

1986 BILL 43

---

First Session, 21st Legislature, 35 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 43**

**MOTOR VEHICLE STATUTES AMENDMENT ACT, 1986**

---

---

THE SOLICITOR GENERAL

---

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

---

*Bill 43*

## **BILL 43**

1986

### **MOTOR VEHICLE STATUTES AMENDMENT ACT, 1986**

*(Assented to , 1986)*

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

#### **Highway Traffic Act**

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

*(2) Section 1(j)(i) and (ii) are repealed.*

#### **Motor Vehicle Administration Act**

*2(1) The Motor Vehicle Administration Act is amended by this section.*

*(2) Section 1 is amended*

*(a) in clause (j)*

*(i) by repealing subclauses (i) and (ii);*

*(ii) as to subclause (v) by striking out “motor and” and substituting “motor”;*

*(b) by repealing clause (k) and substituting the following:*

*(k) “motor cycle” means a motor vehicle mounted on 2 wheels and includes*

## **Explanatory Notes**

### **Highway Traffic Act**

1(1) This section will amend chapter H-7 of the Revised Statutes of Alberta 1980.

(2) Section 1(j) presently reads:

*1 In this Act*

*(j) "moped" means a vehicle, regardless of the number of wheels it has, that*

*(i) may be propelled by muscular or mechanical power,*

*(ii) is fitted with pedals that are continually operable to propel it,*

*(iii) weighs more than 35 kilograms but less than 55 kilograms,*

*(iv) has a motor that is driven by electricity or has an engine displacement of not more than 50 cubic centimetres,*

*(v) has no hand-operated or foot-operated clutch or gearbox driven by the motor transferring power to the driven wheel, and*

*(vi) does not have sufficient power to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start;*

### **Motor Vehicle Administration Act**

2(1) This section will amend chapter M-22 of the Revised Statutes of Alberta 1980.

(2) Section 1(j) and (k) presently read:

*1 In this Act,*

*(j) "moped" means a vehicle, regardless of the number of wheels it has, that*

*(i) may be propelled by muscular or mechanical power or partly by muscular power and partly by mechanical power,*

*(ii) is fitted with pedals that are continually operable to propel it,*

*(iii) weighs more than 35 kilograms but less than 55 kilograms,*

- (i) those motor vehicles known to the trade as motor cycles or scooters, and
  - (ii) motor cycles modified to have 3 wheels,
- but does not include a moped;

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

**3(1)** The Minister may, on any terms or conditions he directs, authorize the Registrar to cause any item, including a document, a class of document, a copy of a document or a document recorded on a photographic medium, computer tape or other similar device, that is filed or maintained in his office under this Act to be reproduced on a photographic medium, computer tape or similar device.

(2) A reproduction of an item referred to in subsection (1)

- (a) stands in the place of the original item,
- (b) shall be treated as the original item for all purposes under this Act, and
- (c) is admissible in evidence in any court of law in the same manner and for all purposes as if it were the original item.

(3) When the Minister is of the opinion that an item or a reproduction of an item referred to in subsection (1) is no longer required he may, on any terms or conditions he directs, authorize the Registrar, subject to subsection (4), to destroy or dispose of the item or its reproduction, as the case may be.

(4) The destruction or disposal of any item or its reproduction under this section shall be carried out subject to the regulations made under section 21 of the *Department of Public Works, Supply and Services Act*.

(4) *Section 5 is amended*

(a) *in subsection (1) by striking out “a subsisting” and substituting “an”;*

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

(1.1) No person shall drive a motor vehicle on a highway at any time during which

- (a) his operator's licence is suspended or cancelled under this Act,
- (b) he is disqualified from holding an operator's licence under this Act,

*(iv) has a motor that is driven by electricity or has an engine displacement of not more than 50 cubic centimetres,*

*(v) has no hand-operated or foot-operated clutch or gearbox driven by the motor and transferring power to the driven wheel, and*

*(vi) does not have sufficient power to attain a speed greater than 50 kilometres per hour on level ground within a distance of 2 kilometres from a standing start,*

