P-34 of the Revised Statutes of Alberta 2000.

(2) Section 2 presently reads:

2 Subject to any express provision in another Act, this Act applies to every case in which a person commits or is suspected of having committed an offence under an enactment for which that person may be liable to imprisonment, fine, penalty or other punishment.

(3) Section 4(2) presently reads:

- (a) **by striking out** “a contravention constitutes a separate offence in respect of”;
- (b) **by adding** “constitutes a separate offence” **after** “continues”.

(4) Section 39(1) is amended by striking out “a contravention of” **and substituting** “an offence under”.

Amends RSA 2000 cR-4

43(1) The *Railway (Alberta) Act* is amended by this section.

(2) Section 1 is amended

- (a) **by repealing clause (c);**
- (b) **in clause (i) by striking out** “, unless otherwise ordered by the Board,”.

(3) Section 8(2) is amended by striking out “Board” **and substituting** “Surface Rights Board”.

(2) In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day or part of a day on which it continues and no proceedings may be instituted more than 6 months after the last occurrence of the alleged offence.

(4) Section 39(1) presently reads:

39(1) In any proceedings under this Part where a defendant is charged with a contravention of the Traffic Safety Act or the regulations under that Act, the evidence of the interceptor of the motor vehicle or the issuer of the violation ticket, or both, as the case may be, may be given by affidavit.

43(1) Amends chapter R-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1 In this Act,

(c) “Board” means the Alberta Transportation Safety Board;

(i) “public railway” means a railway that is operated for the purposes of transporting individuals, goods and commodities or any one or more of them for a toll or fee, but does not include, unless otherwise ordered by the Board,

(i) an amusement railway,

(ii) an industrial railway, or

(iii) a heritage railway;

(3) Section 8(2) presently reads:

(2) For the purposes of constructing track or structural facilities in respect of an industrial railway on land that the operator of that railway does not own or otherwise have the right to use under an agreement with the owner of that land, that operator may, if the Board grants to that operator an approval to proceed under the

(4) Section 25(2) is amended by striking out “Board” and substituting “Railway Administrator”.

(5) Section 30(p) is amended by striking out “the Board,”.

(6) Section 41(1) is amended by adding “or” at the end of clause (a) and by repealing clause (b).

(7) The headings preceding section 42 are repealed and the following is substituted:

Expropriation Act, expropriate land in accordance with the Expropriation Act.

(4) Section 25(2) presently reads:

(2) The Board may, for the purposes of subsection (1), assist or work in conjunction with or act on behalf of the Canadian Transportation Agency or any successor to that Agency in determining any matter respecting the interchange of goods and commodities.

(5) Section 30 presently reads in part:

30 The Minister may make regulations

(p) requiring any information to be provided to the Board, the Railway Administrator and railway safety officers and governing the use of that information;

(6) Section 41(1) presently reads:

41(1) Where the Railway Administrator is of the opinion that an operator of a railway or a person employed by or acting on behalf of an operator of a railway has failed to comply with

(a) the railway legislation, an operating rule or an approval,

(b) any order made or direction given by the Board, or

(c) any order made or direction given by the Railway Administrator or a railway safety officer,

the Railway Administrator may act under subsection (2).

(7) The headings preceding section 42 presently read:

Part 4

Reviews and Judicial Relief

Part 4
Reviews and Reconsiderations

(8) Section 42(1)(e) is amended by striking out “Board, in its discretion,” **and substituting** “Railway Administrator, in the Railway Administrator’s discretion,”.

(9) Section 43 is amended

- (a) in subsection (1) by striking out** “may apply to the Board for a review” **and substituting** “may apply to the Railway Administrator for a reconsideration”;
- (b) by repealing subsection (2).**

(10) Section 46(1) is amended by adding the following after clause (a.1):

- (a.2)** notwithstanding clause (a.1), where the conduct of a review or hearing is commenced after the coming into force of this clause, the quorum of the Board for the review or hearing is one member of the Board;

(11) Sections 44 to 48 are repealed and the following is substituted:

Reconsideration by Railway Administrator

44(1) On receiving an application under section 43(1) for a reconsideration by the Railway Administrator of an action taken by the Railway Administrator, the Railway Administrator shall reconsider that action.

(2) The Railway Administrator may extend the period referred to in section 43(1) if in the opinion of the Railway Administrator the circumstances in respect of the matter have substantially changed from the time of the action.

(8) Section 42(1)(e) presently reads:

42(1) In this Part, “affected person” means

(e) any person whom the Board, in its discretion, accepts as an affected person.

(9) Section 43 presently reads:

43(1) Where an action is taken by the Railway Administrator, the affected person in respect of whom the action was taken may apply to the Board for a review of the action taken by the Railway Administrator within 30 days of the date the action was taken.

(2) With respect to any matter under the railway legislation other than an action taken by the Railway Administrator, an affected person may, with the consent of the Board, apply to the Board for a hearing into the matter.

(10) Section 46(1)(a.1) presently reads:

46(1) For the purposes of conducting reviews and hearings before the Board,

(a.1) a quorum of the Board is 3 members;

(11) Sections 44 to 48 presently read:

44(1) On receiving an application under section 43(1) for a review of an action taken by the Railway Administrator, the Board shall conduct a review of that action.

(2) On receiving an application under section 43(2) for a hearing in respect of a matter other than an action taken by the Railway Administrator, the Board may conduct a hearing into the matter.

(3) Whether or not an affected person has made an application for a review or a hearing, the Board may conduct a review of an action taken by the Railway Administrator or conduct a hearing into any other matter under the railway legislation where

(3) The Railway Administrator may confirm, cancel or vary the Railway Administrator's action.

(4) Once the Railway Administrator has reconsidered an action referred to in subsection (1), the Railway Administrator may refuse to reconsider the action again.

(5) A reconsideration commenced under subsection (1) does not, except as otherwise directed by the Railway Administrator, stay any action or consequence of any action that is the subject of or otherwise related to the reconsideration.

- (a) *the Board is of the opinion that a review or a hearing should be conducted, or*
- (b) *the Railway Administrator has requested the Board to conduct a review or a hearing.*

45(1) On conducting a review of an action taken by the Railway Administrator, the Board may make an order doing one or more of the following:

- (a) *confirming the action taken by the Railway Administrator;*
- (b) *varying the action taken by the Railway Administrator;*
- (c) *rescinding the action taken by the Railway Administrator.*

(2) In making an order under subsection (1), the Board may

- (a) *make any decision or take any action that the Railway Administrator or a railway safety officer may make or take under the railway legislation,*
- (b) *make the order subject to any terms, conditions or restrictions, and*
- (c) *give any direction,*

that the Board considers appropriate in the circumstances.

(3) Where the Board hears a matter other than an action taken by the Railway Administrator, the Board may make any order and make the order subject to any terms, conditions or restrictions that the Board considers appropriate in the circumstances.

46(1) For the purposes of conducting reviews and hearings before the Board,

- (a) *the chair and the other members of the Board have the same power as is vested in the Court of Queen's Bench for the trial of civil actions*
 - (i) *to summon and enforce the attendance of witnesses,*
 - (ii) *to compel witnesses to give evidence on oath or otherwise,*
 - (iii) *to compel witnesses to give evidence in person or otherwise, and*

- (iv) *to compel witnesses to produce any record, object or thing that relates to the matter being heard;*
- (a.1) *a quorum of the Board is 3 members;*
- (b) *a person appearing before the Board may be represented by legal counsel;*
- (c) *the Board may take evidence under oath;*
- (d) *any member or officer of the Board may administer oaths for the purpose of taking evidence;*
- (e) *the Board may grant interim relief and stays in respect of the proceedings before the Board;*
- (f) *the Board may reconsider any decision made by the Board.*
- (2) *With respect to reviews and hearings before the Board, the Board may make rules*
 - (a) *governing notices to be given in respect of a review or hearing;*
 - (b) *governing the procedure before the Board;*
 - (c) *governing adjournments of matters before the Board;*
 - (d) *governing the attendance of witnesses;*
 - (e) *governing the applicability of the rules of evidence in judicial proceedings to hearings before the Board;*
 - (f) *governing the receiving and recording of evidence;*
 - (g) *empowering the Board to proceed when a party to the review or hearing fails to appear at or attend the review or hearing;*
 - (h) *governing the interim relief and stays that may be granted;*
 - (i) *providing for majority and minority decisions;*
 - (j) *empowering the Board to consider a matter without conducting a formal or summary hearing and governing the procedure to be used in those circumstances;*
 - (k) *governing the applicability of the Alberta Rules of Court;*

(12) Section 53(1) is amended by striking out “the Board,”.

- (l) providing for the issuing and publication of decisions of the Board;*
- (m) governing the reconsideration of decisions made by the Board;*
- (n) governing the destruction of any evidence and records of testimony after the expiration of any appeal period;*
- (o) governing costs.*

(3) Where the Railway Administrator is summoned to attend a review or hearing before the Board, the Railway Administrator may in writing designate an employee of the Government who

- (a) is under the administration of the Minister, and*
- (b) is, in the opinion of the Railway Administrator, knowledgeable in respect of the subject-matter in respect of which the review or hearing is being conducted,*

to attend the review or hearing on behalf of the Railway Administrator, and that designated person is deemed to have been the person summoned to attend the review or hearing.

(4) The Regulations Act does not apply to rules made under subsection (2).

47 Subject to section 48, every decision or order of the Board is final.

48(1) An appeal lies from the decision of the Board to the Court of Appeal on a question of jurisdiction or on a question of law.

(2) An appeal under this section shall not be commenced at any time after 30 days expires from the day that the Board served written notice of its decision on the person who is the subject of that decision.

(3) The Board is entitled to be represented at an appeal conducted pursuant to this section and to make representations in respect of any matter before the Court that is related to the appeal.

(12) Section 53(1) presently reads in part:

(13) Section 54 is amended

- (a) by repealing clauses (a) and (b);**
- (b) in clauses (e) and (f) by striking out “the Board,”.**

(14) Section 55(1)(b) is amended by striking out “the Board,”.

(15) The following is added after section 57.1:

Transitional — appeals, reviews and hearings

57.2(1) In this section and section 57.3,

- (a) “Board” means the Alberta Transportation Safety Board referred to in section 22 of the *Traffic Safety Act*;**

53(1) Any order, direction, decision, notice or document given or made under the railway legislation by the Board, the Railway Administrator or a railway safety officer may be served on the person to whom it is directed by

(13) Section 54 presently reads in part:

54 Where a railway operated under this Act is involved in any matter with a railway operated under federal legislation,

- (a) the Board may perform any function or duty and exercise any power under federal legislation where the Board is authorized to do so by a federal agency or by or pursuant to the federal legislation;*
- (b) the Board may act in conjunction with a federal agency when the Board is acting under clause (a);*
- (e) a federal agency may, if authorized by the Minister, perform any function or duty and exercise any power under the railway legislation that the Board, the Railway Administrator or a railway safety officer may perform or exercise under the railway legislation;*
- (f) the Board, the Railway Administrator or a railway safety officer may, if authorized by the Minister, act in conjunction with a federal agency that is acting under clause (e).*

(14) Section 55(1) presently reads in part:

55(1) A person who does one or more of the following is guilty of an offence:

- (b) fails to comply with any order or direction given by the Board, the Railway Administrator or a railway safety officer;*

(15) Transitional — appeals, reviews and hearings; transitional — continued application of provisions to Alberta Transportation Safety Board; transitional — regulations.

- (b) “hearing” means a hearing under section 44(2) or (3) of this Act as it read immediately before the coming into force of this section;
- (c) “review” means a review under section 44(1) or (3) of this Act as it read immediately before the coming into force of this section.

(2) Subject to section 189.4 of the *Traffic Safety Act*, if a hearing or a review has commenced but is not concluded before the coming into force of this section, the hearing or review is to be continued under and in conformity with this Act as it read immediately before the coming into force of this section.

(3) Subject to section 189.4 of the *Traffic Safety Act*, where a right of review under section 44(1) arose before the coming into force of this section or the Board has agreed to conduct a hearing under section 44(2) or a review under section 44(3), but the hearing or review has not commenced before the coming into force of this section, the Board shall hear the review or conduct the hearing in conformity with this Act as it read immediately before the coming into force of this section.

**Transitional — continued application of provisions to
Alberta Transportation Safety Board**

57.3 Subject to section 57.2, this Act as it read immediately before the coming into force of this section continues to apply until the coming into force of section 189.4 of the *Traffic Safety Act*

- (a) in respect of the Board in relation to a hearing or review before the Board on or after the coming into force of this section, and
- (b) in respect of the rights of a person who is the subject of a decision of the Board under this Act made on or after the coming into force of this section.

Transitional — regulations

57.4 The Lieutenant Governor in Council may make regulations

- (a) respecting the transitional application of the amendments to this Act made by section 43 of the *Provincial Administrative Penalties Act*, including the interpretation of any provision amended, and

- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the amendments.

Amends RSA 2000 cT-6

44(1) The *Traffic Safety Act* is amended by this section.

(2) Section 1 is amended

(a) in subsection (1)

(i) by repealing clause (d);

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

(h.1) “contravention” means a contravention under this Act;

(iii) by repealing clause (l.1) and substituting the following:

(l.1) “driving record” means a record of all of the information held by the Registrar that relates to an individual driver’s history, including, without limitation,

(i) any convictions for a criminal or other federal offence relating to the operation of a vehicle, and

(ii) any commissions of contraventions;

(iv) in clause (ff)(iii) by striking out “except in sections 39, 39.1, 39.2, 88, 88.1 and 90,”;

(b) in subsection (7) by striking out “section 39”.

(3) The following is added after section 1:

Nature of contraventions

1.1 Subject to section 157(1.1), (1.2) and (1.3) or an express provision in this Act or the regulations, a contravention of this Act may be enforced

44(1) Amends chapter T-6 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1(1) In this Act,

(d) “Board” means the Alberta Transportation Safety Board;

(h) “commercial vehicle” means a vehicle operated on a highway by or on behalf of a person for the purpose of providing transportation but does not include a private passenger vehicle;

(l.1) “driving record” means a record of all of the information held by the Registrar that relates to an individual driver’s history;

(ff) “peace officer” means

(iii) except in sections 39, 39.1, 39.2, 88, 88.1 and 90, a peace officer appointed under the Peace Officer Act for the purposes of this Act;

(7) For the purposes of the following provisions, operator’s licence includes a licence or permit issued in another jurisdiction that permits a person to operate a motor vehicle:

section 39;

(3) Nature of contraventions; no imprisonment.

- (a) as an offence to which the *Provincial Offences Procedure Act* applies, or
- (b) as a contravention to which the *Provincial Administrative Penalties Act* applies.

No imprisonment

1.2 Notwithstanding anything to the contrary in this Act, no term of imprisonment may be imposed in respect of a contravention in respect of which a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act*.

(4) Section 3 is amended

- (a) by repealing subsection (1)(a);
- (b) in subsection (5) by repealing clauses (a) to (c) and substituting the following:
 - (a) the Registrar, or
 - (b) an employee of the Government designated by the Minister,

(5) Section 4(2)(c) is amended by striking out “legal”.

(6) Section 5 is amended

(4) Section 3 presently reads in part:

3(1) A person who is empowered under this Act to do any act or thing or perform any function may in writing authorize the doing of that act or thing or the performance of that function, other than the making of regulations, by one or more of the following:

(a) the Board;

(5) Where authorized by the Minister,

(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 (Canada).

(5) Section 4(2) presently reads in part:

(2) A reproduction of a document, item or thing that is certified by the Registrar to be a true copy of the reproduced document, item or thing

(c) is admissible in evidence in any legal proceeding in the same manner and for all purposes as if it were the original document, item or thing.

(6) Section 5 presently reads in part:

- (a) in subsection (1) by repealing clauses (a) and (b);
- (b) in subsection (3) by striking out “prosecution for an offence” and substituting “proceeding”;
- (c) in subsection (4) by striking out “the Chair or a Vice-chair, member or the Secretary of the Board or”;
- (d) in subsection (6) by striking out “the Board or”.

(7) Section 6 is amended

- (a) by striking out “or the Board” and substituting “, a Director or an adjudicator under the *Provincial Administrative Penalties Act*”;

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

- (a) the Chair or a Vice-chair or member of the Board,*
- (b) the secretary of the Board,*

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.

(3) In a prosecution for an offence with respect to a failure to comply with section 70 or 71, a certificate purporting to be signed by the Registrar that any accident report required under this Act has or has not been made shall be admitted in evidence as proof, in the absence of evidence to the contrary, of all the facts stated in the certificate without proof of the signature or official character of the person signing the certificate, if any.

(4) A certificate purporting to be signed by the Chair or a Vice-chair, member or the Secretary of the Board or the Registrar certifying

- (a) that a notice or document given or made under this Act was served, and*
- (b) that according to the records kept under this Act the notice or document was served on the person named in the notice or document,*

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

(6) The Minister may approve a seal of office for the Board or the Registrar and that seal may for the purposes of this Act be used in conjunction with or in place of a signature.

(7) Section 6 presently reads:

6 A notice or document that is to be served or given under this Act by or on behalf of the Registrar or the Board may be served or given

- (a) by personal service;*

(b) in clause (c) by striking out “number or electronic” and substituting “email”.

(8) Section 9(1)(b) is amended by striking out “89” and substituting “172, 172.1”.

(9) Section 11 is amended by repealing subsection (2.1)(c) and substituting the following:

(c) the Director under the *Provincial Administrative Penalties Act* for the purposes of a review under that Act.

(10) Section 11.1(1)(a)(i) is amended by striking out “finding of guilt for offences” and substituting “commission of contraventions”.

- (b) *unless otherwise provided for under this Act, by being sent by ordinary mail sent to the latest address of the person who is to be served as shown on the records of the Registrar;*
- (c) *unless otherwise provided for under this Act, by being transmitted by electronic means to the latest number or electronic address of the person who is to be served as shown on the records of the Registrar;*
- (d) *in a manner or by a method provided for by regulation.*

(8) Section 9(1) presently reads in part:

9(1) Notwithstanding anything in the Youth Justice Act, when a court

- (b) *finds a young person guilty of an offence to which section 83, 84, 86, 87, 89 or 173 applies,*

the clerk or registrar of the court shall, on the request of the Registrar, immediately forward to the Registrar a certified copy of the order, judgment, conviction, absolute discharge or conditional discharge or a transcript or certificate of it in a form prescribed by the Registrar.

