

2017 Bill 29

Third Session, 29th Legislature, 66 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 29

**AN ACT TO REDUCE CANNABIS AND
ALCOHOL IMPAIRED DRIVING**

THE MINISTER OF TRANSPORTATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 29

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2017

AN ACT TO REDUCE CANNABIS AND ALCOHOL IMPAIRED DRIVING

(Assented to _____, 2017)

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2 Section 38 is repealed.

Explanatory Notes

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

2 Section 38 presently reads:

38(1) Where

- (a) a person's operator's licence is suspended under section 86(1), or*
- (b) a person is disqualified from holding an operator's licence under section 86(2),*

that person may appeal the imposition of or the length of the suspension or disqualification to the Board.

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

- (a) confirm the suspension or disqualification;*
- (b) reduce, with or without conditions, the term of suspension or disqualification;*
- (c) cancel the disqualification;*

3 Section 39.1 is amended

(a) in subsection (3)

(i) in clause (b.1) by striking out “or notice of disqualification”;

(ii) by striking out “section 88” **wherever it appears and substituting** “section 90”;

(b) in subsection (5)(c) by adding “a drug or” **after** “consumed”;

(c) in subsection (6)(c) by adding “a drug or” **after** “consumed”.

(d) terminate the suspension.

3 Section 39.1 presently reads in part:

39.1(3) In an appeal under this section, the Board shall consider

- (a) any relevant sworn or solemnly affirmed statements and any other relevant information;*
- (b) the report of the peace officer;*
- (b.1) the certificate of annual maintenance of the approved screening device issued immediately before the issuance of the notice of suspension or notice of disqualification under section 88;*
- (b.2) the records of the last calibration of the approved screening device immediately before the test administered under section 88;*
- (c) where an oral hearing is held, in addition to the matters referred to in clauses (a), (b), (b.1) and (b.2), any relevant evidence and information given or presentations made at the hearing.*

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

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

the Board must confirm the suspension.

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

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

4 Section 39.2 is amended

(a) in subsection (5) by adding the following after clause (a):

- (a.1) the person had within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood drug concentration equal to or exceeding any blood drug concentration for the drug prescribed by regulation under the *Criminal Code* (Canada),
- (a.2) the person had within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined,

(b) in subsection (6) by adding the following after clause (a):

- (a.1) that the person did not have within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood drug concentration equal to or exceeding any blood drug concentration for the drug prescribed by regulation under the *Criminal Code* (Canada),
- (a.2) that the person did not have within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug

the Board must

- (e) cancel the suspension, and*
- (f) direct the return to that person of any fees paid to the Government by the person in respect of the appeal conducted under this section.*

4 Section 39.2 presently reads in part:

39.2(5) If, after conducting an appeal under this section, the Board is satisfied that

- (a) the person drove a motor vehicle having consumed a drug, alcohol or a combination of a drug and alcohol in such a quantity that the person's ability to operate the motor vehicle was impaired at any time within 3 hours after having driven a motor vehicle,*
- (b) the person drove a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in that person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, or*
- (c) the person, with respect to the driving of a motor vehicle, failed or refused, without a reasonable excuse, to comply with a demand made on that person under section 254 of the Criminal Code (Canada),*

the Board must confirm the suspension or disqualification.

(6) If, after conducting an appeal under this section, the Board is satisfied

- (a) that the person did not drive a motor vehicle having consumed a drug, alcohol or a combination of a drug and alcohol in such a quantity that the person's ability to operate the motor vehicle was impaired at any time within 3 hours after having driven a motor vehicle,*
- (b) that the person did not drive a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in that person's blood exceeded 80 milligrams of*

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

- (a.3) that the person
 - (i) consumed the drug or the alcohol or both after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle, and
 - (ii) after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle, had no reasonable expectation that the person would be required to provide a sample of breath, blood or a bodily substance,

5 The following is added after section 39.2:

Appeals re mandatory use of alcohol-sensing device re section 88.1 or 88.11

39.21(1) Where the Registrar

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

alcohol in 100 millilitres of blood at any time within 3 hours after having driven a motor vehicle, or

(c) that, with respect to the driving of a motor vehicle,

(i) the person did not fail or refuse to comply with a demand made on that person under section 254 of the Criminal Code (Canada), or

(ii) the person had a reasonable excuse for failing or refusing to comply with the demand referred to in subclause (i),

the Board must cancel the suspension or disqualification and direct the return to that person of any fees paid to the Government by that person in respect of the appeal conducted under this section.

