

# BILL

No. 125

An Act to amend *The Traffic Safety Act* and to make a consequential amendment to *The Freedom of Information and Protection of Privacy Act*

(Assented to \_\_\_\_\_)

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

## Short title

1 This Act may be cited as *The Traffic Safety Amendment Act, 2013 (No. 2)*.

## S.S. 2004, c.T-18.1 amended

2 *The Traffic Safety Act* is amended in the manner set forth in this Act.

## Section 2 amended

3(1) **Subsection 2(1) is amended:**

(a) **by adding the following clause after clause (c):**

“(c.1) **‘business day’** means a day other than a Saturday, Sunday or holiday”;

(b) **by repealing clause (h.1) and substituting the following:**

“(h.1) **‘farm implement’** means, subject to subsection (3) and the regulations, a self-propelled or towed implement or tool designed to be used in an agricultural, horticultural or livestock operation but does not include:

- (i) a vehicle designed for the conveyance on a highway of passengers;
- (ii) a vehicle designed for the conveyance on a highway of goods for sale, except when that vehicle is conveying goods that are owned by the owner or operator of the farm implement and that are being conveyed to or from a farm; or
- (iii) a prescribed vehicle or class of vehicles”;

(c) **by adding the following clause after clause (i):**

“(i.1) **‘golf cart’** means a prescribed vehicle”;

(d) **by repealing clause (j) and substituting the following:**

“(j) **‘gross vehicle weight’** means:

- (i) the combined weight of a vehicle and the load carried on that vehicle; or
- (ii) the combined weight of two or more vehicles coupled or joined together and the combined weight of the loads carried on each of those vehicles”;

- (e) **by repealing clause (q) and substituting the following:**  
“(q) ‘motorcycle’ means a prescribed vehicle”;
- (f) **by adding the following clause after clause (aa):**  
“(aa.1) ‘power-assisted bicycle’ means a prescribed vehicle”;
- (g) **by repealing clause (ll) and substituting the following:**  
“(ll) ‘safety fitness certificate’ means a safety fitness certificate issued pursuant to section 100”;
- (h) **by repealing subclause (mm)(i) and substituting the following:**  
“(i) a farm implement”;
- (i) **by repealing clause (oo) and substituting the following:**  
“(oo) ‘special mobile machine’ means a prescribed vehicle”;
- (j) **by repealing subclause (zz)(ii) and substituting the following:**  
“(ii) a farm implement”; **and**
- (k) **in clause (ccc) by striking out “equipment” and substituting “implements”.**
- (2) **The following subsection is added after subsection 2(2):**  
“(3) A self-propelled or towed implement or tool described in clause (1)(h.1) is deemed not to be a farm implement when it is used for a business or commercial purpose other than in an agricultural, horticultural or livestock operation”.

**Section 29 amended**

**4(1) Subsection 29(1) is amended:**

- (a) **by adding the following clause after clause (h):**  
“(h.1) section 101.1”; **and**
- (b) **by repealing clauses (m) and (n) and substituting the following:**  
“(m) sections 146, 146.1, 146.2, 148, 150, 150.1 and 150.3”.
- (2) **The following subsection is added after subsection 29(1):**  
“(1.1) Without limiting the generality of the other provisions of this Act, the board may hear and determine appeals concerning the matters set out in section 152”.

**Section 32 amended**

**5(1) Clause 32(2)(f) is repealed and the following substituted:**

- “(f) the driver of a vehicle or class of vehicles that is exempted in the regulations from the requirement to be registered with the administrator to operate on a highway”.
- (2) **Subsection 32(3) is repealed.**

**New section 32.1**

**6 The following section is added after section 32:**

**“Prohibition on learner driving while unaccompanied**

**32.1(1)** In this section, ‘**learner’s licence**’ means a learner’s licence as defined in the regulations.

(2) No holder of a learner’s licence shall drive a motor vehicle on a highway unless that person is accompanied and supervised by another person who meets the prescribed qualifications”.

**Section 57 amended**

**7(1) Subsection 57(2) is amended:**

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

“(d) to the driver of a vehicle or class of vehicles that is exempted in the regulations from the requirement to obtain a certificate of registration to operate on a highway”; **and**

**(b) in clause (e) by striking out “or certificate of registration”.**

**(2) Subsection 57(4) is repealed.**

**(3) Subsection 57(5) is repealed and the following substituted:**

“(5) The exceptions mentioned in clause (2)(b) do not apply to a vehicle operated by a person mentioned in that clause that:

(a) is transporting goods for hire; or

(b) is used for commercial or public service purposes or in connection with the carrying on of a farming operation”.

**Section 75 amended**

**8 Subsection 75(1) is amended:**

**(a) by striking out “or” after clause (r); and**

**(b) by adding the following after clause (s):**

“(t) the holder or applicant has had his or her operating authority certificate cancelled by the board pursuant to section 82 or 83;

“(u) the holder or applicant has had his or her safety fitness certificate cancelled by the administrator pursuant to section 101;

“(v) the holder or applicant has failed to comply with any direction imposed on the holder or applicant by the administrator pursuant to section 102.1; or

“(w) the holder or applicant has failed to pay the penalty assessed against the holder or applicant by the administrator pursuant to subsection 102.1(2) or 102.2(1)”.

**Section 95 amended****9 Section 95 is amended:**

- (a) **in clause (a) by striking out “or a safety fitness certificate”;**
- (b) **by repealing clause (b) and substituting the following:**  
“(b) respecting the extent of authority granted by an operating authority certificate and its terms and conditions, including respecting the insurance policies or bonds and certificates of insurance required for an operating authority certificate”;
- (c) **in clause (c) by striking out “or safety fitness certificate”; and**
- (d) **in clause (i) by striking out “or safety fitness certificates”.**

**New Division 3 of Part VII****10 Division 3 of Part VII is repealed and the following substituted:****“DIVISION 3****National Safety Code Certificates****“Interpretation of Division****96(1) In this Division and in section 287:**

- (a) **‘carrier’** means a carrier as defined in the regulations;
- (b) **‘commercial record’** means any record required to be made or kept pursuant to any of the following:
  - (i) this Act or any regulations made pursuant to this Act;
  - (ii) *The Highways and Transportation Act, 1997* or any regulations made pursuant to that Act;
  - (iii) *The Dangerous Goods Transportation Act* or any regulations made pursuant to that Act;
  - (iv) the *Motor Vehicle Transport Act* (Canada) or any regulations made pursuant to that Act;
  - (v) the *Motor Vehicle Safety Act* (Canada) or any regulations made pursuant to that Act;
  - (vi) the *Transportation of Dangerous Goods Act, 1992* (Canada) or any regulations made pursuant to that Act;
  - (vii) any prescribed Act, regulations, Act of the Parliament of Canada or regulations made pursuant to an Act of the Parliament of Canada;
- (c) **‘commercial vehicle’** means a prescribed vehicle;
- (d) **‘driver’** means the operator of a commercial vehicle;
- (e) **‘provincial authority’** means a provincial authority as defined in the *Motor Vehicle Transport Act* (Canada).

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(2) In this Division, a carrier is deemed to be a **‘related carrier’** to an applicant pursuant to section 100 if:

- (a) the applicant and the carrier are not conducting business at arm’s length from each other;
- (b) the applicant is directly or indirectly controlled or managed by the carrier;
- (c) 50% or more of the drivers of the applicant are drivers for the carrier;
- (d) 50% or more of the commercial vehicles listed under the applicant’s safety fitness certificate were, in the preceding 12 months, listed with the carrier;
- (e) the applicant and the carrier have common officers or directors or they are or have been, in the preceding 12 months, controlled, directly or indirectly, by the same shareholders;
- (f) the applicant or the carrier:
  - (i) is a partner of the other; or
  - (ii) within the preceding 12 months, was a partner of the other; or
- (g) the applicant and carrier:
  - (i) have partners in common; or
  - (ii) within the preceding 12 months, had partners in common.

**“Administrator may compile profiles of carriers and drivers**

**97(1)** In this section, **‘at-fault motor vehicle accident’** means a motor vehicle accident with respect to which a carrier, a related carrier, a driver of the carrier or a driver of a related carrier is at least 50% at fault.

(2) For the purposes of monitoring the safety and fitness compliance of carriers and drivers of commercial vehicles, the administrator may compile information and maintain profiles on carriers and individual drivers with respect to:

- (a) any at-fault motor vehicle accidents associated with a carrier, a related carrier, a driver of the carrier or a driver of a related carrier; and
- (b) their compliance with:
  - (i) this Act or the regulations or a predecessor Act or regulations made pursuant to a predecessor Act;
  - (ii) *The Alcohol and Gaming Regulation Act, 1997*;
  - (iii) *The Animal Products Act*;
  - (iv) the *Criminal Code*;
  - (v) *The Dangerous Goods Transportation Act*;
  - (vi) the *Transportation of Dangerous Goods Act, 1992* (Canada);
  - (vii) *The Highways and Transportation Act, 1997*;
  - (viii) the *Motor Vehicle Transport Act* (Canada);

- (ix) any regulations made pursuant to any of the Acts mentioned in subclauses (ii) to (viii); or
  - (x) any similar enactment of another province of Canada or of a state of the United States of America or Mexico respecting commercial vehicles or road safety.
- (3) The administrator may release any information compiled pursuant to subsection (2) to:
- (a) the board for the purpose of conducting a hearing pursuant to section 101.1;
  - (b) the driver to whom the profile relates;
  - (c) the carrier to whom the profile relates; or
  - (d) any provincial authority or agency of another province of Canada, or an agency of a state of the United States of America or Mexico, that is responsible for registering motor vehicles, maintaining road safety or monitoring the safety and fitness compliance of carriers.
- (4) The following information respecting a carrier is public information and may be published by the administrator or provided to the public on request:
- (a) the carrier's legal and operating name and address;
  - (b) the carrier's safety fitness certificate number and, if applicable, the carrier's United States Department of Transport number and IRP registration number;
  - (c) whether the carrier operates inside Saskatchewan or outside Saskatchewan, either in another jurisdiction in Canada or in the United States of America or Mexico;
  - (d) the carrier's current and average fleet size and business type;
  - (e) the status of the carrier's safety fitness certificate, including the date of issue, the date of expiry, the safety fitness rating of the carrier and the date that the safety fitness rating was provided by the administrator;
  - (f) whether the carrier holds a vehicle inspection station certificate issued pursuant to subsection 121(2);
  - (g) whether the carrier hauls dangerous goods;
  - (h) the date the carrier was last inspected by the administrator pursuant to Part VIII;
  - (i) whether the carrier is complying with the insurance obligations pursuant to section 103;
  - (j) the number of convictions by category or type registered against the carrier or the carrier's drivers;
  - (k) the number of inspections carried out for prescribed purposes and the results of each of those inspections;

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(l) the number of at-fault motor vehicle accidents registered against a carrier, a related carrier, a driver of the carrier or a driver of a related carrier and provided to the administrator by any of the following:

- (i) the carrier;
- (ii) the administrator of *The Automobile Accident Insurance Act*;
- (iii) a provincial authority;
- (iv) an agency of the United States of America or Mexico that is responsible for monitoring the safety and fitness compliance of carriers and drivers of commercial vehicles.