(9) Section 11 presently reads in part:

(2.1) The Registrar or a peace officer may release information contained in a report referred to in subsection (2) to

- (c) *the Alberta Transportation Safety Board for the purposes of making a decision under Part 2, Division 2 or 3.*

(10) Section 11.1(1)(a)(i) presently reads:

11.1(1) In this section,

- (a) *“commercial transport information” means, with respect to a commercial vehicle, any information or record concerning the following:*
 - (i) *any finding of guilt for offences relating to the operation of the commercial vehicle;*

(11) Section 12 is repealed.

(12) Section 18(1)(c) is amended by striking out “offences” and substituting “contraventions”.

(13) Section 20(2) is repealed and the following is substituted:

(2) The authority to make a regulation under this statute includes the authority to specify that a contravention of or a failure to comply with the regulation is a contravention.

(14) The headings following section 21 are repealed and the following is substituted:

**Part 2
Reviews**

**Division 1
Alberta Transportation Safety Board**

(15) Section 24 is repealed and the following is substituted:

Functions of the Board

24(1) The Board shall

- (a) conduct reviews and appeals under Divisions 2 and 3 as they read immediately before the coming into force of this section
- (i) that are commenced before the coming into force of this section, or

(11) Section 12 presently reads:

12 On the request by a person and payment of the prescribed fee, the secretary of the Board may provide to that person a certified copy of any order, decision, certificate or other public document issued or granted by the Board that is requested by that person.

(12) Section 18(1) presently reads in part:

18(1) The Lieutenant Governor in Council may make regulations

(c) for the purposes of section 169(2)(q) and (r), designating those offences under this Act for which a person may be arrested without a warrant;

(13) Section 20(2) presently reads:

(2) The authority to make a regulation under this statute includes the authority to specify that a contravention of or a failure to comply with the regulation is an offence.

(14) The headings following section 21 presently read:

Part 2

Alberta Transportation Safety Board

Division 1

Administration

(15) Functions of the Board.

- (ii) for which the right of review or appeal arose before the coming into force of this section,

and

- (b) consider any other matter not referred to in clause (a) that is referred to the Board by the Minister before the coming into force of this section.

(2) For greater certainty, the Board may not

- (a) conduct a review or appeal under Division 2 or 3 for which the right of review or appeal arises after the coming into force of this section, or
- (b) consider any matter referred to in subsection (1)(b) that is not referred to the Board by the Minister before the coming into force of this section.

(16) The following is added after section 26:

Quorum adjustment

26.1 Notwithstanding section 26, the quorum of the Board for an appeal, a hearing or a review under this Part commenced after the coming into force of this section is one member.

(17) Part 2, Division 1 is repealed.

(16) Quorum adjustment.

(17) Part 2, Division 1 presently reads:

22(1) The Alberta Motor Transport Board and the Driver Control Board are amalgamated and continued as a single board with the name "Alberta Transportation Safety Board".

(2) The Board shall consist of the persons appointed by the Lieutenant Governor in Council as members of the Board.

(3) The Board is a corporation.

(4) The members of the Board who hold that office other than as officers or employees of the Crown or of an agency of the Crown may be paid

(a) remuneration, and

(b) payment for expenses incurred while engaged in the business of the Board,

at rates prescribed by the Lieutenant Governor in Council in accordance with any applicable regulations under the Alberta Public Agencies Governance Act.

(5) If regulations under the Alberta Public Agencies Governance Act establish rates in respect of remuneration or expenses referred to in subsection (4), those regulations prevail, to the extent of any conflict or inconsistency, over any regulations prescribing a rate under that subsection.

23(1) The Lieutenant Governor in Council shall designate one member of the Board as the Chair of the Board and may designate one or more members of the Board as Vice-chairs of the Board.

(2) When the Chair is not present or able to act, a Vice-chair as specified by the Chair or, if a Vice-chair is not so specified, any Vice-chair may act in the place of the Chair.

(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.

24 The Board shall

- (a) conduct reviews and appeals under Divisions 2 and 3, and*
- (b) consider any other matter not referred to in clause (a) that is referred to the Board by the Minister.*

25(1) The members of the Board shall meet at the times and places specified by the Chair.

(2) With respect to a matter before the Board, the Chair may from time to time appoint one or more persons who in the opinion of the Chair have special technical or other knowledge

- (a) to sit with the Board, to hear and consider the matter with the Board and to advise the Board on the matter, or*
- (b) to inquire into and report to or appear before the Board in respect of the matter.*

26(1) Subject to subsection (2), except where otherwise directed by the Chair or the Minister, a quorum of the Board consists of one member of the Board.

(2) For the purposes of sections 39, 39.1 and 39.2, a quorum of the Board is 3 members.

27(1) For the purposes of conducting hearings, reviews and appeals before the Board,

- (a) the Chair and the other members of the Board have the same power as is vested in the Court of Queen's Bench for the trial of civil actions*
 - (i) to summon and enforce the attendance of witnesses,*
 - (ii) to compel witnesses to give evidence under oath or otherwise,*
 - (iii) to compel witnesses to give evidence in person or otherwise, and*
 - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard;*
- (b) the Board may, in its discretion, take evidence under oath;*
- (c) any member of the Board or the secretary of the Board may administer oaths for the purpose of taking evidence;*
- (d) the Board may require a person who is the subject of or a party to a hearing, a review or an appeal to personally attend the proceedings before the Board;*
- (e) a person who is the subject of or a party to a hearing, a review or an appeal*
 - (i) has the right to appear before the Board and make representations in respect of the matter, and*
 - (ii) has the right to be represented before the Board by legal counsel;*
- (f) the Board may grant interim relief and stays in respect of any matter that is being heard, reviewed or appealed pending the determination of the hearing, review or appeal, subject to any directions, terms or conditions that the Board considers appropriate.*

(2) With respect to hearings, reviews and appeals before the Board, the Board, with the approval of the Minister, may, subject to this Act, make rules

- (a) governing notices of hearings, reviews and appeals;*
- (b) governing applications for and conditions to be met respecting hearings, reviews and appeals;*
- (c) governing the procedure before the Board;*
- (d) governing adjournments of matters before the Board;*
- (e) governing the attendance of witnesses;*
- (f) governing the applicability of the rules of evidence in judicial proceedings to hearings, reviews and appeals before the Board;*
- (g) governing the receiving and recording of evidence;*
- (h) empowering the Board to proceed and determine a matter when a party to a matter before the Board fails to appear at or attend a hearing, a review or an appeal;*
- (i) governing the granting of interim relief and stays in respect of matters being heard, reviewed or appealed under this Act;*
- (j) providing for majority and minority decisions;*
- (k) empowering the Board to consider a matter based on material submitted to the Board by the parties without the parties or their representatives appearing before the Board and governing the procedure to be used in those circumstances;*
- (l) governing the applicability of the Alberta Rules of Court;*
- (m) providing for the issuing and publication of decisions of the Board;*
- (n) governing the reconsideration of decisions made by the Board;*
- (o) governing the providing of the decisions of the Board to the parties who are subject to the decisions;*

(18) Section 30 is amended

(p) governing costs.

(3) *Where the Registrar is summoned to attend before the Board, the Registrar may in writing designate an employee of the Government who is, in the opinion of the Registrar, knowledgeable in respect of the subject-matter that is being considered by the Board to attend before the Board on behalf of the Registrar and that designated person is deemed to be the person who was summoned to attend before the Board.*

(4) *The Regulations Act does not apply to rules made under subsection (2).*

29(1) *Unless the Chair directs otherwise, no member of the Board or employee of the Government who is under the administration of the Board may be compelled*

(a) *to give testimony for the purposes of a civil action with regard to information obtained in the course of the member's or employee's duties, or*

(b) *to produce any document or information for the purposes of a civil action.*

(2) *Subsection (1) does not apply when the member of the Board or the employee is a party to the civil action.*

29.1(1) *Where, in respect of a hearing, a review or an appeal before the Board, a person is summoned or otherwise required to attend before the Board and fails or refuses to do so, the Court of Queen's Bench may, on application by the Board, commit the person for contempt or issue a bench warrant requiring the attendance of the person before the Board.*

(2) *The Court of Queen's Bench may, on application by the Board, commit a person for contempt where the person attends before the Board in respect of a hearing, a review or an appeal but fails or refuses either to give evidence under oath or otherwise, or to produce any record, object or thing, when required to do so.*

29.2 *The Lieutenant Governor in Council may make regulations prescribing qualifications and educational and training requirements for members of the Board.*

(18) Section 30 presently reads:

(a) in subsection (1)

- (i) by striking out “The Board may conduct” and substituting “The Registrar may conduct”;**
- (ii) in clause (a) by striking out “Board” and substituting “Registrar”;**
- (iii) in clause (b) by striking out “the Minister, a court or the Registrar has advised the Board” and substituting “the Minister or a court has advised the Registrar”;**

(b) in subsection (2) by striking out “Board” and substituting “Registrar”.

(19) Section 31 is amended

- (a) by striking out “Board” wherever it occurs and substituting “Registrar”;**
- (b) in clause (c) by striking out “88” and substituting “88.1”.**

30(1) The Board may conduct reviews into a person's ability or attitude respecting the operation of a motor vehicle

- (a) where the Board is concerned as to the person's ability or attitude regarding the operation of a motor vehicle, or*
- (b) where the Minister, a court or the Registrar has advised the Board as to a concern respecting the person's ability or attitude regarding the operation of a motor vehicle.*

(2) The Board may consider applications by persons seeking relief under section 31(b).

(19) Section 31 presently reads:

31 On conducting a review or considering an application under section 30 the Board may,

- (a) where a person's ability or attitude regarding the operation of a motor vehicle has been considered by the Board,*
 - (i) disqualify the person from driving a motor vehicle in Alberta for a definite or indefinite period of time;*
 - (ii) with respect to that person, prescribe any measure or course of remedial education, monitoring or treatment as a condition of acquiring or holding an operator's licence;*
 - (iii) prescribe terms and conditions governing that person's operator's licence;*
- (b) where the suspension of a person's operator's licence or the disqualification of a person to hold an operator's licence arises out of that person being found guilty under section 320.14 or 320.15 of the Criminal Code (Canada),*
 - (i) on the expiration of a suspension or disqualification imposed by a court, set aside the operation of the suspension or disqualification imposed under this Act on the condition that the person who is subject to the suspension or disqualification*
 - (B) complies with any terms or conditions imposed by the Board;*

(20) Section 32 is amended

(a) by striking out “Board” wherever it occurs and substituting “Registrar”;

(b) by adding the following after subsection (1):

(1.1) An application for reconsideration of a decision referred to in subsection (1) must be made by the person within 30 days of service of the decision on the person.

(21) Section 33 is amended

(a) by striking out “Board” wherever it occurs and substituting “Registrar”;

(ii) *on the expiration of the suspension or disqualification imposed under this Act, direct that the reinstatement or issuance of an operator's licence to the person who was subject to the suspension or disqualification be on the condition that the person, in addition to complying with the requirements imposed under this Act,*

(B) *complies with any terms or conditions imposed by the Board;*

(c) *where a person has been suspended or disqualified from driving 2 or more times in a 10-year period under section 88, on the expiration of the suspension or disqualification imposed under this Act, direct that the reinstatement or issuance of an operator's licence to the person who was subject to the suspension or disqualification be on the condition that the person, in addition to complying with the other requirements imposed under this Act,*

(i) *does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device that meets the approval of the Board, and*

(ii) *complies with any terms or conditions imposed by the Board.*

(20) Section 32 presently reads:

32(1) Where the Board has reviewed or considered a matter under section 30 and made a decision under section 31, the Board shall on the application of the person who is the subject of that decision reconsider the decision.

(2) Notwithstanding subsection (1), once a decision of the Board has been reconsidered by the Board in respect of a matter referred to in subsection (1), the Board may refuse to reconsider the decision again if in the opinion of the Board the circumstances in respect of the matter have not substantially changed from the time of the previous reconsideration.

(21) Section 33 presently reads:

33 In making a decision under this Division or Division 3, the Board may take into consideration a person's accident record,

- (b) **by striking out** “conviction record” **and substituting** “driving record”.

(22) Part 2, Division 3 is repealed and the following is substituted:

**Division 3
Reconsiderations and
Reviews by Registrar**

Reconsiderations by Registrar

34(1) Where the Registrar has made a decision or taken an action referred to in the following clauses, the Registrar shall on the application of the person who is the subject of the decision or action reconsider the decision or action:

- (a) where the Registrar
 - (i) refuses to issue a permit to a person under section 62,
 - (ii) suspends or cancels a person’s permit under section 62, or
 - (iii) imposes a term or condition to which the permit is subject;
- (b) where, under section 91(4), the Registrar
 - (i) disqualifies a person from driving a motor vehicle, or
 - (ii) suspends or cancels a certificate of registration issued to a person;
- (c) where the Registrar conducts a review under section 99 and with respect to the suspension or cancellation of a person’s operator’s licence by reason of the accumulation of demerit points;
- (d) where the Registrar
 - (i) refuses to set aside the operation of a disqualification or suspension imposed under this Act, or imposes terms or conditions, in accordance with section

conviction record, driver attitude, driving skills and knowledge, driving disabilities and any other factors that the Board considers relevant.

(22) Part 2, Division 3 presently reads:

34 Any reference in this Division to the Registrar in respect of any matter includes a reference to any decision or action made or taken by the Registrar relating to that matter.

35(1) Where the Registrar

- (a) refuses to issue a permit to a person under section 62,*
- (b) suspends or 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, suspension, cancellation or imposition of the term or condition to the Board.

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

- (a) confirm any action taken by the Registrar that the Board considers appropriate in the circumstances;*
- (a.1) direct the Registrar to issue a permit;*
- (b) direct the Registrar to reinstate a permit;*
- (c) remove or vary any term or condition imposed in respect of a permit;*
- (d) make the order subject to any terms or conditions that the Board considers appropriate in the circumstances.*

36(1) Where under section 91(4) the Registrar

- (a) disqualifies a person from driving a motor vehicle, or*
- (b) suspends or cancels a certificate of registration issued to a person,*

that person may appeal that disqualification, suspension or cancellation to the Board.

- 88.1(3.2) or 88.11(4) as they read immediately before the coming into force of this clause,
- (ii) refuses to exempt a person from the requirement for the use of an alcohol-sensing device under section 88.1(3.4) or 88.11(5) as they read immediately before the coming into force of this clause,
 - (iii) sets aside the requirement for the use of an alcohol-sensing device but imposes a further period of disqualification or another term or condition under section 88.1(3.5) or 88.11(6) as they read immediately before the coming into force of this clause, or
 - (iv) rescinds the setting aside of the disqualification or suspension of the person on the basis that the alcohol-sensing device with which the person's vehicle has been equipped as a condition of the setting aside of the operation of a disqualification or suspension imposed under section 88.1(3) or 88.11(2) registers a warn or a fail under section 88.1(3.6) or 88.11(7) as they read immediately before the coming into force of this clause;
- (e) where the Registrar
- (i) refuses to set aside the operation of a disqualification imposed under this Act, or imposes terms or conditions, in accordance with section 88.2(2),
 - (ii) refuses to reinstate or issue a licence, or imposes terms or conditions, in accordance with section 88.2(4),
 - (iii) determines the length of the term under section 88.2(5)(b),
 - (iv) orders an extension of the requirement for the use of an alcohol-sensing device under section 88.2(6)(b),
 - (v) refuses an application for exemption from the requirement for the use of an alcohol-sensing device under section 88.2(6)(c) where it is not feasible for the suspended person to comply with the requirement for the use of an alcohol-sensing device, or

(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 by the Registrar and make any decision that the Registrar is empowered to make.*

37(1) Where the Registrar conducts a review under section 99 with respect to the suspension or cancellation of a person's operator's licence by reason of the accumulation of demerit points, that person may appeal the decision of the Registrar arising out of that review 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 by the Registrar and make any decision that the Registrar is empowered to make.*

39(1) In this section, "peace officer" means peace officer as defined in section 87.1.

(2) Where

- (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*

a 2nd or subsequent time in a 10-year period under section 88, the person may appeal that suspension or disqualification to the Board.

(3) In an appeal under this section, the Board shall consider

- (a) any relevant sworn or solemnly affirmed statements and any other relevant information;*
- (b) the report of the peace officer;*
- (b.1) the certificate of annual maintenance of the approved screening device issued immediately before the issuance of*

- (vi) refuses to set aside the requirement for the use of an alcohol-sensing device, or imposes a further period of disqualification or a term or condition, under section 88.2(7);
- (f) where the Registrar, under section 88.3,
 - (i) refuses to declare a person eligible to obtain an operator's licence, or
 - (ii) imposes a term or condition on the person's eligibility to obtain an operator's licence with which that person does not agree;
- (g) where a regulated person, as defined in section 143, is affected by a decision made or an action taken by the Registrar under section 143;
- (h) 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;
- (i) where a person who
 - (i) operates a driver training school,
 - (ii) is a driver examiner, or
 - (iii) is a driving instructor
 is affected by a decision or action of the Registrar with respect to the operation of or the provision of services by the driver training school or the actions of or the provision of services by the driver examiner or driving instructor;
- (j) where a person who pursuant to a licence issued under this Act
 - (i) operates a vehicle inspection facility, including an inspection station, or
 - (ii) is a vehicle inspection technician, including an inspection technician and an inspection mechanic,
 is affected by a decision or action of the Registrar with respect to the operation of or the provision of services by

the notice of suspension or notice of disqualification under section 88;

(b.2) the records of the last calibration of the approved screening device immediately before the test administered under section 88;

(d) where an oral hearing is held, in addition to the matters referred to in clauses (a), (b), (b.1) and (b.2), any relevant evidence and information given or presentations made at the hearing.

(4) An appellant is not compelled to give evidence in an appeal under this section.

(5) If, after conducting an appeal under this section, the Board is satisfied that the person drove a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in that person's blood was equal to or exceeded 50 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, the Board must confirm the suspension or disqualification.