5 Appeals re mandatory use of alcohol-sensing device re section 88.1 or 88.11.

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

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

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

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

6 Section 45 is amended by adding “evidence of payment of” before “the prescribed fee”.

6 Section 45 presently reads:

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

7 Section 46 is repealed and the following is substituted:

Reconsideration re appeals

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

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

8 Section 64 is amended by adding the following after clause (s):

- (s.1) respecting the use, processing and filing of electronic documents;
- (s.2) with respect to documents, whether in electronic or non-electronic form, that are to be signed,
 - (i) respecting the signing of those documents, which may include dispensing with any requirement that the documents be signed;
 - (ii) providing for those documents, instead of being signed, to be marked, subscribed, endorsed, acknowledged or given any other form of signification or to be otherwise dealt with, and governing any matter relating to
 - (A) the marking, subscribing, endorsing, acknowledging or signification of or dealing with those documents, and

(2) An appeal under this Division shall not be commenced at any time after 30 days have expired from the day that the person requesting the appeal is served with the written notice of the decision or action, as the case may be, in respect of which the appeal is being commenced.

7 Section 46 presently reads:

46(1) Where the Board has conducted an appeal and made a decision under this Division, the Board shall on the application of the person who is the subject of the decision reconsider the decision.

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

8 Section 64 presently reads in part:

64 The Minister may make regulations

- (s) governing forms and similar documents and their electronic versions used for the purposes of this Act;*

(B) the effect to be given to those documents;

9 Section 83 is amended by adding the following after subsection (8):

(9) For the purposes of subsections (2) and (3), a finding of guilt for an offence

- (a) under section 253 of the *Criminal Code* (Canada) as it read immediately prior to the coming into force of Part 1 of the Federal Bill is deemed to be a finding of guilt for an offence under section 253 of the *Criminal Code* (Canada) as it read immediately on and after the coming into force of Part 1 of the Federal Bill, and
- (b) under section 254 of the *Criminal Code* (Canada) as it read immediately prior to the coming into force of Part 1 of the Federal Bill is deemed to be a finding of guilt for an offence under section 254 of the *Criminal Code* (Canada) as it read immediately on and after the coming into force of Part 1 of the Federal Bill.

(10) In subsection (9), “the Federal Bill” means Bill C-46, introduced in the 1st session of the 42nd Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

9 Section 83 presently reads in part:

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

- (a) is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and*
- (b) has, in the preceding 10 years, been found guilty of an offence under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada,*

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 3 years from the day of the finding of guilt.

(2.1) In establishing for the purposes of subsection (2) whether a person has been found guilty of an offence under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada and has been found guilty within the preceding 10 years of an offence under either of those sections anywhere in Canada, the only question to be considered is the sequence of the findings of guilt and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a finding of guilt.

(3) Notwithstanding anything in this section, when a person

- (a) is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and*
- (b) has, in the preceding 10 years, been found guilty of*
 - (i) 2 offences under section 253 or 254 of the Criminal Code (Canada), or*
 - (ii) one offence under section 253 of the Criminal Code (Canada) and one offence under section 254 of the Criminal Code (Canada)*

10 Section 85 is amended by adding the following after subsection (7):

(7.1) For the purposes of subsections (2) and (3), a finding of guilt for an offence

- (a) under section 130 of the *National Defence Act* (Canada) by reason that a person contravened section 253 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to the coming into force of Part 1 of the Federal Bill is deemed to be a finding of guilt under section 130 of the *National Defence Act* (Canada) by reason that the person contravened section 253 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately on and after the coming into force of Part 1 of the Federal Bill, and
- (b) under section 130 of the *National Defence Act* (Canada) by reason that a person contravened section 254 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to the coming into force of Part 1 of the Federal Bill is deemed to be a finding of guilt under section 130 of the *National Defence Act* (Canada) by reason that the person contravened section 254 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately on and after the coming into force of Part 1 of the Federal Bill.

(7.2) In subsection (7.1), “the Federal Bill” means Bill C-46, introduced in the 1st session of the 2nd Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

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

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

10 Section 85 presently reads in part:

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

- (a) is found guilty under section 130 of the National Defence Act (Canada) by reason that the person contravened section 253 or 254 of the Criminal Code (Canada) anywhere in or out of Canada, and*
- (b) has, in the preceding 10 years, been found guilty of an offence under section 130 of the National Defence Act (Canada) by reason that the person contravened section 253 or 254 of the Criminal Code (Canada) anywhere in or out of Canada,*

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 3 years from the day of the finding of guilt.

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

- (a) is found guilty under section 130 of the National Defence Act (Canada) by reason that the person contravened section 253 or 254 of the Criminal Code (Canada) anywhere in or out of Canada, and*
- (b) has, in the preceding 10 years, been found guilty of 2 offences under the National Defence Act (Canada) by reason that the person, in the preceding 10 years,*
 - (i) twice contravened section 253 or 254 of the Criminal Code (Canada), or*
 - (ii) once contravened section 253 of the Criminal Code (Canada) and once contravened section 254 of the Criminal Code (Canada),*

11 Section 87.1(b) is repealed and the following is substituted:

- (b) a person appointed under the *Peace Officer Act* as a peace officer for the purposes of this Act.

