

2020 Bill 43

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 43

FINANCING ALBERTA'S STRATEGIC TRANSPORTATION ACT

THE MINISTER OF TRANSPORTATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 43

2020

FINANCING ALBERTA'S STRATEGIC TRANSPORTATION ACT

(Assented to , 2020)

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Preamble

WHEREAS highway infrastructure is crucial to support the vitality of Alberta's society and economy;

WHEREAS demand for highway infrastructure expansion is growing due to population increases and the need to support economic recovery and development;

WHEREAS the Government of Alberta has limited funding available for the construction of new and expanded highway infrastructure, and the use of tolling will allow new or expanded highway infrastructure projects to proceed where they otherwise may not;

WHEREAS existing highway infrastructure should not be considered for designation as toll highways, unless expansion that creates new infrastructure is planned to occur;

WHEREAS Albertans should have a non-toll alternative route to reach their destination;

WHEREAS Albertans should be engaged prior to the designation of a highway as a toll highway;

WHEREAS tolling should be suspended when it is in the public interest, including in emergencies;

WHEREAS revenue collected on a toll highway should only be used to finance that toll highway and related costs, and tolling should stop once capital costs have been recovered;

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

Definitions

1 In this Act,

- (a) “concessionaire” means a person who has entered into an agreement with the Minister under section 4;
- (b) “electronic toll system” means all the equipment, including the toll devices prescribed by the regulations, used to electronically determine the amount of toll owed and who is required to pay the toll;
- (c) “expanded highway infrastructure” means highway infrastructure that is reconfigured to increase capacity, including by adding lanes or strengthening or widening a bridge;

- (d) “highway” means land that is authorized to be used or surveyed for use as a public highway and includes any bridges forming part of a highway and any structure incidental to the public highway;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “motor vehicle document” means a motor vehicle document as defined in the *Traffic Safety Act*;
- (g) “new highway infrastructure” means highway infrastructure that is constructed where highway infrastructure did not previously exist;
- (h) “non-toll alternative route” means any alternate route that a person operating a vehicle could take to reach the person’s destination without paying a toll required to be paid under this Act;
- (i) “owner” means the person who owns a vehicle and includes any person renting a vehicle or having the exclusive use of a vehicle under a lease that has a term of more than 30 days or otherwise having the exclusive use of a vehicle for a period of more than 30 days;
- (j) “peace officer” means a police officer under the *Police Act* or a peace officer appointed under the *Peace Officer Act* for the purposes of this Act;
- (k) “Registrar” means the Registrar of Motor Vehicle Services appointed under section 2 of the *Traffic Safety Act* and includes any person who, on the directions of the Registrar, is acting on behalf of the Registrar of Motor Vehicle Services;
- (l) “toll” means the fee that must be paid to operate a vehicle on a toll highway;
- (m) “toll device” means an electronic device that is part of an electronic toll system as prescribed in the regulations;
- (n) “toll highway” means highway infrastructure or proposed highway infrastructure or a portion of highway

infrastructure or proposed highway infrastructure designated as a toll highway under section 2;

- (o) “vehicle” means a device in, on or by which a person or thing may be transported or drawn on a highway and includes a combination of vehicles but does not include a mobility aid.

Designating a toll highway

2(1) Subject to subsections (2) and (3), the Lieutenant Governor in Council may, by order, designate

- (a) proposed new highway infrastructure, new highway infrastructure or a portion thereof, or
- (b) proposed expanded highway infrastructure, expanded highway infrastructure or a portion thereof,

as a toll highway to which this Act applies.

(2) The Lieutenant Governor in Council shall not designate proposed new highway infrastructure, new highway infrastructure or a portion thereof, or proposed expanded highway infrastructure, expanded highway infrastructure or a portion thereof, as a toll highway unless a non-toll alternative route exists or unless, in the opinion of the Lieutenant Governor in Council, stakeholder engagement supports proceeding without a non-toll alternative route.

(3) The Lieutenant Governor in Council may not designate proposed new highway infrastructure, new highway infrastructure or a portion thereof, or proposed expanded highway infrastructure, expanded highway infrastructure or a portion thereof, as a toll highway unless stakeholder engagement has occurred in accordance with subsection (4).