**“Adding or removing information from a profile**

**98(1)** In this section, ‘**profile**’ means a profile compiled pursuant to section 97.

(2) The administrator may:

- (a) remove information from a profile if the administrator is satisfied that the information is in error, inaccurate or no longer relevant;
- (b) remove information from a profile if the administrator is satisfied that the carrier or driver for which the profile was compiled was not responsible for the incident or matter that generated the information recorded on the profile;
- (c) include information in two or more profiles for a carrier if the administrator is satisfied that two or more carriers or carriers’ drivers are jointly or partly responsible for the incident or matter that generated the information recorded on the profile; or
- (d) add information to a profile if the administrator is satisfied that by association or employment, or by managerial or other responsibility, a carrier or driver is responsible or partly responsible for the incident or matter that generated the information recorded on the profile.

**“Safety fitness certificate required to operate commercial vehicles**

**99(1)** No carrier who operates a commercial vehicle on a highway in Saskatchewan for the purpose of transporting goods shall operate that commercial vehicle without a safety fitness certificate.

(2) Subsection (1) does not apply if the vehicle is exempted in the regulations.

(3) Any carrier who contravenes subsection (1) is guilty of an offence and is liable on summary conviction:

- (a) for a first offence:
  - (i) in the case of an individual, to a fine of not more than \$500; and
  - (ii) in the case of a corporation, to a fine of not more than \$1,000; and
- (b) for a second or subsequent offence:
  - (i) in the case of an individual, to a fine of not more than \$1,000; and
  - (ii) in the case of a corporation, to a fine of not more than \$2,000.

**“When holder must produce a safety fitness certificate or similar document**

**99.1** When requested to do so by a peace officer, every driver of a commercial vehicle shall produce a safety fitness certificate or similar document issued by any provincial authority or agency of another province of Canada, or an agency of a state of the United States of America that is responsible for registering motor vehicles, maintaining road safety or monitoring the safety and fitness compliance of carriers:

- (a) at the time of the request; or
- (b) within 48 hours after the time of the request, at any time and place directed by the peace officer.

**“Obtaining or renewing, and issuance of, safety fitness certificate**

**100(1)** An applicant who intends to obtain or renew a safety fitness certificate shall:

- (a) submit an application in the form provided by the administrator; and
- (b) pay the prescribed fee.

(2) Subject to section 100.1, the administrator may issue or renew a safety fitness certificate subject to any terms and conditions that the administrator considers appropriate to ensure the safe and proper operation of the carrier’s commercial vehicles.

(3) If the administrator issues or renews a safety fitness certificate, the administrator shall issue it with one of the following safety fitness ratings that the administrator considers appropriate:

- (a) satisfactory audited;
- (b) satisfactory unaudited;
- (c) conditional.

(4) Unless otherwise cancelled, revoked or suspended, a safety fitness certificate expires on the date set out in the safety fitness certificate or as prescribed.

(5) If a safety fitness certificate is cancelled, revoked, suspended or not renewed, the carrier shall return the safety fitness certificate to the administrator.

**“When applicant not eligible to obtain or renew safety fitness certificate**

**100.1(1)** An applicant pursuant to section 100 is not eligible to obtain or renew a safety fitness certificate if:

- (a) the administrator is not satisfied with respect to any information or document submitted as part of an application to obtain or renew the safety fitness certificate;
- (b) the applicant or any related carrier held a document that:
  - (i) the administrator considers similar to a safety fitness certificate;
  - (ii) was issued by any provincial authority or agency of another province of Canada, or an agency of a state of the United States of America or Mexico, that is responsible for registering motor vehicles, maintaining road safety or monitoring the safety and fitness compliance of carriers; and
  - (iii) has been cancelled, suspended or revoked;

(c) the applicant or a related carrier does not meet the prescribed safety and fitness standards or any other safety and fitness standards approved by the administrator for the operation of a commercial vehicle; or

(d) the applicant has failed to pay the penalty assessed against that applicant by the administrator pursuant to subsection 102.1(2) or 102.2(1).

(2) The administrator shall refuse to renew a safety fitness certificate to an applicant who, in the opinion of the administrator, has been inactive for more than 12 months before the date of the application, unless an application pursuant to section 100 is submitted.

**“Cancellation, revocation or suspension of safety fitness certificate**

**101(1)** Without a hearing, the administrator may cancel, revoke or suspend a safety fitness certificate if:

(a) the safety fitness certificate was issued in error;

(b) there has been a change in the ownership of the carrier’s business;

(c) the administrator is satisfied that a statement that is false in any material particular has been made in the application for a safety fitness certificate or a document required to be provided by this Act or the regulations;

(d) the carrier no longer holds a policy of insurance with respect to the vehicle registered under the safety fitness certificate or no longer holds the type or amount of insurance required in the regulations;

(e) the carrier’s commercial records are no longer located in Saskatchewan;

(f) the carrier or a related carrier has, without reasonable cause, failed to comply with a safety directive of the administrator pursuant to section 102.1;

(g) the carrier or a related carrier has, without reasonable cause, failed to pay a penalty assessed by the administrator pursuant to subsection 102.1(2) or 102.2(1);

(h) in the opinion of the administrator, the carrier has an unsatisfactory safety fitness rating in Saskatchewan or in any other jurisdiction in Canada, the United States of America or Mexico.

(2) The administrator shall serve a copy of its decision pursuant to this section on the carrier after cancelling, revoking or suspending the safety fitness certificate.

**“Appeal from decision of administrator**

**101.1(1)** The following decisions of the administrator may be appealed to the board:

(a) a decision to revoke, cancel or suspend a safety fitness certificate pursuant to any of clauses 101(1)(b) to (h);

(b) a decision of the administrator to suspend a carrier from operating a commercial vehicle pursuant to clause 102.2(1)(a);

(c) a decision of the administrator to assess a penalty against a carrier pursuant to subsection 102.1(2) or 102.2(1).

- (2) An application for appeal must:
  - (a) be in writing and made to the board in any form and manner that the board may require;
  - (b) be accompanied by any prescribed documents and fees; and
  - (c) be made within 30 days after the carrier is served with the written decision of the administrator pursuant to section 101, 102.1 or 102.2.
- (3) Before making a decision, the board shall hold a hearing and provide both the administrator and the carrier with an opportunity to be heard.
- (4) If written notice of the time, date and place of the hearing has been sent to the administrator and the carrier and the administrator or carrier fails to attend the hearing, the board may:
  - (a) hear and decide the matter in the absence of the administrator or carrier and make any order that it considers reasonable; or
  - (b) adjourn the hearing and assign a new time, date and place for the hearing.
- (5) No carrier that has been sent a notice pursuant to subsection (4) shall transfer, sell, lease, rent or otherwise dispose of any commercial vehicle without the written consent of the board until the board has made a decision pursuant to this section and that decision is in effect.
- (6) Subject to the regulations made by the Lieutenant Governor in Council, the board, on appeal, may uphold, reverse or vary the administrator's decision.
- (7) On an appeal to the board, the administrator's decision is stayed unless the board orders otherwise.
- (8) A decision of the board is final and is not subject to appeal.

**“Holder to notify administrator of changes**

**102** Every carrier that is the holder of a safety fitness certificate shall notify the administrator in writing within 15 days after the following:

- (a) a change in the holder's name or address;
- (b) a change in the ownership of the holder's business; or
- (c) a change in the officers, directors or partners of the holder.

**“Safety directives**

**102.1(1)** The administrator may at any time during the period in which a carrier, or a carrier that is a member of a class of carriers designated by the administrator, is a holder of a safety fitness certificate:

- (a) direct the carrier to do anything the administrator considers necessary to ensure the safe and proper operation of the carrier's commercial vehicles; and
- (b) determine the period within which the carrier must comply with the direction mentioned in clause (a).

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(2) Following an administrative inspection pursuant to Part VIII, the administrator may:

(a) direct the carrier that was the subject of the inspection to do anything the administrator considers necessary to ensure the safe and proper operation of the carrier's commercial vehicles; and

(b) assess a penalty against the carrier calculated in accordance with the prescribed penalty schedule and based on the carrier's fleet size and the number of prescribed safety violations registered against the carrier or the carrier's drivers.

(3) The administrator shall determine the period within which the carrier must comply with the direction mentioned in clause (2)(a).

(4) The administrator shall serve a written copy of its direction pursuant to this section on the carrier after issuing the direction.

**“Suspension and penalty**

**102.2(1)** If a carrier fails to comply with any direction pursuant to section 102.1, the administrator may:

(a) suspend the carrier from operating a commercial vehicle until the carrier has complied with the direction; or

(b) assess a penalty calculated in accordance with the prescribed penalty schedule against the carrier if it is not in the public interest to suspend the carrier from operating a commercial vehicle.

(2) Before imposing a suspension or assessing a penalty pursuant to subsection (1), the administrator shall provide a written notice to the carrier:

(a) setting out the facts and circumstances that, in the administrator's opinion, render the carrier liable to a suspension or penalty;

(b) in the event that a penalty is proposed to be assessed pursuant to clause (1)(b), specifying the amount of the penalty; and

(c) informing the carrier of the carrier's right to make representations to the administrator.

(3) No penalty is to be assessed by the administrator more than three years after the act or omission that renders the carrier liable to the penalty first came to the knowledge of the administrator.

(4) A carrier to whom a written notice is sent pursuant to subsection (2) may make representations to the administrator respecting whether or not a suspension should be imposed or a penalty should be assessed and the amount of any penalty.

(5) Representations pursuant to subsection (4) must be made within 30 days after the carrier received the notice pursuant to subsection (2).

(6) After considering any representations, the administrator may:

(a) impose a suspension or assess a penalty and, in the event of a decision to impose a penalty, set a date by which the penalty is to be paid in full; or

(b) determine that no suspension should be imposed or that no penalty should be assessed.

(7) The administrator shall serve a copy of its decision pursuant to subsection (6) on the carrier that made the representations.

**“Certificate re penalty**

**102.3(1)** If the administrator assesses a penalty pursuant to section 102.1 or 102.2, the administrator may file in the Court of Queen’s Bench a certificate signed by the administrator and setting out:

- (a) the amount of the penalty assessed; and
- (b) the carrier from which the penalty is to be recovered.

(2) The administrator shall not file in the Court of Queen’s Bench a certificate pursuant to subsection (1) unless:

- (a) the time for bringing an appeal with respect to the assessment of a penalty pursuant to clause 101.1(2)(c) has expired and no appeal has been brought; or
- (b) if an appeal with respect to the assessment of a penalty has been made pursuant to section 101.1, the appeal has been disposed of.

(3) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen’s Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.

**“Penalty may be assessed based on actions of employee, etc.**

**102.4** The administrator may impose a suspension or assess a penalty pursuant to section 102.1 or 102.2 notwithstanding that the facts and circumstances giving rise to the suspension or penalty arose due to the action of an employee, helper, contractor or agent of the carrier that is suspended or required to pay the penalty.

**“Insurance required by holder of safety fitness certificate**

**103(1)** Every carrier that is the holder of a safety fitness certificate shall furnish the administrator with written evidence, in a form satisfactory to the administrator, that the carrier holds a policy of insurance or bonds with respect to a vehicle in the prescribed types and amount.