12 Section 88 is amended by adding the following after subsection (6):

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

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

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

11 Section 87.1 presently reads:

87.1 In sections 88, 88.1 and 90, “peace officer” means

- (a) a police officer as defined in section 1 of the Police Act;*
- (b) a person appointed under the Peace Officer Act as a peace officer for the purposes of sections 88, 88.1 and 90 of this Act who*
 - (i) has been authorized under section 7(2)(e) of the Peace Officer Act to use the title of sheriff,*
 - (ii) has satisfied any applicable terms and conditions under the Peace Officer Act, and*
 - (iii) has been designated by the Minister of Justice and Solicitor General as qualified to enforce sections 88, 88.1 and 90 of this Act.*

12 Section 88(6) presently reads:

- (6) Notwithstanding subsection (3), where the person voluntarily*
 - (a) attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, and undergoes a test using an approved instrument, or*
 - (b) forthwith provides a 2nd breath sample into an approved screening device that is different from the device used for the test under subsection (2)(a),*

the purpose of which is to show the proportion of alcohol in the person’s blood, and the result of that test indicates that the proportion of alcohol in the person’s blood is not equal to nor exceeds 50 milligrams of alcohol in 100 millilitres of blood, the

13 Section 88.1 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):

- (a) “approved instrument” means a device that is designed to receive and make an analysis of a sample of the breath of a person in order to measure the concentration of alcohol in that person’s blood and that is
- (i) an approved instrument within the meaning of section 254 of the *Criminal Code* (Canada), or
 - (ii) approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;

(ii) in clauses (a.1) and (b) by striking out “(2)” and substituting “(2.2)”;

(b) by repealing subsection (2) and substituting the following:

(2) Subject to subsection (2.1), where a peace officer has reasonable grounds to believe any of the following, the peace officer shall, on behalf of the Registrar, take the actions set out in subsection (2.2):

- (a) that a person operated a motor vehicle or had care or control of a motor vehicle while the person’s ability to operate the motor vehicle was impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;
- (b) by reason of an analysis of the breath or blood of a person, that a person operated a motor vehicle or had care or control of a motor vehicle having consumed alcohol in such a quantity that the concentration of

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

13 Section 88.1 presently reads:

88.1(1) In this section,

- (a) "notice of disqualification" means a notice of disqualification served under subsection (2);*
- (b) "notice of suspension" means a notice of suspension served under subsection (2).*

(2) Where

- (a) a peace officer has charged a person with an offence under section 253, subsection 254(5) or section 255 of the Criminal Code (Canada),*

the peace officer shall, on behalf of the Registrar,

- (b) in the case of a person who holds an operator's licence,*
 - (i) require that person to surrender to the peace officer that person's operator's licence, and*
 - (ii) serve on that person a notice of suspension of that person's operator's licence;*
- (c) in the case of a person who holds a licence or permit issued in another jurisdiction that permits the person to operate a motor vehicle, serve on that person a notice of disqualification*
 - (i) disqualifying that person from operating a motor vehicle in Alberta, and*
 - (ii) disqualifying that person from applying for or holding an operator's licence;*
- (d) in the case of a person who does not hold an operator's licence, serve on that person a notice of disqualification disqualifying that person from applying for or holding an operator's licence.*

alcohol in the person's blood exceeded 80 milligrams of alcohol in 100 millilitres of blood at any time within 3 hours after operating or having care or control of the motor vehicle;

- (c) by reason of an analysis of the bodily substance of a person, that a person has within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood drug concentration that is equal to or exceeds any blood drug concentration for the drug that is prescribed by regulation under section 253.1 of the *Criminal Code* (Canada);
- (d) by reason of an analysis of the breath, blood or bodily substance of a person, or any combination of them, that a person has within 2 hours after ceasing to operate a motor vehicle or ceasing to have care or control of a motor vehicle a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined;
- (e) that a person failed or refused, without a reasonable excuse, to comply with a demand made on the person to supply a sample of his or her breath, blood or bodily substance under section 254 of the *Criminal Code* (Canada) in respect of the operation or care or control of a motor vehicle.

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

- (a) the person consumed the drug or alcohol or both after ceasing to operate the motor vehicle or ceasing to have care and control of the motor vehicle, and
- (b) the person, after ceasing to operate the motor vehicle or ceasing to have care and control of the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of breath or blood.