*but does not include a bicycle or power bicycle;*

*(k) "motor cycle" means a motor vehicle mounted on 2 wheels and includes those motor vehicles known to the trade as motor cycles or scooters and motor cycles modified to have 3 wheels but does not include an off-highway vehicle as defined in the Off-highway Vehicle Act or a moped;*

**(3) Section 3 presently reads:**

**3 The Minister may authorize the Registrar**

*(a) to cause any document, class of documents or copies of documents filed in his office under this Act to be photographed on microfilm, and*

*(b) thereafter to destroy the document or documents or copies or dispose of them in accordance with his direction,*

*and the microfilm for the purposes of this Act shall be the original documents or copies and is admissible in evidence in any court of law in like manner and for all purposes as are the documents so photographed.*

**(4) Section 5(1), (2) and (6) presently read:**

*5(1) No person shall drive a motor vehicle on a highway unless he is the holder of a subsisting operator's licence.*

*(2) Subsection (1) does not apply to a person who is undergoing a driver's examination conducted by an authorized driver examiner.*

*(6) Any person who contravenes subsection (1) is guilty of an offence.*

- (c) his licence or permit to operate a motor vehicle in a jurisdiction outside Alberta is suspended or cancelled, or
- (d) his privilege to secure a licence or permit to operate a motor vehicle in a jurisdiction outside Alberta is suspended or cancelled.

(c) *in subsection (2) by striking out “Subsection (1) does” and substituting “Subsections (1) and (1.1) do”;*

(d) *by repealing subsection (6) and substituting the following:*

(6) A person who contravenes

- (a) subsection (1) is guilty of an offence and is liable to the penalty provided for under section 101(1), or
- (b) subsection (1.1) is guilty of an offence and is liable to the penalty provided for under sections 101(2) and 106(7).

(5) *Section 13 is repealed and the following is substituted:*

**13** When a person to whom an operator’s licence is issued changes his name or address, or both, that person shall forthwith notify the Registrar of his new name or address, or both, as the case may be.

(6) *Section 17(1) is repealed and the following is substituted:*

**17(1)** When, under this Act or by any order or judgment made under this or any other Act,

- (a) a person’s operator’s licence is suspended, that licence remains suspended, notwithstanding that the period of suspension has expired, or
- (b) a person is disqualified from holding an operator’s licence, that disqualification remains in effect, notwithstanding that the period of disqualification has expired,

until that person does one or more of the following as required by the Minister:

- (c) passes a physical examination that indicates that the person is, to the satisfaction of the Minister, physically competent to drive a motor vehicle without endangering the safety of the general public;
- (d) completes a course respecting alcohol or drug abuse, driver training, driver competence, driver awareness or motor vehicle operation as directed by the Minister;
- (e) demonstrates, to the satisfaction of the Minister, by examination or otherwise, that the person is competent to drive a motor vehicle without endangering the safety of the general public.

(7) *Section 40 is amended*

(a) *by repealing subsection (5);*

(b) *by repealing subsection (8) and substituting the following:*

(8) When

- (a) the ownership of a public vehicle, other than a public vehicle used for the transportation of goods or passengers

(5) Section 13 presently reads:

*13 On every change of his address or change of name or both, the person to whom an operator's licence is issued shall, in the manner prescribed by the regulations, forthwith notify the Minister in writing of the change.*

(6) Section 17(1) presently reads:

*17(1) When by or under this Act or by any order or judgment made under this or any other Act*

*(a) the operator's licence of a person is suspended, or*

*(b) a person is disqualified from holding an operator's licence,*

*then, notwithstanding that the period of suspension or disqualification has expired, the licence remains suspended or the disqualification remains in effect, as the case may be, until the time the person satisfies the Minister, by examination or otherwise, of his physical or other competency to drive a motor vehicle without endangering the safety of the general public.*

(7) Section 40(5) and (8) presently read:

*(5) The new owner of the public vehicle or his legal representative may, not later than the 14th day after the ownership passes, apply to the Minister for*

*(a) the registration of the public vehicle in the name of the new owner or his legal representative, and*

*(b) the transfer of the licence plates accordingly.*

for compensation, passes from one person to another person, and

(b) the new owner of that public vehicle intends

(i) to apply for the registration of the public vehicle in his name, and

(ii) to have reissued to him for use on that public vehicle licence plates issued to him with respect to the registration of another motor vehicle,

the new owner may, notwithstanding sections 34 and 51,

(c) display those licence plates on that public vehicle, and

(d) operate or permit another person to operate that public vehicle on a highway,

for not more than 14 days from the date that the ownership of that public vehicle passes to him.

