

REPRINTED BILL

BILL

No. 28 of 1933.

An Act to amend The Vehicles and Highway Traffic Act,
1924.

(Assented to , 1933.)

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

1. This Act may be cited as "*The Vehicles and Highway Traffic Act, 1924, Amendment Act, 1933.*"

2. *The Vehicles and Highway Traffic Act, 1924*, being chapter 31 of the Statutes of Alberta, 1924, is hereby amended by inserting therein, immediately after section 8 thereof, the following new section:

"**8a.**—(1) The Lieutenant Governor in Council may make or authorize to be made a reciprocal arrangement or agreement with the Government of any other Province of the Dominion exempting any class or classes of owners of motor vehicles who are ordinarily resident in that other Province from the application of the provisions of this Act as to the registration and licensing of motor vehicles and the carrying and displaying upon motor vehicles of licenses and number plates as required by this Act, and providing for the granting by that other Province of similar exemptions and privileges with respect to the owners of motor vehicles who are ordinarily resident in this Province.

"(2) Every arrangement or agreement so made and the exemptions thereunder shall be subject to the condition that no person shall be entitled to any exemption or privilege thereunder in respect of a motor vehicle in this Province unless the owner of the motor vehicle has complied with the law of his place of residence as to the registration and licensing of motor vehicles and carries or causes to be carried on the motor vehicle the certificate or license and the number plates prescribed by the law of that place; and shall also be subject to all further conditions and restrictions set out in the arrangement or agreement, and to cancellation by the Lieutenant Governor in Council."

3. The said Act is further amended by inserting therein, immediately after section 71 thereof, the following new section:

"**71a.** In an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle upon a highway, every person driving such motor vehicle who is living with and as a member of the family of the owner thereof and every person driving such motor vehicle who

has acquired possession of it with the consent, express or implied, of the owner thereof shall be deemed to be the agent or servant of the owner of such motor vehicle and to be employed as such, and shall be deemed to be driving such motor vehicle in the course of his employment, but nothing in this section shall relieve any person deemed to be the agent or servant of the owner and to be driving such motor vehicle in the course of his employment from the liability for such damages."

4. The said Act is further amended by adding thereto immediately after section 88, the following new Part:

"PART XII.

"89. In this Part—

- "(a) 'Authorized insurer' means any person authorized to carry on the business of automobile insurance in the Province of Alberta;
- "(b) 'Driver's license' means an operator's license and a chauffeur's license issued pursuant to the provisions of this Act;
- "(c) 'Motor vehicle' includes 'Trailer' as defined in this Act;
- "(d) 'Proof of financial responsibility' means a certificate of insurance, a bond, or a deposit of money or securities given or made pursuant to the provisions of this Part;
- "(e) 'State' means one of the United States of America, or the District of Columbia;
- "(f) 'Superintendent of Insurance' means the Superintendent of Insurance appointed pursuant to *The Alberta Insurance Act, 1926*.

"90.—(1) Nothing in this Part shall be construed in such a way as to affect, diminish or derogate from any right of action, remedy or security which such person may have either at law or equity.

"(2) This Part shall not apply to—

- "(a) offences and violations of the law committed before the date of coming into force of this Part;
- "(b) convictions and judgments arising out of motor vehicle accidents occurring before the date of coming into force of this Part;
- "(c) motor vehicle insurance policies in respect of automobiles issued or in force on the date of coming into force of this Part as to claims arising thereunder before the last mentioned date.

"91.—(1) A motor vehicle liability policy referred to in this Part shall be a driver's or owner's policy in conformity to the provisions of Part VII of *The Alberta Insurance Act, 1926*.

"(2) Any insurer which has issued a motor vehicle liability policy shall, as and when the insured requests, deliver to him for filing, or file direct with the Minister, a certificate for the purposes of this Part.

"(3) Such a certificate filed with the Minister shall be a conclusive admission by the insurer that a policy has been

duly issued and is in accordance with the terms of the certificate.

“(4) Every insurer shall notify the Minister of the cancellation or expiry of any motor vehicle liability policy for which a certificate has been issued at least ten days before the date of such cancellation or expiry, and, in the absence of such notice, such policy shall remain in full force and effect.