(4) Prior to the Lieutenant Governor in Council designating proposed new highway infrastructure, new highway infrastructure or a portion thereof, or proposed expanded highway infrastructure, expanded highway infrastructure or a portion thereof, as a toll highway, the Minister must publish a notice on the public website of the Government of Alberta that

- (a) states that a toll highway is being considered, and

- (b) includes a description of the proposed toll highway, a statement specifying the time period during which stakeholders may provide input and a statement specifying the manner by which input may be provided.

(5) The Minister must accept input for the time period and in the manner specified in the notice published under subsection (4).

(6) For greater certainty, the Lieutenant Governor in Council shall not designate existing highway infrastructure that is not proposed expanded highway infrastructure, expanded highway infrastructure or a portion thereof as a toll highway.

Establishing framework

3 The Minister may, in accordance with this Act, establish, charge, collect and enforce the payment of a toll, other fees and interest on a toll or other fee with respect to the operation of a vehicle on a toll highway.

Entering agreements

4 Subject to the regulations, the Minister may enter into an agreement with any person authorizing the person

- (a) to design, build, finance, maintain or operate a toll highway,
- (b) to establish, charge, collect or enforce the payment of a toll, other fees or interest on a toll or other fee with respect to the operation of a vehicle on a toll highway, or
- (c) to perform additional activities in relation to designing, building, financing, maintaining or operating a toll highway, or in relation to the establishment, charging, collection or enforcement of a toll, other fee or interest, as specified in the agreement.

Establishing tolls

5(1) Subject to subsection (2), the Minister, or where authorized by the Minister, a concessionaire, may for the purpose of recovering the following costs charge a toll in accordance with the regulations:

- (a) capital costs for the construction of a toll highway, and infrastructure and equipment used for the collection of tolls on a toll highway, including the cost of re-aligning associated highways and local road connections, the purchase of land and right of ways, relocation of utilities, and the cost of all associated infrastructure including buildings, roadways, drainage facilities, transportation and storage facilities, communications facilities and other fixed devices including lighting and traffic control facilities;
- (b) the cost of operating and maintaining a toll highway;
- (c) the cost of rehabilitating a toll highway;
- (d) the cost of toll collection, administration and enforcement, and the cost of operation, maintenance and distribution of electronic toll equipment including toll devices;
- (e) financing costs;
- (f) all related costs specified in the regulations.

(2) No toll or other fee may be charged for vehicular use of a toll highway after the costs referred to in subsection (1)(a) for that toll highway have been recovered.

Payment of toll

6(1) A driver who operates a vehicle on a toll highway may be required to pay a toll applicable to the vehicle in accordance with the regulations.

(2) A person who has not paid a toll as required by this Act or the regulations may not operate a vehicle on a toll highway.

(3) The owner of a vehicle that is operated on a toll highway may be required to pay a toll applicable to the vehicle in accordance with the regulations unless

- (a) the owner was not driving the vehicle, and
- (b) no other person was driving the vehicle with the owner's express or implied consent.

Exemption from toll

7(1) The Lieutenant Governor in Council may grant exemptions from a requirement to pay a toll, other fee or interest in the regulations.

(2) For greater certainty, an exemption from a requirement to pay a toll, other fee or interest applies despite any authorization held by a concessionaire to charge a toll, other fee or interest.

Tolls, other fees and interest received by a concessionaire

8 If a toll, other fee or interest is collected by or paid to a concessionaire, ownership of those tolls, other fees or interest shall be in accordance with the regulations.

Registrar

9(1) If a person has not paid a toll, other fee, interest, fine or penalty as required by this Act or the regulations, the Minister, or a concessionaire that has been authorized to collect a toll, other fee or interest, may notify the Registrar of the failure to pay.

(2) Subject to the regulations, if the Registrar receives a notice under subsection (1), the Registrar may

- (a) in respect of that person, refuse to issue, renew or otherwise deal with any motor vehicle document or other document until the toll, other fee, interest, fine or penalty is paid, and
- (b) refuse to register a vehicle in the name of the new owner if the ownership of a registered vehicle passes directly or through intermediary owners from the person who has not paid the toll, other fee, interest, fine or penalty to a person described by the regulations.