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

(3) *Where*

- (a) *a person's operator's licence is surrendered under subsection (2)(b), that person is immediately disqualified from driving a motor vehicle in Alberta and remains so disqualified until the disposition of the criminal charge referred to in subsection (2)(a);*
- (b) *a notice of suspension is served on a person under subsection (2)(b), the suspension, with respect to the surrendered operator's licence, takes effect immediately and remains in effect until the disposition of the criminal charge referred to in subsection (2)(a);*
- (c) *a notice of disqualification is served on a person under subsection (2)(c), that person is immediately disqualified from driving a motor vehicle in Alberta, and the disqualification remains in effect until the disposition of the criminal charge referred to in subsection (2)(a);*
- (d) *a notice of disqualification is served on a person under subsection (2)(d), the disqualification takes effect immediately on the service of the notice and remains in effect until the disposition of the criminal charge referred to in subsection (2)(a).*

(4) *Notwithstanding that a person refuses or fails*

- (a) *to accept from a peace officer service of a notice of suspension or a notice of disqualification, that notice is deemed to have been served at the time that the peace officer attempted to serve that notice on that person;*
- (b) *to surrender an operator's licence, that refusal or failure does not prevent the suspension or disqualification from taking effect;*
- (c) *to accept service of a notice of suspension or a notice of disqualification, that refusal or failure does not prevent the suspension or disqualification from taking effect.*

- (a) in the case of a person who holds an operator's licence,
 - (i) require that person to surrender to the peace officer that person's operator's licence, and
 - (ii) serve on that person a notice of suspension of that person's operator's licence;
- (b) in the case of a person who holds a licence or permit issued in another jurisdiction that permits the person to operate a motor vehicle, serve on that person a notice of disqualification
 - (i) disqualifying that person from operating a motor vehicle in Alberta, and
 - (ii) disqualifying that person from applying for or holding an operator's licence;
- (c) in the case of a person who does not hold an operator's licence, serve on that person a notice of disqualification disqualifying that person from applying for or holding an operator's licence.

(c) in subsection (3)

(i) in clause (a)

(A) by striking out “(2)(b)” and substituting “(2.2)(a)”;

(B) by striking out “until the disposition of the criminal charge referred to in subsection (2)(a);” and substituting:

- (i) for an immediate period of 90 days, and
- (ii) following the expiration of the term in subclause (i), for a further period of one year;

(ii) in clause (b)

(A) by striking out “(2)(b)” and substituting “(2.2)(a)”;

(B) by striking out “until the disposition of the criminal charge referred to in subsection (2)(a);” and substituting:

- (i) for an immediate period of 90 days, and
- (ii) following the expiration of the term in subclause (i), for a further period of one year;

(iii) in clause (c)

(A) by striking out “(2)(c)” and substituting “(2.2)(b)”;

(B) by striking out “until the disposition of the criminal charge referred to in subsection (2)(a);” and substituting:

- (i) for an immediate period of 90 days, and
- (ii) following the expiration of the term in subclause (i), for a further period of one year;

(iv) in clause (d)

(A) by striking out “(2)(d)” and substituting “(2.2)(c)”;

(B) by striking out “until the disposition of the criminal charge referred to in subsection (2)(a).” and substituting:

- (i) for an immediate period of 90 days, and
- (ii) following the expiration of the term in subclause (i), for a further period of one year.

(d) by adding the following after subsection (3):

(3.1) On the expiration of a disqualification or suspension imposed under subsection (3)(a)(i), (3)(b)(i), (3)(c)(i) or (3)(d)(i) a person may apply to the Registrar to set aside the operation of the disqualification or suspension imposed under subsection (3)(a)(ii), (3)(b)(ii), (3)(c)(ii) or (3)(d)(ii).

(3.2) The Registrar may set aside the operation of a disqualification or suspension imposed under subsection (3)(a)(ii), (3)(b)(ii), (3)(c)(ii) or (3)(d)(ii) only on the condition that the person who is subject to the disqualification or suspension

- (a) does not operate a motor vehicle unless the vehicle is equipped with an alcohol-sensing device satisfactory to the Registrar, and
- (b) complies with any terms or conditions imposed by the Registrar.

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

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

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

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

(3.7) Notwithstanding

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

licence and the disqualification from driving are terminated;

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

from operating a motor vehicle in Alberta and applying for or holding an operator's licence are terminated;

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

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

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

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

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

and the person is a novice driver as defined in section 90(1)(c), the peace officer shall take the action set out in section 90(4).

14 The following is added after section 88.1:

Transitional regarding existing section 88.1 disqualifications or suspensions

88.11(1) On the coming into force of section 13(c) of the *Traffic Safety Amendment Act, 2017*:

- (a) a disqualification or suspension that was imposed under section 88.1(3) one year or more before the coming into force of section 13(c) of the *Traffic Safety Amendment Act, 2017* immediately comes to an end;
- (b) a disqualification or suspension that was imposed under section 88.1(3) less than one year before the coming into force of section 13(c) of the *Traffic Safety Amendment Act, 2017* continues until the person thus disqualified or suspended has been disqualified or suspended for 90 days.

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

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

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

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

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

14 Transitional regarding existing section 88.1 disqualifications and suspensions.

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

(5) Notwithstanding subsection (2), the Registrar may consider and grant or refuse an application for exemption from subsection (2) where it is not feasible for the disqualified person to comply with the requirement for the use of an alcohol-sensing device as prescribed in this section.