(8) *Section 45 is repealed and the following is substituted:*

**45** When a person to whom a certificate of registration or a permit is issued changes his name or address, or both, that person shall forthwith notify the Registrar of his new name or address, or both, as the case may be.

(9) *The following is added after section 46:*

**46.1(1)** Notwithstanding section 46, the Minister may, for the purposes of commemorating a particular event, issue or permit the issuing of commemorative licence plates relating to that event.

(2) For the purposes of subsection (1), the Minister may make regulations

(a) authorizing an organization or a person to issue and sell commemorative licence plates for use on motor vehicles;

(b) governing the design of commemorative licence plates;

(c) governing the use and display of commemorative licence plates;

(d) governing the period during which commemorative licence plates will be valid for use on motor vehicles;

(e) governing the issue of certificates of registration in respect of commemorative licence plates;

(f) governing fees that may be charged in respect of commemorative licence plates;

(g) authorizing the fees in whole or part to accrue to the organization or person authorized to issue and sell the commemorative licence plates.

(3) No person shall display a commemorative licence plate on a motor vehicle in the place of a licence plate issued under section 46 other than as permitted under this section.



*(8) When the ownership of a public vehicle, other than a public vehicle used for the transportation of goods or passengers for compensation, passes from one person to another and the new owner intends to apply for the registration of the public vehicle in his name and intends to apply*

*(a) to have transferred to him the licence plates issued to the registered owner of that public vehicle, or*

*(b) to have reissued to him for use on that public vehicle licence plates issued to him on the registration of another motor vehicle,*

*then, notwithstanding sections 34 and 51, the new owner may display those licence plates on the public vehicle and operate or permit another person to operate the public vehicle on a highway for not more than 14 days after the ownership passes to him.*

(8) Section 45 presently reads:

*45 On every change of his address or change of name, the person to whom a certificate of registration or permit under this Act is issued shall, in the manner prescribed by regulation, forthwith in writing notify the Minister of the change.*

(9) Commemorative licence plates.

(10) *Section 59(2) is amended by adding the following after clause (k):*

(k.1) governing the release of information under section 81(3);

(11) *Section 66 is repealed and the following is substituted:*

**66** On request the Minister

(a) may furnish an abstract of the driving record of a person

(i) to that person,

(ii) for the 3-year period or a greater period preceding the request as permitted by the Minister, to an insurer or surety, if

(A) the abstract is required for the purposes of determining whether to grant or maintain motor vehicle insurance in respect of that person, and

(B) the insurer or surety, as the case may be, has a written authorization from that person authorizing the abstract to be released to the insurer or surety,

(iii) to a peace officer,

(iv) to an employer or prospective employer of that person if the employer or prospective employer has a written authorization from that person authorizing the abstract to be released to the employer or prospective employer,

(v) to a parent or guardian of that person if, under section 11, that person requires the signature of that parent or guardian on his operator's licence application, or

(vi) to a lawyer of that person if the lawyer has a written authorization from that person authorizing the abstract to be released to that lawyer,

and

(b) shall furnish to a person who is injured or whose property is damaged by a motor vehicle, or to that person's personal representative, in the case where that person is killed by a motor vehicle, any information on the Government's records pertaining to the proof of financial responsibility of any owner or driver of the motor vehicle.

(12) *Section 69(2) is repealed and the following is substituted:*

(2) A financial responsibility card issued under this section shall be in a form approved by the Superintendent of Insurance.

