

2009 Bill 30

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

TRAFFIC SAFETY AMENDMENT ACT, 2009

MR. DRYSDALE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 30
Mr. Drysdale

BILL 30

2009

TRAFFIC SAFETY AMENDMENT ACT, 2009

(Assented to , 2009)

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

Amends RSA 2000 cT-6

1 The *Traffic Safety Act* is amended by this Act.

2 Section 1(1) is amended

(a) by repealing clause (r.1) and substituting the following:

- (r.1) “intersection safety device” means a device that is installed or erected at an intersection with a traffic control signal and that is capable of
- (i) photographing a vehicle and recording data related to the traffic control signal and the vehicle,
 - (ii) being used for or in connection with establishing the speed of a vehicle while the vehicle is approaching and proceeding through the intersection, or
 - (iii) both photographing a vehicle and recording data as described in subclause (i) and being used as described in subclause (ii);

(b) by adding the following after clause (r.1):

Explanatory Notes

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

2 Section 1(1)(r.1) and (ff) presently read:

1(1) In this Act,

(r.1) “intersection safety device” means a device installed or erected at an intersection with a traffic control signal that is capable of photographing a vehicle and recording data related to the traffic control signal and the vehicle, and of being used for or in connection with establishing the speed of the vehicle while the vehicle is approaching and proceeding through the intersection;

(ff) “peace officer” means

- (i) a member of the Royal Canadian Mounted Police;*
- (ii) a member of a municipal police service;*
- (iii) a peace officer appointed under the Peace Officer Act for the purposes of this Act;*
- (iv) a park warden appointed under the Parks Canada Agency Act (Canada);*

(r.2) “investigator” means an individual designated by the Minister as an investigator under section 2.1;

(c) in clause (ff) by repealing subclauses (i) and (ii) and substituting the following:

- (i) a police officer under the *Police Act*;
- (ii) a member of a police service under the *Police Act*;
- (ii.1) an investigator designated under section 2.1;

3 The following is added after section 2:

Investigators

2.1(1) The Minister may designate as investigators individuals or classes of individuals whom the Minister considers qualified to act as investigators for the purposes of this Act and the regulations generally or for the purposes of any specific provisions of this Act or the regulations, subject to any terms and conditions the Minister considers necessary.

(2) The Minister shall provide each investigator with a certificate of designation, and on entering any place, an investigator shall, on request, produce the certificate of designation and explain the nature of the powers or duties the investigator wishes to carry out.

(3) Notwithstanding anything in this Act, an investigator is not authorized to act outside the terms and conditions, if any, imposed in respect of that investigator under this section.

Authority to enter and inspect premises

2.2(1) An investigator may enter any premises, other than a private dwelling, and investigate, inspect or audit the premises and any records, including electronic records, reports and documents, and any vehicles and equipment within the premises to ensure compliance with this Act and the regulations.

(2) An investigation, inspection or audit under subsection (1) must be conducted at a reasonable time.

(3) An investigator may, in the course of an investigation, inspection or audit, require a person

- (v) *a conservation officer appointed under section 1 of Schedule 3.1 to the Government Organization Act;*
- (vi) *a forest officer appointed under the Forests Act;*
- (vii) *a wildlife officer appointed under the Wildlife Act;*

3 Creates a new class of investigators.

- (a) to give written or oral replies to questions,
- (b) to produce any books, records, electronic records, reports, documents or other things and to provide copies of them, and
- (c) to provide any other information requested by the investigator.

(4) An investigator may, in the course of an investigation, inspection or audit, inspect, examine and make copies of or temporarily remove books, records, reports, documents or other things that are relevant to determine if persons required to comply with this Act and the regulations are complying with this Act and the regulations.

(5) When an investigator removes any books, records, reports, documents or other things under subsection (4), the investigator

- (a) must give a receipt for them to the person from whom they were taken,
- (b) may make copies of, take photographs of or otherwise record them, and
- (c) must, within a reasonable time, return them to the person to whom the receipt was given.