(2) If the administrator is satisfied that the public interest would not be adversely affected, the administrator may exempt any carrier from all or any of the requirements of this section.

**“Commercial records maintained in Saskatchewan**

**103.1** A carrier that is the holder of a safety fitness certificate shall maintain all of that carrier’s commercial records in Saskatchewan”.

**New section 109****11 Section 109 is repealed and the following substituted:****“Prohibition on withholding, destroying, etc., records or documents**

**109(1)** No person shall withhold, destroy, alter, conceal or refuse to produce any records or property that a peace officer or person appointed by the administrator reasonably requires for the purposes of an inspection or an investigation pursuant to any transportation legislation.

(2) No person shall fail to keep any records required pursuant to any transportation legislation.

(3) No driver of a commercial vehicle shall fail to report to the carrier that owns the commercial vehicle any information required to be reported pursuant to any transportation legislation”.

**Section 110 amended**

**12 Subsection 110(2) is amended by striking out “equipment” and substituting “implements”.**

**New section 113.1**

**13 The following section is added after section 113:**

**“Requirements for operating a golf cart**

**113.1(1)** No person shall operate a golf cart on any highway or any part of a highway unless:

- (a) there is a bylaw of a municipality that is approved by the administrator, or that is deemed pursuant to subsection (7) to be approved by the administrator, permitting the operation of a golf cart on that highway or part of a highway within that municipality;
- (b) the person is eligible to operate the golf cart on a highway or part of a highway;
- (c) the golf cart is operated in accordance with the prescribed terms and conditions; and
- (d) the golf cart meets the prescribed equipment and safety standards required for the operation of that golf cart.

(2) Subject to the approval of the administrator, the council of a municipality may, by bylaw, permit the operation of a golf cart on any highway or any part of a highway, other than a provincial highway, within that municipality.

(3) If the council of the municipality passes a bylaw pursuant to subsection (2), the council shall specify in the bylaw the highway or part of the highway within the municipality where the operation of a golf cart is permitted pursuant to the bylaw.

(4) Notwithstanding any other Act or bylaw, no person shall operate a golf cart on a highway or part of a highway pursuant to a municipal bylaw unless:

- (a) the person holds a valid driver’s licence; and
- (b) the owner of the golf cart insures the owner and every other person who, with the owner’s consent, operates that golf cart against liability imposed by law arising out of the ownership, use or operation of that golf cart and provides proof of insurance at the request of a peace officer.

(5) Within 90 days after the coming into force of this section, every municipality that has passed a bylaw before the coming into force of this section permitting the use of a golf cart on a highway or part of a highway within the municipality shall provide to the administrator a copy of that bylaw and any other information that the administrator may reasonably require.

(6) The administrator shall review and either approve or refuse to approve the bylaw mentioned in subsection (5).

(7) Subject to subsection (4), every bylaw permitting the use of a golf cart on a highway or part of a highway that was passed before the coming into force of this section is deemed to have been approved by the administrator and remains in force until the earlier of the following:

- (a) the date that the bylaw is reviewed and subsequently approved or not approved by the administrator;
- (b) two years after the date of the coming into force of this section.

(8) If, after the coming into force of this section, a municipality passes a bylaw permitting the use of a golf cart on a highway or part of a highway within the municipality:

- (a) the municipality shall provide to the administrator a copy of that bylaw and any other information that the administrator may reasonably require within 90 days after the bylaw was passed;
- (b) the bylaw is not in force until it is approved by the administrator; and
- (c) the administrator shall review and either approve or refuse to approve the bylaw”.

#### **Section 137 amended**

##### **14 Section 137 is amended:**

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

“(d) ‘new driver’ means:

- (i) a driver who is younger than 19 years of age; or
  - (ii) any other prescribed person or member of a prescribed class of persons”;
- and**

**(b) in clause (e):**

**(i) by repealing subclause (i) and substituting the following:**

“(i) an offence pursuant to clause 249(1)(a) or section 249.1, 249.2, 249.3 or 249.4 of the *Criminal Code*”;

**(ii) in subclause (ii) by striking out “subsection 255(2) or (3)” and substituting “subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2)”;** **and**

**(iii) by repealing subclause (vi) and substituting the following:**

“(vi) an offence pursuant to any law of any state of the United States of America that is substantially similar to section 220, 221, 236, clause 249(1)(a), subsection 249(3) or (4), section 249.1, 249.2, 249.3, 249.4 or 252, clause 253(a) or (b), subsection 254(5), subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) or subsection 259(4) of the *Criminal Code*”.

#### **Section 139 amended**

##### **15 Subsection 139(1) is amended:**

**(a) in clause (a) by striking out “section 141, 144 or 150” and substituting “section 141 or 144”; and**

**(b) in clause (b) by striking out “section 147, 148 or 151” and substituting “section 146, 146.1, 146.2, 148, 150, 150.1 or 150.3”.**

**Section 141 amended****16 Subsections 141(2) and (3) are repealed and the following substituted:**

“(2) The following persons are eligible to participate in an ignition interlock program:

- (a) a resident convicted of an offence for which the convicting judge or court has ordered the person to participate in an ignition interlock program;
- (b) a resident convicted of a prescribed offence pursuant to this Act or the *Criminal Code*.

“(3) Subject to subsection (4), the period of disqualification is the prescribed period”.

**New sections 146 to 146.4****17 Sections 146 to 147 are repealed and the following substituted:****“Roadside suspension—40 milligrams of alcohol**

**146(1)** In this section and in sections 146.1 and 146.2:

- (a) **‘approved screening device’** means a prescribed device for analysing a sample of breath;
- (b) **‘designated notice’** means a notice of suspension issued pursuant to this section or section 146.1 or 146.2, a notice of suspension and immobilization or impoundment issued pursuant to section 150 or 150.1 or a notice of seizure and direction issued pursuant to section 150.3 and includes a suspension or an order of disqualification issued pursuant to a former provision;
- (c) **‘former provision’** means the following provisions of this Act as they read on the day before the coming into force of this section:
  - (i) sections 146, 146.1 and 146.2;
  - (ii) subsections 147(1) and (5);
  - (iii) sections 148, 150 and 150.1;
  - (iv) subsection 151(5).

(2) A peace officer shall do the things set out in subsections (3) and (14) if the peace officer has reasonable grounds to believe that the driver, based on an analysis of a driver’s breath by means of an approved screening device, drove a motor vehicle while that driver’s venous blood contained not less than 40 milligrams of alcohol per 100 millilitres of blood.

(3) In the circumstances mentioned in subsection (2):

- (a) the peace officer shall immediately:
  - (i) suspend the driver from driving a motor vehicle;
  - (ii) if the driver is the holder of a driver’s licence or any other permit authorizing the driver to drive a motor vehicle, require the driver to immediately surrender his or her driver’s licence or permit; and
  - (iii) issue and serve a notice of suspension on the driver; and
- (b) on being required to do so pursuant to subclause (a)(ii), the driver shall immediately surrender his or her driver’s licence or permit to the peace officer.

- (4) If a driver is served with a notice of suspension pursuant to this section:
- (a) subject to subsection (8), the driver is suspended from driving a motor vehicle:
    - (i) if the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 72 consecutive hours;
    - (ii) if the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 21 consecutive days; or
    - (iii) if the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, for a period of 90 consecutive days; and
  - (b) the motor vehicle the driver was driving at the time he or she was served with the notice of suspension is, on service of the notice, immediately immobilized or impounded for:
    - (i) if he or she has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, seven consecutive days; or
    - (ii) if he or she has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, 14 consecutive days.
- (5) A notice of suspension served on a driver pursuant to this section:
- (a) is effective immediately;
  - (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
  - (c) prohibits that driver from applying for or holding a driver's licence during the period of suspension set out in this section.
- (6) A driver shall, within 90 days after the date of the issuance of the notice of suspension pursuant to this section:
- (a) in the circumstance where the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator;
  - (b) in the circumstance where the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator; or
  - (c) in the circumstance where the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension:
    - (i) complete an education or recovery program recommended by an addictions counsellor; and
    - (ii) if he or she completes the education or recovery program mentioned in subclause (i), be considered by the addictions counsellor to be at low risk for continued impaired driving.

(7) If a driver who is required to complete a program pursuant to subsection (6) fails to do so within the 90-day period mentioned in that subsection and the driver's licence of the driver has been reinstated by the administrator, the administrator shall suspend the driver from driving a motor vehicle until he or she completes the program.

(8) If a driver is suspended from driving a motor vehicle pursuant to subsection (3), the notice of suspension and any immobilization or impoundment of the motor vehicle is terminated immediately if:

(a) the driver:

(i) immediately and voluntarily undergoes a test of a kind authorized to be given for that purpose by the minister that, in the opinion of the peace officer, indicates that the venous blood of the driver contains less than 40 milligrams of alcohol per 100 millilitres of blood; or

(ii) after the notice of suspension is issued but before the period of suspension has expired, obtains and produces to the peace officer a certificate from a duly qualified medical practitioner stating that, at the time the driver was suspended pursuant to subsection (3), the venous blood of the driver contained less than 40 milligrams of alcohol per 100 millilitres of blood; or

(b) the following circumstances apply:

(i) for the purpose of showing the proportion of alcohol in the driver's blood, the driver either:

(A) voluntarily attends immediately 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 screening device; or

(B) immediately provides a second breath sample into an approved screening device that is different from the approved screening device used for the test pursuant to subsection (2); and

(ii) the result of the test or breath sample mentioned in subclause (i) indicates that the venous blood of the driver contains less than 40 milligrams of alcohol per 100 millilitres of blood.

(9) Notwithstanding subsections (6) and (7), but subject to subsections (10) to (12), if a driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, the driver is eligible to have his or her driver's licence reinstated before the expiry of the period of suspension mentioned in subsection (3) on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the driver:

(a) does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of 365 consecutive days following enrolment in the ignition interlock program;

(b) participates in the prescribed ignition interlock program; and

(c) complies with any terms and conditions imposed by the administrator.

(10) If the administrator is satisfied that a driver mentioned in subsection (9) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the driver must drive a motor vehicle with a prescribed ignition interlock device.

(11) If a driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (9), the administrator may, with respect to that driver:

- (a) waive the requirements set out in subsection (9);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the driver that the administrator considers appropriate.

(12) A driver described in subsection (11) is eligible to have his or her driver's licence reinstated subject to any other terms and conditions imposed on the driver by the administrator pursuant to this Act.

(13) On the termination of the suspension of a driver's licence pursuant to subsection (8), the driver's licence, if it was surrendered, is to be returned to the driver by ordinary mail at the address shown on the driver's licence unless the driver calls for the driver's licence in person.

(14) If a peace officer suspends the driver's licence of a driver pursuant to this section, the peace officer shall:

- (a) keep a written record of the driver's licence suspended by the peace officer;
- (b) if the suspension is not terminated pursuant to subsection (8), provide the driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension takes effect;
- (c) if the driver surrenders his or her driver's licence, give the driver a receipt for the driver's licence; and
- (d) promptly send the driver's licence of the driver to the administrator.