“(5) Where a person who is not a resident of the Province is a party to an action for damages arising out of a motor vehicle accident in the Province, for which indemnity is provided by a motor vehicle liability policy, the insurer named in the policy shall, as soon as it has knowledge of the action from any source, and whether or not liability under such policy is admitted, notify the Minister in writing, specifying the date and place of the accident and the names and addresses of the parties to the action and of the insurer, which notification shall be open to inspection by parties to the action.

“(6) The Minister may decline to accept as proof of financial responsibility the certificates of any insurer which fails to comply with the provisions of the preceding subsection.

“**92.**—(1) Subject to the provisions of section 101, the Minister shall suspend the license of a driver and the registration of every motor vehicle registered in the name of a person who fails to satisfy a judgment rendered against him, by any court in Alberta, or in any other Province of Canada, which has become final by affirmation on appeal or by expiry without appeal of the time allowed for appeal, for damages on account of injury to, or death of any person, or on account of damage to property in excess of one hundred dollars, occasioned by a motor vehicle, within fifteen days from the date upon which such judgment became final, upon receiving a certificate of such final judgment from the court in which the same is rendered, and every such license and registration shall remain so suspended, and shall not at any time thereafter be renewed, nor shall any new driver's license be issued to, or new registration be permitted to be made by the person so liable until such judgment is satisfied or discharged (otherwise than by a discharge in bankruptcy) to the extent of at least five thousand dollars (exclusive of interest and costs) for injury to, or death of any one person, and, subject to that limit for each person so injured or killed, to the extent of at least ten thousand dollars (exclusive of interest and costs), for bodily injury to, or death, of two or more persons in any one accident, and to the extent of at least one thousand dollars (exclusive of interest and costs), for damage to property of others not being property carried in the motor vehicle which occasioned the accident resulting from any one accident, and until such person gives proof of his financial responsibility.

“(2) The Lieutenant Governor in Council, upon the report of the Minister that any Province of Canada or any state has enacted legislation similar in effect to subsection

(1), and that such legislation extends and applies to judgments rendered and become final against residents of that state by any court of competent jurisdiction in the Province, may, by proclamation, declare that the provisions of subsection (1) of this section shall extend and apply to judgments rendered and become final against residents of the Province by any court of competent jurisdiction in such province or state.

“(3) If, after such proof of financial responsibility has been given, any other judgment against such person for any accident which occurred before such proof was furnished, and after the coming into force of this Part, is reported to the Minister, the driver’s license and every registration of a motor vehicle of such person shall again be, and remain, suspended until such judgment is satisfied and discharged (otherwise than by a discharge in bankruptcy) to the extent set out in the next preceding subsection.

“(4) If any person to whom subsection (1) applies is not resident in the Province of Alberta, the privilege of operating any motor vehicle in the Province of Alberta, and the privilege of operation in the Province of Alberta of any motor vehicle registered in his name shall be and is suspended and withdrawn forthwith by virtue of such judgment until he has complied with the provisions of this section.

“**93.**—(1) The Minister shall suspend the driver’s license and the registration of every motor vehicle, registered in the name of a person, who shall by an order, judgment or conviction of a court, magistrate or justice of the peace in the Province have been convicted of any one of the following offences or violations of law, or who, having been arrested for any such offence or violation, has forfeited his bail, namely:

- “(a) Driving a motor vehicle on a highway recklessly or negligently or at an unreasonable rate of speed contrary to subsection (1) of section 43 of this Act if injury to property in excess of twenty-five dollars or to any person occurs in connection therewith;
- “(b) Driving a motor vehicle when approaching or at a street corner or curve in such a manner as to contravene the provisions of subsection (4) of section 43 of this Act if injury to property in excess of twenty-five dollars or to any person occurs in connection therewith;
- “(c) Driving a motor vehicle upon a highway in a race or upon a bet or wager contrary to the provisions of section 45 of this Act if injury to property in excess of twenty-five dollars or to any person occurs in connection therewith;
- “(d) Upon the occurrence of an accident, failing to return to the scene of the accident or otherwise contravening any of the provisions of section 52 of this Act if injury to property in excess of twenty-five dollars or to any person occurs in connection therewith;

“(e) Driving a motor vehicle on a highway without a driver’s or a chauffeur’s license in contravention of any of the provisions of this Act if injury to property in excess of twenty-five dollars or to any person occurs in connection therewith; or