(13) *Section 70(4) is amended by striking out "and is liable to a fine of not more than \$5".*

(10) Section 59(2)(k) presently reads:

*(2) The Minister may make orders*

*(k) prescribing the manner in which assigned identification numbers are to be attached to vehicles or serially numbered parts;*

(11) Section 66 presently reads:

*66(1) On the written request of any person the Minister may, in his discretion, furnish to an insurer or surety an abstract of the driving record of any person covering the 3 year period immediately preceding the request or a greater period that the Minister, in his discretion, allows, if the abstract of the driving record is required for the purposes of assessing an applicant for motor vehicle insurance or a person whose motor vehicle is insured by that insurer or surety.*

*(2) The Minister, on 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 furnished pursuant to this Part of any owner or driver of any motor vehicle.*

*(3) On the written request of any person, the Minister may, in his discretion, issue an abstract of the driver's record of that person to the person's employer or a prospective employer.*

*(4) On the written request of any person, the Minister may, in his discretion, furnish a certified abstract of the driving record of that person to a barrister and solicitor.*

*(5) On written request the Minister may, in his discretion, furnish to a parent or guardian of any person requiring the signature of a parent or guardian on his licence application as provided in section 11, a certified abstract of the driving record of that person covering the 3 year period immediately preceding the request or a greater period that the Minister, in his discretion, allows.*

(12) Section 69(2) presently reads:

*(2) A financial responsibility card issued under this section shall be in a form approved by the Superintendent of Insurance and shall be signed in handwriting and in ink, with his normal signature, by the person for whose use the card or additional card is issued, and the card shall bear the number of the operator's licence held by him as at the date on which the card is issued.*

(13) Section 70(4) presently reads:

*(4) An operator, owner or person having the care and control of a motor vehicle who fails to produce a financial responsibility card as required by subsection (1), (2) or (3) is guilty of an offence and is liable to a fine of not more than \$5.*

*(16) Section 87 is amended by renumbering it as section 87(1) and by adding the following after subsection (1):*

*(2) Subsection (1) does not apply to a vehicle that is an off-highway vehicle as defined in the *Off-highway Vehicle Act*.*

*(17) Section 90 is repealed.*

*(18) Section 93 is amended*

*(a) in subsection (4) by striking out “is not registered in Alberta or”;*

*(b) in subsection (7) by striking out “directly”.*

*(19) Section 101 is amended*

*(a) in subsection (2) by striking out “section 5(6)” and substituting “section 5(6)(b)”;*

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

*(j) any diagram made with respect to the accident and the fact of any visit to the scene of the accident.*

(16) Section 87 presently reads:

*87 No person shall*

*(a) sell to, or*

*(b) purchase for or on behalf of,*

*a person under the age of 16 years a motor cycle.*

(17) Section 90 presently reads:

*90(1) When a peace officer*

*(a) has reasonable grounds to suspect a person of driving or having the care and control of a motor vehicle while under the influence of alcohol, and*

*(b) requests the person to submit to the taking of one or more specimens of his breath,*

*if the person refuses to comply with the request he is guilty of an offence.*

*(2) When a person is convicted under subsection (1) he shall forthwith deliver his operator's licence to the convicting judge who shall forward the licence to the Registrar.*

*(3) When a person submits to the taking of a specimen of his breath the person taking the specimen shall, as soon as reasonably possible, give him a signed statement of the results of the test.*

*(4) For the purposes of this section "operator's licence" means a licence to operate a motor vehicle, regardless of its place of issue.*

(18) Section 93(4) and (7) presently read:

*(4) If a vehicle stored pursuant to this section is not registered in Alberta or is not, within 30 days of its removal, claimed by the registered owner or someone on his behalf in return for full payment of the removal and storage costs actually paid, the vehicle may, with the approval in writing of the Administrator of the Motor Vehicle Accident Claims Act or his appointee, be disposed of as the Administrator or his appointee may direct, if written notice of the proposed disposal is given to the holders of encumbrances registered in respect of the vehicle at the Central Registry under the Chattel Security Registries Act, and the proceeds of the disposal shall be expended in the following order:*

*(a) to pay the debt owing to the Crown under this section;*

*(b) to pay the balance owing on any encumbrances referred to in this section, to the rightful persons;*