(15) This section applies, with any necessary modification, to a driver who is a non-resident.

**“Field sobriety test (alcohol) and suspensions—40 milligrams of alcohol**

**146.1(1)** A peace officer may require the driver of a motor vehicle to undergo a field sobriety test if the peace officer has reasonable grounds to believe that the driver's venous blood contains not less than 40 milligrams of alcohol per 100 millilitres of blood.

(2) A driver who is requested to undergo a field sobriety test is suspended from driving a motor vehicle for the period set out in subsection (4) if the driver:

- (a) refuses to undergo the field sobriety test;
- (b) fails to follow the peace officer's instructions regarding the field sobriety test; or
- (c) fails the field sobriety test.

- (3) In the circumstances mentioned in subsection (2):
- (a) the peace officer shall immediately:
    - (i) suspend the driver from driving a motor vehicle;
    - (ii) if the driver is the holder of a driver's licence or any other permit authorizing the driver to drive a motor vehicle, require the driver to immediately surrender his or her driver's licence or permit; and
    - (iii) issue and serve a notice of suspension on the driver; and
  - (b) on being required to do so pursuant to subclause (a)(ii), the driver shall immediately surrender his or her driver's licence or permit to the peace officer.
- (4) If a driver is served with a notice of suspension pursuant to this section:
- (a) subject to subsection (8), the driver is suspended from driving a motor vehicle:
    - (i) if the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 72 consecutive hours;
    - (ii) if the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 21 consecutive days; or
    - (iii) if the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, for a period of 90 consecutive days; and
  - (b) the motor vehicle the driver was driving at the time he or she was served with the notice of suspension is, on service of the notice, immediately immobilized or impounded for:
    - (i) if he or she has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, seven consecutive days; or
    - (ii) if he or she has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, 14 consecutive days.
- (5) A notice of suspension served on a driver pursuant to this section:
- (a) is effective immediately;
  - (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
  - (c) prohibits that driver from applying for or holding a driver's licence during the period of suspension set out in this section.
- (6) A driver shall, within 90 days after the date of the issuance of the notice of suspension pursuant to this section:
- (a) in the circumstance where the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator;

(b) in the circumstance where the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator; or

(c) in the circumstance where the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension:

(i) complete an education or recovery program recommended by an addictions counsellor; and

(ii) if he or she completes the education or recovery program mentioned in subclause (i), be considered by the addictions counsellor to be at low risk for continued impaired driving.

(7) If a driver who is required to complete a program pursuant to subsection (6) fails to do so within the 90-day period mentioned in that subsection and the driver's licence of the driver has been reinstated by the administrator, the administrator shall suspend the driver from driving a motor vehicle until he or she completes the program.

(8) If a driver is suspended from driving a motor vehicle pursuant to subsection (3), the notice of suspension and any immobilization or impoundment of the motor vehicle is terminated immediately if:

(a) the driver:

(i) immediately and voluntarily undergoes a test of a kind authorized to be given for that purpose by the minister that, in the opinion of the peace officer, indicates that the venous blood of the driver contains less than 40 milligrams of alcohol per 100 millilitres of blood; or

(ii) after the notice of suspension is issued but before the period of suspension has expired, obtains and produces to the peace officer a certificate from a duly qualified medical practitioner stating that, at the time the driver was suspended pursuant to subsection (3), the venous blood of the driver contained less than 40 milligrams of alcohol per 100 millilitres of blood; or

(b) the following circumstances apply:

(i) for the purpose of showing the proportion of alcohol in the driver's blood, the driver either:

(A) voluntarily attends immediately 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 screening device; or

(B) immediately provides a breath sample into an approved screening device; and

(ii) the result of the test or breath sample mentioned in subclause (i) indicates that the venous blood of the driver contains less than 40 milligrams of alcohol per 100 millilitres of blood.

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(9) Notwithstanding subsections (6) and (7), but subject to subsections (10) to (12), if a driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, the driver is eligible to have his or her driver's licence reinstated on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the driver:

- (a) does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of 365 consecutive days following enrolment in the ignition interlock program;
- (b) participates in the prescribed ignition interlock program; and
- (c) complies with any terms and conditions imposed by the administrator.

(10) If the administrator is satisfied that a driver mentioned in subsection (9) has not fully complied with the prescribed ignition interlock program or the terms and conditions imposed by the administrator, the administrator may extend the period during which the driver must drive a motor vehicle with a prescribed ignition interlock device.

(11) If a driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (9), the administrator may, with respect to that driver:

- (a) waive the requirements set out in subsection (9);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the driver that the administrator considers appropriate.

(12) A driver described in subsection (11) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the driver by the administrator pursuant to this Act.

(13) On the termination of the suspension of a driver's licence pursuant to subsection (8), the driver's licence, if it was surrendered, is to be returned to the driver by ordinary mail at the address shown on the driver's licence unless the driver calls for the driver's licence in person.

(14) If a peace officer suspends the driver's licence of a driver pursuant to this section, the peace officer shall:

- (a) keep a written record of the driver's licence suspended by the peace officer;
- (b) if the suspension is not terminated pursuant to subsection (8), provide the driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension takes effect;
- (c) if the driver surrenders his or her driver's licence, give the driver a receipt for the driver's licence; and
- (d) promptly send the driver's licence of the driver to the administrator.

(15) This section applies, with any necessary modification, to a driver who is a non-resident.

**“Field sobriety test (drugs) and suspension**

**146.2(1)** A peace officer may require the driver of a motor vehicle to undergo a field sobriety test if the peace officer has reasonable grounds to believe that the driver has in his or her body a drug or substance that causes the driver to be unable to safely drive a motor vehicle.

(2) A driver mentioned in subsection (1) is suspended from driving a motor vehicle for the period set out in subsection (3) if the driver:

- (a) refuses to undergo the field sobriety test;
- (b) fails to follow the peace officer’s instructions regarding the field sobriety test; or
- (c) fails the field sobriety test.

(3) In the circumstances mentioned in subsection (2):

- (a) the peace officer shall immediately:
  - (i) suspend the driver from driving a motor vehicle;
  - (ii) if the driver is the holder of a driver’s licence or any other permit authorizing the driver to drive a motor vehicle, require the driver to immediately surrender his or her driver’s licence or permit; and
  - (iii) issue and serve a notice of suspension on the driver; and
- (b) on being required to do so pursuant to subclause (a)(ii), the driver shall immediately surrender his or her driver’s licence or permit to the peace officer.

(4) If a driver is served with a notice of suspension pursuant to this section:

- (a) the driver is suspended from driving a motor vehicle:
  - (i) if the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 72 consecutive hours;
  - (ii) if the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, for a period of 21 consecutive days; or
  - (iii) if the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, for a period of 90 consecutive days; and
- (b) the motor vehicle the driver was driving at the time he or she was served with the notice of suspension is, on service of the notice, immediately impounded or immobilized for:
  - (i) if he or she has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, seven consecutive days; or
  - (ii) if he or she has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, 14 consecutive days.

- (5) A notice of suspension served on a driver pursuant to this section:
- (a) is effective immediately;
  - (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
  - (c) prohibits the driver from applying for or holding a driver's licence during the period of suspension set out in this section.
- (6) A driver shall, within 90 days after the date of the issuance of the notice of suspension pursuant to this section:
- (a) in the circumstance where the driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator;
  - (b) in the circumstance where the driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension, participate in any prescribed program required by the administrator; or
  - (c) in the circumstance where the driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension:
    - (i) complete an education or recovery program recommended by an addictions counsellor; and
    - (ii) if he or she completes the education or recovery program mentioned in subclause (i), be considered by the addictions counsellor to be at low risk for continued impaired driving.
- (7) If a driver who is required to complete a program pursuant to subsection (6) fails to do so within the 90-day period mentioned in that subsection and the driver's licence of the driver has been reinstated by the administrator, the administrator shall suspend the driver from driving a motor vehicle until he or she completes the program.
- (8) Notwithstanding subsections (6) and (7), but subject to subsections (9) to (11), if a driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension, the driver is eligible to have his or her driver's licence reinstated on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the driver:
- (a) does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of 365 consecutive days following enrolment in the ignition interlock program;
  - (b) participates in the prescribed ignition interlock program; and
  - (c) complies with any terms and conditions imposed by the administrator.
- (9) If the administrator is satisfied that a driver mentioned in subsection (8) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the driver must drive a motor vehicle with a prescribed ignition interlock device.

(10) If a driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (8), the administrator may, with respect to that driver:

- (a) waive the requirements set out in subsection (8);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the driver that the administrator considers appropriate.

(11) A driver described in subsection (10) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the driver by the administrator pursuant to this Act.

(12) If a peace officer suspends the driver's licence of a driver pursuant to this section, the peace officer shall:

- (a) keep a written record of the driver's licence suspended by the peace officer;
- (b) provide the driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension takes effect;
- (c) if the driver surrenders his or her driver's licence, give the driver a receipt for the driver's licence; and
- (d) promptly send the driver's licence of the driver to the administrator.

(13) This section applies, with any necessary modification, to a driver who is a non-resident.

**“Certain notices of suspension not to be counted**

**146.3** For the purposes of sections 146 to 146.2, the administrator shall not count as designated notices:

- (a) any notice of suspension pursuant to section 146 if that suspension was terminated pursuant to subsection 146(8);
- (b) any notice of suspension pursuant to section 146.1 if that suspension was terminated pursuant to subsection 146.1(8);
- (c) any suspension pursuant to section 146, as that section read before the coming into force of this section, if that suspension was terminated pursuant to subsection (4) or (5) of that section; or
- (d) any suspension pursuant to section 146.1, as that section read before the coming into force of this section, if that suspension was terminated pursuant to subsection (3) of that section.

**“Applications for driver's licence by new residents**

**146.4(1)** In this section, **‘new resident’** means a person who, at the time of applying for a driver's licence, has become a resident.

(2) A new resident may apply to the administrator for a driver's licence in accordance with this Act and the regulations.

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- (3) In an application for a driver's licence, a new resident shall inform the administrator if, at the time of the application, his or her driving privileges in another jurisdiction in Canada or the United States of America are suspended, cancelled or denied or made subject to compliance with conditions.
- (4) On receipt of an application from a new resident, the administrator:
- (a) shall review the application; and
  - (b) subject to subsection (5), may issue a driver's licence to the new resident if he or she satisfies the administrator that he or she meets the requirements of this Act and the regulations.
- (5) Notwithstanding clause 41(s), if a new resident's driving privileges in another jurisdiction in Canada or the United States of America are suspended, cancelled or denied or made subject to compliance with conditions, the administrator may issue a driver's licence to the new resident subject to any terms and conditions that the administrator considers necessary”.

