

1973

c 167 The Highway Traffic Amendment Act, 1973 (No. 2)

Ontario

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CHAPTER 167

An Act to amend The Highway Traffic Act

*Assented to December 17th, 1973
Session Prorogued March 5th, 1974*

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

- 1.—(1) Subsection 1 of section 1 of *The Highway Traffic Act*, ^{s. 1 (1), amended} being chapter 202 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1973, chapter 45, section 1, is further amended by renumbering paragraph 1 and paragraph 1a as enacted by the Statutes of Ontario, 1973, chapter 45, section 1, as paragraphs 1a and 1b respectively and by adding thereto the following paragraph:
1. "Board" means the Licence Suspension Appeal Board established under section 28.
- (2) Paragraph 3 of subsection 1 of the said section 1 ^{s. 1 (1), par. 3, amended} is amended by striking out "police patrols, motor" in the fourth line.
- (3) Subsection 1 of the said section 1 is further amended ^{s. 1 (1), amended} by adding thereto the following paragraphs:
- 7a. "driver" means a person who drives a motor vehicle on a highway;
- 7b. "driver's licence" means a licence issued under section 13 to drive a motor vehicle on a highway.
2. Except where the context otherwise requires, a reference ^{"chauffeur" and "operator" changed to "driver"} in the said Act or the regulations made under the said Act to a "chauffeur" or "operator" shall be deemed to be a reference to a "driver", and a reference to a "chauffeur's licence" or "operator's licence" shall be deemed to be a reference to a "driver's licence".
3. The heading to Part III of the said Act is repealed and ^{Part III, heading, re-enacted} the following substituted therefor:

LICENCES
DRIVER, DRIVING INSTRUCTOR

s. 13.
re-enacted

4. Section 13 of the said Act is repealed and the following substituted therefor:

Driver's
licence

13.—(1) No person shall drive a motor vehicle on a highway unless the motor vehicle is within a class of motor vehicles in respect of which the person holds a driver's licence issued to him by the Minister.

Issuance of
licence

(2) The Minister may issue a driver's licence to any person who meets the requirements of this Act and the regulations authorizing the person to drive on a highway,

(a) any motor vehicle within a class or classes of motor vehicles;

(b) subject to any conditions; and

(c) for the period of time,

prescribed by the regulations and set out or referred to in the licence.

Responsi-
bility of
owner of
motor vehicle

(3) No person who is the owner or is in possession or control of a motor vehicle shall permit any person to drive the motor vehicle on a highway unless that person holds a driver's licence issued in respect of the class of motor vehicles to which the motor vehicle belongs.

Examina-
tions

(4) An applicant for a driver's licence or a person who holds a driver's licence shall submit to such examinations as are authorized by the regulations relating to this section and required by the Minister at such times and places as the Minister may require and the Minister may,

(a) in the case of an applicant for a driver's licence,

(i) issue the licence subject to such of the conditions authorized by the regulations and in respect of such class or classes of motor vehicles as in the opinion of the Minister are justified by the results of the examinations, or

(ii) where the applicant fails to submit to or to successfully complete the examinations, refuse to issue a driver's licence to the applicant; or

(b) in the case of a person who holds a driver's licence,

- (i) impose or remove such of the conditions authorized by the regulations or change the class or classes of motor vehicles in respect of which the licence is issued in accordance with the results of the examinations, or
- (ii) where the person fails to submit to or successfully complete the examinations, suspend or cancel the driver's licence held by the person.

(5) Notwithstanding any other provision of this Act,^{Transitional} the provisions of this Act and the regulations relating to operators' licences and chauffeurs' licences that are in force immediately before the coming into force of this section shall continue to apply to such licences and the holders thereof until such licences are amended by the regulations related to this section.

(6) The Lieutenant Governor in Council may make regu-^{Regulations}lations relating to this section,

- (a) prescribing classes of motor vehicles;
- (b) prescribing the term of validity of drivers' licences;
- (c) prescribing conditions that shall apply to drivers' licences or any class or classes of drivers' licences;
- (d) prescribing classes of drivers' licences;
- (e) respecting practical and written driving examinations, and mental and physical, including ophthalmic and auditory, examinations for applicants for and holders of drivers' licences;
- (f) respecting the classification of drivers' licences issued under a predecessor of this section and in force immediately before this section comes into force as drivers' licences in accordance with the provisions of this section.