*(c) to pay any remaining portion to the Registrar.*

*(7) When the Minister, Registrar, peace officer or district engineer on reasonable and probable grounds believes that the vehicle referred to in subsection (1) is worthless he may cause the vehicle to be moved directly to a nuisance ground, salvage yard or municipal dump for disposal.*

(19) Section 101(2) and (6) presently read:

*(2) A person who is guilty of an offence under section 5(6) is liable*

*(a) for a first offence, to a fine of not more than \$2000 and in default of payment, to imprisonment for a term of not less than 14 days or more than 6 months, and*

*(20) Section 106 is amended*

*(a) in subsection (6) by striking out “section 238(3) of the Criminal Code (Canada) anywhere in Canada or section 109(7)” and substituting “subsection 242(4) of the Criminal Code (Canada) anywhere in Canada or section 110(7)”;*

*(b) by adding the following after subsection (6):*

(6.1) Notwithstanding subsection (6), when a person

(a) is found guilty under section 242(4) of the *Criminal Code* (Canada) anywhere in Canada, and

(b) an order prohibiting that person from driving a motor vehicle on a highway in Canada is made as a result of that conviction and the period of prohibition is a period of time that is greater than that referred to in subsection (6),

any operator’s licence held by that person thereupon becomes suspended and that person thereupon becomes disqualified from holding an operator’s licence for that greater period of time.

*(c) by repealing subsection (7) and substituting the following:*

(7) In addition to a fine or term of imprisonment referred to in section 101(2), where a person is found guilty of an offence under section 5(6)(b),

(a) that person’s operator’s licence is suspended and he is disqualified from holding an operator’s licence for a period of 6 months, and

(b) if at the time of the finding of guilt

(i) his operator’s licence is suspended or cancelled,

(ii) he is disqualified from holding an operator’s licence,

(iii) his licence or permit to operate a motor vehicle in a jurisdiction outside Alberta is suspended or cancelled, or

(iv) his privilege to secure a licence or permit to operate a motor vehicle in a jurisdiction outside Alberta was suspended or cancelled

the period of suspension and disqualification referred to in clause (a) shall run consecutive to that disqualification, suspension or cancellation.

*(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 or more than 6 months.*

*(6) A person who is guilty of an offence under section 33, 44 or 91 is liable to a fine of not more than \$5.*

(20) Section 106(6) and (7) presently reads:

*(6) If a person is found guilty under section 238(3) of the Criminal Code (Canada) anywhere in Canada or section 109(7) of this Act,*

*(a) that person is thereupon disqualified from holding an operator's licence for a period of 6 months, and*

*(b) if that person is under suspension or under a prohibition at the time of the finding of guilt, the period of disqualification shall run consecutively with that suspension or prohibition.*

*(7) Notwithstanding section 101(2), if a person is found guilty of an offence under section 5(6) and the offence was committed when*

*(a) his operator's licence was suspended or cancelled,*

*(b) he was disqualified under this Act from holding an operator's licence,*

*(c) his licence or permit to operate a motor vehicle in any province was suspended or cancelled, or*

*(d) his privilege to secure a licence or permit to operate a motor vehicle was suspended or cancelled in any province*

*then in addition to a fine or term of imprisonment referred to in section 101(2)*

*(e) his operator's licence is suspended and he is disqualified from holding an operator's licence for a period of 6 months, and*

*(f) if at the time of finding of guilt*

*(i) he is disqualified from holding an operator's licence,*

*(ii) his operator's licence is suspended or cancelled,*

*(iii) his licence or permit to operate a motor vehicle in a jurisdiction outside Alberta is suspended or cancelled, or*

*(iv) his privilege to secure a licence or permit to operate a motor vehicle was suspended or cancelled in any province*

*the period of disqualification and suspension shall run consecutively to that disqualification, suspension or cancellation.*

(21) *Section 109 is amended*

(a) *by repealing subsection (1) and substituting the following:*

**109(1)** When a person is found guilty under section 237 or 238 of the *Criminal Code* (Canada) anywhere in Canada,

(a) that person thereupon becomes disqualified from holding an operator's licence, and

(b) any operator's licence held by that person thereupon becomes suspended,

for a period of 6 months from the date of the finding of guilt.