Obstruction of investigators

2.3 When an investigator is exercising powers or carrying out duties under this Act, a person shall not

- (a) fail to comply with any reasonable request of the investigator,
- (b) knowingly make a false or misleading statement to the investigator either orally or in writing, or
- (c) otherwise obstruct or hinder the investigator.

4 Section 42(1) is amended by striking out “driver instructor” wherever it occurs and substituting “driving instructor”.

4 Section 42(1) presently reads:

42(1) Where a person who

5 Section 58 is amended

- (a) in subsection (3) by striking out “cancel” and substituting “suspend”;**
- (b) in subsection (5) by striking out “cancellation” and substituting “suspension”.**

6 Section 64 is amended

- (a) in clause (c) by striking out “driving schools” and substituting “driver training schools”;**
- (b) by adding the following after clause (c):**
 - (c.1) governing any matter with respect to the conduct of driver examiners, driving instructors and the operation of driver training schools;

7 Section 143(1)(a) is amended by adding the following after subclause (vi):

- (vii) a driver examiner;
- (viii) a driving instructor;
- (ix) the operator of a driver training school;

- (a) *operates a driver training school,*
- (b) *is a driver examiner, or*
- (c) *is a driver 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 driver instructor, that person may appeal that decision or action to the Board.

5 Section 58 presently reads in part:

(3) If the Director notifies the Registrar pursuant to section 22(3) of the Maintenance Enforcement Act, the Registrar must, as requested in the notice, cancel any operator's licence issued to the debtor named in the notice.

(5) Any cancellation made under subsection (3) remains in effect, subject to section 22(5) of the Maintenance Enforcement Act, until the Director gives a notice to the Registrar under section 22(6) of the Maintenance Enforcement Act.

6 Section 64(c) presently reads:

64 The Minister may make regulations

- (c) *governing any matter with respect to the operation of driving schools and driving courses and the teaching or instructing of persons to operate vehicles and the provision of insurance in respect of those matters;*

7 Section 143(1)(a) presently reads:

143(1) In this section,

- (a) *“regulated person” means*
 - (i) *a carrier;*

8(1) The *Maintenance Enforcement Act* is amended by this section.

(2) Section 22 is amended

- (a) in subsection (3) by striking out “cancel” and substituting “suspend”;**
- (b) in subsection (5) by striking out “issue an operator’s licence to that debtor” and substituting “reinstate that debtor’s operator’s licence”.**

9(1) The *Traffic Safety Amendment Act, 2007* is amended by this section.

(2) Section 13 is amended

- (ii) *an exempted operator;*
- (iii) *a driver of a commercial vehicle;*
- (iv) *a person engaged in carrying out safety services as defined in section 139;*
- (v) *a holder of a permit issued in respect of the operation of a commercial vehicle;*
- (vi) *a person engaged in carrying out inspections, evaluations, repairs and other services provided by persons licensed under this Act to carry out inspections of motor vehicles, whether or not the vehicles are commercial vehicles;*

8 Amends chapter M-1 of the Revised Statutes of Alberta 2000. Section 22(3) and (5) presently read:

- (3) *If*
- (a) *a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and*
 - (b) *that default in payment or in any portion of that payment has existed for more than 60 days,*

the Director may, subject to the regulations, give notice to the Registrar to cancel any operator's licence issued to the debtor as requested in the notice.

(5) Even though payments are in default under a maintenance order for which notice is given under subsection (3), if the debtor makes arrangements for making payments of maintenance that are satisfactory to the Director, the Director shall permit the Registrar to issue an operator's licence to that debtor subject to any terms or conditions imposed by the Director respecting the making of the payments.

9 Amends chapter 45 of the Statutes of Alberta, 2007. Section 13 presently reads:

13 Section 187 is amended

(a) in clause (a), in the new subsection (0.1) by adding the following after clause (c):

(c.1) “renter” means a person who, by agreement, in the ordinary course of the person’s business, rents a motor vehicle to another person for a term of no more than 30 days and who is not in possession of the motor vehicle, or a person to whom the renter has assigned the agreement;

(b) in clause (b), in the new subsection (2.1) by adding “, renter” after “lessor” wherever it occurs;

(c) in clause (d),

(i) in the new subsection (4) by adding “, renter” after “lessor”;

(ii) in the new subsection (5)

(A) in clause (a) by adding “, renter” after “lessor”;

(B) in clause (b) by adding “, renters” after “lessors” wherever it occurs;

(iii) in the new subsection (7)(b) by adding “, renters” after “lessors” wherever it occurs;

(iv) in the new subsection (8) by adding “, renters” after “lessors” wherever it occurs.