5.—(1) Subsection 1 of section 15 of the said Act is amended by ^{s. 15 (1),} striking out "Sections 13 and 16" in the first line and ^{amended} inserting in lieu thereof "Section 13".

s. 15 (2),
amended

(2) Subsection 2 of the said section 15 is amended by striking out "Sections 13 and 16" in the first line and inserting in lieu thereof "Section 13".

ss. 16, 17,
repealed

6. Sections 16 and 17 of the said Act are repealed.

s. 25 (2),
amended

7. Subsection 2 of section 25 of the said Act is amended by striking out "sections 13 and 16" in the first line and inserting in lieu thereof "section 13".

s. 58,
re-enacted

8. Section 58 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 45, section 18, is repealed and the following substituted therefor:

Interpre-
tation

58. In this section and in sections 58*a* to 58*m*,

(a) "Director" means the Director of Vehicle Inspection Standards appointed under section 58*a*;

(b) "licensee" means a person who is the holder of a motor vehicle inspection station licence issued under section 58*d*;

(c) "motor vehicle inspection mechanic" means a person who certifies by means of a safety standards certificate that a motor vehicle complies with the equipment and performance standards prescribed by the regulations;

(d) "motor vehicle inspection station" means any premises maintained or operated for the inspection of motor vehicles and the issuance of safety standards certificates in respect of such motor vehicles;

(e) "registrant" means a person who is registered as a motor vehicle inspection station mechanic under section 58*e*.

Director

58*a*. The Minister shall appoint an officer of the Ministry to be the Director of Vehicle Inspection Standards for purposes of sections 58 to 58*m*.

Safety
standards
certificate

58*b*.—(1) No person shall sell a used motor vehicle unless,

(a) on the delivery of the vehicle to the purchaser, the seller gives to the purchaser a safety standards certificate that was issued upon an inspection that was completed in respect of the motor vehicle not more than thirty days before the date of the

delivery of the used motor vehicle to the purchaser;
or

- (b) the seller forwards to the Ministry the notice required under subsection 2 of section 9 together with the current number plates and permit issued with respect to the motor vehicle.

(2) A person who applies to transfer the permit issued in respect of a used motor vehicle shall, ^{Transfer of permit}

- (a) deliver to the Ministry a safety standards certificate that was issued in respect of the vehicle not more than thirty-six days before the date of the application; or
- (b) forward to the Ministry notice of the transfer of the vehicle in the form referred to in subsection 2 of section 9 together with the current number plates and permit issued with respect to the motor vehicle.

(3) The Ministry shall not issue a permit or number plates to any person upon an application to transfer the permit issued in respect of a motor vehicle or upon an application to register a used motor vehicle that is registered in another jurisdiction unless there is delivered to the Ministry a safety standards certificate issued upon an inspection that was completed in respect of the motor vehicle not more than thirty-six days before the date of the application. ^{Idem}

(4) Subsection 3 does not apply to an application, ^{Exception}

- (a) to transfer the permit issued in respect of a motor vehicle registered in Ontario that is transferred,
 - (i) to the spouse of the owner of the vehicle,
 - (ii) to the estate of the deceased owner of the vehicle, or
 - (iii) from the deceased owner or the estate of the deceased owner of the vehicle to the deceased owner's spouse; or
- (b) to register a commercial motor vehicle that is registered in another jurisdiction and owned by a person who does not reside in Ontario.

Issue of
permit when
certificate
not produced

(5) Upon receipt of the notice together with the number plates and permit pursuant to clause *b* of subsection 1 or clause *b* of subsection 2, the Ministry shall issue a permit marked "unfit motor vehicle" and shall not issue number plates under Part II for the motor vehicle until application is made therefor together with a safety standards certificate that was issued in respect of an inspection of the motor vehicle completed not more than thirty days before the date of the application.

Sale or
transfer to
motor vehicle
dealer
R.S.O. 1970,
c. 475

(6) Subsections 1, 2 and 3 do not apply to the sale or transfer of a used motor vehicle to a motor vehicle dealer registered under *The Motor Vehicle Dealers Act*.