(b) *by repealing subsection (2);*

(c) *by repealing subsection (3);*

(d) *in subsection (4)*

(i) *by striking out "subsection (1) or (3)" and substituting "subsection (1)";*

(ii) *as to clauses (a) and (b) by striking out "234, 234.1, 235 or 236" and substituting "237 or 238";*

(e) *in subsection (5)*

(i) *as to clause (a) by striking out "234, 234.1, 235 or 236" and substituting "237 or 238";*

(ii) *by repealing clause (b) and substituting the following:*

(b) has, in the preceding 5 years, been found guilty of

(i) 2 offences under section 237 or 238 of the *Criminal Code* (Canada), or

(ii) 1 offence under section 237 of the *Criminal Code* (Canada) and 1 offence under section 238 of the *Criminal Code* (Canada)

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

(f) *by adding the following after subsection (5):*

(5.1) Notwithstanding subsection (1) or (4), when a person

(a) is found guilty under section 237 or 238 of the *Criminal Code* (Canada) anywhere in Canada, and

(b) an order prohibiting that person from driving a motor vehicle on a highway in Canada is made as a result of that conviction and the period of prohibition is a period of time that is greater than that referred to in subsection (1) or (4), as the case may be,

any operator's licence held by that person thereupon becomes suspended and that person thereupon becomes disqualified from holding an operator's licence for that greater period of time.

(g) *in subsection (6) by striking out "234, 234.1, 235 or 236" and substituting "237 or 238";*



(21) Section 109 presently reads:

*109(1) When a person is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code (Canada) anywhere in Canada, that person thereupon becomes disqualified from holding an operator's licence*

*(a) for a period of 3 months from the date of the finding of guilt under section 234.1 or 235 of the Criminal Code (Canada),*

*(b) for a period of 6 months from the date of the finding of guilt under section 234 or 236 of the Criminal Code (Canada),*

*and any operator's licence held by that person thereupon becomes suspended for the same period.*

*(2) When a person is convicted of an offence under section 90(1), the convicted person thereupon becomes disqualified from holding an operator's licence*

*(a) for a period of 3 months from the date of his conviction, or*

*(b) if an order suspending his operator's licence or disqualifying him from holding an operator's licence is made as a result of the conviction, for the period of the suspension or disqualification,*

*whichever is the longer period, and any operator's licence held by the convicted person thereupon becomes suspended for the same period.*

*(3) Notwithstanding subsection (1), when a person is found guilty under section 234 or 236 of the Criminal Code (Canada),*

*(a) if the person has not, within the preceding 5 years, been found guilty under section 234 or 236 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) if that person produces proof satisfactory to the judge hearing the case that he was not actually driving the motor vehicle at the time of the offence,*

*the judge, in his discretion, may make an order reducing the period of disqualification and suspension provided by subsection (1) to any period being not less than 3 months that the judge considers appropriate.*

*(4) Notwithstanding subsection (1) or (3), if a person*

*(a) is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 5 years, been found guilty of an offence under section 234, 234.1, 235 or 236 of the Criminal Code (Canada) anywhere in Canada,*

*that person thereupon becomes disqualified to hold an operator's licence for a period of 12 months from the date of the finding of guilt and any operator's licence held by the person thereupon becomes suspended for the same period.*

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

*(a) is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code (Canada) anywhere in Canada, and*

*(b) has, in the preceding 5 years been found guilty of 2 offences under any 1 or more of sections 234, 234.1, 235 or 236 of the Criminal Code anywhere in Canada unless those 2 offences arose out of the same incident,*

*that person thereupon becomes disqualified from holding an operator's licence and any operator's licence held by that person becomes suspended for a period of 36 months from the date of the finding of guilt.*