“(f) An offence under section 285 of *The Criminal Code* or manslaughter committed by a person in charge of a motor vehicle—

and such license and registration shall remain so suspended and shall not at any time thereafter be renewed, nor shall any new license or registration be thereafter issued to or made for such person until he shall have satisfied any penalty imposed by the court in respect of such offence, or his conviction shall have been quashed, and until he shall have given to the Minister proof of his financial responsibility for future motor vehicle accidents in the manner and for the amount required by this Part, but the giving of proof to the Minister of such financial responsibility for future accidents shall not alter or affect in any way any disqualification to hold a license or the suspension or cancellation of a driver’s license or the registration of a motor vehicle under any other provisions of this Act.

“(2) Upon receipt by the Minister of official notice that a driver licensed, or an owner of a motor vehicle registered under this Act has been convicted or forfeited his bail in any other Province or in any State of the United States of America, for an offence which, if committed in this Province would have been a violation of the provisions of the law mentioned in the next preceding subsection of this section, the Minister shall suspend every such license and registration until such person shall have given proof of financial responsibility in the same manner as if the said conviction had been made or the bail forfeited by a court in the Province.

“(3) If the person to whom subsection (1) applies is not a resident of the Province, the privilege of driving a motor vehicle in the Province and the privilege of using or having within the Province a motor vehicle owned by him, shall be and become suspended forthwith upon such conviction or forfeiture of bail and shall remain suspended until he has complied with the provisions of subsection (1) by satisfaction of the penalty imposed by the court and furnished proof of financial responsibility for future motor vehicle accidents.

“94. The Minister may require proof of financial responsibility before issue of the registration of a motor vehicle or driver’s license, or the renewal thereof to any person under the age of twenty-one years or over the age of sixty-five years.

“95. The Minister may require proof of financial responsibility from any person who, while operating any motor vehicle shall have been involved in and in the opinion of the Minister is responsible in whole or in part for any motor vehicle accident resulting in the death of or injury to any person or damage to property in excess of one hundred

dollars or from the person in whose name such motor vehicle is registered, or from both, and the Minister may suspend the driver's license and the registration of all motor vehicles of that person until such proof of financial responsibility has been given.

"96.—(1) Neither the registration of a motor vehicle nor a driver's license, nor in the case of a person not resident in the Province of Alberta, the privilege of operating any motor vehicle in the Province of Alberta, as well as the privilege of operation within the Province of Alberta of any motor vehicle owned by such non-resident, shall be suspended or withdrawn under the provisions of this Part if such owner, driver or non-resident has voluntarily filed or deposited with the Minister, prior to the offence or accident, out of which any conviction, judgment or order arises, proof of financial responsibility which at the date of such conviction, judgment or order is valid and sufficient for the requirements of this Part.

"(2) The Minister shall receive and record proof of financial responsibility voluntarily offered, and if any conviction or judgment against such person is thereafter notified to the Minister which, in the absence of such proof of financial responsibility would have caused the suspension of the driver's license or registration of the motor vehicle under this Part, the Minister shall forthwith notify the insurer or surety of such person of the conviction or judgment so reported.

"97. Proof of financial responsibility shall be given by every driver, and in the case of an owner, by every owner to whom this Part applies for each motor vehicle registered in his name in the amounts and subject to the limitations, conditions and qualifications prescribed for an owner's and a driver's policy respectively by Part VII of *The Alberta Insurance Act, 1926*.

"98.—(1) Proof of financial responsibility may be given in any one of the following forms:

"(a) The written certificate or certificates filed with the Minister of any authorized insurer that it has issued to or for the benefit of the person named therein a motor vehicle liability policy or policies, which at the date of the certificate or certificates is in full force and effect and which designates therein by explicit description or by other adequate reference all motor vehicles to which the policy applies; any such certificate or certificates shall cover all motor vehicles then registered in the name of the person furnishing such proof; and an additional certificate shall be required as a condition precedent to the registration of any additional motor vehicle in the name of such person; the said certificate or

certificates shall certify that the motor vehicle liability policy or policies therein mentioned shall not be cancelled or expire, except upon ten days' prior written notice thereof to the Minister, and until such notice is duly given the said certificate or certificates shall be valid and sufficient to cover the term of any renewal of such motor vehicle liability policy by the insurer or any renewal or extension of the term of the insured's driver's license or registration of his motor vehicle by the Minister; or