(6) If, after conducting an appeal under this section, the Board is satisfied 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 was equal to or exceeded 50 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, the Board must cancel the suspension or disqualification and direct the return to that person of any fees paid to the Government by that person in respect of the appeal conducted under this section.

39.1(1) In this section,

(a) "novice driver" and "novice operator's licence" mean novice driver and novice operator's licence as defined in section 90;

(b) "peace officer" means peace officer as defined in section 87.1.

(2) A person whose novice operator's licence is suspended under section 90 may appeal that suspension to the Board.

(3) In an appeal under this section, the Board shall consider

the vehicle inspection facility or the actions of or the provision of services by the vehicle inspection technician;

(k) where the Registrar

- (i) refuses to issue a certificate as defined in section 130(1)(c) to an applicant,
- (ii) imposes a term or condition in respect of a certificate as defined in section 130(1)(c),
- (iii) makes an order under section 132(2) suspending or cancelling a certificate as defined in section 130(1)(c), or
- (iv) makes an order changing the safety rating of a carrier.

(2) The application referred to in subsection (1) must be made within 30 days of service of the notice of the decision or action.

(3) The Registrar may extend the period referred to in subsection (2) if in the opinion of the Registrar the circumstances in respect of the matter have substantially changed from the time of the decision or action.

(4) The Registrar may confirm, cancel or vary the Registrar's decision or action.

(5) Once a decision or action of the Registrar has been reconsidered by the Registrar in respect of a matter referred to in subsection (1), the Registrar may refuse to reconsider the decision again.

(6) A reconsideration commenced under this Division does not, except as otherwise directed by the Registrar, stay any suspension, cancellation, disqualification or other decision or action that is the subject of or otherwise related to the reconsideration.

Review of seizure or immobilization of motor vehicle

35(1) Subject to subsection (3) and the regulations, where a driver's motor vehicle is seized or immobilized under this Act, the driver may request a review of the seizure or immobilization by the Registrar.

- (a) any relevant sworn or solemnly affirmed statements and any other relevant information;*
- (b) the report of the peace officer;*
- (b.1) the certificate of annual maintenance of the approved screening device issued immediately before the issuance of the notice of suspension under section 90;*
- (b.2) the records of the last calibration of the approved screening device immediately before the test administered under section 90;*
- (c) where an oral hearing is held, in addition to the matters referred to in clauses (a), (b), (b.1) and (b.2), any relevant evidence and information given or presentations made at the hearing.*

(4) An appellant is not compelled to give evidence in an appeal under this section.

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

- (a) the person was a novice driver,*
- (b) the person held a novice operator's licence, and*
- (c) the person, having consumed a drug or alcohol, drove a motor vehicle,*

the Board must confirm the suspension.

(6) If, after conducting an appeal under this section, the Board is satisfied that at the time of the suspension

- (a) the person was not a novice driver,*
- (b) the person did not hold a novice operator's licence, or*
- (c) the person, having consumed a drug or alcohol, had not driven a motor vehicle,*

the Board must

- (e) cancel the suspension, and*

(2) In determining a review commenced pursuant to this section, the Registrar may, subject to the regulations, confirm, cancel or vary the seizure or immobilization.

(3) This section does not apply to seizures or immobilizations of motor vehicles made pursuant to section 88, 88.01, 88.02, 88.03 or 88.1.

Relief for affected persons

36(1) A person who is an affected person as defined in the regulations and who is affected by an administrative penalty as defined in the *Provincial Administrative Penalties Act* may apply in accordance with the regulations to the Registrar for relief from that administrative penalty.

(2) A person whose motor vehicle is seized as the consequence of an administrative penalty imposed under this Act or another person with an interest in the motor vehicle may apply to the Registrar in accordance with the regulations for relief from that seizure.

- (f) 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.*

39.2(1) In this section, “peace officer” means peace officer as defined in section 87.1.

(2) Where

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

under section 88.1, the person may appeal that suspension or disqualification to the Board.

(3) In an appeal under this section, the Board shall consider

- (a) any relevant sworn or solemnly affirmed statements and any other relevant information;*
- (b) the report of the peace officer;*
- (c) a copy of any certificate of analysis under section 320.32 of the Criminal Code (Canada) without proof of the identity and official character of the person appearing to have signed the certificate or that the copy is a true copy;*
- (d) where an oral hearing is held, in addition to the matters referred to in clauses (a), (b) and (c), any relevant evidence and information given or presentations made at the hearing.*

(4) An appellant is not compelled to give evidence in an appeal under this section.

(5) If, after conducting an appeal under this section, the Board is satisfied of any of the following, the Board must confirm the suspension or disqualification:

- (a) that the person operated a motor vehicle while the person’s ability to operate it was impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;*
- (b) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood alcohol concentration equal to or*

exceeding 80 milligrams of alcohol in 100 millilitres of blood;

- (c) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood drug concentration equal to or exceeding any blood drug concentration for the drug that is prescribed by regulation under the Criminal Code (Canada);*
- (d) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined;*
- (e) knowing that a demand had been made, the person failed or refused to comply with a demand made under section 320.27 or 320.28 of the Criminal Code (Canada) without a reasonable excuse.*

(6) If, after conducting an appeal under this section, the Board is satisfied of any of the following, the Board must cancel the suspension or disqualification and direct the return to that person of any fees paid to the Government by that person in respect of the appeal conducted under this section:

- (a) that the person did not operate a motor vehicle while the person's ability to operate it was impaired to any degree by alcohol or a drug or a combination of alcohol and a drug;*
- (b) that within 2 hours after ceasing to operate a motor vehicle, the person did not have a blood alcohol concentration equal to or exceeding 80 milligrams of alcohol in 100 millilitres of blood;*
- (c) that within 2 hours after ceasing to operate a motor vehicle, the person did not have a blood drug concentration equal to or exceeding any blood drug concentration for the drug that is prescribed by regulation under the Criminal Code (Canada);*
- (d) that within 2 hours after ceasing to operate a motor vehicle, the person did not have a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for*

the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined;

(e) that the person did not fail or refuse to comply with a demand made under section 320.27 or 320.28 of the Criminal Code (Canada);

(f) that the person had a reasonable excuse for failing or refusing to comply with a demand made under section 320.27 or 320.28 of the Criminal Code (Canada);

(g) that

(i) the person consumed alcohol after ceasing to operate the motor vehicle,

(ii) the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of breath or blood, and

(iii) the person's alcohol consumption is consistent with the person's blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) of the Criminal Code (Canada) and with the person having had, at the time when the person was operating the motor vehicle, a blood alcohol concentration that was less than 80 milligrams of alcohol in 100 millilitres of blood;

(h) that the person

(i) consumed the drug after ceasing to operate the motor vehicle, and

(ii) after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of a bodily substance;

(i) that

(i) the person consumed the drug or the alcohol or both after ceasing to operate the motor vehicle,

(ii) the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of a bodily substance, and

- (iii) *the person's alcohol consumption is consistent with the person's blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) of the Criminal Code (Canada) and with the person having had, at the time when the person was operating the motor vehicle, a blood alcohol concentration less than the blood alcohol concentration established under paragraph 320.38(c) of the Criminal Code (Canada).*

39.21(1) Where the Registrar

- (a) *refuses to set aside the operation of a disqualification imposed under this Act, or imposes terms or conditions, in accordance with section 88.1(3.2) or 88.11(4),*
- (b) *refuses to exempt a person from the requirement for the use of an alcohol-sensing device under section 88.1(3.4) or 88.11(5),*
- (c) *sets aside the requirement for the use of an alcohol-sensing device but imposes a further period of disqualification or suspension or another term or condition under section 88.1(3.5) or 88.11(6), or*
- (d) *rescinds the setting aside of the disqualification or suspension of the person on the basis that the alcohol-sensing device with which the person's vehicle has been equipped as a condition of the setting aside of the operation of a disqualification or suspension imposed under section 88.1(3) or 88.11(2) registers a warn or a fail under section 88.1(3.6) or 88.11(7),*

the person to whom the refusal, or imposition of a term or condition, further period of disqualification or suspension or disqualification or suspension applies may appeal the refusal, imposition of a term or condition, or rescission of the setting aside of a disqualification or suspension under section 88.1(3.2), (3.4) or (3.6) or 88.11(4), (5) or (7) or of the imposition of a further period of disqualification under section 88.1(3.5) or 88.11(6) to the Board.

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

- (a) *confirm, vary or rescind any action taken by the Registrar that the Board considers appropriate in the circumstances,*

- (b) *direct the Registrar to set aside the operation of a disqualification imposed under this Act and to impose, or not to impose, a term or condition under section 88.1(3.2) or 88.11(4),*
- (c) *direct the Registrar to exempt a person from the requirements for the use of an alcohol-sensing device under section 88.1(3.4) or 88.11(5),*
- (d) *direct the Registrar not to impose a further period of disqualification or a term or condition under section 88.1(3.5) or 88.11(6), or*
- (e) *direct the Registrar to rescind the disqualification or suspension of a person under section 88.1(3.6) or 88.11(7)*

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

39.3(1) Where the Registrar

- (a) *refuses to set aside the operation of a disqualification imposed under this Act, or imposes terms or conditions, in accordance with section 88.2(2),*
- (b) *refuses to reinstate or issue a licence, or imposes terms or conditions, in accordance with section 88.2(4),*
- (b.1) *determines the length of the term under section 88.2(5)(b),*
- (d) *orders an extension of the requirement for the use of an alcohol-sensing device under section 88.2(6)(b), or*
- (e) *refuses to set aside the requirement for the use of an alcohol-sensing device, or imposes a further period of disqualification or a term or condition, under section 88.2(7),*

the person to whom the refusal, determination, extension or imposition of a term or condition or further period of disqualification applies may appeal the refusal, determination or extension or the imposition of a term or condition under section 88.2(2), (4), (5)(b) 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

- (a) *confirm any action taken by the Registrar that the Board considers appropriate in the circumstances,*
- (b) *direct the Registrar to set aside the operation of a disqualification imposed under this Act and to impose, or not to impose, a term or condition under section 88.2(2),*
- (c) *direct the Registrar to reinstate or issue an operator's licence and to impose, or not to impose, a term or condition under section 88.2(4),*
- (c.1) *direct the Registrar to change the length of the term determined under section 88.2(5)(b),*
- (e) *direct the Registrar not to extend the requirement under section 88.2(6)(b), or*
- (f) *direct the Registrar to set aside the requirement for the use of an alcohol-sensing device, or to impose, or not to impose, a further period of disqualification or a term or condition under section 88.2(7),*

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

39.4(1) Where the Registrar, under section 88.3,

- (a) *refuses to declare a person eligible to obtain an operator's licence, or*
- (b) *imposes a term or condition on the person's eligibility to obtain an operator's licence with which that person does not agree,*

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

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

- (a) *confirm any action taken by the Registrar that the Board considers appropriate in the circumstances,*
- (b) *direct the Registrar to declare the person eligible to obtain an operator's licence under section 88.3(2),*

- (c) *direct the Registrar not to impose a term or condition under section 88.3(2), or*
- (d) *make the order subject to any terms or conditions that the Board considers appropriate in the circumstances.*

40(1) Subject to the regulations, where a person's motor vehicle is seized or immobilized under section 172.1(1)(b) or (3), 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(1)(b) or (3), 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.*

41(1) Where a regulated person, as defined in section 143, is affected by a decision made or an action taken by the Registrar under section 143, that person 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.*

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.*

42(1) Where a person who

- (a) operates a driver training school,*
- (b) is a driver examiner, or*
- (c) is a driving instructor,*

is affected by a decision or action of the Registrar with respect to the operation of or the provision of services by the driver training school or the actions of or the provision of services by the driver examiner or driving instructor, that person 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.*

42.1(1) In this section,

- (a) “vehicle inspection facility” includes an inspection station;*
- (b) “vehicle inspection technician” includes an inspection technician and an inspection mechanic.*

(2) Where a person who pursuant to a licence issued under this Act

- (a) operates a vehicle inspection facility, or*

(b) is a vehicle inspection technician

is affected by a decision or action of the Registrar with respect to the operation of or the provision of services by the vehicle inspection facility or the actions of or the provision of services by the vehicle inspection technician, that person may appeal that decision or action to the Board.

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

- (a) confirm, vary or rescind the decision made or action taken 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.*

43(1) In this section, “certificate” means a certificate as defined in section 130(1)(c).

(2) Where the Registrar

- (a) refuses to issue a certificate to an applicant, the applicant may appeal the refusal to issue the certificate to the Board,*
- (b) imposes a term or condition in respect of a certificate, the carrier may appeal the imposition of the term or condition to the Board,*
- (c) makes an order under section 132(2) suspending or cancelling a certificate, the carrier may appeal the suspension or cancellation of the certificate to the Board, or*
- (d) makes an order changing the safety rating of a carrier, the carrier may appeal the change in the safety rating to the Board.*

(3) After the commencement of an appeal pursuant to this section, the Board may grant interim relief and make the interim relief subject to any terms or conditions that the Board considers appropriate in the circumstances.

(4) The interim relief granted under subsection (3) may include the granting of an interim certificate that is valid for a period of time that does not extend beyond the point in time at which the Board renders its decision in respect of the appeal.

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

- (a) confirm any action taken by the Registrar that the Board considers appropriate in the circumstances;*
- (b) direct the Registrar to issue or not to issue a certificate;*
- (c) direct the Registrar to reinstate a certificate;*
- (d) direct the Registrar to reinstate a safety rating to what it was or to what the Board considers is appropriate in the circumstances;*
- (e) remove or vary any term or condition imposed in respect of a certificate;*
- (f) make the order subject to any terms or conditions that the Board considers appropriate in the circumstances.*

44(1) Where directed to do so by the Minister or as provided for by regulation, the Board shall conduct an appeal in respect of any matter arising under this Act that is not otherwise provided for under this Part.

(2) In determining an appeal commenced pursuant to this section, the Board may, subject to this Act, provide the relief

- (a) that the Board considers appropriate in the circumstances, or*
- (b) that is provided for by regulation.*

(3) The Minister may make regulations

- (a) providing for appeals to the Board in respect of any matter arising under this Act where an appeal is not otherwise provided for under this Part;*
- (b) providing for the relief that may be granted by the Board in respect of appeals under this section.*

45(1) An appeal may be commenced under this Division by filing with the Secretary of the Board a notice of appeal accompanied with evidence of payment of the prescribed fee, if any.

(2) An appeal under this Division shall not be commenced at any time after 30 days have expired from the day that the person requesting the appeal is served with the written notice of the

(23) Section 47.1 is amended

(a) in subsection (1)

- (i) by striking out “sections 32 and 46” and substituting “sections 32 and 34”;**
- (ii) by striking out “decision or order of the Board shall” and substituting “decision or order of the Registrar shall”;**
- (iii) by striking out “the Board or any of its proceedings” and substituting “the Registrar or any of the Registrar’s proceedings”;**

(b) in subsection (2) by striking out “the Board” wherever it occurs and substituting “the Registrar”;

(c) in subsection (3) by striking out “patent unreasonableness” and substituting “reasonableness”.

(24) Section 54(4) to (7) are repealed and the following is substituted:

decision or action, as the case may be, in respect of which the appeal is being commenced.

46(1) Where the Board has conducted an appeal and made a decision under this Division, the Board shall on the application of the person who is the subject of the decision reconsider the decision if in the opinion of the Board the circumstances in respect of the matter have substantially changed from the time of the decision.

(2) Once a decision of the Board has been reconsidered by the Board in respect of a matter referred to in subsection (1), the Board must refuse to reconsider the decision again.

47 An appeal commenced under this Division does not, except as otherwise directed by the Board under section 27 or 43, stay any suspension, cancellation, disqualification or other decision or action that is the subject of or otherwise related to the appeal.

(23) Section 47.1 presently reads in part:

47.1(1) Subject to sections 32 and 46 and subsection (2), no decision or order of the Board shall be questioned or reviewed in any court by application for judicial review or otherwise, and no order shall be made, process entered or proceedings taken in any court, whether by way of certiorari, injunction, declaratory judgment, prohibition, mandamus, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any decision or order of the Board or any of its proceedings.

(2) A decision or order of the Board may be questioned or reviewed by way of an application for judicial review seeking an order in the nature of certiorari or mandamus if the application is filed with the Court and served on the Board no later than 30 days after the date of the decision or order or the date a copy of the decision or order and reasons in respect of it have been received by the applicant, whichever is later.

(3) On an application for judicial review under subsection (2), the standard of review is patent unreasonableness.

(24) Section 54 presently reads in part:

(4) A person, other than a corporation, who contravenes subsection (1) or section 52(1)(h) or 167(8) is liable,

- (a) where the person is found guilty of the contravention,
 - (i) for the first contravention, to a fine of not less than \$2500 and not more than \$10 000 and in default of payment to imprisonment for a term of not less than 45 days and not more than 6 months, and
 - (ii) for each subsequent contravention that occurs within 5 years from the day of the contravention referred to in clause (a), to a fine of not less than \$5000 and not more than \$20 000 and in default of payment to imprisonment for a term of not less than 60 days and not more than 6 months;
- (b) where a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of the contravention, to a fine as prescribed under that Act.

(5) On the finding that a person, other than a corporation, is guilty of contravening subsection (1) or section 52(1)(h) or 167(8), or on the issuance of a notice of administrative penalty to the person under the *Provincial Administrative Penalties Act* in respect of the contravention, the Registrar may disqualify the person from driving a motor vehicle in Alberta until that person provides to the Registrar proof of financial responsibility.

(6) A corporation that contravenes subsection (1) or section 52(1)(h) is liable

- (a) where the corporation is found guilty of the contravention,
 - (i) for the first contravention, to a fine of not less than \$5000 and not more than \$20 000, and
 - (ii) for any subsequent contravention, to a fine of not less than \$7500 and not more than \$25 000;
- (b) where a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of the contravention, to a fine as prescribed under that Act.

(7) The Registrar may cancel the certificate of registration in respect of every motor vehicle owned by a person who contravenes subsection (1) or section 52(1)(h) or 167(8)

(4) A person, other than a corporation, who contravenes subsection (1) or section 52(1)(h) or 167(8) is liable,

(a) for the first contravention, to a fine of not less than \$2500 and not more than \$10 000 and in default of payment to imprisonment for a term of not less than 45 days and not more than 6 months, and

(b) for each subsequent contravention that occurs within 5 years from the day of the contravention referred to in clause (a), to a fine of not less than \$5000 and not more than \$20 000 and in default of payment to imprisonment for a term of not less than 60 days and not more than 6 months.