- (h) *by repealing subsection (7);*
  - (i) *in subsection (8)*
    - (i) *by striking out “234, 234.1, 235 and 236” and substituting “237 or 238”;*
    - (ii) *by repealing clause (b) and substituting the following:*
      - (b) *for the purposes of subsection (1), the period of disqualification and suspension shall be 6 months and shall run from the date of the earliest finding of guilt respecting those offences.*
  - (j) *by adding the following after subsection (8):*
    - (9) *For the purposes of subsections (4) and (5), a finding of guilt for an offence*
      - (a) *under section 234 or 236 of the *Criminal Code* (Canada) as it read immediately prior to December 4, 1985 is deemed to be a finding of guilt for an offence under section 237 of the *Criminal Code* (Canada) as it read immediately after December 3, 1985, and*
      - (b) *under section 234.1 or 235 of the *Criminal Code* (Canada) as it read immediately prior to December 4, 1985 is deemed to be a finding of guilt for an offence under section 238 of the *Criminal Code* (Canada) as it read immediately after December 3, 1985.*
- (22) *Section 111 is amended*
- (a) *in subsection (1) by adding “236 or 239(2) or (3)” after “section 233”;*
  - (b) *by adding the following after subsection (2):*
    - (2.1) *Notwithstanding subsection (1) or (2), when a person*
      - (a) *is found guilty under section 203, 204, 219, 233, 236 or 239(2) or (3) of the *Criminal Code* (Canada) anywhere in Canada, and*
      - (b) *an order prohibiting that person from driving a motor vehicle on a highway in Canada is made as a result of that conviction and the period of prohibition is a period of time that is greater than that referred to in subsection (1) or (2), as the case may be,*
- any operator’s licence held by that person thereupon becomes suspended and that person thereupon becomes disqualified from holding an operator’s licence for that greater period of time.*
- (23) *Section 112(1) is amended by striking out “subsection 238(3)” wherever it occurs and substituting “subsection 242(4)”.*

(6) *When a person who holds an operator's licence is found guilty under section 234, 234.1, 235 or 236 of the Criminal Code (Canada), the judge hearing the case shall forward the operator's licence of that person to the Minister.*

(7) *For the purposes of subsection (5), a finding of guilt for an offence under section 222 or 223 of the Criminal Code (Canada) as it read immediately before December 31, 1969 is deemed to be a finding of guilt for an offence under section 234 of the Criminal Code (Canada) as it read on and after December 31, 1969.*

(8) *If a person is found guilty of 2 or more offences under sections 234, 234.1, 235 and 236 of the Criminal Code (Canada) anywhere in Canada, and if the offences arose out of the same incident,*

*(a) the findings of guilt for those offences shall, for the purposes of subsections (4)(b) and (5)(b), be considered to constitute only one finding of guilt, which shall be considered to have occurred on the date of the earliest finding of guilt respecting those offences, and*

*(b) for the purposes of subsection (1), the period of disqualification and suspension shall be*

*(i) 3 months if all of the findings of guilt were under section 234.1 or 235, or*

*(ii) 6 months if one or more of the findings of guilt were under section 234 or 236,*

*and the period of disqualification and suspension shall run from the date of the earliest finding of guilt respecting those offences.*

(22) Section 111(1) and (2) presently read:

*111(1) When a person is found guilty anywhere in Canada of an offence under section 233 of the Criminal Code (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

*(2) When a person is found guilty anywhere in Canada of an offence under section 203, 204 or 219 of the Criminal Code (Canada) committed by means of a motor vehicle, that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.*

(23) Section 112(1) presently reads:

*112(1) When a person*

*(a) is found guilty under subsection 238(3) of the Criminal Code (Canada), and*

*(b) has, at any time before, been found guilty under subsection 238(3) of the Criminal Code (Canada) anywhere in Canada,*

*the judge hearing the case may order that the certificate of registration of the motor vehicle being driven at the time of the latest offence be suspended for a period of 30 days in accordance with this section.*

(24) *The following is added after section 112:*

**112.1(1)** When a person is found guilty under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 or 238 of the *Criminal Code* (Canada) anywhere in or out of Canada,

(a) that person thereupon becomes disqualified from holding an operator's licence, and

(b) any operator's licence held by that person thereupon becomes suspended,

for a period of 6 months from the date of the finding of guilt.

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

(a) is found guilty under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 or 238 of the *Criminal Code* (Canada) anywhere in or out of Canada, and

(b) has, in the preceding 5 years, been found guilty of an offence under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 or 238 of the *Criminal Code* (Canada) anywhere in or out of Canada,

that person thereupon becomes disqualified from holding an operator's licence for a period of 12 months from the date of the finding of guilt and any operator's licence held by the person thereupon becomes suspended for the same period.