Application
of
R.S.O. 1970,
c. 281, s. 2 (2)

(7) Subsection 2 of section 2 of *The Motor Vehicle Accident Claims Act* does not apply upon the issuance or transfer of a permit that is marked "unfit motor vehicle".

Issue of
safety
standards
certificate

58c.—(1) No person other than a licensee or a person authorized in writing by the licensee shall issue a safety standards certificate.

Idem

(2) A safety standards certificate in respect of a motor vehicle shall not be issued unless,

(a) the motor vehicle has been inspected by a motor vehicle inspection mechanic in the motor vehicle inspection station; and

(b) the certificate,

(i) is made by the motor vehicle inspection mechanic who inspected the motor vehicle, and

(ii) is countersigned by the licensee or a person authorized in writing by the licensee.

Motor
vehicle
inspection
station
licence

58d.—(1) No person shall establish, operate or maintain a motor vehicle inspection station except under the authority of a licence issued by the Director under this Act and the Director may issue a licence for a motor vehicle inspection station subject to such conditions as the Director may specify in the licence.

Issuance
of licence

(2) Subject to subsection 3, any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a motor vehicle inspection station and who meets the requirements of this Act and the regulations and who pays the prescribed fee is entitled to be issued the licence.

(3) Subject to section 58*h*, the Director may refuse to issue a motor vehicle inspection station licence where, in his opinion, Grounds for refusal

- (a) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the motor vehicle inspection station will not be operated in accordance with the law and with honesty and integrity;
- (b) the proposed motor vehicle inspection station or its operation would contravene this Act or the regulations or any other Act or regulation or any municipal by-law respecting its establishment or location;
- (c) the applicant is not competent to operate a motor vehicle inspection station in accordance with this Act and the regulations;
- (d) the equipment and premises are not suitable for the performance of the inspections for which the licence is sought.

(4) A motor vehicle inspection station licence expires with the 31st day of December in the year in which it is issued and a renewal shall be issued where the applicant is not disqualified under subsection 8. Expiration and renewal of motor vehicle inspection station licence

(5) A motor vehicle inspection station licence is not transferable. Not transferable

(6) It is a condition of a motor vehicle inspection station licence that the operation of the motor vehicle inspection station be under the charge and control of the licensee. Operator named in licence

(7) Where the licensee is a corporation, the corporation shall notify the Director in writing within fifteen days of any change in the officers or directors of the corporation. Notice of change

(8) The Director may revoke or refuse to renew a motor vehicle inspection station licence where, Revocation of licence

- (a) any person has made a false statement in the application for the licence or a renewal thereof or in any safety standards certificate signed by the licensee or a person authorized in writing by the licensee or in any report, document or other information required to be furnished by this Act or

- the regulations or any other Act or regulation that applies to the motor vehicle inspection station;
- (b) any inspection authorized by the licence is incompetently performed;
 - (c) the licensee or any motor vehicle inspection station mechanic employed in the motor vehicle inspection station has misrepresented the condition of a motor vehicle with respect to the standards of equipment and performance prescribed by the regulations upon an inspection of the motor vehicle in the station for the purpose of determining whether or not to issue a safety standards certificate;
 - (d) there is a breach of a condition of the licence;
 - (e) the licensee does not comply with this Act or the regulations;
 - (f) the inspections that can be performed by the motor vehicle inspection station are misrepresented; or
 - (g) a change in the officers or directors of any corporation that is a licensee would afford grounds for refusing to issue a motor vehicle inspection station licence under clause *a* of subsection 3.

Motor
vehicle
inspection
mechanic

58e. (1) No person shall certify in a safety standards certificate that a motor vehicle complies with the standards of equipment and performance prescribed by the regulations unless he is registered by the Director as a motor vehicle inspection mechanic in a motor vehicle inspection station and the Director may so register any person for whom application is made pursuant to subsection 2.

Registration

(2) Where a licensee or an applicant for a motor vehicle inspection station licence applies for the registration as a motor vehicle inspection mechanic in the motor vehicle inspection station of the licensee or in the proposed motor vehicle inspection station of the applicant for a licence, as the case may be, of any person who meets the requirements of this Act and the regulations, such person is entitled to be registered as a motor vehicle inspection mechanic in the motor vehicle inspection station.