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

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

15 Section 90 is amended

(a) in subsection (1)

(i) by renumbering clause (a) as clause (a.01), and by adding the following before clause (a.01):

(a) "approved drug screening equipment" means equipment that is designed to receive and make an analysis of a sample of the bodily substance of a person in order to measure the concentration of a drug in that person's blood and that is

(i) approved drug screening equipment within the meaning of section 254 of the *Criminal Code* (Canada), or

(ii) approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;

15 Section 90 presently reads in part:

90(1) In this section,

(a) “approved instrument” means a device that is designed to receive and make an analysis of a sample of the breath of a person in order to measure the concentration of alcohol in that person’s blood and that is

(i) an approved instrument within the meaning of section 254 of the Criminal Code (Canada), or

(ii) approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;

(3) On being required to provide a breath sample under subsection (2), the novice driver must provide a breath sample forthwith.

(4) Where a person who is a novice driver provides a breath sample under subsection (3) and the breath sample registers a result on the

(ii) by adding the following after clause (a.1):

(a.2) “drug” means any drug for which a blood drug concentration is prescribed by regulation under the *Criminal Code* (Canada);

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

(2.1) If a peace officer reasonably suspects that the driver of a motor vehicle who is a novice driver, having consumed a drug, drove the motor vehicle, the peace officer may require that the novice driver forthwith provide a bodily substance sample for analysis by approved drug screening equipment.

(c) by adding the following after subsection (3):

(3.1) On being required to provide a bodily substance sample under subsection (2.1), the novice driver must provide a bodily substance sample forthwith.

(d) by adding the following after subsection (4):

(4.1) Where a person who is a novice driver provides a bodily substance sample under subsection (3.1) and the bodily substance sample registers a result on the approved drug screening equipment that indicates the presence of a drug in that person’s blood, the peace officer shall, on behalf of the Registrar, require that person to surrender to the peace officer that person’s novice operator’s licence and serve on that person a notice of suspension of that person’s novice operator’s licence.

(e) in subsection (5) by adding “or (4.1)” after “(4)”;

(f) by adding the following after subsection (7.1):

(7.2) Notwithstanding subsection (5), if the novice driver voluntarily attends forthwith at a place designated by the peace officer and accompanies the peace officer to that place, if necessary, provides a sample of blood and undergoes a test and the result of that test indicates that there is no drug in the novice driver’s blood, the peace officer shall forthwith return the novice operator’s licence, if any, to the novice driver and the disqualification from driving is terminated.

approved screening device or approved instrument that indicates the presence of alcohol in that person's blood, the peace officer shall, on behalf of the Registrar, require that person to surrender to the peace officer that person's novice operator's licence and serve on that person a notice of suspension of that person's novice operator's licence.

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

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

16 Section 157(1) is amended by adding "90(3.1)," after "90(3)."

17 Section 39.2 is amended

- (a) in subsection (3)(c) by striking out "258" and substituting "320.32";**
- (b) by repealing subsections (5) and (6) and substituting the following:**
 - (5)** If, after conducting an appeal under this section, the Board is satisfied of any of the following, the Board must confirm the suspension or disqualification:
 - (a)** that the person operated a motor vehicle while the person's ability to operate it was impaired to any degree by alcohol or a drug or by a combination of alcohol and a drug;

16 Section 157(1) presently reads:

157(1) A person is guilty of an offence who contravenes or fails to comply with one or more of the following:

- (a) section 51, 52(1), 53, 54(1), 61(2), 65, 66(5), 68(2), 69(1), 69(2), 69(3), 69(4), 69(5), 69(6), 70, 71, 76(1), 80, 90(3), 94(2), 111, 115(2), 115.1, 115.2, 115.3, 115.4, 119(1), 120(2), 120(3), 121, 123(2), 123(3), 126, 128.1(2), 131(1), 137, 138, 140(1), 145, 147, 166(2), 166(3), 166(4), 173(5), 176(2), 183 or 188;*
- (b) a regulation made under this statute where the regulation specifies that it is an offence to contravene or fail to comply with the regulation;*
- (c) a certificate as defined in section 130(1)(c);*
- (d) an order made under section 120(4);*
- (e) a permit;*
- (f) any terms or conditions to which a certificate as defined in section 130(1)(c) or a permit is subject.*

17 Update terminology and references.

- (b) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood alcohol concentration equal to or exceeding 80 milligrams of alcohol in 100 millilitres of blood;
- (c) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood drug concentration equal to or exceeding any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code* (Canada);
- (d) that within 2 hours after ceasing to operate a motor vehicle, the person had a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined;
- (e) knowing that a demand had been made, the person failed or refused to comply with a demand made under section 320.27 or 320.28 of the *Criminal Code* (Canada) without a reasonable excuse.