(5) On the finding of guilt of a person, other than a corporation, of contravening subsection (1) or section 52(1)(h) or 167(8), the Registrar may disqualify the person from driving a motor vehicle in Alberta until that person provides to the Registrar proof of financial responsibility.

(6) A corporation that is guilty of contravening subsection (1) or section 52(1)(h) is liable

(a) for the first contravention, to a fine of not less than \$5000 and not more than \$20 000, and

(b) for any subsequent contravention, to a fine of not less than \$7500 and not more than \$25 000.

(7) The Registrar may cancel the certificate of registration in respect of every motor vehicle owned by a person who is found guilty of contravening subsection (1) or section 52(1)(h) or 167(8).

- (a) on the finding of guilt of the person, or
- (b) on the issuance of a notice of administrative penalty to the person under the *Provincial Administrative Penalties Act* in respect of the contravention.

(25) Section 64 is amended

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

- (g.1) governing any matters with respect to the provision to the Registrar of information by the Director or an adjudicator under the *Provincial Administrative Penalties Act* arising out of proceedings before the adjudicator under
 - (i) this Act and any bylaw made under this Act, and
 - (ii) the *Provincial Administrative Penalties Act*;

(b) in clause (k)

- (i) **by adding** “88, 88.01, 88.02, 88.03, 88.1,” **before** “172”;
- (ii) **by striking out** “172.1.”;
- (iii) **by striking out** “and appeals under section 40”;

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

- (k.1) respecting requests to set aside suspensions under section 88.1(12) and (16);

(26) Section 65(2) is repealed and the following is substituted:

- (2)** Where a person who is an employee or agent of a dealer of used motor vehicles contravenes subsection (1)(h),
 - (a) where the person is found guilty of contravening this section, the dealer is also guilty of contravening this section and is subject to the punishment set out in section 158(2) unless the dealer proves to the satisfaction of the court that the dealer took all reasonable steps to ensure that the person would not contravene this section;

(25) Section 64 presently reads in part:

64 The Minister may make regulations

- (g) governing any matter with respect to the provision to the Registrar of information by the courts arising out of proceedings before the courts under*
- (i) this Act and any bylaw made under this Act, and*
- (ii) the Criminal Code (Canada) with respect to matters arising out of the operation of vehicles;*
- (k) governing the seizure and the immobilization of vehicles under sections 172, 172.1, 173 and 173.1 and appeals under section 40;*

(26) Section 65(2) presently reads:

(2) Where a person who is an employee or agent of a dealer of used motor vehicles contravenes subsection (1)(h), the dealer is also guilty of contravening this section and is subject to the punishment set out in section 158(2) unless the dealer proves to the satisfaction of the court that the dealer took all reasonable steps to ensure that the person would not contravene this section.

- (b) where a notice of administrative penalty is issued to the person under the *Provincial Administrative Penalties Act* for contravening this section, the dealer is also considered to have contravened this section and is subject to a fine as prescribed under that Act unless the dealer proves to the satisfaction of an adjudicator under that Act that the dealer took all reasonable steps to ensure that the person would not contravene this section.

(27) Section 72 is amended

- (a) **by striking out** “prosecution for” **and substituting** “proceeding with respect to a”;
- (b) **by striking out** “an offence” **and substituting** “a contravention”.

(28) The heading immediately preceding section 82 is amended by adding “and Contraventions” after “Offences”.

(29) Sections 87.1, 88, 88.1 and 88.11 are repealed and the following is substituted:

Interpretation

87.1(1) In sections 88, 88.01, 88.02, 88.03 and 88.1, “issue a notice of administrative penalty” includes service of the notice.

(2) In this section and sections 88, 88.01, 88.02, 88.03, 88.1 and 88.11,

- (a) “motor vehicle” does not include an electric scooter, electric bicycle, electric personal assistive mobility device or other vehicle prescribed by regulation
 - (i) operated by one person and carrying only that person, and
 - (ii) not exceeding 30 kilometres per hour at the time of operation;

(27) Section 72 presently reads:

72 In a prosecution for failure to provide information as required under section 69 or 126 or to make a report as required by section 70 or 71 or to provide information under the regulations with respect to accidents, the place of an offence is the place where the accident occurred.

(28) The heading immediately preceding section 82 presently reads:

*Division I
Disqualifications Arising from Offences*

(29) Sections 87.1, 88, 88.1 and 88.11 presently read:

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 this Act.*

88(1) 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 320.11 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) “notice of administrative penalty” means a notice of administrative penalty as defined in the *Provincial Administrative Penalties Act*;
 - (c) “suspended” means
 - (i) in the case of a driver who holds an operator’s licence, that the driver’s operator’s licence is suspended, the driver is disqualified from operating a motor vehicle in Alberta and the driver is disqualified from applying for or holding an operator’s licence;
 - (ii) in the case of a driver who holds a licence or permit issued in another jurisdiction that permits the driver to operate a motor vehicle, that the driver is disqualified from operating a motor vehicle in Alberta and from holding or applying for an operator’s licence;
 - (iii) in the case of a driver who does not hold an operator’s licence, that the driver is disqualified from applying for or holding an operator’s licence.
- (3) In sections 88, 88.01, 88.02, 88.1 and 88.11, “drug” includes any drug for which a blood drug concentration is prescribed by regulation under the *Criminal Code* (Canada).

Refusal to accept notice of administrative penalty

87.2 When a notice of administrative penalty is issued to a driver under section 88, 88.01, 88.02, 88.03 or 88.1, notwithstanding that the driver refuses or fails

- (a) to accept from a peace officer the notice of administrative penalty, the notice is deemed to have been issued at the time that the officer attempted to provide it to the driver,
- (b) to surrender an operator’s licence, that refusal or failure does not prevent the administrative penalty from taking effect, and
- (c) to accept service of the notice of administrative penalty, that refusal or failure does not prevent the administrative penalty from taking effect.

- (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 320.11 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 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 grounds by means of analysis of a sample of breath using an approved screening device or approved instrument 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*

Immediate roadside sanction: 24-hour

88(1) If a peace officer has reasonable grounds to suspect that the driver of a motor vehicle

- (a) has a medical or physical condition that affects, or
- (b) has consumed alcohol or otherwise introduced into the driver's body any alcohol, drug or other substance in such a quantity so as to affect

the driver's physical or mental ability, the peace officer may on behalf of the Registrar

- (c) issue a notice of administrative penalty to the driver, and
- (d) in the case of a driver who holds an operator's licence, require the driver to surrender to the peace officer the operator's licence.

(2) If a notice of administrative penalty is issued under this section,

- (a) the driver is immediately suspended for 24 hours, and
- (b) the peace officer or a person authorized by the peace officer may seize the driver's vehicle for 24 hours.

(3) A suspension arising pursuant to this section terminates at the end of 24 hours from the time the notice of administrative penalty was issued.

(4) Where a notice of administrative penalty is issued under section 88.01, 88.02, 88.03 or 88.1, any notice of administrative penalty issued under this section in respect of the same contravention is cancelled.

(5) No notice of administrative penalty may be issued under this section if a notice of administrative penalty has been issued under section 88.01, 88.02, 88.03 or 88.1 in respect of the same contravention.

Immediate roadside sanction zero: novice

88.01(1) In this section,

- (a) "novice driver" means a person who holds a novice operator's licence;

- (ii) *disqualifying that person from applying for or holding an operator's licence;*
 - (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.*
- (3) *Where*
- (a) *a person's operator's licence is surrendered under subsection (2)(c), that person's operator's licence is immediately suspended and that person is immediately disqualified from driving a motor vehicle in Alberta for a period of*
 - (i) *3 days, in the case of a first suspension or disqualification,*
 - (ii) *15 days, in the case of a 2nd suspension or disqualification, and*
 - (iii) *30 days, in the case of a subsequent suspension or disqualification;*
 - (b) *a notice of disqualification is served on a person under subsection (2)(d), that person is immediately disqualified from driving a motor vehicle in Alberta for a period of*
 - (i) *3 days, in the case of a first disqualification,*
 - (ii) *15 days, in the case of a 2nd disqualification, and*
 - (iii) *30 days, in the case of a subsequent disqualification;*
 - (c) *a notice of disqualification is served on a person under subsection (2)(e), that person is immediately disqualified from driving a motor vehicle in Alberta for a period of*
 - (i) *3 days, in the case of a first disqualification,*
 - (ii) *15 days, in the case of a 2nd disqualification, and*
 - (iii) *30 days, in the case of a subsequent disqualification.*
- (4) *For the purposes of subsection (3), a suspension or disqualification is*

- (b) “novice operator’s licence” means an operator’s licence classified as a learner’s operator’s licence or a probationary operator’s licence.

(2) If a peace officer has reasonable grounds to believe that the driver of a motor vehicle is a novice driver and at the time of driving has any alcohol or drug in the driver’s body, the peace officer shall, on behalf of the Registrar,

- (a) issue a notice of administrative penalty to the driver, and
- (b) require the driver to surrender to the peace officer the novice driver’s novice operator’s licence.

(3) If a notice of administrative penalty is issued under this section,

- (a) the novice driver is immediately suspended for 30 days,
- (b) the peace officer or a person authorized by the peace officer shall seize the novice driver’s vehicle for 7 days,
- (c) the novice driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section, and
- (d) the novice driver is subject to any additional conditions for reinstatement of the novice operator’s licence as set out in the regulations for contravention of this section.

(4) The peace officer shall advise the novice driver of the novice driver’s right to voluntarily undergo the applicable test, analysis or evaluation referred to in section 88.11(2).

Immediate roadside sanction zero: commercial

88.02(1) If a peace officer has reasonable grounds to believe that the driver of a motor vehicle is operating a commercial vehicle and has at the time of operating the commercial vehicle any alcohol or drug in the driver’s body, the peace officer shall, on behalf of the Registrar,

- (a) issue a notice of administrative penalty to the driver, and
- (b) in the case of a driver who holds an operator’s licence, require the driver to surrender to the peace officer the operator’s licence.

- (a) *a first suspension or disqualification if a person has not been subject to a previous suspension or disqualification under that subsection within the 10-year period preceding the suspension or disqualification,*
 - (b) *a 2nd suspension or disqualification if a person has been subject to one previous suspension or disqualification under that subsection within the 10-year period preceding the suspension or disqualification, and*
 - (c) *a subsequent suspension or disqualification if a person has been subject to 2 or more previous suspensions or disqualifications under that subsection within the 10-year period preceding the suspension or disqualification.*
- (5) *On a 2nd or subsequent suspension or disqualification under subsection (3), a person*
- (a) *is required to complete a mandatory educational program required by the Registrar,*
 - (b) *is subject to terms and conditions set by the Registrar on that person's operator's licence,*
 - (c) *is subject to a review by the Board at the Registrar's discretion after the 2nd suspension or disqualification, and*
 - (d) *is subject to a mandatory review by the Board after the 3rd or any subsequent suspension or disqualification.*
- (6) *Notwithstanding subsection (3), where the person voluntarily*
- (a) *attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument, or*
 - (b) *forthwith provides a 2nd breath sample into an approved screening device that is different from the device used for the test under subsection (2)(a),*

the purpose of which is to show the proportion of alcohol in the person's blood, and the result of that test indicates that the proportion of alcohol in the person's blood is not equal to nor exceeds 50 milligrams of alcohol in 100 millilitres of blood, the peace officer shall forthwith return the operator's licence, if any, to the person and the disqualification from driving is terminated.

(2) If a notice of administrative penalty is issued under this section,

- (a) for a first contravention of this section,
 - (i) the driver is immediately suspended for 3 days,
 - (ii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the first time, and
 - (iii) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the operator's licence as set out in the regulations for contravention of this section for the first time,
- (b) for a 2nd contravention of this section,
 - (i) the driver is immediately suspended for 15 days,
 - (ii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the 2nd time, and
 - (iii) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the operator's licence as set out in the regulations for contravention of this section for the 2nd time,

and

- (c) for a 3rd and subsequent contravention of this section,
 - (i) the driver is immediately suspended for 30 days,
 - (ii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the 3rd or subsequent time, and
 - (iii) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the operator's licence as set out in the regulations for contravention of this section for the 3rd or subsequent time.

(6.1) The peace officer shall advise the person of the person's right to voluntarily undergo a test referred to in subsection (6).

(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, that refusal or failure does not prevent the suspension or disqualification from taking effect;*
- (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.*

(8) With respect to a driver of a motor vehicle, this section does not apply to a case arising out of the circumstances described in subsection (2)

- (a) when a peace officer decides to lay an information against the driver alleging that the driver has, in contravention of the Criminal Code (Canada), committed any offence*
 - (i) involving the actual driving of a motor vehicle by the driver, and*
 - (ii) involving*
 - (A) the condition of the driver or the amount of alcohol in the driver's blood, as the case may be, resulting from the consumption by the driver of alcohol,*
 - (B) the condition of the driver resulting from the introduction by the driver into the driver's body of any drug or other substance,*
 - (C) the condition of the driver resulting from the introduction by the driver into the driver's body of a combination of alcohol and a drug, or*
 - (D) the driver, with respect to the driving of a motor vehicle, having failed or refused, without a reasonable excuse, to comply with a demand made on that driver*

(3) The peace officer shall advise the driver of the driver's right to voluntarily undergo the applicable test, analysis or evaluation referred to in section 88.11(2).

Immediate roadside sanction: warn

88.03(1) If a peace officer has reasonable grounds to believe that a driver of a motor vehicle has a blood alcohol concentration at the time of driving that is equal to or exceeds 50 milligrams of alcohol in 100 millilitres of blood, the peace officer shall, on behalf of the Registrar,

- (a) issue a notice of administrative penalty to the driver, and
- (b) in the case of a driver who holds an operator's licence, require the driver to surrender to the peace officer the operator's licence.

(2) If a notice of administrative penalty is issued under this section,

- (a) for a first contravention of this section,
 - (i) the driver is immediately suspended for 3 days,
 - (ii) the peace officer or a person authorized by the peace officer shall seize the driver's motor vehicle for 3 days,
 - (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for a first time, and
 - (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for a first time,
- (b) for a 2nd contravention of this section,
 - (i) the driver is immediately suspended for 15 days,
 - (ii) the peace officer or a person authorized by the peace officer shall seize the driver's vehicle for 7 days,

under section 320.27 or 320.28 of the Criminal Code (Canada),

or

- (b) where the driver's operator's licence is suspended or the driver is disqualified from driving a motor vehicle under section 88.1.*

88.1(1) 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;*
- (a.1) "notice of disqualification" means a notice of disqualification served under subsection (2.2);*
- (b) "notice of suspension" means a notice of suspension served under subsection (2.2).*
- (2) Subject to subsection (2.1), where a peace officer has reasonable grounds to believe any of the following, the peace officer shall, on behalf of the Registrar, take the actions set out in subsection (2.2):*
 - (a) that a person operated a motor vehicle while the person's ability to operate the motor vehicle was impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;*
 - (b) that a person has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration that is equal to or exceeds 80 milligrams of alcohol in 100 millilitres of blood;*
 - (c) that a person has within 2 hours after ceasing to operate a motor vehicle a blood drug concentration that is equal to or exceeds any blood drug concentration for the drug that is prescribed by regulation under the Criminal Code (Canada);*

- (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for a 2nd time, and
- (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for a 2nd time,

and

- (c) for a 3rd and subsequent contravention of this section,
 - (i) the driver is immediately suspended for 30 days,
 - (ii) the peace officer or a person authorized by the peace officer shall seize the driver's vehicle for 7 days,
 - (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for a 3rd or subsequent time, and
 - (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for a 3rd or subsequent time.

(3) The peace officer shall advise the driver of the driver's right to voluntarily undergo the applicable test, analysis or evaluation referred to in section 88.11(2).

(4) A contravention of section 88 as it read immediately before the coming into force of this section is deemed to be a contravention of this section in determining whether a contravention is a 2nd, 3rd or subsequent contravention for the purposes of subsection (2).

Immediate roadside sanction: fail

88.1(1) Subject to subsection (3), if a peace officer has reasonable grounds to believe any of the following, the peace officer shall, on behalf of the Registrar, take the actions set out in subsection (2):

- (d) *that a person has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined;*
- (e) *that a person, knowing that a demand has been made, failed or refused, without a reasonable excuse, to comply with a demand made on the person under section 320.27 or 320.28 of the Criminal Code (Canada).*

(2.1) The peace officer shall not take the actions set out in subsection (2.2)

- (a) *if*
 - (i) *the person consumed alcohol after ceasing to operate the motor vehicle,*
 - (ii) *the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of breath or blood, and*
 - (iii) *the person's alcohol consumption is consistent with the person's blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) of the Criminal Code (Canada) and with the person having had, at the time when the person was operating the motor vehicle, a blood alcohol concentration that was less than 80 milligrams of alcohol in 100 millilitres of blood;*
- (b) *if*
 - (i) *the person consumed the drug after ceasing to operate the motor vehicle, and*
 - (ii) *the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of a bodily substance;*
- (c) *if*
 - (i) *the person consumed the drug or the alcohol or both after ceasing to operate the motor vehicle,*

- (a) that a driver operated a motor vehicle while the driver's ability to operate the motor vehicle was impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;
 - (b) that a driver has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration that is equal to or exceeds 80 milligrams of alcohol in 100 millilitres of blood;
 - (c) that a driver has within 2 hours after ceasing to operate a motor vehicle a blood drug concentration that is equal to or exceeds any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code* (Canada);
 - (d) that a driver has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined;
 - (e) that a driver, knowing that a demand has been made, failed or refused, without a reasonable excuse, to comply with a demand made on the driver under section 320.27 or 320.28 of the *Criminal Code* (Canada).
- (2) The peace officer shall issue a notice of administrative penalty to the driver, and, in the case of a driver who holds an operator's licence, require the driver to surrender to the peace officer the operator's licence.
- (3) The peace officer shall not take the actions set out in subsection (2)
- (a) if
 - (i) the driver consumed alcohol after ceasing to operate the motor vehicle,
 - (ii) the driver, after ceasing to operate the motor vehicle, had no reasonable expectation that the driver would

- (ii) *the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of a bodily substance, and*
- (iii) *the person's alcohol consumption is consistent with the person's blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) of the Criminal Code (Canada) and with the person having had, at the time when the person was operating the motor vehicle, a blood alcohol concentration less than the blood alcohol concentration established under paragraph 320.38(c) of the Criminal Code (Canada).*

(2.2) The peace officer shall, on behalf of the Registrar,

- (a) 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;*
- (b) 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;*
- (c) 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 under subsection (2.2)(a), that person is immediately disqualified from driving a motor vehicle in Alberta and remains so disqualified*
 - (i) for an immediate period of 90 days, and*

be required to provide a sample of breath or blood,
and

- (iii) the driver's alcohol consumption is consistent with the driver's blood alcohol concentration as determined in accordance with the regulations and with the driver having had, at the time when the driver was operating the motor vehicle, a blood alcohol concentration that was less than 80 milligrams of alcohol in 100 millilitres of blood,

(b) if

- (i) the driver consumed the drug after ceasing to operate the motor vehicle, and
- (ii) the driver, after ceasing to operate the motor vehicle, had no reasonable expectation that the driver would be required to provide a sample of a bodily substance,

or

(c) if

- (i) the driver consumed the drug or the alcohol or both after ceasing to operate the motor vehicle,
- (ii) the driver, after ceasing to operate the motor vehicle, had no reasonable expectation that the driver would be required to provide a sample of a bodily substance, and
- (iii) the driver's alcohol consumption is consistent with the driver's blood alcohol concentration as determined in accordance with the regulations and with the driver having had, at the time when the driver was operating the motor vehicle, a blood alcohol concentration less than the blood alcohol concentration established under paragraph 320.38(c) of the *Criminal Code* (Canada).