“(b) The bond of a guarantee, insurance or surety company duly licensed in the Province of Alberta pursuant to *The Alberta Insurance Act, 1926*, the said bond shall be in form approved by the Minister and shall be conditional upon the payment of the amounts specified in this Part, and shall not be cancelled or expire except after ten days' written notice to the Minister, but not after the happening of the injury or damage secured by the bond as to such accident, injury or damage, and the said bond shall be filed with the Minister; or

“(c) The certificate of the Minister that the person named therein has deposited with him a sum of money or securities for money approved by him in the amount or value of eleven thousand dollars for each motor vehicle registered in the name of such person; the Minister shall accept any such deposits and issue a certificate therefor, if such deposit is accompanied by evidence that there are no unsatisfied executions against the depositor registered in the office of the sheriff for the judicial district in which the depositor resides.

“(2) The Minister may in his discretion at any time require additional proof of financial responsibility to that filed or deposited by any driver or owner pursuant to this Part and may suspend the driver's license and any registration of a motor vehicle of the person from whom proof is required, pending such additional proof.

“(3) In the case of an owner of ten or more motor vehicles to whom this Part applies, proof of financial responsibility in a form and in an amount not less than fifty thousand dollars, satisfactory to the Minister, may be accepted as sufficient for the purposes of this Part.

“(4) Where a person who is not a resident of the Province of Alberta is required to give or volunteers proof of financial responsibility under this Part, the Minister may accept as proof such certificate of an authorized insurer relating to a motor vehicle liability policy issued outside of the Province of Alberta insuring such person against loss from the liability imposed by law arising out of motor vehicle accidents occurring within the Province of Alberta

as he may deem proper; and may issue to such person an official non-resident insurance identification card; and may provide for the giving or volunteering of such proof to and the issue of such cards by his representatives at selected points along the provincial border.

"99.—(1) The bond filed with the Minister and the money or securities deposited with the Minister shall be held by him in accordance with the provisions of this Part as security for any judgment against the owner or driver filing the bond or making the deposit in any action arising out of damage caused after such filing or deposit by the operation of any motor vehicle.

"(2) Money and securities so deposited with the Minister shall not be subject to any claim or demand, except an execution on a judgment for damages, for personal injuries or death, or injury to property, occurring after such deposit as a result of the operation of a motor vehicle.

"(3) If a judgment to which this Part applies is rendered against the principal named in the bond filed with the Minister and such judgment is not satisfied within fifteen days after it has been rendered, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action on said bond in the name of the Minister against the persons executing such bond.

"100. If the Minister finds that any driver to whom this Part applies was at the time of the offence for which he was convicted employed by the owner of the motor vehicle involved therein as chauffeur or motor vehicle operator, whether or not so designated or is a member of the family or household of the owner, and that there was no motor vehicle registered in the Province of Alberta in the name of such driver as an owner, then if the owner of such motor vehicle submits to the Minister (who is hereby authorized to accept it) proof of his financial responsibility as provided by this Part, such chauffeur, operator, or other person shall be relieved of the requirement of giving proof of financial responsibility on his own behalf.

"101. A judgment debtor to whom this Part applies may on due notice to the judgment creditor apply to the Court in which the trial judgment was obtained for the privilege of paying such judgment in instalments, and the Court may, in its discretion, so order, fixing the amounts and times of payment of such instalments; and while the judgment debtor is not in default in payment of such instalments, he shall be deemed not in default for the purposes of this Part in payment of the judgment, and upon proof of financial responsibility for future accidents pursuant to this Part, the Minister may restore the driver's license and registration of such judgment debtor but such driver's license and registration shall again be suspended and remain suspended as provided in section 92 if the Minister is satisfied of default made by the judgment debtor in compliance with the terms of the court order.