(a) *by adding the following before subsection (1):*

(0.1) In this section,

- (a) “lender” means a person who holds a security interest in a motor vehicle through a written security agreement, who under that agreement has lent money to a person in respect of the motor vehicle and who is not in possession of the motor vehicle but retains title to the motor vehicle, or a person to whom the lender has assigned the agreement;*
- (b) “lessor” means a person who by agreement, in the ordinary course of the person’s business, leases or grants exclusive use of a motor vehicle to another person for a term of more than 30 days or otherwise grants exclusive use of a motor vehicle to another person for a period of more than 30 days, and who is not in possession of the motor vehicle, or a person to whom the lessor has assigned the agreement;*
- (c) “motor vehicle liability policy” means a motor vehicle liability policy under the Insurance Act;*
- (d) “security agreement” means a security agreement under the Personal Property Security Act;*
- (e) “security interest” means a security interest under the Personal Property Security Act;*
- (f) “seller” means a person who holds a security interest in a motor vehicle through a written security agreement and sells the motor vehicle to another person under a contract in writing but retains title to the motor vehicle until the purchaser has carried out the terms of the contract and who is not in possession of the motor vehicle, or a person to whom the seller has assigned the security agreement or the contract.*

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

(2.1) Notwithstanding any other provision in this Division except subsections (5) and (6), in an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle on a highway, the maximum amount for which a lender, lessor or seller of the motor vehicle is liable in respect

of the same incident in its capacity as a lender, lessor or seller of the motor vehicle is the amount determined under subsection (4) less any amounts that

- (a) are recovered for loss or damage under the third party liability provisions of contracts evidenced by a motor vehicle liability policy issued to a person other than a lender, lessor or seller,*
 - (b) are in respect of the use or operation of the motor vehicle, and*
 - (c) are in respect of the same incident.*
- (c) in subsection (3) by striking out “subsections (1) and (2)” and substituting “subsections (1) to (2.1)”;*
- (d) by adding the following after subsection (3):*
- (4) The maximum amount for which a lender, lessor or seller of a motor vehicle is liable for the purposes of subsection (2.1) is the greatest of*
 - (a) \$1 000 000,*
 - (b) the amount of third party liability insurance required by law to be carried in respect of the motor vehicle, and*
 - (c) the amount established, or determined in the manner prescribed, by regulation.*
 - (5) Subsection (2.1) does not apply*
 - (a) in respect of amounts payable by a lender, lessor or seller other than by reason of vicarious liability imposed by this section, or*
 - (b) to prescribed lenders, lessors or sellers or motor vehicles, or prescribed classes of lenders, lessors or sellers or motor vehicles.*
 - (6) This section applies only in relation to loss or damage sustained on or after the date this section comes into force.*
 - (7) The Minister may make regulations*

10 The cancellation of an operator's licence under section 58(3) of the *Traffic Safety Act* before the coming into force of sections 5 and 8 of this Act is, on the coming into force of sections 5 and 8, deemed to be a suspension of that operator's licence.

11 Sections 2(b) and (c), 3, 5, 8, 9 and 10 come into force on Proclamation.

(a) establishing amounts payable, or prescribing the manner of determining amounts payable, for the purposes of subsection (4)(c);

(b) prescribing lenders, lessors and sellers and motor vehicles or classes of lenders, lessors and sellers and motor vehicles for the purposes of subsection (5)(b).

(8) The Minister may make different regulations under subsection (7)(b) in relation to lenders, lessors and sellers and motor vehicles, or classes of lenders, lessors and sellers and motor vehicles, for different circumstances.

10 Transitional provision.

11 Coming into force.