**New section 148****18 Section 148 is repealed and the following substituted:****“Suspensions—80 milligrams of alcohol or greater or for refusing to comply with demand**

- 148(1)** In this section, ‘**approved screening device**’ means a prescribed device for analysing a sample of breath or blood.
- (2) A peace officer shall do the things set out in subsections (3) and (12), if:
- (a) the peace officer has reasonable grounds to believe, based on an analysis of a driver's breath or blood by means of an approved screening device, that a driver drove a motor vehicle while the venous blood of the driver exceeded 80 milligrams of alcohol per 100 millilitres of blood; or
  - (b) the peace officer has reasonable grounds to believe that a driver failed or refused, without reasonable excuse, to comply with a demand made pursuant to subsection 254(5) of the *Criminal Code*.
- (3) In the circumstances mentioned in subsection (2), the peace officer shall immediately:
- (a) suspend the driver from driving a motor vehicle;
  - (b) if the driver holds a valid driver's licence or any other permit authorizing the driver to drive a motor vehicle, require the driver to immediately surrender his or her driver's licence or permit;
  - (c) cause the motor vehicle that the driver is driving to be immobilized or impounded; and
  - (d) issue and serve on that driver a notice of suspension and immobilization or impoundment.
- (4) A notice of suspension and immobilization or impoundment served on a driver pursuant to this section:
- (a) is effective immediately;
  - (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
  - (c) prohibits the driver from applying for or holding a driver's licence during the period of suspension set out in this section.

(5) If, in the circumstances mentioned in subsection (2), a driver is served with a notice of suspension and immobilization or impoundment pursuant to this section and the driver is charged with an offence pursuant to clause 253(1)(b) or subsection 254(5) of the *Criminal Code*:

- (a) the driver is suspended from driving a motor vehicle until:
  - (i) the prosecution of the offence has been stayed or withdrawn; or
  - (ii) the driver has been acquitted or convicted of the offence; and
- (b) the motor vehicle the driver was driving at the time he or she was served with the notice of suspension and immobilization or impoundment is, on the service of the notice, immediately impounded or immobilized for:
  - (i) if the driver is charged pursuant to subsection 254(5) of the *Criminal Code*, a period of 60 consecutive days;
  - (ii) if the driver is charged pursuant to clause 253(1)(b) of the *Criminal Code* and the venous blood of the driver exceeds 80 milligrams of alcohol per 100 millilitres of blood but less than 160 milligrams of alcohol per 100 millilitres of blood, a period of 30 consecutive days; or
  - (iii) if the driver is charged pursuant to clause 253(1)(b) of the *Criminal Code* and the venous blood of the driver is equal to or exceeds 160 milligrams of alcohol per 100 millilitres of blood, a period of 60 consecutive days.

(6) Notwithstanding that the period of suspension in subsection (5) has expired, a driver who has been subject to a notice of suspension and immobilization or impoundment pursuant to this section is only eligible to apply to have his or her driver's licence reinstated if:

- (a) in the circumstance where the driver has not been subject to a previous notice of suspension and immobilization or impoundment pursuant to this section in the 10 years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, he or she participates in any prescribed program required by the administrator;
- (b) in the circumstance where the driver has been subject to one previous notice of suspension and immobilization or impoundment pursuant to this section in the 10 years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, he or she participates in any prescribed program required by the administrator; or
- (c) in the circumstance where the driver has been subject to two or more previous notices of suspension and immobilization or impoundment pursuant to this section in the 10 years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, he or she:
  - (i) completes an education or recovery program recommended by an addictions counsellor; and
  - (ii) if he or she completes the education or recovery program mentioned in subclause (i), is considered by the addictions counsellor to be at low risk for continued impaired driving.

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(7) Notwithstanding subsection (5), but subject to subsections (8) to (11), if a driver is convicted of an offence pursuant to clause 253(1)(b) or subsection 254(5) of the *Criminal Code* and the driver is permitted by law to apply to participate in an ignition interlock program, the driver is eligible to have his or her driver's licence reinstated on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the driver:

(a) subject to subsections (8) and (10), does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of:

(i) if the driver has not previously been convicted of an offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) in the 10 years preceding the date of the conviction, one year following the enrolment in the ignition interlock program;

(ii) if the driver has previously been convicted of one offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) in the 10 years preceding the date of the conviction, two years following the enrolment in the ignition interlock program; or

(iii) if the driver has previously been convicted of two or more offences pursuant to clause 253(1)(a) or (b) or subsection 254(5) in the 10 years preceding the date of the conviction, five years following the enrolment in the ignition interlock program;

(b) participates in the prescribed ignition interlock program; and

(c) complies with any terms and conditions imposed by the administrator.

(8) A driver mentioned in subsection (7) may apply to enrol in a prescribed ignition interlock program on the latest of:

(a) the date the driver is eligible to participate in an ignition interlock program pursuant to the *Criminal Code*;

(b) the date the convicting judge or court has ordered that the driver may participate in an ignition interlock program; and

(c) the prescribed date.

(9) If the administrator is satisfied that a driver mentioned in subsection (7) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the driver must drive a motor vehicle with a prescribed ignition interlock device.

(10) If a driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (7), the administrator may, with respect to that driver:

(a) waive the requirements set out in subsection (7);

(b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;

(c) require the driver to participate in a prescribed program; and

(d) impose any terms and conditions on the driver that the administrator considers appropriate.

(11) A driver described in subsection (10) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the driver by the administrator pursuant to this Act.

(12) If a peace officer suspends the driver's licence of a driver pursuant to this section, the peace officer shall:

(a) keep a written record of the driver's licence suspended by the peace officer;

(b) provide the driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension and immobilization or impoundment takes effect;

(c) if the driver surrenders his or her driver's licence, give the driver a receipt for the driver's licence; and

(d) promptly send the driver's licence, and any other prescribed documents or prescribed reports, to the administrator.

(13) A motor vehicle that is immobilized or impounded pursuant to this section is to be dealt with in the manner set out in section 150.2.

(14) This section applies, with any necessary modification, to a driver who is a non-resident”.

#### **New sections 150 to 151**

#### **19 Sections 150 to 151 are repealed and the following substituted:**

#### **“When peace officer may order suspension—new drivers**

**150(1)** In this section and section 150.1:

(a) **‘designated notice’** means a notice of suspension and immobilization or impoundment issued pursuant to this section or section 150.1 or a notice of seizure and direction issued pursuant to section 150.3 and includes an order of disqualification issued pursuant to a former provision;

(b) **‘former provision’** means the following provisions of this Act as they read on the day before the coming into force of this section:

(i) sections 150 and 150.1;

(ii) subsection 151(5).

(2) A peace officer shall do the things set out in subsections (3) and (13) if the peace officer has reasonable grounds to believe that a new driver:

(a) drove a motor vehicle having any alcohol in his or her body;

(b) failed or refused, without reasonable excuse, to comply with a demand made pursuant to subsection 254(5) of the *Criminal Code*; or

(c) failed or refused, without reasonable excuse, to comply with a demand made pursuant to section 149.

(3) In the circumstances mentioned in subsection (2), the peace officer shall immediately:

(a) suspend the new driver from driving a motor vehicle;

(b) if the new driver holds a valid driver's licence or any other permit authorizing the new driver to drive a motor vehicle, require the new driver to immediately surrender his or her driver's licence or permit;

- (c) cause the motor vehicle the new driver is driving to be immobilized or impounded; and
  - (d) issue and serve on the new driver a notice of suspension and immobilization or impoundment.
- (4) A notice of suspension and immobilization or impoundment served on a new driver pursuant to this section:
- (a) is effective immediately;
  - (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
  - (c) prohibits the new driver from applying for or holding a driver's licence during the period of suspension set out in this section.
- (5) If, in the circumstances mentioned in subsection (2), a new driver is served with a notice of suspension and immobilization or impoundment:
- (a) subject to subsection (8), the new driver:
    - (i) if he or she has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 60 consecutive days;
    - (ii) if he or she has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 120 consecutive days; or
    - (iii) if he or she has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 18 consecutive months; and
  - (b) the motor vehicle the new driver was driving at the time he or she was served with the notice of suspension and immobilization or impoundment is, on service of the notice, immediately impounded or immobilized for:
    - (i) if he or she has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, three consecutive days; or
    - (ii) if he or she has been subject to one or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, seven consecutive days.
- (6) A new driver shall, within 90 days after the date of the issuance of the notice of suspension and immobilization and impoundment pursuant to this section:
- (a) in the circumstance where the new driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, participate in any prescribed program required by the administrator;

(b) in the circumstance where the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, participate in any prescribed program required by the administrator; or

(c) in the circumstance where the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment:

(i) complete an education or recovery program recommended by an addictions counsellor; and

(ii) if he or she completes the education or recovery program mentioned in subclause (i), be considered by the addictions counsellor to be at low risk for continued impaired driving.

(7) If a new driver who is required to complete a program pursuant to subsection (6) fails to do so within the 90-day period mentioned in that subsection and the driver's licence of the new driver has been reinstated by the administrator, the administrator shall suspend the new driver from driving a motor vehicle until he or she completes the program.

(8) If a new driver has been subject to one or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, the new driver is eligible to have his or her driver's licence reinstated before the expiry of the period of suspension mentioned in subsection (5) on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the new driver:

(a) does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of:

(i) if the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, 120 days; or

(ii) if the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, one year;

(b) participates in the prescribed ignition interlock program; and

(c) complies with any terms and conditions imposed by the administrator.

(9) A new driver mentioned in subsection (8) may only apply for a prescribed ignition interlock device:

(a) if the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, after the expiry of a period of 60 days following the date of the issuance of the notice of suspension and immobilization or impoundment pursuant to subsection (5); or

(b) if the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, after the expiry of a period of one year following the date of the issuance of the notice of suspension and immobilization or impoundment pursuant to subsection (5).

(10) If the administrator is satisfied that a new driver mentioned in subsection (8) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the new driver must drive a motor vehicle with a prescribed ignition interlock device.

(11) If a new driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (8), the administrator may, with respect to the new driver:

- (a) waive the requirements set out in subsection (8);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the driver that the administrator considers appropriate.

(12) A new driver described in subsection (11) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the new driver by the administrator pursuant to this Act.

(13) If a peace officer suspends the driver's licence of a new driver pursuant to this section, the peace officer shall:

- (a) keep a written record of the driver's licence suspended by the peace officer;
- (b) provide the new driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension and immobilization or impoundment takes effect;
- (c) if the new driver surrenders his or her driver's licence, give the new driver a receipt for the driver's licence; and
- (d) promptly send the driver's licence to the administrator.

(14) A motor vehicle that is immobilized or impounded pursuant to this section is to be dealt with in the manner set out in section 150.2.

(15) This section applies, with any necessary modification, to a new driver who is a non-resident.

**“When field sobriety test may be required of new drivers**

**150.1(1)** A peace officer may require a new driver who is driving a motor vehicle to undergo a field sobriety test if the peace officer reasonably suspects that the new driver:

- (a) has any alcohol in his or her body; or
- (b) has any drug or substance in his or her body that causes the new driver to be unable to safely drive a vehicle.

(2) A new driver mentioned in subsection (1) is subject to the actions mentioned in subsection (3) if the new driver:

- (a) refuses to undergo the field sobriety test;
- (b) fails to follow the peace officer's instructions regarding the field sobriety test; or
- (c) fails the field sobriety test.