"102.—(1) It shall be the duty of the clerk or registrar of the court (or of the court where there is no clerk or regis-

trar) in which any final order, judgment or conviction to which this Part applies is rendered to forward to the Minister immediately after the date upon which the order, judgment or conviction becomes final by affirmation upon appeal, or by expiry without appeal of the time allowed for appeal a certified copy of such order, judgment or conviction or a certificate thereof in form prescribed by the Minister; and such copy or certificate shall be *prima facie* evidence of such order, judgment or conviction; and the clerk or other official charged with this duty of reporting to the Minister shall be entitled to collect and receive a fee of one dollar for each copy or certificate hereby required, which fee shall be paid as part of the court costs in case of a conviction by the person convicted, and in case of an order or judgment, by the person for whose benefit judgment is issued.

“(2) If the defendant is not resident in the Province of Alberta, it shall be the duty of the Minister to transmit to the registrar of motor vehicles or other officer or officers, if any, in charge of the registration of motor vehicles and the licensing of operators in the province or state in which the defendant resides, a certificate of the said order, judgment or conviction.

“**103.**—(1) The Minister shall upon request furnish to any insurer, surety or other person a certified abstract of the operating record of any person subject to the provisions of this Part which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and the record of any conviction of such person for a violation of any provision of any Statute relating to the operation of motor vehicles or any judgment against such person for any injury or damage caused by such person, according to the records of the Minister, and if there is no record of any such conviction or judgment in the office of the Minister, the Minister shall so certify; and the Minister shall collect as a fee for each such certificate the sum of one dollar.

“(2) The Minister, upon written request, shall furnish any person who may have been injured in person or property by any motor vehicle, with all information of record in his office pertaining to the proof of financial responsibility of any owner or driver of any motor vehicle furnished pursuant to this Part.

“**104.**—(1) Any owner or driver whose registration or license has been suspended as herein provided or whose policy of insurance or surety bond has been cancelled or terminated as herein provided or who neglects to furnish additional proof of financial responsibility upon the request of the Minister as herein provided shall immediately return to the Minister his driver's license and all license plates issued upon the registration of his motor vehicle.

“(2) If any such person fails to return his license, and plates as provided herein, the Minister may direct any police officer to secure possession thereof and return the same to the office of the Minister.

"(3) Any person failing to return his license, and plates when so required, or refusing to deliver the same when requested to do so by the police officer, shall be guilty of an offence and incur a penalty of not less than ten dollars and not more than one hundred dollars for each offence.

"**105.** If the registration of a motor vehicle has been suspended under the provisions of this Part such registration shall not be transferred nor the motor vehicle in respect of which such permit was issued registered in any other name until the Minister is satisfied that such transfer or registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this Part.

"**106.**—(1) The Minister may cancel any bond or return any certificate of insurance or may return any money or security deposited pursuant to this Part as proof of financial responsibility at any time after three years from the date of the original deposit thereof:

Provided that the owner or driver on whose behalf such proof was given has not, during the said period or any three-year period immediately preceding the request, been convicted of any offence against any of the provisions of this Act:

Provided further that no action for damages is pending and no judgment is outstanding and unsatisfied in respect of personal injury or damage to property in excess of one hundred dollars resulting from the operation of a motor vehicle;

A statutory declaration of the applicant under this section shall be sufficient evidence of the facts in the absence of evidence to the contrary in the records of the Minister.

"(2) The Minister may direct the return of any bond money or securities to the person who furnished the same upon the acceptance and substitution of other adequate proof of financial responsibility pursuant to this Part.

"(3) The Minister may direct the return of any bond, money or securities deposited under this Part to the person who furnished the same at any time after three years from the date of the expiration or surrender of the last registration made of a motor vehicle to that person or of the driver's license issued to that person if no written notice has been received by the Minister within such period of any action brought against such person in respect of the ownership, maintenance or operation of a motor vehicle, and upon the filing by such person with the Minister of a statutory declaration that such person no longer resides in the Province of Alberta, or that such person has made a *bona fide* sale of any and all motor vehicles owned by him, naming the purchaser thereof, and that he does not intend to own or operate any motor vehicle in the Province of Alberta within a period of at least one year."

5. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant Governor in Council.

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No. 28.

THIRD SESSION
SEVENTH LEGISLATURE
23 GEORGE V
1933

B I L L

An Act to amend The Vehicles and
Highway Traffic Act, 1924.

Received and read the

First time.....

Second time

Third time

HON. MR. BROWNLEE

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1933