(4) If a notice of administrative penalty is issued under this section,

- (a) for a first contravention of this section,

- (ii) *following the expiration of the term in subclause (i), for a further period of one year;*
 - (b) *a notice of suspension is served on a person under subsection (2.2)(a), the suspension, with respect to the surrendered operator's licence, takes effect immediately and remains in effect*
 - (i) *for an immediate period of 90 days, and*
 - (ii) *following the expiration of the term in subclause (i), for a further period of one year;*
 - (c) *a notice of disqualification is served on a person under subsection (2.2)(b), that person is immediately disqualified from driving a motor vehicle in Alberta, and the disqualification remains in effect*
 - (i) *for an immediate period of 90 days, and*
 - (ii) *following the expiration of the term in subclause (i), for a further period of one year;*
 - (d) *a notice of disqualification is served on a person under subsection (2.2)(c), the disqualification takes effect immediately on the service of the notice and remains in effect*
 - (i) *for an immediate period of 90 days, and*
 - (ii) *following the expiration of the term in subclause (i), for a further period of one year.*
- (3.1) *On the expiration of a disqualification or suspension imposed under subsection (3)(a)(i), (3)(b)(i), (3)(c)(i) or (3)(d)(i) a person may apply to the Registrar to set aside the operation of the disqualification or suspension imposed under subsection (3)(a)(ii), (3)(b)(ii), (3)(c)(ii) or (3)(d)(ii).*
- (3.2) *The Registrar may set aside the operation of a disqualification or suspension imposed under subsection (3)(a)(ii), (3)(b)(ii), (3)(c)(ii) or (3)(d)(ii) only on the condition that the person who is subject to the disqualification or suspension*
- (a) *does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device satisfactory to the Registrar, and*

- (i) the driver is suspended
 - (A) for an immediate period of 90 days, and
 - (B) following the expiration of the period in paragraph (A), for a further period of one year,
 - (ii) the peace officer or a person authorized by the peace officer shall seize the driver's vehicle for 30 days,
 - (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the first time, and
 - (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for the first time,
- (b) for a 2nd contravention of this section,
- (i) the driver is suspended
 - (A) for an immediate period of 90 days, and
 - (B) following the expiration of the period in paragraph (A), for a further period of 36 months,
 - (ii) the peace officer or a person authorized by the peace officer shall seize the driver's vehicle for 30 days,
 - (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the 2nd time, and
 - (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for the 2nd time,
- and
- (c) for a 3rd and subsequent contravention under this section,

(b) complies with any terms or conditions imposed by the Registrar.

(3.3) The term during which the person must not operate a motor vehicle without an alcohol-sensing device as described in subsection (3.2) is one year.

(3.4) Notwithstanding subsection (3.3), the Registrar may consider and grant or refuse an application for exemption from subsection (3.3) where it is not feasible for the disqualified or suspended person to comply with the requirement for the use of an alcohol-sensing device as prescribed in this section.

(3.5) On an application referred to in subsection (3.4), the Registrar may set aside the requirement for the use of an alcohol-sensing device, and instead impose a further period of disqualification or another term or condition that will, in the opinion of the Registrar, ensure public safety.

(3.6) Where the operation of a disqualification or suspension imposed under subsection (3)(a)(ii), (3)(b)(ii), (3)(c)(ii) or (3)(d)(ii) has been set aside by the Registrar on the condition that a person does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device, the Registrar may rescind the setting aside of the disqualification or suspension if the alcohol-sensing device with which the person's vehicle has been equipped registers a warn or a fail.

(3.7) Notwithstanding

(a) subsections (2.2)(a) and (3)(a) and (b), if the person to whom subsection (2)(b) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and the result of that test indicates that the person's blood alcohol concentration is less than 80 milligrams of alcohol in 100 millilitres of blood, the peace officer shall forthwith return the person's operator's licence, if any, to the person and the suspension of the operator's licence and the disqualification from driving are terminated;

(b) subsections (2.2)(a) and (3)(a) and (b), if the person to whom subsection (2)(c) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, provides a sample of

- (i) the driver is suspended
 - (A) for an immediate period of 90 days, and
 - (B) following the expiration of the period in paragraph (A), for life,
- (ii) the peace officer or a person authorized by the peace officer shall seize the driver's vehicle for 30 days,
- (iii) the driver is liable to a fine as provided for under the *Provincial Administrative Penalties Act* for contravention of this section for the 3rd or subsequent time, and
- (iv) in the case of a driver who holds an operator's licence, the driver is subject to any additional conditions for reinstatement of the licence as set out in the regulations for contravention of this section for a 3rd or subsequent time.

(5) The peace officer shall advise the driver of the driver's right to voluntarily undergo the applicable test, analysis or evaluation referred to in section 88.11(2).

(6) On the expiration of a suspension imposed under subsection (4)(a)(i)(A), (b)(i)(A) or (c)(i)(A), a person may apply to the Registrar to set aside the operation of the suspension imposed under subsection (4)(a)(i)(B), (b)(i)(B) or (c)(i)(B).

(7) The Registrar may set aside the operation of a suspension imposed under subsection (4)(a)(i)(B), (b)(i)(B) or (c)(i)(B) only on the condition that the person who is subject to the suspension

- (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.

(8) The term during which the person must not operate a motor vehicle without an alcohol-sensing device as described in subsection (7) is

blood and undergoes a test or analysis of that blood and the result of that test or analysis indicates that the person's blood drug concentration is less than all the blood drug concentrations for that drug that are prescribed under the Criminal Code (Canada), the peace officer shall forthwith return the person's operator's licence, if any, to the person and the suspension of the licence and disqualification from driving are terminated;

- (c) subsections (2.2)(a) and (3)(a) and (b), if the person to whom subsection (2)(d) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and provides a sample of blood and undergoes a test or analysis of that blood and the result of the tests or analysis indicates that the person's blood alcohol concentration and blood drug concentration are less than the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined, the peace officer shall forthwith return the person's operator's licence, if any, to the person and the suspension of the licence and disqualification from driving are terminated;*
- (d) subsections (2.2)(b) and (3)(c), if the person to whom subsection (2)(b) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and the result of that test indicates that the person's blood alcohol concentration is less than 80 milligrams of alcohol in 100 millilitres of blood, the disqualification from operating a motor vehicle in Alberta and applying for or holding an operator's licence are terminated;*
- (e) subsections (2.2)(b) and (3)(c), if the person to whom subsection (2)(c) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, provides a sample of blood and undergoes a test or analysis of that blood and the result of that test or analysis indicates that the person's blood drug concentration is less than all the blood drug concentrations for that drug that are prescribed by regulation under the Criminal Code (Canada), the disqualification from operating a motor vehicle in Alberta*

- (a) for a suspension imposed under subsection (4)(a), 12 months;
- (b) for a suspension imposed under subsection (4)(b), 36 months;
- (c) for a suspension imposed under subsection (4)(c), life.

(9) Notwithstanding subsection (8), the Registrar may consider and grant or refuse an application for exemption from subsection (8) where it is not feasible for the suspended person to comply with the requirement for the use of an alcohol-sensing device as prescribed in this section.

(10) On an application referred to in subsection (9), the Registrar may set aside the requirement for the use of an alcohol-sensing device, and instead impose a further period of suspension or another term or condition that will, in the opinion of the Registrar, ensure public safety.

(11) Where the operation of a suspension imposed under subsection (4)(a)(i)(B), (b)(i)(B) or (c)(i)(B) has been set aside by the Registrar on the condition that a person does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device, the Registrar may rescind the setting aside of the suspension if the alcohol-sensing device with which the person's vehicle has been equipped registers a warn or a fail.

(12) A person may apply to the Registrar for a review of the suspension imposed by subsection (4)(c)(i)(B) following the expiry of 10 years after the expiry of the period referred to in subsection (4)(c)(i)(A).

(13) The Registrar may set aside the operation of a suspension imposed under subsection (4)(c)(i)(B) subject to any conditions prescribed by the regulations.

(14) If the Registrar refuses to set aside the operation of a suspension imposed under subsection (4)(c)(i)(B), the person subject to the suspension may apply to the Registrar for a reconsideration within 30 days of the Registrar's decision.

(15) Notwithstanding subsection (14), where a person applies for a reconsideration more than 30 days after the Registrar's decision under subsection (13), the Registrar may reconsider the

and applying for or holding an operator's licence are terminated;

- (f) subsections (2.2)(b) and (3)(c), if the person to whom subsection (2)(d) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and provides a sample of blood and undergoes a test or analysis of that blood and the result of the tests or analysis indicates that the person's blood alcohol concentration and the blood drug concentration are less than the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined, the disqualification from operating a motor vehicle in Alberta and applying for or holding an operator's licence are terminated;*
- (g) subsections (2.2)(c) and (3)(d), if the person to whom subsection (2)(b) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and the result of that test indicates that the person's blood alcohol concentration is less than 80 milligrams of alcohol in 100 millilitres of blood, the disqualification from applying for or holding an operator's licence is terminated;*
- (h) subsections (2.2)(c) and (3)(d), if the person to whom subsection (2)(c) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, provides a sample of blood and undergoes a test or analysis of that blood and the result of that test indicates that the person's blood drug concentration is less than all the blood drug concentrations for that drug that are prescribed by regulation under the Criminal Code (Canada), the disqualification from applying for or holding an operator's licence is terminated;*
- (i) subsections (2.2)(c) and (3)(d), if the person to whom subsection (2)(d) applies voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument and provides a sample of blood and undergoes a test or analysis of that blood and the result of the tests or analysis indicates that the person's blood*

Registrar's decision under subsection (13) if in the opinion of the Registrar the circumstances in respect of the matter have substantially changed from the time of the decision.

(16) If the Registrar refuses to reconsider the decision under subsection (15), the person subject to the suspension may apply again to the Registrar at the end of 5 years after the Registrar's refusal for a review of the suspension imposed by subsection (4)(c)(i)(B), and subsection (13) applies to that application.

(17) A contravention of section 88.1 as it read immediately before the coming into force of this section is deemed to be a contravention of this section in determining whether a contravention is a 2nd, 3rd or subsequent contravention for the purposes of subsection (4).

Roadside appeals

88.11(1) In this section,

- (a) "approved drug screening equipment" means equipment that is designed to ascertain the presence of a drug in a person's body and that is
 - (i) approved drug screening equipment within the meaning of section 320.11 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 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 320.11 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) "approved screening device" means a device that is designed to ascertain the presence of alcohol in a person's blood and that is

alcohol concentration and blood drug concentration are less than the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the Criminal Code (Canada) for instances where alcohol and that drug are combined, the disqualification from applying for or holding an operator's licence is terminated.

(3.8) The peace officer shall advise the person of the person's right to voluntarily undergo the applicable test or analysis referred to in subsection (3.7).

(3.9) Despite subsection (3.7)(a), (d) and (g),

- (a) if the result of the test referred to in those provisions indicates that the person's blood alcohol concentration is equal to or greater than 50 milligrams of alcohol in 100 millilitres of blood but less than 80 milligrams of alcohol in 100 millilitres of blood, the peace officer shall take the action set out in section 88(2)(c), (d) or (e), whichever is applicable in the circumstances, and*
- (b) if the result of the test referred to in those provisions indicates the presence of alcohol in that person's blood and the person is a novice driver as defined in section 90(1)(c), the peace officer shall take the action set out in section 90(4).*

(4) 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, that refusal or failure does not prevent the suspension or disqualification from taking effect;*
- (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.*

88.11(1) On the coming into force of section 13(c) of An Act to Reduce Cannabis and Alcohol Impaired Driving,

- (a) a disqualification or suspension that was imposed under section 88.1(3) one year or more before the coming into force*

- (i) an approved screening device within the meaning of section 320.11 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;
- (d) “drug recognition evaluation” means an evaluation conducted by an evaluating officer for the purpose of determining the presence of a drug and whether the person’s ability to operate a motor vehicle is impaired by a drug, or a combination of alcohol and a drug;
- (e) “evaluating officer” means an evaluating officer as defined in section 320.11 of the *Criminal Code* (Canada).

(2) Notwithstanding that a notice of administrative penalty has been issued to a driver under section 88.01, 88.02, 88.03 or 88.1, where a driver requests an appeal of that notice of administrative penalty and voluntarily attends immediately at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, the driver shall immediately

- (a) where the basis for issuing the notice of administrative penalty was an initial test performed on an approved screening device, provide a sample of breath that in the opinion of the peace officer is suitable for analysis on a different approved screening device, or on an approved instrument, at the discretion of the peace officer,
- (b) where the basis for issuing the notice of administrative penalty was an initial test on an approved instrument, provide a sample of breath that in the opinion of the peace officer is suitable for analysis on an approved instrument,
- (c) where the basis for issuing the notice of administrative penalty was an initial test on approved drug screening equipment, provide a 2nd sample of oral fluid that in the opinion of the peace officer is suitable for analysis by approved drug screening equipment,
- (d) where the basis for issuing the notice of administrative penalty was performance of a drug recognition evaluation, provide a sample of blood or urine that in the opinion of the peace officer is suitable for analysis, at the discretion of the peace officer,

of section 13(c) of An Act to Reduce Cannabis and Alcohol Impaired Driving immediately comes to an end, and

(b) a disqualification or suspension that was imposed under section 88.1(3) less than one year before the coming into force of section 13(c) of An Act to Reduce Cannabis and Alcohol Impaired Driving continues until the person thus disqualified or suspended has been disqualified or suspended for 90 days.

(2) After the expiration of the 90 days referred to in subsection (1)(b), the person is disqualified or suspended for a further period of the lesser of

(a) one year, and

(b) the disposition of the criminal charge referred to in section 88.1(2)(a) as it read immediately before the coming into force of this subsection.

(3) A person may apply to the Registrar to have the operation of a disqualification or suspension imposed under subsection (2) set aside.

(4) The Registrar may set aside the operation of the disqualification or suspension imposed under subsection (2) only on the condition that the person

(a) does not operate a motor vehicle without an alcohol-sensing device for the remainder of the person's disqualification or suspension, and

(b) complies with any terms or conditions imposed by the Registrar.

(5) Notwithstanding subsection (2), the Registrar may consider and grant or refuse an application for exemption from subsection (2) 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.

(6) On an application referred to in subsection (5), the Registrar may set aside the requirement for the use of an alcohol-sensing device, and instead impose a further period of disqualification or another term or condition that will, in the opinion of the Registrar, ensure public safety.

- (e) where the basis for issuing the notice of administrative penalty was an analysis of blood, provide an additional sample of blood that in the opinion of the peace officer is suitable for analysis,
- (f) where the basis, in whole or part, for issuing the notice of administrative penalty was reasonable grounds to believe there was alcohol in the driver's body, and an initial test, evaluation or analysis referred to in clause (a), (b), (d) or (e) was not performed on the driver, provide a sample of breath that in the opinion of the peace officer is suitable for analysis on either an approved screening device or approved instrument, at the discretion of the officer,
- (g) where the basis, in whole or part, for issuing the notice of administrative penalty was reasonable grounds to believe there was a drug in the driver's body, and an initial test, evaluation or analysis referred to in clause (c), (d) or (e) was not performed on the driver,
 - (i) provide a sample of oral fluid that in the opinion of the peace officer is suitable for analysis on approved drug screening equipment,
 - (ii) undergo a drug recognition evaluation, or
 - (iii) provide a sample of blood or urine that in the opinion of the peace officer is suitable for analysis,
 at the discretion of the peace officer, or
- (h) where the basis for issuing the notice of administrative penalty was reasonable grounds to believe that the driver had both alcohol and a drug in the driver's body,
 - (i) provide a sample of breath that in the opinion of the peace officer is suitable for analysis on an approved screening device or approved instrument, at the discretion of the officer, and
 - (ii) either
 - (A) provide a sample of oral fluid that in the opinion of the peace officer is suitable for analysis on approved drug screening equipment or undergo a drug recognition evaluation, or

(7) Where the operation of a disqualification or suspension imposed under subsection (2) has been set aside by the Registrar on the condition that a person does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device, the Registrar may rescind the setting aside of the disqualification or suspension if the alcohol-sensing device with which the person's vehicle has been equipped registers a warn or a fail.

- (B) provide a sample of blood or urine that in the opinion of the peace officer is suitable for analysis,

at the discretion of the peace officer.

(3) Where the result of a test, evaluation or analysis pursuant to an appeal under subsection (2) of a notice of administrative penalty issued to a novice driver under section 88.01 shows the novice driver does not have alcohol or a drug in the novice driver's body, the peace officer shall cancel the notice of administrative penalty and immediately return the novice operator's licence, if any, to the novice driver.