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

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

concentration for the drug that is prescribed by regulation under the *Criminal Code* (Canada);

- (d) that within 2 hours after ceasing to operate a motor vehicle, the person did not have a blood alcohol concentration and a blood drug concentration equal to or exceeding the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined;
- (e) that the person did not fail or refuse to comply with a demand made under section 320.27 or 320.28 of the *Criminal Code* (Canada);
- (f) that the person had a reasonable excuse for failing or refusing to comply with a demand made under section 320.27 or 320.28 of the *Criminal Code* (Canada);
- (g) that
 - (i) the person consumed alcohol after ceasing to operate the motor vehicle,
 - (ii) the person, after ceasing to operate the motor vehicle, had no reasonable expectation that the person would be required to provide a sample of breath or blood, and
 - (iii) the person's alcohol consumption is consistent with the person's blood alcohol concentration as determined in accordance with subsection 320.31(1) or (2) of the *Criminal Code* (Canada) and with the person having had, at the time when the person was operating the motor vehicle, a blood alcohol concentration that was less than 80 milligrams of alcohol in 100 millilitres of blood;
- (h) that the person
 - (i) consumed the drug after ceasing to operate the motor vehicle, and

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

18 Section 83 is amended

(a) by repealing subsection (3)(b)(ii) and substituting the following:

- (ii) one offence under section 320.14 of the *Criminal Code* (Canada) and one offence under section 320.15 of the *Criminal Code* (Canada)

(b) by repealing subsection (3.1)(b)(ii) and substituting the following:

- (ii) one offence under section 320.14 of the *Criminal Code* (Canada) and one offence under section 320.15 of the *Criminal Code* (Canada)

(c) by adding the following after subsection (10):

(11) For the purposes of subsections (2) and (3), a finding of guilt for an offence

18 Section 83 presently reads in part:

83(3) Notwithstanding anything in this section, when a person

(a) is found guilty under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and

(b) has, in the preceding 10 years, been found guilty of

(i) 2 offences under section 253 or 254 of the Criminal Code (Canada), or

(ii) one offence under section 253 of the Criminal Code (Canada) and one offence under section 254 of the Criminal Code (Canada)

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

- (a) under section 253 of the *Criminal Code* (Canada) as it read immediately prior to the coming into force of Part 2 of the Federal Bill is deemed to be a finding of guilt for an offence under section 320.14 of the *Criminal Code* (Canada) as it read immediately on and after the coming into force of Part 2 of the Federal Bill, and
- (b) under section 254 of the *Criminal Code* (Canada) as it read immediately prior to the coming into force of Part 2 of the Federal Bill is deemed to be a finding of guilt for an offence under section 320.15 of the *Criminal Code* (Canada) as it read immediately on and after the coming into force of Part 2 of the Federal Bill.

(12) In subsection (11), “the Federal Bill” means Bill C-46, introduced in the 1st session of the 42nd Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

19 Section 84 is amended by striking out “section 259(4)” and substituting “section 320.18”.

20 Section 85 is amended

- (a) **by repealing subsection (3)(b)(ii) and substituting the following:**
 - (ii) once contravened section 320.14 of the *Criminal Code* (Canada) and once contravened section 320.15 of the *Criminal Code* (Canada)
- (b) **by adding the following after subsection (7.2):**

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

(3.1) In establishing for the purposes of subsection (3) whether a person

(a) has been found guilty of an offence under section 253 or 254 of the Criminal Code (Canada) anywhere in Canada, and

(b) has been found guilty within the preceding 10 years of

(i) 2 offences under section 253 or 254 of the Criminal Code (Canada), or

(ii) one offence under section 253 of the Criminal Code (Canada) and one offence under section 254 of the Criminal Code (Canada)

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

the only question to be considered is the sequence of the findings of guilt and no consideration shall be given to the sequence of commission of offences or to whether an offence occurred before or after a finding of guilt.

19 Section 84 presently reads:

84 If a person is found guilty anywhere in Canada of an offence under section 259(4) of the Criminal Code (Canada), that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of 6 months from the day of the finding of guilt.

20 Section 85 presently reads in part:

85(3) Notwithstanding anything in subsection (1) or (2), when a person

(a) is found guilty under section 130 of the National Defence Act (Canada) by reason that the person contravened section 253 or 254 of the Criminal Code (Canada) anywhere in or out of Canada, and

(7.3) For the purposes of subsections (2) and (3), a finding of guilt for an offence

- (a) under section 130 of the *National Defence Act* (Canada) by reason that a person contravened section 253 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to the coming into force of Part 2 of the Federal Bill is deemed to be a finding of guilt under section 130 of the *National Defence Act* (Canada) by reason that the person contravened section 320.14 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately on and after the coming into force of Part 2 of the Federal Bill, and
- (b) under section 130 of the *National Defence Act* (Canada) by reason that a person contravened section 254 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately prior to the coming into force of Part 2 of the Federal Bill is deemed to be a finding of guilt under section 130 of the *National Defence Act* (Canada) by reason that the person contravened section 320.15 of the *Criminal Code* (Canada) as the *Criminal Code* (Canada) read immediately on and after the coming into force of Part 2 of the Federal Bill.

(7.4) In subsection (7.3), “the Federal Bill” means Bill C-46, introduced in the 1st session of the 2nd Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*.

