

BILL

No. 47

An Act to amend *The Highways and Transportation Act, 1997*

(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 Highways and Transportation Amendment Act, 2021*.

SS 1997, c H-3.01 amended

2 *The Highways and Transportation Act, 1997* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

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

“(a.1) ‘**centre point of an intersection**’ means the point where the centre line of the through part of the highway meets the centre line of, or the centre line of the prolongation of, another highway that intersects or meets the highway”;

(b) by adding the following clause before clause (e):

“(d.1) ‘**development**’ means:

(i) the placing, planting, burying, building or constructing of any structure, fixture or anything else, on, under or over land; or

(ii) the making of any change or alteration to:

(A) an existing structure, fixture or thing; or

(B) the use or intensity of use of an existing structure, fixture or thing”;

(c) by adding the following clause after clause (g):

“(g.1) ‘**intersection**’ means:

(i) the place where 2 or more provincial or public highways join or cross; or

(ii) the area contained within the straight production of the lateral curb lines, or, in the absence of curb lines, of the lateral boundary lines, of two or more highways that join one another at an angle, whether or not one of those highways crosses the other”;

(d) in clause (r):

(i) by adding “or” after subclause (x); and

(ii) by adding the following subclause after subclause (x):

“(xi) any other project or undertaking authorized by the Lieutenant Governor in Council”; **and**

(e) by repealing clause (bb) and substituting the following:

“(bb) **‘vehicle’** means a device in, on or by which a person or thing is or may be transported or drawn on a highway and includes any load on the vehicle but does not include vehicles running only on rails or solely on railway company property;

“(bb.1) **‘weigh scale’** means any device that is approved by the minister for determining:

(i) the weight of a vehicle;

(ii) the weight carried on an axle or wheel of a vehicle; or

(iii) the weight transmitted to the roadway through any point or points of contact of the vehicle with the roadway;

“(bb.2) **‘weighing or inspection facility’** means any weigh scales or inspection sites owned or controlled by the ministry and includes temporary sites established by the ministry”.

Section 8 amended

4(1) Clause 8(4)(d) is repealed.

(2) Subsection 8(12) is repealed.

New section 12.1

5 The following section is added after section 12:

“Freedom of passage

12.1(1) Notwithstanding any other Act or law and subject to subsection (2), no person shall erect a gate or otherwise block or restrict the public’s right to access or use a public highway, including by way of charging a fee or toll, without the written consent of the minister.

(2) Subsection (1) does not apply to:

(a) temporary closures for repairs, detours or special events;

(b) fees charged by the ministry or a municipality authorized by this Act; and

(c) any other prescribed closure, restriction, fee or toll”.

New section 16**6 Section 16 is repealed and the following substituted:****“Right to enter, acquire, expropriate and alter land**

16(1) Subject to subsections (2) to (4), for the purpose of administering and enforcing this Act or any regulations or orders made pursuant to this Act, the minister may, without the consent of the owner or any interested person, do any or all of the following:

- (a) subject to the regulations, enter on, take possession of, acquire or expropriate any lands required for the purposes of this Act;
- (b) enter on any land, and survey and take levels of the land and take any borings or sink any trial pits that the minister considers necessary for any purpose relating to a public improvement;
- (c) enter on and take, acquire or expropriate any land for the purpose of leaving, storing or removing soil, gravel, trees, or any other material, object or obstruction, whether naturally occurring or not, for any purpose relating to a public improvement or for obtaining better access to the public improvement;
- (d) enter on any land and make and use temporary roads to and from any source of timber, stones, clay, gravel, water or sand that are required for the convenient passing to and from a public improvement during the construction of a public improvement;
- (e) enter on any land for the purpose of making proper ditches to carry water away from a public improvement or keeping those ditches in repair;
- (f) enter on any land and divert or alter the position of any utility;
- (g) enter on any land and clear trees, structures or any other thing that, in the opinion of the minister, impacts the public safety.

(2) The minister shall not take any action pursuant to subsection (1) without providing the owner or any interested party with:

- (a) notice of the minister’s intended action and the reasons for that intended action; and
- (b) subject to subsection (4), an opportunity to be heard.

(3) After considering any representations made pursuant to subsection (2), the minister shall issue a written decision and shall serve a copy of the decision on the owner or any interested party.

(4) If the minister considers that it is necessary to protect the public interest, the minister may immediately take any action mentioned in subsection (1) without giving the owner or any interested party an opportunity to be heard, but the minister shall give the owner or any interested party an opportunity to be heard within 30 days after the date on which the minister takes the action.

(5) If the minister enters on to any land pursuant to this section, the minister may:

- (a) collect data or samples relating to any action mentioned in subsection (1); and
- (b) conduct any inspection, study or investigation relating to any action mentioned in subsection (1).

(6) When entering on to land pursuant to this section, the minister may enter with any machinery, equipment or materials that the minister considers necessary to carry out the purposes of the entry.

(7) No person shall obstruct or interfere with the carrying out of any action mentioned in subsection (1) or (5).

(8) Every person who contravenes subsection (7) is guilty of an offence and liable on summary conviction to a penalty as set out in Category F in Schedule A.

(9) No person is entitled, as of right, to any compensation solely by reason of the designation or use of land as a public highway”.

New section 20.2

7 The following section is added after section 20.1:

“Application and evidence of speed and no-parking zones

20.2 In the absence of evidence to the contrary:

(a) the maximum speed or parking restriction indicated on a sign or official sign mentioned in section 20 or 20.1 shall be presumed to be lawfully established; and

(b) the sign or official sign mentioned in section 20 or 20.1 shall be presumed to be lawfully erected”.