(4) Where the result of a test, evaluation or analysis pursuant to an appeal under subsection (2) of a notice of administrative penalty issued to the driver of a commercial vehicle under section 88.02 shows the driver does not have alcohol or a drug in the driver's body, the peace officer shall cancel the notice of administrative penalty and immediately return the operator's licence, if any, to the driver.

(5) Where the result of a test or analysis pursuant to an appeal under subsection (2) of a notice of administrative penalty issued to a driver under section 88.03 shows the driver does not have a blood alcohol concentration that is equal to or exceeds 50 milligrams of alcohol in 100 millilitres of blood, the peace officer shall cancel the notice of administrative penalty and immediately return the operator's licence, if any, to the driver.

(6) Where the result of a test, evaluation or analysis pursuant to an appeal under subsection (2) of a notice of administrative penalty issued to a driver under section 88.1(1)(b), (c) or (d) is that the driver no longer meets the conditions in those provisions in respect of which the notice of administrative penalty was issued, the peace officer shall cancel the notice of administrative penalty and immediately return the operator's licence, if any, to the driver.

(7) Despite subsection (6),

- (a) if the result of the test, evaluation or analysis referred to in subsection (2) indicates that the driver's blood alcohol concentration is equal to or greater than 50 milligrams of alcohol in 100 millilitres of blood but less than 80

milligrams of alcohol in 100 millilitres of blood, the peace officer shall take the action set out in section 88.03(1) and (2)(a);

- (b) if the result of the test, evaluation or analysis referred to in subsection (2) indicates the presence of alcohol in the driver's body and
 - (i) the driver is a novice driver as defined in section 88.01(1)(a), the peace officer shall take the action set out in section 88.01(2) and (3)(b), or
 - (ii) the driver is the driver of a commercial vehicle, the peace officer shall take the action set out in section 88.02(1);
- (c) if the result of the test, evaluation or analysis referred to in subsection (2) indicates the presence of a drug in the driver's body and
 - (i) the driver is a novice driver as defined in section 88.01(1)(a), the peace officer shall take the action set out in section 88.01(2) and (3)(b), or
 - (ii) the driver is the driver of a commercial vehicle, the peace officer shall take the action set out in section 88.02(1).

(8) No person may seek a roadside appeal under this section of a notice of administrative penalty

- (a) issued under section 88.01 as a result of subsection (7)(b)(i),
- (b) issued under section 88.02 as a result of subsection (7)(b)(ii),
- (c) issued under section 88.03 as a result of subsection (7)(a), or
- (d) issued based on reasonable grounds that were formed after the time of the contravention and where in the opinion of the peace officer a roadside appeal could no longer provide any evidence of the blood alcohol or blood drug concentration of the recipient at the time of driving.

(30) Section 88.2(8) is amended by adding “88, 88.01, 88.02, 88.03 or” after “section”.

(31) Sections 89 and 90 are repealed.

(30) Section 88.2(8) presently reads:

(8) Any requirement for the use of an alcohol-sensing device that has been prescribed as a condition of operating a vehicle under this Act is cancelled on a suspension or disqualification under section 88.1.

(31) Sections 89 and 90 presently read:

89(1) If a peace officer reasonably suspects that the driver of a motor vehicle

(a) has a medical or physical condition that affects, or

(b) has consumed alcohol or otherwise introduced into the driver's body any alcohol, drug or other substance in such a quantity so as to affect

the driver's physical or mental ability, the peace officer may

(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;*
 - (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.*
- (2) *Where*
- (a) *a person's operator's licence is surrendered under subsection (1)(c), that person is immediately disqualified from driving a motor vehicle in Alberta;*
 - (b) *a notice of suspension is served on a person under subsection (1)(c), the suspension, with respect to the surrendered operator's licence, takes effect immediately;*
 - (c) *a notice of disqualification is served on a person under subsection (1)(d), that person is immediately disqualified from driving a motor vehicle in Alberta;*
 - (d) *a notice of disqualification is served on a person under subsection (1)(e), that person is immediately disqualified from driving a motor vehicle in Alberta.*
- (3) *The refusal or other failure of a driver to surrender an operator's licence under subsection (1)(c) does not prevent the suspension or disqualification from driving from taking effect.*
- (4) *A suspension or disqualification from driving arising pursuant to this section terminates at the end of 24 hours from the time that the suspension or disqualification takes effect.*
- (5) *With respect to a driver of a motor vehicle, this section does not apply to a case arising out of the circumstances described in subsection (1)*
- (a) *when a peace officer decides to lay an information against the driver alleging that the driver has, in contravention of the Criminal Code (Canada), committed any offence*
 - (i) *involving the actual driving of a motor vehicle by the driver, and*
 - (ii) *involving*

- (A) *the condition of the driver or the amount of alcohol in the driver's blood, as the case may be, resulting from the consumption by the driver of alcohol,*
- (B) *the condition of the driver resulting from the introduction by the driver into the driver's body of any drug or other substance,*
- (C) *the condition of the driver resulting from the introduction by the driver into the driver's body of a combination of alcohol and a drug, or*
- (D) *the driver, with respect to the driving of a motor vehicle, having failed or refused, without a reasonable excuse, to comply with a demand made on that person under section 320.27 or 320.28 of the Criminal Code (Canada),*

or

- (b) *where the driver's operator's licence is suspended or the driver is disqualified from driving a motor vehicle under section 88 or 88.1.*

90(1) *In this section,*

- (a) *"approved drug screening equipment" means equipment that is designed to ascertain the presence of a drug in a person's body and that is*
 - (i) *approved drug screening equipment within the meaning of section 320.11 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;*
- (a.01) *"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;*

- (a.1) *“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 320.11 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;*
- (a.2) *“drug” means any drug for which a blood drug concentration is prescribed by regulation under the Criminal Code (Canada);*
- (b) *“notice of suspension” means a notice of suspension referred to in subsection (4);*
- (c) *“novice driver” means a person who holds a novice operator’s licence;*
- (d) *“novice operator’s licence” means an operator’s licence classified as a learner’s operator’s licence or a probationary operator’s licence.*
- (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 or approved instrument.*
- (2.1) *If a peace officer reasonably suspects that the driver of a motor vehicle who is a novice driver, having consumed a drug, drove the motor vehicle, the peace officer may require that the novice driver forthwith provide a bodily substance sample for analysis by approved drug screening equipment.*
- (3) *On being required to provide a breath sample under subsection (2), the novice driver must provide a breath sample forthwith.*
- (3.1) *On being required to provide a bodily substance sample under subsection (2.1), the novice driver must provide a bodily substance sample forthwith.*
- (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 or approved instrument 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.

(4.1) Where a person who is a novice driver provides a bodily substance sample under subsection (3.1) and the bodily substance sample registers a result on the approved drug screening equipment that indicates the presence of a drug 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.

(5) Where a person's novice operator's licence is surrendered under subsection (4) or (4.1), that person's novice operator's licence is immediately suspended and that person is immediately disqualified from driving a motor vehicle in Alberta, and the suspension and disqualification remain in effect for a period of 30 days.

(7) A suspension that comes into effect under subsection (5) is in effect, unless otherwise directed by the Board pursuant to an appeal under section 39.1, until the end of the 30-day period that commences on the day that the suspension takes effect.

(7.1) Notwithstanding subsection (5), if the novice driver voluntarily

- (a) attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument, or*
- (b) forthwith provides a 2nd breath sample on an approved screening device that is different from the device used for the test under subsection (2),*

and the result of that test indicates that there was no alcohol in the novice driver's blood, the peace officer shall forthwith return the novice operator's licence, if any, to the novice driver and the disqualification from driving is terminated.

(7.2) Notwithstanding subsection (5), if the novice driver voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, provides a sample of blood and undergoes a test and the result of that test indicates that there is no drug in the novice driver's blood, the peace

officer shall forthwith return the novice operator's licence, if any, to the novice driver and the disqualification from driving is terminated.

(7.3) The peace officer shall advise the novice driver of the novice driver's right to voluntarily undergo a test referred to in subsection (7.1) or (7.2).

(8) Notwithstanding that a person refuses or fails

- (a) to accept from a peace officer service of a notice of suspension, 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 a novice operator's licence, that refusal or failure does not prevent the suspension from taking effect;*
- (c) to accept service of a notice of suspension, that refusal or failure does not prevent the suspension or disqualification from taking effect.*

(9) With respect to a driver of a vehicle, this section does not apply to a case arising out of the circumstances described in subsection (2)

- (a) when a peace officer decides to lay an information against the driver alleging that the driver has, in contravention of the Criminal Code (Canada), committed any offence*
 - (i) involving the actual driving of a motor vehicle by the driver, and*
 - (ii) involving*
 - (A) the condition of the driver or the amount of alcohol in the driver's blood, as the case may be, resulting from the consumption by the driver of alcohol,*
 - (B) the condition of the driver resulting from the introduction by the driver into the driver's body of any drug or other substance, or*
 - (C) the condition of the driver resulting from the introduction by the driver into the driver's body of a combination of alcohol and a drug,*

or

(32) Section 91(2) is repealed and the following is substituted:

(2) If a person who is not a resident of Alberta is found guilty of contravening section 65, 68, 69, 71 or 76, the regulations governing accident reports, Division 2 of Part 5, section 166, 176 or 188 or the regulations governing the destruction of non-repairable vehicles, or has a notice of administrative penalty issued to the person under the *Provincial Administrative Penalties Act* in respect of the contravention, the Registrar

- (a) may disqualify that person from driving a motor vehicle in Alberta until the fine or penalty imposed has been satisfied, and
- (b) may notify the proper authorities of the jurisdiction where the person resides of the contravention and of the non-satisfaction of the fine or penalty imposed.

(33) Section 94 is amended by adding the following after subsection (2):

(3) This section does not apply to a person referred to in section 94.1.

(34) The following is added after section 94:

Prohibition re driving while suspended or disqualified under immediate roadside sanction

94.1(1) A person shall not drive a motor vehicle on a highway at any time during which

- (a) that person's operator's licence is suspended under section 88, 88.01, 88.02, 88.03 or 88.1, or
- (b) that person is disqualified from driving a motor vehicle in Alberta under section 88, 88.01, 88.02, 88.03 or 88.1.

(2) A person who is guilty of contravening subsection (1) is liable

- (b) where the driver's operator's licence is suspended or the driver is disqualified from driving a motor vehicle under section 88 or 88.1.*

(32) Section 91(2) presently reads:

(2) If a person who is not a resident of Alberta is found guilty of contravening section 65, 68, 69, 71 or 76, the regulations governing accident reports, Division 2 of Part 5, section 166, 176 or 188 or the regulations governing the destruction of non-repairable vehicles, the Registrar

- (a) may disqualify that person from driving a motor vehicle in Alberta until the fine or penalty imposed has been satisfied, and*
- (b) may notify the proper authorities of the jurisdiction where the person resides of the finding of guilt and of the non-satisfaction of the fine or penalty imposed.*

(33) Section 94 presently reads in part:

(2) A person shall not drive a motor vehicle on a highway at any time during which that person is an unauthorized driver.

(34) Prohibition re driving while suspended or disqualified under immediate roadside sanction.

- (a) for a first offence
 - (i) to a fine of not less than \$5000 and in default of payment to a term of imprisonment of not less than the term of imprisonment determined according to subsection 734(5) of the *Criminal Code* (Canada), and
 - (ii) to having the person's operator's licence suspended where the person holds an operator's licence, to being disqualified from applying for or holding an operator's licence and to being disqualified from driving in Alberta for 6 months from the day of finding of guilt,
 - (b) for a 2nd offence committed after the commission of the offence referred to in clause (a),
 - (i) to imprisonment for a term of not less than 30 days and not more than one year, and
 - (ii) to having the person's operator's licence suspended where the person holds an operator's licence, to being disqualified from applying for or holding an operator's licence and to being disqualified from driving a motor vehicle in Alberta for 12 months from the day of finding of guilt,
- and
- (c) for a 3rd or subsequent offence committed after the commission of the offence referred to in clause (a) or (b),
 - (i) to imprisonment for a term of not less than 60 days and not more than one year, and
 - (ii) to having the person's operator's licence suspended where the person holds an operator's licence, to being disqualified from applying for or holding an operator's licence and to being disqualified from driving a motor vehicle in Alberta for 18 months from the day of finding of guilt.

(35) Section 95 is repealed and the following is substituted:

Punishment re driving while disqualified

95(1) A person who contravenes section 94 is liable

- (a) where the person is found guilty of the contravention,
 - (i) for a first offence to a fine of not more than \$2000 and in default of payment to a term of imprisonment of not less than 14 days and not more than 6 months, and
 - (ii) for each subsequent offence committed within one year after the commission of the offence referred to in subclause (i), to imprisonment for a term of not less than 14 days and not more than 6 months,

and

- (b) where a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of the contravention, to a fine as prescribed under that Act.

(2) Subject to section 98, a person who contravenes section 94 is disqualified from driving a motor vehicle in Alberta for a period of 6 months from

- (a) where subsection (1)(a) applies, the day of the finding of guilt of the person, or
- (b) where subsection (1)(b) applies, the date of the issuance of a notice of administrative penalty to the person under the *Provincial Administrative Penalties Act* in respect of the contravention.

(36) Section 98 is amended

(a) in subsection (2)

- (i) **in clause (a) by striking out** “under section 88, 89 or 90”;
- (ii) **in clause (b) by striking out** “under any other provision of this Act except section 88.1”;

(35) Section 95 presently reads:

95(1) A person who is guilty of contravening section 94 is liable

(a) for a first offence to a fine of not more than \$2000 and in default of payment to a term of imprisonment of not less than 14 days nor more than 6 months, and

(b) for each subsequent offence committed within one year after the commission of the offence referred to in clause (a), to imprisonment for a term of not less than 14 days nor more than 6 months.

(2) Subject to section 98, a person who is guilty of contravening section 94 is disqualified from driving a motor vehicle in Alberta for a period of 6 months from the day of the finding of guilt.

(36) Section 98 presently reads in part:

(2) Where

(a) a person is disqualified from driving a motor vehicle in Alberta under section 88, 89 or 90, and

(b) during the period of disqualification referred to in clause (a), that person is disqualified from driving a motor vehicle in

(b) by repealing subsection (3).

(37) Section 100 is amended

(a) by striking out “sections 88, 88.1, 89 and 90” wherever it occurs and substituting “sections 88, 88.01, 88.02, 88.03 and 88.1”;

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

- (c.1) prescribing the grounds for a review under the *Provincial Administrative Penalties Act* of a suspension or disqualification imposed under section 88, 88.01, 88.02, 88.03 or 88.1;
- (c.2) respecting the determination of blood alcohol concentrations, blood drug concentrations or blood drug and blood alcohol concentrations for the purposes of section 88.1;

(c) in clause (d)(ii) by adding “Canada” before “National”.

Alberta under any other provision of this Act except section 88.1,

the 2nd mentioned disqualification shall run consecutively to any previous disqualification that is still in effect or waiting to take effect, as the case may be.

(3) Where

- (a) a person is disqualified from driving a motor vehicle under any other provision of this Act except section 88.1, and*
- (b) during the period of disqualification referred to in subsection (2)(a), that person is disqualified from driving a motor vehicle in Alberta under section 88, 89 or 90,*

the 2nd mentioned disqualification shall run consecutively to any previous disqualification that is still in effect or waiting to take effect, as the case may be.

(37) Section 100 presently reads:

100 The Minister may make regulations

- (a) governing the information and the form of information to be provided to the Registrar by peace officers with respect to the suspensions or the disqualifications referred to in sections 88, 88.1, 89 and 90;*
- (b) governing the handling of operator's licences and other documents surrendered under sections 88, 88.1, 89 and 90;*
- (c) prescribing and governing the use of forms to be used for the purposes of sections 88, 88.1, 88.2, 89 and 90;*
- (d) designating*
 - (i) any of the Rules of the Road and any other regulations under this Act, and*
 - (ii) the regulations under the National Parks Act (Canada) to which section 86 applies.*

(38) Section 119(4) is amended by adding “or has a notice of administrative penalty issued to the person under the *Provincial Administrative Penalties Act* in respect of” **after** “found guilty of”.

(39) Section 124(5) and (6) are amended by striking out “is guilty of an offence” **and substituting** “commits a contravention”.

(40) Section 125 is amended

- (a) by striking out** “prosecution for an offence” **and substituting** “proceeding in respect of a contravention”;
- (b) in clause (a)**
 - (i) by striking out** “the accused” **and substituting** “the person alleged to have contravened or failed to comply with section 119(1)(b), (c) or (d)”;
 - (ii) by striking out** “the offence” **and substituting** “the contravention or failure to comply”;
- (c) by repealing clause (b) and substituting the following:**
 - (b)** in the case of a contravention of or failure to comply with section 124, the onus is on the person alleged to have contravened or failed to comply with section 124 to show that, at the time of the contravention or failure to comply, the person held subsisting

(38) Section 119(4) presently reads:

(4) Where a person is found guilty of a contravention of subsection (1)(b), (c) or (d) or section 124(6), the Registrar may cancel the certificate of registration in respect of every off-highway vehicle owned by the person.

(39) Section 124 presently reads in part:

(5) A person who fails to produce to a peace officer a document as requested under subsection (1) or (4) is guilty of an offence.

(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.*

(40) Section 125 presently reads:

125 In a prosecution for an offence,

- (a) in the case of a contravention of or failure to comply with section 119(1)(b), (c) or (d), the onus is on the accused to show that, at the time of the offence, the vehicle was an insured motor vehicle, and*
- (b) in the case of a contravention of or failure to comply with section 124, the onus is on the accused to show that, at the time of the offence, the accused held subsisting insurance at the time that the accused was required to produce a financial responsibility card.*

insurance at the time that the person was required to produce a financial responsibility card.

(41) Section 127 is amended by striking out “offence” and substituting “contravention”.

(42) Section 132(9) is repealed and the following is substituted:

(9) Where a certificate is or is to be suspended or cancelled pursuant to this section, that suspension or cancellation may take place without a hearing being conducted or an opportunity for representations being given, but

- (a) a carrier or an exempted operator, as the case may be, may apply to the Registrar for a reconsideration of the Registrar’s decision to suspend or cancel the certificate within 30 days of service of notice of the decision, and
- (b) the Registrar may grant interim relief in accordance with the regulations

at any time after the giving of the notice respecting the suspension or cancellation, whether or not the suspension or cancellation is in effect.