- (c) **in subsection (8) by striking out** “249(1), 249.1(1) or 252(1)” **and substituting** “320.13(1), 320.16(1) or section 320.17”;
- (d) **in subsection (9) by striking out** “249(3) or (4), 249.1(3), 252(1.2) or (1.3)” **and substituting** “320.13(2) or (3), 320.16(2) or (3)”;
- (e) **in subsection (11) by striking out** “subsection 259(4)” **and substituting** “section 320.18”.

(b) has, in the preceding 10 years, been found guilty of 2 offences under the National Defence Act (Canada) by reason that the person, in the preceding 10 years,

(i) twice contravened section 253 or 254 of the Criminal Code (Canada), or

(ii) once contravened section 253 of the Criminal Code (Canada) and once contravened section 254 of the Criminal Code (Canada),

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

that person on being found guilty of the offence referred to in clause (a) becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

(8) When a person is found guilty anywhere in or out of Canada of an offence under section 130 of the National Defence Act (Canada) by reason that the person contravened subsection 249(1), 249.1(1) or 252(1) of the Criminal Code (Canada), that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of one year from the day of the finding of guilt.

(9) When a person is found guilty anywhere in or out of Canada of an offence under section 130 of the National Defence Act (Canada) by reason that the person contravened subsection 249(3) or (4), 249.1(3), 252(1.2) or (1.3) of the Criminal Code (Canada), that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

21 Section 87 is amended

- (a) in subsection (1) by striking out “249(1) or 249.1(1), 249.4(1) or 252(1)” and substituting “320.13(1), 320.16(1) or section 320.17”;**
- (b) in subsection (2) by striking out “249(3) or (4) or 249.1(3), section 249.2 or 249.3 or subsection 249.4(3) or (4), 252(1.2) or (1.3) or 255(2), (2.1), (2.2), (3), (3.1) or (3.2)” and substituting “320.13(2) or (3) or 320.14(2) or (3) or 320.15(2) or (3) or 320.16(2) or (3)”.**

22 Section 88 is amended

- (a) in subsection (1)(a)(i) and (b)(i) by striking out “254” and substituting “320.11”;**
- (b) in subsection (8)(a)(ii)(D) by striking out “section 254” and substituting “section 320.27 or 320.28”.**

21 Section 87 presently reads in part:

87(1) When a person is found guilty under subsection 249(1) or 249.1(1), 249.4(1) or 252(1) of the Criminal Code (Canada) anywhere in Canada, that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of one year from the day of the finding of guilt.

(2) When a person is found guilty under subsection 249(3) or (4) or 249.1(3), section 249.2 or 249.3 or subsection 249.4(3) or (4), 252(1.2) or (1.3) or 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the Criminal Code (Canada) anywhere in Canada, that person on being found guilty becomes disqualified from driving a motor vehicle in Alberta for a period of 5 years from the day of the finding of guilt.

22 Section 88 presently reads in part:

88(1) In this section,

- (a) “approved instrument” means a device that is designed to receive and make an analysis of a sample of the breath of a person in order to measure the concentration of *alcohol in that person’s blood and that is*
 - (i) *an approved instrument within the meaning of section 254 of the Criminal Code (Canada), or*
 - (ii) *approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;*
- (b) “approved screening device” means a device that is designed to ascertain the presence of alcohol in a person’s blood and that is
 - (i) *an approved screening device within the meaning of section 254 of the Criminal Code (Canada), or*
 - (ii) *approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;*
- (c) “notice of disqualification” means a notice of disqualification served under subsection (2);
- (d) “notice of suspension” means a notice of suspension served under subsection (2).

23 Section 88.1(2) and (2.1) are repealed and the following is substituted:

(2) Subject to subsection (2.1), where a peace officer has reasonable grounds to believe any of the following, the peace officer shall, on behalf of the Registrar, take the actions set out in subsection (2.2):

- (a) that a person operated a motor vehicle while the person's ability to operate the motor vehicle was impaired to any

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

(a) when a peace officer decides to lay an information against the driver alleging that the driver has, in contravention of the Criminal Code (Canada), committed any offence

(i) involving the actual driving of a motor vehicle by the driver, and

(ii) involving

(A) the condition of the driver or the amount of alcohol in the driver's blood, as the case may be, resulting from the consumption by the driver of alcohol,

(B) the condition of the driver resulting from the introduction by the driver into the driver's body of any drug or other substance,

(C) the condition of the driver resulting from the introduction by the driver into the driver's body of a combination of alcohol and a drug, or

(D) the driver, with respect to the driving of a motor vehicle, having failed or refused, without a reasonable excuse, to comply with a demand made on that driver under section 254 of the Criminal Code (Canada),

or

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

23 Update terminology and references.

degree by alcohol or a drug or by a combination of alcohol and a drug;