(3) Notwithstanding anything in subsection (1) or (2), when a person

(a) is found guilty under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 or 238 of the *Criminal Code* (Canada) anywhere in or out of Canada, and

(b) has, in the preceding 5 years, been found guilty of 2 offences under the *National Defence Act* (Canada) by reason that the person, in the preceding 5 years,

(i) twice contravened section 237 or 238 of the *Criminal Code* (Canada), or

(ii) once contravened section 237 of the *Criminal Code* (Canada) and once contravened section 238 of the *Criminal Code* (Canada),

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

that person thereupon becomes disqualified from holding an operator's licence and any operator's licence held by that person becomes suspended for a period of 36 months from the date of the finding of guilt.

(4) If a person is found guilty of 2 or more offences under section 120 of the *National Defence Act* (Canada) by reason that the

(24) Driving offences under the National Defence Act (Canada).

person contravened section 237 or 238 of the *Criminal Code* (Canada) anywhere in or out of Canada, and if the offences arose out of the same incident,

(a) the findings of guilt for those offences shall, for the purposes of subsections (2)(b) and (3)(b), be considered to constitute only one finding of guilt, which shall be considered to have occurred on the date of the earliest finding of guilt respecting those offences, and

(b) for the purposes of subsection (1), the period of disqualification and suspension shall be 6 months and shall run from the date of the earliest finding of guilt respecting those offences.

(5) For the purposes of subsections (2) and (3), a finding of guilt for an offence under section 120 of the *National Defence Act* (Canada) by reason that a person contravened

(a) section 234 or 236 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to December 4, 1985 is deemed to be a finding of guilt under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 237 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately after December 3, 1985, and

(b) section 234.1 or 235 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to December 4, 1985 is deemed to be a finding of guilt under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 238 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately after December 3, 1985.

(6) When a person is found guilty anywhere in or out of Canada of an offence under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 233, 236 or 239(2) or (3) of the *Criminal Code* (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.

(7) When a person is found guilty anywhere in or out of Canada of an offence under section 120 of the *National Defence Act* (Canada) committed by means of a motor vehicle by reason that the person contravened section 203, 204 or 219 of the *Criminal Code* (Canada), that person thereupon becomes disqualified from holding an operator's licence for a period of 6 months from the date of the finding of guilt and any operator's licence held by that person thereupon becomes suspended for the same period.

(8) If a person is found guilty under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 242(4) of the *Criminal Code* (Canada)

(a) that person is thereupon disqualified from holding an operator's licence for a period of 6 months, and



(b) if that person is under suspension or under a prohibition at the time of the finding of guilt, the period of disqualification shall run consecutively with that suspension or prohibition.

(9) Notwithstanding subsection (1), (2), (3), (6), (7) or (8), when a person

(a) is found guilty under section 120 of the *National Defence Act* (Canada) by reason that the person contravened section 203, 204, 219, 233, 237, 238, 239(2) or (3) or 242(4) of the *Criminal Code* (Canada) anywhere in or out of Canada, and

(b) an order prohibiting or suspending that person from driving a motor vehicle on a highway is made as a result of that conviction and the period of prohibition or suspension is a period of time that is greater than that referred to in subsection (1), (2), (3), (6), (7) or (8), as the case may be,

any operator's licence held by that person thereupon becomes suspended and that person thereupon becomes disqualified from holding an operator's licence for that greater period of time.

#### **Off-highway Vehicle Act**

*3(1) The Off-highway Vehicle Act is amended by this section.*

*(2) Section 3(4) is amended by striking out "and liable to a fine of not more than \$5".*

#### **Commencement**

*4 This Act comes into force on October 1, 1986.*



#### **Off-highway Vehicle Act**

**3**(1) This section will amend chapter O-4 of the Revised Statutes of Alberta 1980.

(2) Section 3(4) presently reads:

*(4) A person who contravenes subsection (1) or (3) is guilty of an offence and liable to a fine of not more than \$5.*