(10) The Registrar may extend the period referred to in subsection (9) if in the opinion of the Registrar the circumstances in respect of the matter have substantially changed from the time of the decision.

(11) The Registrar may confirm, cancel or vary the Registrar’s decision.

(12) Once a decision or action of the Registrar has been reconsidered by the Registrar in respect of a matter referred to in subsection (9)(a), the Registrar may refuse to reconsider the decision again.

(41) Section 127 presently reads:

127 A peace officer who on reasonable 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.

(42) Section 132 presently reads in part:

(9) Where a certificate is or is to be suspended or cancelled pursuant to this section, that suspension or cancellation may take place without a hearing being conducted or an opportunity for representations being given, but

(a) an appeal in respect of the suspension or cancellation may be commenced under section 43, and

(b) interim relief may be granted under section 43,

at any time after the giving of the notice respecting the suspension or cancellation, whether or not the suspension or cancellation is in effect.

(13) A reconsideration commenced under this section does not, except as otherwise directed by the Registrar, stay the suspension or cancellation of the certificate.

(43) Section 143 is amended by adding the following after subsection (4):

(5) The *Provincial Administrative Penalties Act* does not apply to a failure by a regulated person to comply with regulatory legislation.

(44) Section 149 is amended by striking out “is guilty of an offence” and substituting “commits a contravention”.

(45) Section 150 is amended

(a) in subsection (1)

(i) by striking out “prosecution” and substituting “proceeding”;

(ii) in clause (b) by striking out “offence” and substituting “contravention”;

(b) in subsection (3) by striking out “prosecution” and substituting “proceeding”.

(43) Section 143 presently reads in part:

(4) Where a regulated person fails to pay an administrative penalty in accordance with a notice under subsection (2), the Government may recover the amount owing in respect of the penalty by an action in debt.

(44) Section 149 presently reads:

149 Where a person is guilty of an offence by reason of that person contravening or failing to comply with

(a) section 131,

(b) a regulation made under this Act, or

(c) a permit

with respect to the maximum weight of or that may be carried by or on a commercial vehicle, that person is liable to a penalty as prescribed by regulation.

(45) Section 150 presently reads in part:

150(1) In a prosecution under this Act or a bylaw, a certificate or a statement of accuracy

(b) bearing a date that is not more than one year before or after the day on which the offence was charged,

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

(3) In a prosecution under this Act or a bylaw, a certificate purporting to be signed by a peace officer or a person authorized by the Registrar

(a) stating that the weight of a vehicle was measured on a portable scale or other scale,

(46) Section 154 is amended

- (a) by repealing subsections (1) and (2) and substituting the following:**

Penalty re contravention

154(1) A person who commits a contravention referred to in section 157 by reason of the contravention of or failure to comply with a provision of this Part is liable

- (a) where the person is found guilty of the contravention, to a fine of not more than \$25 000, and
- (b) where a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of the contravention, to a fine as prescribed under that Act.

(2) A person who commits a contravention referred to in section 157 by reason of the contravention of or failure to comply with a provision of this Part is not liable to imprisonment in respect of that contravention.

- (b) in subsections (3) and (4) by striking out “subsection (1)” wherever it occurs and substituting “subsection (1)(a)”.**

(b) *setting out either*

(i) *the gross weight of the vehicle or the vehicle and the goods being carried by the vehicle, or*

(ii) *the gross weight carried on or by any portion, part, axle, axle group or tire of the vehicle where that weight is transferred to the road through any point or points of contact of the vehicle with the road,*

and

(c) *stating that the driver of the vehicle agreed to accept the weight determined as being accurate,*

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

(46) Section 154 presently reads:

154(1) A person who is guilty of an offence referred to in section 157 by reason of the contravention of or failure to comply with a provision of this Part is subject to a fine of not more than \$25 000.

(2) A person who is guilty of an offence referred to in section 157 by reason of the contravention of or failure to comply with a provision of this Part is not liable to imprisonment in respect of that offence.

(3) The Minister may make regulations governing fines referred to in subsection (1), including setting a maximum or minimum amount for a fine, but shall not increase a fine to an amount greater than the maximum amount prescribed in subsection (1).

(4) Subsection (1) does not apply where a penalty is otherwise prescribed under this Part or the regulations made in respect of matters coming under this Part.

(47) Section 155 is amended by striking out “prosecution” and substituting “proceeding”.

(48) Section 156 is amended by adding the following after clause (j):

- (j.1) respecting interim relief that may be granted under section 132(9);

(49) The heading immediately preceding section 157 is repealed and the following is substituted:

(47) Section 155 presently reads:

155 In a prosecution under this Act, a document that is a bill of lading, way-bill, shipping bill or customs permit or any other document that pertains to the goods or passengers being transported by a commercial vehicle

- (a) that is produced to a peace officer by the carrier or the owner or driver of the vehicle,*
- (b) that is a copy of that document and that is certified by a peace officer as being a true copy of the document, or*
- (c) that is a copy made under this Act of that document,*

shall be admitted in evidence as proof, in absence of evidence to the contrary, of

- (d) the origin and destination of the trip,*
- (e) the description of the goods or passengers transported, and*
- (f) the carrier, owner, driver or lessee of the vehicle,*

without proof of the signature or official character of the person who signed or certified the copies of the document.

(48) Section 156 presently reads in part:

156 The Minister may make regulations

- (j) for the purposes of this Part,*
 - (i) excluding an enactment or a provision of an enactment from the definition of transportation legislation;*
 - (ii) providing that an enactment or a provision of an enactment may only be included in the definition of transportation legislation subject to any directions, terms, conditions or modifications established or otherwise provided for under the regulations or by the Minister;*

(49) The heading immediately preceding section 157 presently reads:

Division 1 Contraventions

(50) Section 157 is amended

(a) in subsection (1)

(i) by striking out “is guilty of an offence” and substituting “commits a contravention”;

(ii) in clause (a)

(A) by adding “88, 88.01, 88.02, 88.03, 88.1,” after “80,”;

(B) by striking out “90(3), 90(3.1),”;

(C) by adding “, 94.1(1)” after “94(2)”;

(iii) in clause (b) by striking out “it is an offence” and substituting “it is a contravention”;

(b) by adding the following after subsection (1):

(1.1) A notice of administrative penalty under the *Provincial Administrative Penalties Act* may not be issued in respect of a contravention of section 70 or 94.1(1).

(1.2) An information may not be laid or a summons or violation ticket issued under the *Provincial Offences Procedure Act* in respect of a contravention of section 88, 88.01, 88.02, 88.03 or 88.1.

(1.3) An information may not be laid or a summons or violation ticket issued under the *Provincial Offences Procedure Act* and a notice of administrative penalty under the *Provincial Administrative Penalties Act* may not be issued in respect of a failure to comply by a regulated person as defined in section 143(1)(a) with regulatory legislation as defined in section 143(1)(b).

(c) in subsection (2)

(i) by striking out “an offence referred to in subsection (1)” and substituting “a contravention referred to in subsection (1)”;

*Division 1
Offences*

(50) Section 157 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), 90(3.1), 94(2), 111, 115(2), 115.1, 115.2, 115.3, 115.4, 119(1), 120(2), 120(3), 121, 123(2), 123(3), 126, 128.1(2), 131(1), 137, 138, 140(1), 145, 147, 166(2), 166(3), 166(4), 173(5), 176(2), 183 or 188;*
- (b) a regulation made under this statute where the regulation specifies that it is an offence to contravene or fail to comply with the regulation;*
- (c) a certificate as defined in section 130(1)(c);*
- (d) an order made under section 120(4);*
- (e) a permit;*
- (f) any terms or conditions to which a certificate as defined in section 130(1)(c) or a permit is subject.*

(2) When an information is laid or a summons or a violation ticket is issued by a person in respect of an offence referred to in subsection (1), that person shall on the information, summons or violation ticket, as the case may be, refer

- (a) to the provision that the accused is alleged to have contravened or failed to comply with, and*
- (b) in the case of an offence with respect to section 115(2)(a), to the provision of the Rules of the Road or other regulations that the accused is alleged to have contravened or failed to comply with.*

(3) Where a person is alleged to have contravened or failed to comply with a provision of this statute by reason that the person contravened or failed to comply with a provision of a regulation, it

- (ii) **in clause (b) by striking out “an offence” and substituting “a contravention”;**
- (d) in subsection (3)(b) by striking out “the offence” and substituting “the contravention”;**
- (e) by adding the following after subsection (3):**
 - (4)** When a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of a contravention referred to in subsection (1), the person shall on the notice of administrative penalty provide the content required by that Act or by regulations under this Act.
 - (5)** Where an information is laid or a summons or violation ticket is issued in respect of a contravention referred to in subsection (1), a notice of administrative penalty may not be issued under the *Provincial Administrative Penalties Act* in respect of the same contravention.
 - (6)** Where a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* in respect of a contravention referred to in subsection (1), an information may not be laid and a summons or violation ticket may not be issued in respect of the same contravention.

(51) Section 158 is amended by adding the following after subsection (1):

(1.1) Except as otherwise provided in this Act, a person who commits a contravention to which the *Provincial Administrative Penalties Act* applies for which a penalty is not otherwise provided is liable to a fine or other administrative penalty as provided for under that Act.

(52) Section 159 is repealed and the following is substituted:

Onus

159 In a proceeding in respect of a contravention,

- (a) in the case of a contravention of or failure to comply with section 51, the onus is on the person alleged to have contravened or failed to comply with section 51 to show that, at the time of the contravention or failure to comply, the person held a subsisting operator's licence;
- (b) in the case of a contravention of or failure to comply with section 52(1)(h) or 54, the onus is on the person alleged to have contravened or failed to comply with section 52(1)(h) or 54 to show that, at the time of the contravention or failure to comply, the vehicle was an insured motor vehicle;
- (c) in the case of a contravention of or failure to comply with section 167, the onus is on the person alleged to have contravened or failed to comply with section 167 to show that, at the time of the contravention or failure to comply, the person held subsisting insurance at the time that the person was required to produce a financial responsibility card.

(53) Section 160 is repealed and the following is substituted:

is sufficient, for the purposes of subsection (2), not to refer to that provision of this statute but instead only

- (a) to refer to the provision of the regulation, and*
- (b) to describe in words the nature of the offence under the regulation.*

(51) Section 158 presently reads in part:

158(1) Except as otherwise provided in this Act, a person who is guilty of an offence under this Act for which a penalty is not otherwise provided is liable to a fine or other punishment as provided for under the Provincial Offences Procedure Act.

(52) Section 159 presently reads:

159 In a prosecution for an offence,

- (a) in the case of a contravention of or failure to comply with section 51, the onus is on the accused to show that, at the time of the offence, the accused held a subsisting operator's licence;*
- (b) in the case of a contravention of or failure to comply with section 52(1)(h) or 54, the onus is on the accused to show that, at the time of the offence, the vehicle was an insured motor vehicle;*
- (c) in the case of a contravention of or failure to comply with section 167, the onus is on the accused to show that, at the time of the offence, the accused held subsisting insurance at the time that the accused was required to produce a financial responsibility card.*

(53) Section 160 presently reads:

Owner liable

160(1) If a vehicle is involved in a contravention referred to in section 157 or a bylaw, the owner of that vehicle has committed a contravention.

(2) Subsection (1) does not apply if the owner of the vehicle satisfies

- (a) the court, where the contravention is an offence to which the *Provincial Offences Procedure Act* applies, or
 - (b) an adjudicator under the *Provincial Administrative Penalties Act* where the contravention is a contravention to which that Act applies that, at the time that the vehicle was involved in a contravention referred to in section 157 or a bylaw,
 - (c) in the case of a vehicle that was in motion,
 - (i) the owner of the vehicle was not driving the vehicle, and
 - (ii) no other person was driving the vehicle with the owner's expressed or implied consent,
- and
- (d) in the case of a vehicle that was parked,
 - (i) the owner did not park the vehicle, and
 - (ii) no other person parked the vehicle with the owner's expressed or implied consent.

(3) An owner who has committed a contravention under this section is not liable to imprisonment in respect of that contravention or in respect of a default of a fine imposed in respect of that contravention.

(54) Section 162 is amended

(a) in subsection (2)

- (i) by striking out "Fines" and substituting "Subject to subsection (4), fines";**

160(1) If a vehicle is involved in an offence referred to in section 157 or a bylaw, the owner of that vehicle is guilty of an offence.

(2) Subsection (1) does not apply if the owner of the vehicle satisfies the court that, at the time that the vehicle was involved in an offence referred to in section 157 or a bylaw,

(a) in the case of a vehicle that was in motion,

(i) the owner of the vehicle was not driving the vehicle, and

(ii) no other person was driving the vehicle with the owner's expressed or implied consent,

and

(b) in the case of a vehicle that was parked,

(i) the owner did not park the vehicle, and

(ii) no other person parked the vehicle with the owner's expressed or implied consent.

(3) An owner who is guilty of an offence under this section is not liable to imprisonment in respect of that offence or in respect of a default of a fine imposed in respect of that offence.

(54) Section 162 presently reads in part:

(2) Fines and penalties imposed under this Act in respect of offences occurring in a municipality for which policing services are required to be provided under section 4(5) or (6) of the Police Act belong to the municipality that is required to provide the policing services.

- (ii) **by striking out “offences” and substituting “contraventions”;**
 - (b) **by repealing subsections (3) and (4) and substituting the following:**
 - (3) Subject to subsection (4), fines and penalties imposed under this Act in respect of contraventions for which informations are laid or violation tickets are issued under the *Provincial Offences Procedure Act* or notices of administrative penalty are issued under the *Provincial Administrative Penalties Act* by peace officers employed by a municipality belong to that municipality.
 - (4) Subsections (2) and (3) do not apply to fines imposed for contraventions of sections 88.01, 88.02, 88.03 or 88.1.
- (55) The heading preceding section 163 is amended by striking out “Prosecutions” and substituting “Proceedings”.**

(56) Section 163 is amended

- (a) **in subsection (1)**
 - (i) **by striking out “prosecution” and substituting “proceeding”;**
 - (ii) **in clause (b)(i), (ii) and (iii) by adding “or in respect of which contravention a notice of administrative penalty was issued under the *Provincial Administrative Penalties Act*” after “offence was charged”;**
- (b) **in subsection (2) by striking out “prosecution” and substituting “proceeding”;**
- (c) **by repealing subsections (3) and (4) and substituting the following:**
 - (3) In any proceedings under which a person is charged with, or a notice of administrative penalty is issued under the *Provincial Administrative Penalties Act* with respect to, a contravention of a provision of this Act or the regulations

(3) Fines and penalties imposed under this Act in respect of offences for which informations are laid or violation tickets are issued by peace officers employed by a municipality belong to that municipality.

(4) This section applies in respect of fines and penalties imposed on or after the date this section comes into force.

(55) The heading preceding section 163 presently reads:

*Division 2
Evidence in Prosecutions*

(56) Section 163 presently reads in part:

163(1) In any prosecution under this Act or a bylaw, a certificate

(a) stating the result of

(i) a test of

(A) the speedometer of a vehicle identified in the certificate,

(B) a device identified in the certificate and used for determining the accuracy of a radar device, or

(C) any other device identified in the certificate and used for or in connection with establishing the speed of vehicles,

or

(ii) a test of an intersection safety device,

(b) bearing a date on it that is not more than,

relating to the speed at which the motor vehicle was travelling or red lights shown at an intersection by a traffic control signal,

- (a) the evidence of any person involved in the installation, operation or use of an intersection safety device and the issuance of a violation ticket, or a notice of administrative penalty under the *Provincial Administrative Penalties Act*, in respect of that failure to comply may be given by affidavit;
 - (b) an affidavit referred to in clause (a) is proof, in the absence of evidence to the contrary, of the facts stated in the affidavit;
 - (c) where the contravention is deemed by section 2(2) of the *Provincial Offences Procedures Act* to be an offence under this Act and an offence to which that Act applies,
 - (i) a copy of an affidavit referred to in clause (a) must be served on the defendant by ordinary mail at that person's latest address, as indicated on the records of the Registrar, at least 14 days before the day of the hearing;
 - (ii) the defendant may, with the permission of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination.
- (4)** In any proceedings in respect of a charge, or a notice of administrative penalty issued under the *Provincial Administrative Penalties Act*, that a person has failed to comply with this Act,
- (a) the evidence of any person involved in the manufacture, installation or operation of, or analysis or interpretation of data collected, reported or transmitted by, a recording device located in a motor vehicle may be given by affidavit;
 - (b) an affidavit referred to in clause (a) is proof, in the absence of evidence to the contrary, of the facts stated in the affidavit;

- (i) *in the case of a device referred to in clause (a)(i)(B), one year before or after the day on which the offence was charged,*
- (ii) *in the case of a speedometer or other device used for or in connection with establishing the speed of vehicles, 180 days before or after the day on which the offence was charged, or*
- (iii) *in the case of an intersection safety device, 30 days before or after the day on which the offence was charged,*

and

- (c) *purporting to be signed by a tester who is appointed under this Act to test devices of the type stated in the certificate to have been tested,*

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or appointment as a tester of the person signing the certificate.

(2) In any prosecution under this Act or a bylaw, a certificate purporting to be signed by a meteorologist and stating the time of sunrise or the time of sunset in any area on any day shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or qualifications of the person signing the certificate.

(3) In any proceedings under which a person is charged with failing to comply with a provision of this Act or the regulations relating to the speed at which the motor vehicle was travelling or red lights shown at an intersection by a traffic control signal,

- (a) *the evidence of any person involved in the installation, operation or use of an intersection safety device and the issuance of a violation ticket in respect of that failure to comply may be given by affidavit;*
- (b) *an affidavit referred to in clause (a) is, in the absence of evidence to the contrary, proof, in the absence of evidence to the contrary, as to the facts stated in the affidavit;*
- (c) *a copy of an affidavit referred to in clause (a) must be served on the defendant by ordinary mail at that person's latest*

- (c) where the contravention is deemed by section 2(2) of the *Provincial Offences Procedures Act* to be an offence under this Act and an offence to which that Act applies,
 - (i) a copy of an affidavit referred to in clause (a) must be served on the defendant by ordinary mail at that person's latest address, as indicated on the records of the Registrar, at least 14 days before the day of the hearing;
 - (ii) the defendant may, with the permission of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination

(57) Section 164(1) is amended by striking out “prosecution” and substituting “proceeding”.