- (b) that a person has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration that is equal to or exceeds 80 milligrams of alcohol in 100 millilitres of blood;
- (c) that a person has within 2 hours after ceasing to operate a motor vehicle a blood drug concentration that is equal to or exceeds any blood drug concentration for the drug that is prescribed by regulation under the *Criminal Code* (Canada);
- (d) that a person has within 2 hours after ceasing to operate a motor vehicle a blood alcohol concentration and a blood drug concentration that is equal to or exceeds the blood alcohol concentration and the blood drug concentration for the drug that are prescribed by regulation under the *Criminal Code* (Canada) for instances where alcohol and that drug are combined;
- (e) that a person, knowing that a demand has been made, failed or refused, without a reasonable excuse, to comply with a demand made on the person under section 320.27 or 320.28 of the *Criminal Code* (Canada).

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

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

operating the motor vehicle, a blood alcohol concentration that was less than 80 milligrams of alcohol in 100 millilitres of blood;

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

24 Section 88.2 is amended

- (a) **in subsections (1) and (3) by striking out** “section 253, 254 or 255” **and substituting** “section 320.14 or 320.15”;
- (b) **in subsections (5)(b) and (5.1) by striking out** “section 255” **and substituting** “subsection 320.14(2) or (3) or 320.15(2) or (3)”.

24 Section 88.2 presently reads in part:

88.2(1) Where a person has been disqualified arising out of the person being found guilty under section 253, 254 or 255 of the Criminal Code (Canada), on the expiration of the disqualification imposed by a court, the person may apply to the Registrar to set aside the operation of a disqualification imposed under this Act.

25 Section 89(5)(a)(ii)(D) is amended by striking out “section 254” and substituting “section 320.27 or 320.28”.

(3) Notwithstanding section 92, where a person has been disqualified arising out of the person being found guilty under section 253, 254 or 255 of the Criminal Code (Canada), on the expiration of the disqualification imposed under this Act, the person may apply to the Registrar for the reinstatement or issuance of an operator's licence to the person who was subject to the disqualification.

(5) The term during which the person must not operate a motor vehicle without an alcohol-sensing device as described in subsections (2) and (4) is

(a) for convictions under section 253 or 254 of the Criminal Code (Canada),

(i) one year for a first conviction;

(ii) 3 years for a 2nd conviction within 10 years;

(iii) 5 years for a 3rd or subsequent conviction within 10 years;

(b) for convictions under section 255 of the Criminal Code (Canada), up to 5 years, as determined by the Registrar.

(5.1) A conviction under section 255 of the Criminal Code (Canada) is deemed to be a conviction in determining whether a conviction is a 2nd, 3rd or subsequent conviction for the purposes of subsection (5)(a).

25 Section 89 presently reads in part:

89(5) With respect to a driver of a motor vehicle, this section does not apply to a case arising out of the circumstances described in subsection (1)

(a) when a peace officer decides to lay an information against the driver alleging that the driver has, in contravention of the Criminal Code (Canada), committed any offence

(i) involving the actual driving of a motor vehicle by the driver, and

(ii) involving

26 Section 90(1) is amended

(a) by repealing clause (a) and substituting the following:

- (a) “approved drug screening equipment” means equipment that is designed to ascertain the presence of a drug in a person’s body and that is
 - (i) approved drug screening equipment within the meaning of section 320.11 of the *Criminal Code* (Canada), or
 - (ii) approved under this Act by the Lieutenant Governor in Council to be used for the purposes of this section;

(b) in clause (a.1) by striking out “254” and substituting “320.11”.

27 Section 98(1)(b) is amended by striking out “259” and substituting “320.24”.

- (A) *the condition of the driver or the amount of alcohol in the driver's blood, as the case may be, resulting from the consumption by the driver of alcohol,*
- (B) *the condition of the driver resulting from the introduction by the driver into the driver's body of any drug or other substance,*
- (C) *the condition of the driver resulting from the introduction by the driver into the driver's body of a combination of alcohol and a drug, or*
- (D) *the driver, with respect to the driving of a motor vehicle, having failed or refused, without a reasonable excuse, to comply with a demand made on that person under section 254 of the Criminal Code (Canada),*

or

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

26 Update terminology and references.

27 Section reference changes.

28 Section 172.1 is amended by striking out “section 253, 254 or 255” **and substituting** “section 320.14 or 320.15”.

29 The following provisions are amended by striking out “section 253 or 254” **and substituting** “section 320.14 or 320.15”:

section 31(b);
section 83(1), (2)(a) and (b), (2.1), (3)(a) and (b)(i),
(3.1)(a) and (b)(i), (4) and (5);
section 88.2(5)(a).

30(1) Subject to subsection (2), this Act comes into force on Proclamation.

(2) A Proclamation to bring into force section 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 or 29 may only be issued if Bill C-46, introduced in the 1st session of the 42nd Parliament and entitled *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts*, receives Royal Assent.

28 Section reference changes.

29 Section reference changes.

30 Coming into force.