(3) In the circumstances mentioned in subsection (2), the peace officer shall immediately:

- (a) suspend the new driver from driving a motor vehicle;
- (b) if the new driver holds a valid driver's licence or any other permit authorizing the new driver to drive a motor vehicle, require the new driver to immediately surrender his or her driver's licence or permit;
- (c) cause the motor vehicle the new driver is driving to be immobilized or impounded; and
- (d) issue and serve on the new driver a notice of suspension and immobilization or impoundment.

(4) A notice of suspension and immobilization or impoundment served on a new driver pursuant to this section:

- (a) is effective immediately;
- (b) is effective notwithstanding that the peace officer is unable for any reason to take possession of the driver's licence or permit; and
- (c) prohibits the new driver from applying for or holding a driver's licence during the period of suspension set out in this section.

(5) If, in the circumstances mentioned in subsection (2), a new driver is served with a notice of suspension and immobilization or impoundment:

- (a) subject to subsection (8), the new driver:
  - (i) if he or she has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 60 consecutive days;
  - (ii) if he or she has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 120 consecutive days; or
  - (iii) if he or she has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, is suspended from driving a motor vehicle for a period of 18 consecutive months; and
- (b) the motor vehicle the new driver was driving at the time he or she was served with the notice of suspension and immobilization or impoundment is, on service of the notice, immediately impounded or immobilized for:
  - (i) if he or she has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, three consecutive days; or
  - (ii) if he or she has been subject to one or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, seven consecutive days.

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(6) A new driver shall, within 90 days after the date of the issuance of the notice of suspension and immobilization or impoundment pursuant to this section:

(a) in the circumstance where the new driver has not been subject to a previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, participate in any prescribed program required by the administrator;

(b) in the circumstance where the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, participate in any prescribed program required by the administrator; or

(c) in the circumstance where the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment:

(i) complete an education or recovery program recommended by an addictions counsellor; and

(ii) if he or she completes the education or recovery program mentioned in subclause (i), be considered by the addictions counsellor to be at low risk for continued impaired driving.

(7) If a new driver who is required to complete a program pursuant to subsection (6) fails to do so within the 90-day period mentioned in that subsection and the driver's licence of the new driver has been reinstated by the administrator, the administrator shall suspend the new driver from driving a motor vehicle until he or she completes the program.

(8) If a new driver has been subject to one or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, the new driver is eligible to have his or her driver's licence reinstated before the expiry of the period of suspension mentioned in subsection (5) on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the new driver:

(a) does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for the period of:

(i) if the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, 120 days;

(ii) if the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, one year;

(b) participates in the prescribed ignition interlock program; and

(c) complies with any terms and conditions imposed by the administrator.

(9) A new driver mentioned in subsection (8) may only apply for a prescribed ignition interlock device:

(a) if the new driver has been subject to one previous designated notice in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, after the expiry of a period of 60 days following the date of the suspension imposed pursuant to subsection (5); or

(b) if the new driver has been subject to two or more previous designated notices in the five years preceding the date of the issuance of the notice of suspension and immobilization or impoundment, after the expiry of a period of one year following the date of the suspension imposed pursuant to subsection (5).

(10) If the administrator is satisfied that a new driver mentioned in subsection (8) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the new driver must drive a motor vehicle with a prescribed ignition interlock device.

(11) If a new driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (8), the administrator may, with respect to the new driver:

- (a) waive the requirements set out in subsection (8);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the new driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the new driver that the administrator considers appropriate.

(12) A new driver described in subsection (11) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the new driver by the administrator pursuant to this Act.

(13) If a peace officer suspends the driver's licence of a new driver pursuant to this section, the peace officer shall:

- (a) keep a written record of the driver's licence suspended by the peace officer;
- (b) provide the new driver whose driver's licence is suspended with a written statement, in the prescribed form, of the time from which the suspension and immobilization or impoundment takes effect;
- (c) if the new driver surrenders his or her driver's licence, give the new driver a receipt for the driver's licence; and
- (d) promptly send the driver's licence to the administrator.

(14) A motor vehicle that is immobilized or impounded pursuant to this section is to be dealt with in the manner set out in section 150.2.

(15) This section applies, with any necessary modification, to a new driver who is a non-resident.

#### **“Immobilized or impounded motor vehicles**

**150.2(1)** If a motor vehicle is immobilized or impounded pursuant to section 146, 146.1, 146.2, 148, 150 or 150.1, a peace officer may retain the motor vehicle in the peace officer's possession or direct a garage keeper to immobilize or impound the motor vehicle.

(2) A garage keeper who immobilizes or impounds a motor vehicle pursuant to this section is deemed to have a lien on the motor vehicle pursuant to section 3 of *The Commercial Liens Act* for all unpaid amounts of prescribed fees, costs and charges relating to the immobilization or impoundment of that vehicle, and that Act applies, with any necessary modification, to the enforcement and realization of that lien.

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- (3) A motor vehicle immobilized or impounded by a garage keeper pursuant to this section may be sold by the garage keeper for the purpose of recovering the fees, costs and charges mentioned in subsection (2) if:
- (a) the owner of the motor vehicle cannot be found after reasonable inquiry; or
  - (b) the owner of the motor vehicle fails to pay the fees, costs and charges within 15 days after the period of immobilization or impoundment expires.
- (4) Section 161 applies, with any necessary modification, to:
- (a) a sale pursuant to subsection (3);
  - (b) the application of the proceeds of the sale mentioned in clause (a); and
  - (c) the disposition of any surplus moneys from the sale mentioned in clause (a).

**“Notice of seizure and direction**

**150.3(1)** In this section:

- (a) **‘justice’** means:
  - (i) a justice of the peace appointed pursuant to *The Justices of the Peace Act, 1988*; or
  - (ii) a judge of the Provincial Court of Saskatchewan;
- (b) **‘notice of seizure and direction’** means a notice of seizure and direction issued pursuant to subsection (2).

(2) Notwithstanding any other provision of this Part, if a peace officer is satisfied that immobilizing or impounding a motor vehicle pursuant to section 146, 146.1, 146.2, 148, 150 or 150.1 would jeopardize the safety of, or cause undue hardship to, any person, the peace officer may issue a copy of a notice of seizure and direction to the driver or new driver and to the owner of the motor vehicle.

(3) If a notice of seizure and direction is issued pursuant to this section, the motor vehicle is not to be immediately immobilized or impounded but is to be dealt with in the manner set out in the notice of seizure and direction.

(4) No person to whom a notice of seizure and direction is issued shall fail to comply with the notice of seizure and direction.

(5) If the motor vehicle is not made available for immobilization or impoundment at the time and place specified in the notice of seizure and direction, a peace officer may apply to a justice in the prescribed form for an order authorizing the impoundment or immobilization of the motor vehicle.

(6) On an application pursuant to subsection (5), if the justice is satisfied that the peace officer had reasonable grounds to believe that the driver or new driver of the motor vehicle has acted in the manner specified in section 146, 146.1, 146.2, 148, 150 or 150.1, as the case may be, the justice may grant an order directed to the person named in the order:

- (a) to impound or immobilize the motor vehicle; and
- (b) to enter any building or place where the motor vehicle can be found for the purpose of impounding or immobilizing the motor vehicle.

(7) The failure of a peace officer to obtain an order from a justice pursuant to this section does not invalidate any immobilization or impoundment of a motor vehicle that is otherwise lawfully performed or authorized.

**“Reinstatement of driver’s licence following certain *Criminal Code* convictions**

**150.4(1)** A driver who is convicted of an offence pursuant to clause 253(1)(a) of the *Criminal Code* is only eligible to apply to have his or her driver’s licence reinstated if:

- (a) in the circumstance where the driver has not been previously convicted of an offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the conviction, he or she participates in any prescribed program required by the administrator;
- (b) in the circumstance where the driver has been convicted of one previous offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the conviction, he or she participates in any prescribed program required by the administrator; or
- (c) in the circumstance where the driver has been convicted of two or more previous offences pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the conviction, he or she:
  - (i) completes an education or recovery program recommended by an addictions counsellor; and
  - (ii) if he or she completes the education or recovery program mentioned in subclause (i), is considered by the addictions counsellor to be at low risk for continued impaired driving.

(2) Subject to subsection (3), if a driver is convicted of an offence pursuant to clause 253(1)(a) of the *Criminal Code* and the driver is permitted by law to apply to participate in an ignition interlock program, the driver is eligible to have his or her driver’s licence reinstated before the expiry of the period of suspension on the condition that, in addition to complying with the other requirements set out in this Act and the regulations, the driver:

- (a) subject to subsection (4), does not drive a motor vehicle unless the vehicle is equipped with a prescribed ignition interlock device for a period of:
  - (i) if the driver has not previously been convicted of an offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the date of the conviction, one year following the enrolment in the ignition interlock program;
  - (ii) if the driver has previously been convicted of one offence pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the date of the conviction, two years following the enrolment in the ignition interlock program; or
  - (iii) if the driver has previously been convicted of two or more offences pursuant to clause 253(1)(a) or (b) or subsection 254(5) of the *Criminal Code* in the 10 years preceding the date of the conviction, five years following the enrolment in the ignition interlock program;
- (b) participates in the prescribed ignition interlock program; and
- (c) complies with any terms and conditions imposed by the administrator.

(3) A driver mentioned in subsection (2) may apply to enrol in a prescribed ignition interlock program on the latest of:

- (a) the date the driver is eligible to participate in an ignition interlock program pursuant to the *Criminal Code*;
- (b) the date the convicting judge or court has ordered that the driver may participate in an ignition interlock program; and
- (c) the prescribed date.

(4) If the administrator is satisfied that a driver mentioned in subsection (2) has not fully complied with the prescribed ignition interlock program or any terms and conditions imposed by the administrator, the administrator may extend the period during which the driver must drive a motor vehicle with a prescribed ignition interlock device.

(5) If a driver satisfies the administrator that, for a prescribed reason, he or she is unable to comply with subsection (2), the administrator may, with respect to the driver:

- (a) waive the requirements set out in subsection (2);
- (b) in accordance with the regulations, terminate the suspension effective on a date that the administrator considers appropriate;
- (c) require the driver to participate in a prescribed program; and
- (d) impose any terms and conditions on the driver that the administrator considers appropriate.

(6) A driver described in subsection (5) is eligible to have his or her driver's licence reinstated, subject to any other terms and conditions imposed on the driver by the administrator pursuant to this Act.

**“Effect of suspension pursuant to any of sections 146 to 150.1**

**151(1)** Notwithstanding subsections 146(7), 146.1(7), 146.2(7), 150(7) and 150.1(7), the administrator may decline to suspend a driver's licence pursuant to any of those subsections if a prescribed program is not available to the driver or new driver within a reasonable time.

(2) If the driver's licence of a driver or new driver has been suspended pursuant to subsection 146(7), 146.1(7), 146.2(7), 150(7) or 150.1(7), the administrator shall reinstate the licence on being satisfied that the person has participated in a prescribed program”.

**New sections 152 to 153**

**20 Sections 152 to 154 are repealed and the following substituted:**

**“Review of suspensions and immobilization or impoundment**

**152(1)** A driver or new driver whose driver's licence has been suspended pursuant to section 146, 146.1, 146.2, 150 or 150.1 may appeal the suspension to the board.