Grounds
for refusal

(3) Subject to section 58*h*, the Director may refuse to register a motor vehicle inspection mechanic where, in his opinion,

- (a) the past conduct of the mechanic affords reasonable grounds for belief that the mechanic will not act as a motor vehicle inspection mechanic in accordance with the law and with honesty and integrity; or
- (b) the mechanic is not competent to act as a motor vehicle inspection mechanic.

58f. The Director may revoke the registration of a motor vehicle inspection mechanic where, Revocation of registration

- (a) the registrant or the licensee has made a false statement in the application for registration of the registrant or in a safety standards certificate or in any report, document or other information required to be furnished by this Act or the regulations or any other Act or regulation that applies to the registrant;
- (b) any inspection performed under the authority of his registration is incompetently performed by the registrant; or
- (c) the registrant does not comply with this Act or the regulations.

58g.—(1) Where the Director issues a licence under this Act and the licensee is dissatisfied with the conditions thereof prescribed by the Director, he may by written notice given to the Director and the Board require a hearing by the Board, and the Board shall appoint a time for and hold a hearing. Hearing re terms of licence

(2) Pursuant to a hearing under subsection 1, the Board may affirm the conditions prescribed for the licence by the Director or may cancel such conditions or may prescribe such other conditions for the licence in the place of those prescribed by the Director as it considers proper and such conditions shall be conditions of the licence. Decision of Board

58h.—(1) Where the Director proposes,

- (a) to refuse to issue or renew a licence;
- (b) to refuse to make a registration; or
- (c) to revoke a licence or registration,

Proposal to refuse to issue or revoke

the Director shall serve notice of his proposal, together with written reasons therefor,

- (d) in the case of a proposal to refuse to issue a licence, upon the applicant;
- (e) in the case of a proposal to revoke or to refuse to renew a licence, upon the licensee;
- (f) in the case of a proposal to refuse to make a registration, upon the applicant or licensee and upon the proposed registrant; and
- (g) in the case of a proposal to revoke a registration, upon the registrant and the licensee of the motor vehicle inspection station in which the registrant is employed.

Notice

(2) A notice under subsection 1 shall inform the applicant, licensee, registrant or proposed registrant, as the case may be, that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Director and the Board requiring a hearing by the Board and he may so require such a hearing.

Powers of Director where no hearing

(3) Where the applicant, licensee, registrant or proposed registrant does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in the notice under subsection 1.

Power of Board where hearing

(4) Where the applicant, licensee, registrant or proposed registrant requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and shall hold the hearing and may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Board may substitute its opinion for that of the Director.

Extension of time for requiring hearing

(5) The Board may extend the time for the giving of notice requiring a hearing by the applicant, licensee, registrant or proposed registrant, under this section either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant, licensee, registrant or proposed registrant, pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Continuation of licence pending renewal

(6) Where, within the time prescribed therefor or, if no time is prescribed, before the expiry of the licence, the

licensee has applied for renewal of the licence and paid the prescribed fee, the licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.

58i.—(1) The Director, the applicant, licensee, registrant ^{Parties} or proposed registrant who has required the hearing and such other persons as the Board may specify are parties to proceedings before the Board under this Act.

(2) Notice of a hearing under section 58g or 58h shall ^{Notice of hearing} afford the applicant, licensee, registrant or proposed registrant a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or for the registration or continuation of the registration, as the case may be.

(3) Any party to proceedings under section 58g or 58h ^{Examination of documentary evidence} shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

(4) Members of the Board holding a hearing shall not ^{Members holding hearing not to have taken part in investigation, etc.} have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The oral evidence taken before the Board at a hearing ^{Recording of evidence} shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(6) The findings of fact of the Board pursuant to a hearing ^{Findings of fact} shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The* ^{1971, c. 47} *Statutory Powers Procedure Act, 1971*.

Only mem-
bers at
hearing to
participate
in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal
to court

(9) Any party to the proceedings before the Board may appeal from its decision or order to the Supreme Court in accordance with the rules of court.