(3) If a notice has been given to the Registrar under subsection (1) and the toll, other fee, interest, fine or penalty is subsequently paid, the Minister or concessionaire shall as soon as is practicable notify the Registrar of the payment and the Registrar will treat the person as if the notice under subsection (1) had not been received.

(4) The Registrar may provide the Minister, or a concessionaire that has been authorized to collect a toll, other fee or interest, with personal driving and motor vehicle information as defined in section 8 of the *Traffic Safety Act* for the purposes of allowing the

Minister or concessionaire to administer this Act and the regulations.

(5) The Registrar may in writing authorize an employee of the Government of Alberta or any person or class of person designated by the Minister to do any act or thing or perform any function that the Registrar is empowered to do by this section.

Suspension of toll

10(1) The Minister may temporarily or permanently suspend the charging of a toll where the Minister considers it to be in the public interest to do so.

(2) For greater certainty, if the Minister suspends the charging of a toll, the suspension applies despite any authorization held by a concessionaire to charge a toll.

Termination of agreement

11 The Minister may amend or terminate an agreement entered into under section 4 in any of the following circumstances:

- (a) the Minister believes that the amendment or termination is necessary to protect the health or safety of a person using or near the toll highway to which the agreement relates;
- (b) the Minister believes that there is an urgent public need to amend or terminate the agreement;
- (c) the Minister believes that the amendment or termination is necessary to
 - (i) protect and preserve the integrity of the toll highway to which the agreement relates, or
 - (ii) operate the toll highway to which the agreement relates in the most efficient and effective manner;
- (d) the Minister believes that the agreement has resulted in an unreasonable impediment to the Minister's ability to exercise one or more of the Minister's rights, powers or privileges under this Act;
- (e) the holder of the agreement has breached any of the terms and conditions on which the agreement was granted.

Enforcement of tolls

12 The Minister, a concessionaire that has been authorized to enforce the payment of a toll, fee or interest, a peace officer or other person may enforce the payment of a toll, fee or interest in accordance with the regulations.

Enforcement by peace officer

13(1) For the purpose of administering and enforcing this Act or the regulations, a peace officer may

- (a) signal or direct a driver of a vehicle to stop the vehicle,
- (b) request information from the driver of the vehicle, and
- (c) inspect any device, document or record required to be carried in the vehicle under the regulations.

(2) When signaled or directed to stop by a peace officer who is readily identifiable as a peace officer, a driver of a vehicle shall

- (a) forthwith bring the vehicle to a stop,
- (b) forthwith furnish to the peace officer any information respecting the driver or vehicle that the peace officer requires,
- (c) forthwith furnish to the peace officer any device, document or record requested under subsection (1), and
- (d) remain stopped until permitted by the peace officer to leave.

Rules of evidence

14(1) Photographic or electronic evidence of the use of any portion of a toll highway is proof in the absence of evidence to the contrary of the obligation to pay a toll in accordance with the regulations.

(2) The Lieutenant Governor in Council may, by regulation, establish other evidentiary rules to be used in proceedings under which a person is charged with failing to comply with this Act or the regulations or in civil or administrative proceedings to enforce payment of a toll required to be paid under this Act.

Crown not liable for concessionaire's acts

15(1) No action or other proceeding shall be instituted against the Crown, the Minister, the Registrar or any other official or employee of the Crown for any act or omission of

- (a) a concessionaire, or
- (b) the directors, members, officers, employees, agents or independent contractors of a concessionaire.

(2) A concessionaire is not, for any purposes, a Crown agency or an agent of the Crown and shall not hold itself out as such.

Offences

16(1) A person is guilty of an offence who

- (a) fails to pay a toll required to be paid under section 5 in accordance with the regulations,
- (b) fails to comply with section 13(2),
- (c) engages in an activity or uses any device or material for the purpose of evading, obstructing or interfering with the operation of an electronic toll system,
- (d) tampers with or interferes with an electronic toll system or other systems, devices or equipment used for payment, collection or enforcement of tolls, or
- (e) fails to comply with a regulation under the Act if the regulation specifies that it is an offence to contravene or fail to comply with the regulation.