(2) The immobilization or impoundment of a motor vehicle pursuant to section 146, 146.1, 146.2, 150, 150.1 or 150.2 and a notice of seizure and direction issued pursuant to section 150.3 may be appealed to the board by:

- (a) the owner of the motor vehicle;
- (b) the driver or new driver of the motor vehicle;

- (c) a person whose health would be seriously threatened by the continued immobilization or impoundment;
  - (d) a person other than the driver or new driver who would suffer extreme hardship as a result of the continued immobilization or impoundment;
  - (e) a person authorized by a person mentioned in clauses (a) to (d).
- (3) The sole issue before the board on an appeal pursuant to this section respecting the suspension of the driver's licence of a driver or new driver is:
- (a) in the case of a notice of suspension issued pursuant to section 146 or a notice of suspension and immobilization or impoundment issued pursuant to section 150, whether the board is satisfied that:
    - (i) the driver drove a motor vehicle while that driver's venous blood contained not less than 40 milligrams of alcohol per 100 millilitres of blood or the new driver drove a motor vehicle having any alcohol in his or her body;
    - (ii) the new driver failed or refused, without reasonable excuse, to comply with a demand made pursuant to section 254 of the *Criminal Code*; or
    - (iii) the new driver failed or refused, without reasonable excuse, to comply with a demand made pursuant to section 149; or
  - (b) in the case of a notice of suspension issued pursuant to section 146.1 or 146.2 or a notice of suspension and immobilization or impoundment issued pursuant to section 150.1, whether the board is satisfied that:
    - (i) the driver or new driver refused to undergo the field sobriety test;
    - (ii) the driver or new driver failed to follow the peace officer's instructions respecting the field sobriety test; or
    - (iii) the driver or new driver failed the field sobriety test.
- (4) The sole issue before the board on an appeal pursuant to this section respecting the immobilization or impoundment of a motor vehicle pursuant to section 146, 146.1, 146.2, 150, 150.1 or 150.2 or a notice of seizure and direction pursuant to section 150.3 is whether the board is satisfied that any of the circumstances mentioned in subsection 153(12) exist.
- (5) Section 153 applies, with any necessary modification, to an appeal pursuant to this section.

**“Review of notice of suspension by board—driver's licences**

- 153(1)** In this section, ‘**appellant**’ means a person described in subsection (2) who makes an appeal to the board pursuant to this section.
- (2) Within 90 days after a driver is served with a notice of suspension and immobilization or impoundment pursuant to section 148:
- (a) the driver may appeal the suspension of his or her driver's licence to the board; and

(b) any of the following persons may appeal the immobilization or impoundment of the motor vehicle to the board:

- (i) the owner of the motor vehicle;
- (ii) the driver on whom the notice was served;
- (iii) a person whose health would be seriously threatened by the continued immobilization or impoundment;
- (iv) a person other than the driver who would suffer extreme hardship as a result of the continued immobilization or impoundment;
- (v) a person authorized by a person mentioned in subclauses (i) to (iv).

(3) An appeal pursuant to subsection (2) must:

- (a) be in the prescribed form and prescribed manner; and
- (b) be accompanied by the prescribed fee.

(4) If an appellant intends to have an oral hearing, the appellant must request a date and time for an oral hearing and pay the prescribed oral hearing fee.

(5) If an appellant does not request an oral hearing, the appeal must be accompanied by affidavit evidence or other information that the appellant intends the board to consider.

(6) An appeal to the board does not stay the driving suspension or the immobilization or impoundment.

(7) The board is not required to hold an oral hearing unless the appeal includes a request for an oral hearing and the prescribed fee is paid.

(8) If an appellant requests an oral hearing but, without prior notice to the board, fails to appear on the date and at the time and place arranged for the hearing, the appellant is deemed to have waived the oral hearing, and the board shall conduct the appeal as if the appellant had not requested an oral hearing.

(9) On an appeal pursuant to this section, the board shall consider:

- (a) any affidavit evidence or other information provided by the appellant;
- (b) the certificate of analysis and any other documents or reports forwarded to the board by the administrator; and
- (c) if an oral hearing is held, in addition to the matters mentioned in clauses (a) and (b), any relevant evidence and information given or representations made at the oral hearing.

(10) The sole issue before the board on an appeal pursuant to this section concerning the suspension of the driver's licence, is whether the board is satisfied that the driver named in the notice of suspension:

- (a) drove a motor vehicle having consumed alcohol in such a quantity that the amount of alcohol in the driver's venous blood exceeded 80 milligrams of alcohol per 100 millilitres of blood; or
- (b) failed or refused, without reasonable excuse, to comply with a demand made pursuant to subsection 254(5) of the *Criminal Code*.

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(11) If the evidence before the board does not establish to the board's satisfaction that the driver named in the notice of suspension and immobilization or impoundment did the things described in clause (10)(a) or (b), the board shall:

- (a) cancel the notice of suspension and immobilization or impoundment;
- (b) release any motor vehicle subject to immobilization or impoundment under the notice of suspension and immobilization or impoundment; and
- (c) if applicable, return the driver's licence to the driver.

(12) The board shall only act pursuant to subsection (13) if it is satisfied that:

- (a) the motor vehicle was stolen at the time of the notice of suspension and immobilization or impoundment;
- (b) the motor vehicle was in possession of the driver without the knowledge and consent of the owner;
- (c) the continued immobilization or impoundment would pose a serious threat to the health of any person; or
- (d) the continued immobilization or impoundment would cause extreme hardship.

(13) If the board is satisfied that any of the circumstances mentioned in subsection (12) exist, the board may make an order:

- (a) releasing the motor vehicle; or
- (b) shortening the period of immobilization or impoundment.

(14) The board shall:

- (a) render a decision in writing within seven business days after the date of the hearing or after the date the information mentioned in clause (9)(a) is provided; and
- (b) serve the appellant with a written copy of its decision.

(15) The failure of the board to render a decision within the period mentioned in clause (14)(a) does not affect the jurisdiction of the board to consider or hear the appeal or make a decision with respect to the application”.

**Section 199 amended**

**21 The following subsections are added after subsection 199(2):**

“(2.1) Notwithstanding any provision of this Act, a person who drives a vehicle at a speed greater than 35 kilometres per hour over the applicable speed limit mentioned in subsection (1) is guilty of an offence.

“(2.2) Notwithstanding any provision of this Act, a person who drives a vehicle at a speed at least twice that of the applicable speed limit mentioned in subsection (1) is guilty of an offence”.

**Section 202 amended**

**22 Clause 202(1)(b) is repealed the following substituted:**

“(b) if the authority acts pursuant to clause (a), shall indicate that maximum speed by placing signs at each entrance and throughout the park”.

**New section 247.1****23 The following section is added after section 247:****“Rules re power-assisted bicycle**

**247.1** No person shall drive a power-assisted bicycle on a highway unless:

- (a) that person is 14 years of age or older;
- (b) that person and any passenger are wearing, in the prescribed manner, a helmet that meets the prescribed specifications; and
- (c) the power-assisted bicycle meets the prescribed equipment and safety standards required for the operation of that power-assisted bicycle”.

**Section 248 amended****24 Subsection 248(4) is repealed and the following substituted:**

“(4) If a motor vehicle has a seating position equipped with a seatbelt assembly available for a passenger, no person shall drive that motor vehicle on a highway with a passenger under the age of 16 years unless:

- (a) the passenger occupies the seating position equipped with a seatbelt assembly and wears the complete seatbelt assembly properly adjusted and securely fastened;
- (b) if the passenger is under the age of seven, weighs less than 36 kilograms but more than 18 kilograms and is less than 145 centimetres in height:
  - (i) the passenger occupies a booster seat as defined in the regulations, that is properly adjusted and securely fastened in the manner recommended by the manufacturer; and
  - (ii) the booster seat is appropriate for the passenger’s weight and height; or
- (c) if the passenger weighs 18 kilograms or less:
  - (i) the passenger occupies a child restraint system or infant restraint system, as defined in the regulations, that is properly adjusted and securely fastened in the manner recommended by the manufacturer; and
  - (ii) the child restraint system or infant restraint system:
    - (A) is appropriate for the passenger’s weight and height; and
    - (B) is secured to the motor vehicle in the manner recommended by the manufacturer”.

**Section 250 amended****25(1) Subsection 250(1) is repealed and the following substituted:**

“(1) In this section:

- (a) **‘compensation’** means remuneration of any nature or kind obtained for transporting passengers or goods but does not include remuneration received for the transportation of children to and from school;
- (b) **‘registration permit’** means a registration permit as defined in the regulations”.

**(2) Subsection 250(3) is repealed and the following substituted:**

“(3) Subject to subsection (3.1), every motor vehicle and towing vehicle operating on a highway in Saskatchewan that weighs in excess of 5 000 kilograms must state the gross vehicle weight of that motor vehicle, towing vehicle or combination of vehicles:

(a) if that motor vehicle or towing vehicle is registered in Saskatchewan, on the motor vehicle or towing vehicle’s certificate of registration or registration permit; or

(b) if that motor vehicle or towing vehicle has been registered or licensed pursuant to the IRP in another province of Canada or in a state of the United States of America, on the motor vehicle or towing vehicle’s registration documents provided by that jurisdiction, unless that vehicle is unladen.

“(3.1) Subsection (3) does not apply to:

(a) a vehicle registered in a prescribed class; or

(b) a farm implement towed on its own wheels.

“(3.2) If required pursuant to subsection (3) to state the vehicle’s gross vehicle weight on a vehicle’s registration documents, no person shall operate, or cause to be operated by an agent or employee, a motor vehicle or combination of vehicles with a gross vehicle weight that exceeds the gross vehicle weight on the vehicle’s registration documents”.

**New sections 259.1 to 259.3**

**26 Section 259.1 is repealed and the following substituted:**

**“Use of photograph of a vehicle from speed monitoring device**

**259.1(1)** In this section and in sections 259.2 and 259.3, ‘**photograph of a vehicle**’ means a photograph obtained through the use of a speed monitoring device that:

(a) shows the vehicle and the licence plate number displayed on the vehicle;

(b) shows or has superimposed on it:

(i) an indication of the rate of speed at which the vehicle was being driven when the photograph was taken; and

(ii) the date on which and time at which the photograph was taken; and

(c) shows or has superimposed on it any additional prescribed information.

(2) Subject to section 259.2, a photograph of a vehicle is admissible in evidence as proof, in the absence of evidence to the contrary, that on the date and at the time shown or indicated on the photograph, the vehicle was being driven at the rate of speed shown or superimposed on the photograph by the speed monitoring device.

(3) No person shall be convicted at trial of an offence on the basis of a photograph of a vehicle unless:

(a) the photograph or a copy of the photograph was served together with the offence notice issued pursuant to *The Summary Offences Procedure Act, 1990*; and

(b) either:

(i) the photograph is tendered at trial; or

(ii) the person consents to the photograph not being tendered and admits that the information contained in or superimposed on the photograph is true.

(4) In a prosecution for an alleged contravention of a prescribed provision of this Act, an affidavit that is signed by a prescribed person or a member of a prescribed class of persons and that meets the prescribed requirements is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts alleged in the affidavit, without proof of the signature or official character of the person purporting to have signed the affidavit.