Record to
be filed
in court

(10) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Minister
entitled
to be heard

(11) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of
court on
appeal

(12) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Board and may exercise all powers of the Board to direct the Director to take any action which the Board may direct him to take and as the court considers proper and for such purposes the court may substitute its opinion for that of the Director or of the Board, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Service
of notice

58j. Except where otherwise provided, any notice required by sections 58 to 58m to be served may be served personally or by registered mail addressed to the person to whom notice is to be given at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date.

58k.—(1) The Minister may appoint one or more persons ^{Appointment of inspectors} as inspectors for the purposes of sections 58 to 58m and the regulations and such appointments shall be in writing.

(2) The Minister shall issue every inspector appointed ^{Certificate of appointment} under subsection 1 a certificate of his appointment and every inspector, in the execution of his duties under this section and the regulations, shall produce his certificate of appointment upon request.

(3) An inspector may at all reasonable times inspect ^{Powers of inspectors} the premises, operations and all records of all motor vehicle inspection stations to ensure that the provisions of sections 58 to 58m and the regulations are complied with.

(4) Upon an inspection under this section, the inspector ^{Idem} may upon giving a receipt therefor remove any material referred to in subsection 3 that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the licensee of the motor vehicle inspection station.

(5) Any copy made as provided in subsection 4 and ^{Admissibility of copies} purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

(6) No person shall obstruct the inspector or with- ^{Obstruction} hold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

58l.—(1) Any person who contravenes any provision of ^{Penalty} sections 58 to 58k or the regulations made under section 58m is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

(2) Any person who makes a false statement in a safety ^{Idem} standards certificate is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500.

58m. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing the form and content of safety standards certificates;

- (b) prescribing inspection procedures, inspection requirements and equipment and performance standards of those items to be inspected for a safety standards certificate;
- (c) governing the safety, equipment, premises, maintenance and operation of motor vehicle inspection stations;
- (d) prescribing forms for the purposes of sections 58 to 58*m* and providing for their use;
- (e) prescribing conditions that shall attach to motor vehicle inspection station licences or the registrations of motor vehicle inspection mechanics or any class of either of them;
- (f) classifying motor vehicles, motor vehicle inspection stations and motor vehicle inspection mechanics for the purposes of sections 58 to 58*m*;
- (g) prescribing fees that shall be paid upon applications for motor vehicle inspection station licences and upon the issuance of such licences or renewals thereof and upon applications for and the registration of motor vehicle inspection mechanics;
- (h) requiring that safety standards certificates shall be issued only in the form provided by the Ministry and prescribing the amount that shall be paid to the Ministry for forms of such certificates;
- (i) prescribing the books, records and accounts that shall be kept by licensees;
- (j) governing the reports and returns that shall be made to the Director by licensees and registrants;
- (k) prescribing the qualifications of motor vehicle inspection mechanics;
- (l) prescribing other duties of inspectors;
- (m) prescribing the form, size and content of signs that identify motor vehicle inspection stations and governing the use of such signs;
- (n) requiring and governing the return to the Ministry of unused forms of safety standards certificates and providing for refunds of amounts paid for such forms of certificates;

- (o) requiring and governing the return to the Ministry of signs provided by the Ministry to identify motor vehicle inspection stations.

9. The said Act is amended by adding thereto the following^{s. 128a.} section:^{enacted}

128a.—(1) The council of a municipality may by by-law^{Prohibiting commercial vehicles in left lane} prohibit the operation of a commercial motor vehicle other than a bus in the left lane of any highway under its jurisdiction that has three or more lanes for traffic in each direction and on which the maximum speed limit is fifty miles per hour or more.

(2) A by-law passed pursuant to subsection 1 does not^{When prohibition does not apply} apply to the use of the left lane of a highway by a commercial motor vehicle,

(a) that is being used for the maintenance or construction of the highway; or

(b) in an emergency.

(3) Where the council of a municipality passes a by-law^{Signs} pursuant to subsection 1, the municipality shall erect signs over the left lane of the highway governed by the by-law so located that they can be seen by the drivers of commercial motor vehicles entering the highway from connecting or intersecting highways.

10. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.^{Commencement}

11. This Act may be cited as *The Highway Traffic Amendment Act, 1973 (No. 2)*.^{Short title}