(2) A person who is guilty of an offence referred to in subsection (1) is liable to a fine or penalty as prescribed by regulation or a term of imprisonment of not more than 6 months or both.

(3) Despite subsection (2), the owner of a vehicle who is guilty of an offence under subsection (1)(a) 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 if the owner was not the driver of the vehicle.

Regulations

17 The Lieutenant Governor in Council may make regulations

- (a) establishing toll amounts or a formula for calculating tolls that may be charged for vehicular use of a toll highway, which may differ in relation to
 - (i) the toll highway,
 - (ii) the type, class, weight or configuration of the vehicle,
 - (iii) the time, date or year, and
 - (iv) the method and frequency of payment of the toll;
- (b) authorizing a concessionaire to establish toll amounts or a formula for calculating tolls that may be charged for vehicular use of a toll highway, which may differ in relation to
 - (i) the toll highway,
 - (ii) the type, class, weight or configuration of the vehicle,
 - (iii) the time, date or year, and
 - (iv) the method and frequency of payment of the toll;
- (c) where a concessionaire is authorized to establish toll amounts, establishing minimum and maximum tolls and other restrictions on the establishment of tolls that may be charged, which may differ in relation to
 - (i) the toll highway,
 - (ii) the type, class, weight or configuration of the vehicle,
 - (iii) the time, date or year, and
 - (iv) the method and frequency of payment of the toll;
- (d) prescribing where on a toll highway the requirement to pay a toll will apply, which may include all or any portion or lane of the toll highway;

- (e) respecting toll payment, collection and enforcement, including respecting
 - (i) who is required to pay a toll,
 - (ii) the manner of payment of tolls,
 - (iii) collection and enforcement by a concessionaire or other person,
 - (iv) notices and service of documents,
 - (v) other fees or interest that may be charged in relation to the collection and enforcement of tolls,
 - (vi) evidence of the use of a toll highway and evidence and evidentiary rules to be used in proceedings under which a person is charged with failing to comply with this Act or the regulations or in civil or administrative proceedings to enforce payment of a toll required to be paid under this Act,
 - (vii) use of and verification or certification of systems, devices and equipment used for payment, collection or enforcement of tolls, and
 - (viii) refunds of tolls and a process for dispute, review or appeal;
- (f) specifying costs that fall within the scope of the costs referred to in section 5(1)(a) through (e);
- (g) specifying other costs that the Minister may charge a toll to recover under section 5(1)(f);
- (h) specifying how tolls that are paid shall be attributed to the costs referred to in section 5(1) for the purpose of determining whether the costs referred to in section 5(1)(a) have been recovered;
- (i) prescribing fees or interest to be charged in respect of any function, service, application, review or appeal under this Act or the regulations;
- (j) respecting the ownership of any toll, other fee or interest collected by or paid to a concessionaire;

- (k) describing a person for the purposes of section 9(2)(b);
- (l) respecting exemptions from the requirement to pay tolls;
- (m) governing any matters with respect to provision to the Registrar of information about unpaid tolls, other fees, interest, fines or penalties levied under this Act or the regulations;
- (n) governing any matters with respect to the provision of personal driving and motor vehicle information by the Registrar;
- (o) prescribing any devices, documents or records required to be carried in vehicles using a toll highway for the purposes of toll collection and enforcement;
- (p) prescribing and respecting toll devices that may be used to electronically determine the amount of a toll and who owes payment of the toll;
- (q) respecting the enforcement of a toll, other fee or interest by the Minister, a concessionaire or another person;
- (r) specifying that it is an offence to contravene or fail to comply with the regulation;
- (s) prescribing an amount of not more than \$2000 as a fine or penalty for an offence under the Act;
- (t) respecting the collection, use and disclosure of information, including personal information as defined by the *Freedom of Information and Protection of Privacy Act*, for the purposes of this Act;
- (u) defining any word or expression used but not defined in this Act;
- (v) respecting any other matter or thing necessary to implement, collect or enforce tolls or to carry out the intent of this Act.