(58) Section 167 is amended

- (a) in subsection (7) by striking out “is guilty of an offence” and substituting “commits a contravention”;**
- (b) in subsection (8) by striking out “is guilty of an offence and liable” and substituting “commits a contravention and is liable”.**

address, as indicated on the records of the Registrar, at least 14 days before the day of the hearing;

- (d) the defendant may, with the permission of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination.*

(4) In any proceedings in respect of a charge that a person has failed to comply with this Act,

- (a) the evidence of any person involved in the manufacture, installation or operation of, or analysis or interpretation of data collected, reported or transmitted by, a recording device located in a motor vehicle may be given by affidavit;*
- (b) an affidavit referred to in clause (a) is proof, in the absence of evidence to the contrary, of the facts stated in the affidavit;*
- (c) a copy of an affidavit referred to in clause (a) must be served on the defendant by ordinary mail at that person's latest address, as indicated on the records of the Registrar, at least 14 days before the day of the hearing;*
- (d) the defendant may, with the permission of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination.*

(57) Section 164(1) presently reads:

164(1) In any prosecution under this Act or a bylaw, the existence of a traffic control device is proof, in the absence of evidence to the contrary, that the device was properly designated and erected by the proper authority without other or further proof.

(58) Section 167 presently reads in part:

(7) A person who fails to produce to a peace officer a document as requested under subsection (1), (2) or (6) is guilty of an offence.

(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

(59) Section 169 is amended

(a) in subsection (1)

- (i) in clause (a) by striking out “an offence” and substituting “a contravention”;**
- (ii) in clause (b)(i) by striking out “offence” and substituting “contravention”;**

(b) by adding the following after subsection (2):

(3) Where a peace officer arrests a person under this section, the peace officer may not issue a notice of administrative penalty under the *Provincial Administrative Penalties Act* in respect of the contravention.

- (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.*

(59) Section 169 presently reads in part:

169(1) A peace officer may arrest a person without warrant if the peace officer, on reasonable 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*

(2) For the purposes of subsection (1), the following are the provisions for which a person may be arrested without a warrant:

- (a) *sections 51(a) and 94 relating to the operation of a motor vehicle without having a subsisting operator's licence;*
- (b) *section 52(1)(a) and (d) relating to the operation of a motor vehicle without having a subsisting certificate of registration;*
- (c) *section 53(1)(b) relating to the displaying of a licence plate other than one authorized under this Act;*
- (d) *section 61 relating to the defacing of licence plates;*
- (e) *section 68(2)(a) relating to possession of a motor vehicle or serially numbered part,*
 - (i) *where a serial number or other authorized identifying number or mark is not displayed in the space provided for displaying that identification by the manufacturer, or*
 - (ii) *where the serial number has been removed, defaced, covered, altered or destroyed or become illegible;*
- (f) *section 69 relating to the duties of a driver of a vehicle at the scene of an accident;*

(60) Section 170(2) is amended

- (g) *section 115(2)(b) relating to driving a motor vehicle carelessly;*
- (h) *section 115(2) relating to driving a motor vehicle in a race or on a bet or wager;*
- (i) *section 115(2) and the Rules of the Road relating to the speed of motor vehicles;*
- (j) *section 120(2)(a) relating to driving an off-highway vehicle carelessly;*
- (k) *section 123(2) relating to the requirement that drivers of off-highway vehicles stop when so requested by a peace officer who is readily identifiable as a peace officer;*
- (l) *section 123(3) relating to the requirement that a passenger in or on an off-highway vehicle furnish to a peace officer who is readily identifiable as a peace officer the passenger's name and address when so requested by the peace officer;*
- (m) *section 126 relating to the duties of a driver of an off-highway vehicle at the scene of an accident;*
- (n) *section 166(2) relating to the requirement that drivers of motor vehicles stop when so requested by a peace officer who is readily identifiable as a peace officer;*
- (o) *section 166(3) relating to the requirement that a passenger in a motor vehicle furnish to a peace officer who is readily identifiable as a peace officer the passenger's name and address when so requested by the peace officer;*
- (p) *section 166(4) relating to the requirement that a pedestrian furnish to a peace officer who is readily identifiable as a peace officer the pedestrian's name and address when so required by the peace officer;*
- (q) *where designated by the regulations, the provisions of the regulations relating to tampering with motor vehicles;*
- (r) *where designated by the regulations, the provisions of the regulations relating to the defacement of signs.*

(60) Section 170 presently reads in part:

- (a) in clause (a) by striking out “offences” and substituting “contraventions”;**
- (b) in clause (b) by striking out “offence” and substituting “contravention”.**

(61) Section 171 is amended

- (a) in subsection (1)**
 - (i) by striking out “an offence” and substituting “a contravention”;**
 - (ii) by striking out “and cause it to be removed, taken and stored in a suitable place pending the granting of an order pursuant to subsection (3)”;**
- (b) by repealing subsections (2) to (6).**

- (2) *Where a peace officer believes, on reasonable 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).

(61) Section 171 presently reads:

171(1) Where a peace officer believes, on reasonable 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 or immobilize 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).

(2) When a peace officer has seized a vehicle pursuant to subsection (1), the peace officer shall, as soon as practicable after the seizure, apply to the Provincial Court for an order permitting the seized vehicle to be detained until the final disposition of any proceedings that may be taken under this Act in respect of the offence for which the vehicle was seized.

(3) On application under subsection (2), the Provincial Court may, if it considers it appropriate in the circumstances, do one or more of the following:

- (a) *order that the seized vehicle be detained until the final disposition of any proceedings taken under this Act in respect of the offence for which the vehicle was seized;*
- (b) *order that the seized vehicle be detained for a period of time that is less than that provided for under clause (a);*
- (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*

(62) Section 172.1 is amended

- (a) in subsection (1) by striking out** “disqualified from driving under section 88 or 88.1, or has been”;
- (b) by repealing subsections (2) and (3) and substituting the following:**
 - (2)** Subsection (1) does not apply where a driver has been suspended under section 88, 88.01, 88.02 or 88.1 and the driver’s vehicle has been seized under one of those sections.

the Court may grant in damages under the Provincial Court Act.

(4) An order made under subsection (3) may be renewed, amended or extended on application to the Provincial Court.

(5) In hearing an application pursuant to subsection (3), 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.

(6) In hearing a trial of the offence in respect of which the vehicle was seized 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.

(62) Section 172.1 presently reads:

172.1(1) Where a person has been disqualified from driving under section 88 or 88.1, or has been charged with an offence under section 130 of the National Defence Act (Canada) by reason of that person contravening section 320.14 or 320.15 of the Criminal Code (Canada), 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 or charged

(a) for a period of 3 days, if it is the first time the person has been disqualified or charged within 10 years, and

(b) for a period of 7 days, if it is the 2nd or a subsequent time the person has been disqualified or charged within 10 years

(63) Section 173(1)(a) is amended by adding “or 94.1(1)” after “94”.

(64) Section 173.1(3) is amended by striking out “and any decision of the Board in an appeal commenced pursuant to section 40” and substituting “and any reconsideration by the Registrar under Division 3 of Part 1”.

(65) Section 179 is amended by adding “that is a contravention” after “an offence”.

(66) The following is added after section 188:

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

(3) Where a person has been disqualified from driving under section 90, 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 a period of 7 days.

(63) Section 173 presently reads in part:

173(1) Where a person has been charged with an offence under

(a) section 94,

a peace officer, the Registrar or a person authorized by a peace officer or the Registrar shall seize or immobilize the motor vehicle that was being operated by that person at the time that the person was charged.

(64) Section 173.1(3) presently reads:

(3) Subject to subsection (2) and any decision of the Board in an appeal commenced pursuant to section 40, when a person who is in a motor vehicle at the time it is seized or immobilized under subsection (1) is convicted of an offence referred to in that subsection, the vehicle is forfeited to the Government subject to any security interest registered under the Personal Property Security Act before the seizure or immobilization.

(65) Section 179 presently reads:

179 For the purposes of this Act, a person who pleads guilty to an offence referred to in this Act is deemed to have been found guilty of that offence.

(66) Regulations respecting reviews and non-monetary penalties under the Provincial Administrative Penalties Act.

**Regulations respecting reviews and non-monetary penalties
under the Provincial Administrative Penalties Act**

188.1 The Minister may make regulations

- (a) respecting applications to the Registrar for relief under section 36 from the imposition of an administrative penalty through the issuance of a notice of administrative penalty under the *Provincial Administrative Penalties Act* for a contravention to which that Act applies by affected persons other than recipients under that Act, including, without limitation, regulations
 - (i) determining who is an affected person;
 - (ii) respecting the grounds for a request for relief and for granting or refusing relief;
 - (iii) respecting the relief that may be granted to affected persons;
 - (iv) respecting costs and expenses that may be refunded to affected persons;
- (b) respecting non-monetary administrative penalties that may be imposed in respect of contraventions to which the *Provincial Administrative Penalties Act* applies;
- (c) respecting publicly accessible information to be made available for the purposes of section 4 of the *Provincial Administrative Penalties Act* in respect of contraventions to which that Act applies;
- (d) respecting the grounds for a request for review under section 7 of the *Provincial Administrative Penalties Act* respecting a notice of administrative penalty issued under that Act for a contravention and for confirming or cancelling a notice of administrative penalty under section 21 of that Act;
- (e) respecting the payment of fines, applicable surcharges and late payment charges to the Crown for a contravention, including, without limitation, the period within which those payments must be made;

- (f) respecting the records the Director under the *Provincial Administrative Penalties Act* may or must provide to a recipient under section 12 of that Act;
- (g) respecting the refund to recipients under the *Provincial Administrative Penalties Act* of fines, applicable surcharges, late payment charges and costs and expenses incurred by recipients related to administrative penalties other than fines imposed for contraventions to which that Act applies;
- (h) respecting notifications to recipients under the *Provincial Administrative Penalties Act* of decisions by the adjudicator under that Act of

decisions under section 20 of that Act respecting reviews of contraventions to which that Act applies;
- (i) respecting the substitution by an adjudicator under the *Provincial Administrative Penalties Act* of applicable administrative penalties under section 21(2) of that Act for contraventions to which that Act applies;
- (j) respecting the relief the Director under the *Provincial Administrative Penalties Act* may provide under section 23(2) of that Act;
- (k) respecting applications under section 27 of the *Provincial Administrative Penalties Act* for an additional period of time to pay fines and applicable surcharges for contraventions to which that Act applies, including, without limitation, prescribing the maximum number of days the Director defined in that Act may grant a recipient to pay a fine and any applicable surcharge;
- (l) prescribing exceptional circumstances for the purposes of sections 15, 20, 22 and 27 of the *Provincial Administrative Penalties Act* relating to a review under that Act of a notice of administrative penalty issued under that Act for a contravention to which that Act applies;
- (m) respecting the information that is required on a notice of administrative penalty issued under the *Provincial*

Administrative Penalties Act for a contravention referred to in section 157(1).

(67) The following is added after section 189:

Transitional — appeals and reviews

189.1(1) In this section and section 189.3,

- (a) “appeal” means an appeal under Part 2, Division 3 of this Act as it read immediately before the coming into force of this section;
- (b) “Board” means the Alberta Transportation Safety Board referred to in section 22;
- (c) “hearing” means a hearing under Part 2 of this Act as it read immediately before the coming into force of this section;
- (d) “review” means a review under Part 2, Division 2 of this Act as it read immediately before the coming into force of this section.

(2) Subject to subsection (4)(a) and section 189.4, if a hearing, a review or an appeal has commenced but is not concluded before the coming into force of this section, the hearing, review or appeal is to be continued under and in conformity with this Act as it read immediately before the coming into force of this section.

(3) Subject to subsection (4)(b) and section 189.4, where an obligation to hold a hearing or a right of review or appeal arose before the coming into force of this section but the hearing, review or appeal has not commenced before the coming into force of this section, the Board shall conduct the hearing or hear the review or appeal in conformity with this Act as it read immediately before the coming into force of this section.

(4) If

- (a) the hearing, review or appeal referred to in subsection (2) is not concluded before the coming into force of section 189.4, the Minister may appoint a person to continue the hearing, review or appeal, and subsection (2) applies with any necessary modifications to the continuation of that hearing, review or appeal;

(67) Transitional — appeals and reviews; transitional — reconsideration and reviews of Board decisions; continued application of provisions to Alberta Transportation Safety Board; dissolution of Alberta Transportation Safety Board; transitional — regulations.

- (b) an obligation to hold a hearing or a right of review or appeal arose before the coming into force of this section, but the hearing, review or appeal has not commenced before the coming into force of section 189.4, the Minister may appoint a person to conduct the hearing, review or appeal, and subsection (3) applies with any necessary modifications to the conduct of that hearing, review or appeal.

Transitional — reconsideration and reviews of Board decisions

189.2(1) Subject to subsection (3), where a reconsideration under section 32 or 46 of this Act as it read immediately before the coming into force of this section of a decision by the Alberta Transportation Safety Board has commenced but is not concluded before the coming into force of this section, the reconsideration is to be continued under and in conformity with this Act as it read immediately before the coming into force of this section.

(2) Subject to subsection (3), where a right of reconsideration under section 32 or 46 of this Act as it read immediately before the coming into force of this section arose before the coming into force of this section but the reconsideration has not commenced before the coming into force of this section, the Board shall reconsider the decision in conformity with this Act as it read immediately before the coming into force of this section.

(3) If the reconsideration referred to in subsection (1) is not concluded or a reconsideration referred to in subsection (2) has not commenced before the coming into force of section 189.4, the Minister may appoint a person to review the Board's decision.

Continued application of provisions to Alberta Transportation Safety Board

189.3(1) In this section, "reconsideration" means a reconsideration under Part 2 of this Act as it read immediately before the coming into force of this section.

(2) Subject to sections 24, 189.1 and 189.2, this Act as it read immediately before the coming into force of this section continues to apply until the coming into force of section 189.4

- (a) in respect of the Board in relation to any appeal, hearing, review, reconsideration or other matter before the Board on or after the coming into force of this section, and
- (b) in respect of the rights of a person who is the subject of a decision of the Board under this Act made on or after the coming into force of this section.

Dissolution of Alberta Transportation Safety Board

189.4 The Alberta Transportation Safety Board referred to in section 22 is dissolved and the appointments of members of the Board are terminated on the coming into force of section 44(17) of the *Provincial Administrative Penalties Act*

Transitional — regulations

189.5 The Lieutenant Governor in Council may make regulations

- (a) respecting the transitional application of the amendments to this Act made by section 44 of the *Provincial Administrative Penalties Act*, including the interpretation of any provision amended, and
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the amendments.

Repeals SA 2015 c13

45 The *Traffic Safety (Distracted Driving Demerit) Amendment Act, 2014* is repealed.

Amends RSA 2000 cV-3

46(1) The *Victims of Crime Act* is amended by this section.

(2) Section 1 is amended

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

- (d.1) “contravention” means a contravention as defined in the *Provincial Administrative Penalties Act*;

45 Repeals chapter 13 of the Statutes of Alberta, 2015.

46(1) Amends chapter V-3 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1 In this Act,

(d) “Committee” means the Victims of Crime Programs Committee established under section 5;

(l) “victim” means

- (b) in clause (l)(ii) by adding “or a contravention” after “offence”.

(3) Section 8 is amended

(a) in subsection (1)

- (i) by adding “or who commits a contravention” after “who is convicted of an offence”;
 - (ii) in clause (a) by adding “or the contravention” after “offence”;
 - (iii) in clause (b) by adding “or contravention” after “offence”;
- (b) in subsection (4) by adding “or on whom a fine has been imposed in respect of a contravention” after “offence”.

(4) Section 17(a) is amended by adding “or contraventions” after “offences”.

Coordinated Amendment

Coordinated amendment

47(1) This section applies only if Bill 16, introduced during the 2nd session of the 30th Legislature and entitled the *Victims of Crime (Strengthening Public Safety) Amendment Act, 2020* receives Royal Assent.

(2) On the later of the day that section 2 of the *Victims of Crime (Strengthening Public Safety) Amendment Act, 2020* comes into force and the day this Act receives Royal Assent, section 1(1)(s) is amended by striking out “*Victims of Crime Act*” and substituting “*Victims of Crime and Public Safety Act*”.

(3) On the later of the day that section 2 of the *Victims of Crime (Strengthening Public Safety) Amendment Act, 2020* comes into force and the day this Act receives Royal Assent, section 29(1) is

- (ii) *with respect to a program, a person who suffers a loss or injury as the result of the commission of an offence.*

(3) Section 8 presently reads in part:

8(1) If a fine is imposed on a person who is convicted of an offence under an enactment, the person must pay a surcharge unless

(a) the offence is a contravention of a municipal bylaw or a Metis settlement bylaw, or

(b) the offence is excluded from the application of this section by the regulations.

(4) Notwithstanding any other enactment, any payment made by or on behalf of a person convicted of an offence is to be applied first to payment in full of the surcharge.

(4) Section 17(a) presently reads:

17 The Lieutenant Governor in Council may make regulations

(a) listing offences with respect to which a surcharge is not imposed;

Coordinated Amendment

47 Coordinated amendment.

amended by striking out “*Victims of Crime Act*” and substituting “*Victims of Crime and Public Safety Act*”.

(4) If section 2 of the *Victims of Crime (Strengthening Public Safety) Amendment Act, 2020* comes into force before the coming into force of section 46(1) of this Act, then on the later of the day that section 2 of the *Victims of Crime (Strengthening Public Safety) Amendment Act, 2020* comes into force and the day this Act receives Royal Assent, section 46(1) of this Act is amended by striking out “*Victims of Crime Act*” and substituting “*Victims of Crime and Public Safety Act*”

Coming into Force

Coming into force

48 This Act, except sections 43(1) and (10) and 44(1) and (16), comes into force on Proclamation.

Coming into Force

48 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