(5) No affidavit mentioned in subsection (4) shall be received in evidence unless a copy of the affidavit is served on the accused by ordinary mail addressed to the last known address of the accused, as indicated on the records of the administrator, at least 10 business days before the date of the hearing.

(6) The accused may, with leave of the court, require the attendance of any person purporting to have signed the affidavit pursuant to subsection (4) for the purpose of cross-examination.

**“Restrictions on use of photographs of a vehicle and speed monitoring devices**

**259.2(1)** A photograph of a vehicle is admissible in evidence pursuant to section 259.1 only if the speed monitoring device used to take the photograph was operated by or on behalf of a prescribed municipality or police service, in the prescribed conditions and in the prescribed zones.

(2) A photograph of a vehicle is admissible in evidence pursuant to section 259.1 only in a prosecution of an alleged contravention of a prescribed provision of this Act.

**“Fees collected from using photograph of a vehicle**

**259.3** Notwithstanding subsection 268(1), the regulations may prescribe that any fee collected as a result of the prosecution of an offence with a photograph of a vehicle is to be paid to the administrator”.

**New sections 262 and 262.1****27 Section 262 is repealed and the following substituted:****“Proving of municipal bylaws****262(1)** In this section:

- (a) **‘bylaw’** means a municipal bylaw that has been approved by the board or the administrator;
- (b) **‘certificate’** means a certificate of an official that:
  - (i) identifies the bylaw;
  - (ii) states that the bylaw has been approved by the board or the administrator;
  - (iii) states the date of the bylaw’s approval by the board or the administrator;
- (c) **‘official’** means the clerk, administrator or official in charge of the bylaw records of a municipality.

(2) The certificate of an official is admissible in evidence as proof, in the absence of evidence to the contrary, that a bylaw has been approved by the board or the administrator, as required by this Act or the regulations, and of the municipality’s authority to pass it, without proof of the signature or official character of the person purporting to have signed it.

**“Application****262.1(1)** If a municipality is required by this Act or the regulations to submit a bylaw to the board or the administrator for approval, the municipality shall provide the board or the administrator with:

- (a) a copy of the bylaw; and
- (b) any additional information that the board or the administrator may reasonably require to determine whether or not to approve the bylaw.

(2) Within 90 days after receiving the bylaw and additional information mentioned in subsection (1), the board or the administrator shall:

- (a) review the bylaw; and
- (b) either:
  - (i) approve the bylaw if, in the opinion of the board or the administrator, the bylaw complies with this Act and the regulations and is not contrary to the public interest; or
  - (ii) refuse to approve the bylaw.

(3) As soon as is practicable after making its decision, the board or the administrator shall provide the municipality that submitted the bylaw with a written notice of its decision, including reasons for its decision”.

**Section 268 amended****28 The following clause is added after clause 268(2)(d):**

“(d.1) any penalties imposed pursuant to subsection 102.1(2) or 102.2(1)”.

**New section 280****29 Section 280 is repealed and the following substituted:****“When vehicle may be seized and impounded**

**280(1)** In this section, ‘**impounded vehicle**’ means a vehicle or a combination of vehicles seized and impounded pursuant to subsection (2).

(2) Without a warrant, a peace officer may seize and impound a vehicle or combination of vehicles:

(a) if that vehicle or combination of vehicles is being operated in the prescribed manner; or

(b) if that vehicle or combination of vehicles is parked on a highway at a place, or in a manner, that constitutes a hazard to other users of the highway.

(3) An impounded vehicle must remain impounded for the prescribed period.

(4) A peace officer may retain the impounded vehicle in the peace officer’s possession or direct a garage keeper to impound the vehicle.

(5) A garage keeper who impounds a vehicle pursuant to this section is deemed to have a lien on the vehicle pursuant to section 3 of *The Commercial Liens Act* with respect to the vehicle for all unpaid amounts of prescribed fees, costs and charges relating to the impoundment of that vehicle, and that Act applies, with any necessary modification, to the enforcement and realization of that lien.

(6) The impounded vehicle may be sold by the garage keeper for the purpose of recovering the fees, costs and charges mentioned in subsection (5) if:

(a) the owner of the vehicle cannot be found after reasonable inquiry; or

(b) the owner of the vehicle fails to pay the fees, costs and charges within 15 days after the day on which a notice requiring the owner to do so has been served on the owner.

(7) Section 161 applies, with any necessary modification, to:

(a) a sale pursuant to subsection (6);

(b) the application of the proceeds of the sale mentioned in clause (a); and

(c) the disposition of any surplus moneys from the sale mentioned in clause (a)”.

**Section 287 amended****30 Subsection 287(1) is amended:**

(a) **by adding the following clause after clause (a):**

“(a.1) for the purposes of clause 2(1)(h.1), prescribing vehicles or classes of vehicles that are not farm implements”;

(b) **by adding the following clause after clause (k):**

“(k.1) prescribing vehicle equipment and safety standards for any vehicle or towed equipment that is operated on a highway and is not required to be registered pursuant to this Act”;

**(c) by adding the following clause after clause (n):**

“(n.1) exempting classes of drivers and classes of vehicles from the requirements of subsections 32(2) and 57(2);

“(n.2) for the purposes of section 32.1, prescribing qualifications for persons who accompany and supervise the holder of a learner’s licence”;

**(d) by adding the following clauses after clause (w):**

“(w.1) for the purposes of subclause 96(1)(b)(vii), prescribing Acts, regulations, Acts of the Parliament of Canada and regulations made pursuant to the Parliament of Canada;

“(w.11) exempting the transportation of any goods or passengers or the operation of any vehicle or class of vehicles from the requirement to obtain a safety fitness certificate;

“(w.12) governing the terms and conditions for obtaining a safety fitness certificate;

“(w.2) prescribing the fees that may be charged for the issuance or renewal of a safety fitness certificate;

“(w.3) prescribing the documents and information to be filed with or supplied to the administrator on an application for the issuance or renewal of a safety fitness certificate or as a condition of retention by the holder of a safety fitness certificate;

“(w.31) prescribing safety and fitness standards for the operation of a commercial vehicle and prescribing the method for assigning safety fitness ratings to carriers;

“(w.4) prescribing the requirements to obtain, renew and hold a safety fitness certificate and authorizing the administrator to waive any requirements that are specified in the regulations under the circumstances set out in the regulations;

“(w.5) prescribing the expiry date of a safety fitness certificate and, for that purpose:

(i) establishing classes of holders of a safety fitness certificate; and

(ii) providing different expiry dates for different holders or different methods of determining expiry dates for different classes of holders of a safety fitness certificate;

“(w.51) prescribing the fees for an appeal pursuant to section 101.1;

“(w.6) prescribing the documents that must be submitted to the board on an appeal pursuant to section 101.1;

“(w.61) prescribing the board’s authority on an appeal pursuant to section 101.1, including providing for different authority for different issues under appeal;

“(w.7) respecting the extent of authority granted by safety fitness certificates;

“(w.71) respecting the terms and conditions under which passengers or goods may be carried on commercial or public vehicles and the liability of transporters who carry passengers or goods on commercial or public service vehicles;

“(w.8) prescribing insurance requirements for all vehicles or a class of vehicles;

“(w.81) establishing different classes of safety fitness certificates and prescribing different rules for different classes;

“(w.9) prescribing a penalty schedule for the purposes of sections 102.1 and 102.2, including prescribing a different penalty schedule for each section; and

“(w.91) for the purposes of clause 97(4)(k), prescribing inspections”;

**(e) by repealing clause (z) and substituting the following:**

“(z) respecting programs and procedures for the purposes of sections 146 to 150.1”;

**(f) by repealing clause (oo) and substituting the following:**

“(oo) for the purposes of Part XIII:

(i) prescribing offences for which a driver or new driver may participate in an ignition interlock program;

(ii) prescribing an ignition interlock device and an ignition interlock program and prescribing the terms and conditions respecting the administration of the program and any other matters associated with the program; and

(iii) prescribing the eligibility criteria for participation in the ignition interlock program”;

**(g) by repealing clause (qq) and substituting the following:**

“(qq) for the purposes of subsection 148(11), prescribing documents and reports that must be forwarded to the administrator by a peace officer”;

**(h) by repealing clause (rr) and substituting the following:**

“(rr) for the purposes of sections 141, 146, 146.1, 146.2 and 148 to 153:

(i) prescribing the persons or classes of persons who are authorized to take and analyse samples of breath or blood;

(ii) prescribing an approved screening device, including prescribing different approved screening devices for different provisions;

(iii) prescribing programs and any program requirements that an individual must meet or attend for the reinstatement of his or her driver's licence;

(iv) prescribing and requiring the payment of fees associated with the attendance at a program mentioned in subclause (iii);

(v) prescribing eligibility for participation in any program mentioned in subclause (iii);

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(vi) for the purposes of subsection 141(3), prescribing a period of disqualification;

(vii) prescribing an additional period of suspension for any driver unable to participate in an ignition interlock program;

(viii) prescribing the terms and conditions under which the administrator may waive the requirement to participate in an ignition interlock program;

(ix) prescribing the conditions on which and circumstances in which the administrator may terminate a suspension; and

(x) prescribing reasons that a driver or new driver may rely on to establish grounds for being unable to comply with the requirement to participate in an ignition interlock program”;

**(i) by adding the following clauses after clause (aaaa.4):**

“(aaaa.5) prescribing the terms and conditions under which a person is eligible to operate a power-assisted bicycle or golf cart on a highway;

“(aaaa.6) prescribing the amount of insurance required to meet the requirements of subsection 113.1(4);

“(aaaa.7) for the purposes of sections 113.1 and 247.1, prescribing specifications for equipment and safety standards that must be met, and the manner in which the equipment must be worn or utilized, before a power-assisted bicycle or golf cart may be operated on a highway;

“(aaaa.8) for the purposes of section 250, prescribing a class of vehicles”; **and**

**(j) by repealing clause (bbbb.2) and substituting the following:**

“(bbbb.2) for the purposes of clause 2(1)(oo.1) and sections 201, 203 and 259.1 to 259.3:

(i) prescribing speed monitoring devices;

(ii) prescribing conditions governing the use of speed monitoring devices;

(iii) prescribing any additional information that must be displayed on a photograph obtained through the use of a speed monitoring device;

(iv) prescribing persons or classes or persons who may sign affidavits;

(v) prescribing requirements for affidavits;

(vi) prescribing zones in which a speed monitoring device may be used;

(vii) prescribing provisions of this Act for the enforcement of which a speed monitoring device may be used; and

(viii) prescribing municipalities and police services that are authorized to use a speed monitoring device”.

**S.S. 1990-91, c.F-22.01, section 23 amended**

**31** The following clause is added after clause 23(3)(i) of *The Freedom of Information and Protection of Privacy Act*:

“(i.1) subsection 97(4) of *The Traffic Safety Act*”.

**Coming into force**

**32** This Act comes into force on proclamation.





THIRD SESSION

# Twenty-seventh Legislature

SASKATCHEWAN

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## B I L L

No. 125

An Act to amend *The Traffic Safety Act* and to make a consequential amendment to *The Freedom of Information and Protection of Privacy Act*

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Received and read the

First time

Second time

Third time

And passed

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Honourable Donna Harpauer

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