Section 27 amended

8 Section 27 is amended by adding the following clause after clause (a):

“(a.1) a municipality for the purposes of regulating vehicles operating on public highways located within the municipality”.

New section 32

9 Section 32 is repealed and the following substituted:

“Developments

32(1) Subject to the regulations and subsection (3), unless authorized by a permit obtained from the minister pursuant to section 33, no person shall commence, undertake or continue any development within:

(a) the prescribed distance from the surveyed limit of a provincial highway; or

(b) 155 metres from the centre point of an intersection of any road with a provincial highway.

(2) No person shall erect or cause to be erected on or within 400 metres of that part of a provincial highway that is outside the limits of a city, town, village, prescribed part of a municipal district or organized hamlet a lighting device or reflecting device that:

(a) will cause or be likely to cause glare on the travelled portion of the highway;

(b) might be confused with traffic warning or control lights; or

(c) might cause undue distraction to the operator of a vehicle on the highway.

(3) A permit from the minister is not required to plant or place or cause to be planted or placed, any tree, shrub, brush, hedge or other plant, if it is more than 30 metres away from the surveyed limit of a provincial highway.

(4) Every person who contravenes any provision of this section is guilty of an offence and liable on summary conviction to a fine as set out in Category A in Schedule A”.

Section 34 amended

10 Subsection 34(2) is repealed and the following substituted:

“(2) Every person who breaks, cuts, fills or otherwise alters or damages a public improvement is liable for the damage caused and shall reimburse the authority having the management and control of the public improvement for the costs of repairing the public improvement”.

Section 37 amended

11(1) Subsection 37(2) is repealed and the following substituted:

“(2) If a weighing or inspection facility owned or controlled by the ministry has been established adjacent to a public highway, no person driving a vehicle intended for the conveyance of livestock, goods, merchandise or other commodities shall fail to immediately bring the vehicle to the weighing or inspection facility if directed to do so by an official sign erected within two kilometres from the weighing or inspection facility”.

(2) Subsection 37(3) is repealed and the following substituted:

“(3) A vehicle may be weighed by a peace officer or a person appointed by the minister by means of portable weigh scales, stationary weigh scales, automated weigh scales or any other type of weigh scale, approved by the minister”.

(3) Subsection 37(13) is amended by striking out “knowingly”.

New section 37.1

12 The following section is added after section 37:

“Automated weigh scale evidence

37.1 In a prosecution pursuant to sections 36 to 39 or section 59 of this Act, a certificate that purports to be signed by the minister or the minister’s designate, is admissible in evidence as proof, in the absence of evidence to the contrary, of the following facts:

- (a) that the certificate was signed by the minister or the minister’s designate;
- (b) that a vehicle bearing the licence plate number stated in the certificate was weighed on the date, time and location stated in the certificate;
- (c) that the vehicle mentioned in clause (b) was weighed by means of an automated weigh scale approved by the minister for determining the weight:
 - (i) of a vehicle;
 - (ii) carried on an axle or wheel of a vehicle; or
 - (iii) transmitted to the roadway through any point or points of contact of a vehicle with the roadway;

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- (d) that the automated weigh scale mentioned in clause (c) was in proper working order on the date and time stated in the certificate;
 - (e) that any or all of the following exceeded the prescribed weight limit by the amount stated in the certificate:
 - (i) the vehicle;
 - (ii) an axle or wheel of the vehicle; or
 - (iii) transmission of weight to the roadway through any point or points of contact of the vehicle with the roadway;
 - (f) that the name of the registered owner of the vehicle mentioned in clause (b) as shown in the records of the appropriate licensing authority is as stated in the certificate;
 - (g) that a true copy of the document initiating the prosecution or proceeding in which the certificate is introduced as evidence was mailed to the registered owner stated in the certificate, at the address stated in the certificate, on the date stated in the certificate; and
 - (h) any other prescribed fact or matter”.

New section 57**13 Section 57 is repealed and the following substituted:****“Automobile wreckers re reporting**

57(1) Every automobile wrecker shall:

- (a) keep a record of each vehicle wrecked on the automobile wrecker’s premises, including the vehicle identification number, year, make, model and body type; and
 - (b) if a vehicle comes into the automobile wrecker’s possession for which the vehicle identification number has been removed or defaced, immediately report that fact to the minister.
- (2) If, without good reason, a vehicle is placed in the automobile wrecker’s possession or remains in the automobile wrecker’s possession, the automobile wrecker shall immediately make a report to the minister stating the facts.
- (3) A peace officer may enter the premises of any automobile wrecker and make any investigation and inspection of the premises and of the records that the peace officer considers necessary in order to ascertain whether this Act and the regulations are being complied with”.

New sections 57.1 to 57.3**14 The following sections are added before section 58:****“Administrative penalties**

57.1(1) The minister may assess a penalty in the prescribed amount against a prescribed person, or prescribed class of persons, for prescribed contraventions of this Act, the regulations or an order made pursuant to this Act.

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- (2) Before assessing a penalty, the minister shall provide notice to the person:
- (a) setting out the facts and circumstances that, in the minister's opinion, render the person liable to a penalty;
 - (b) specifying the amount of the penalty that the minister considers appropriate in the circumstances; and
 - (c) informing the person of the person's right to make written representations to the minister.
- (3) No penalty is to be assessed by the minister more than three years after the date on which the act or omission that renders the person liable to a penalty first came to the knowledge of the minister.
- (4) A person to whom notice is sent pursuant to subsection (2) may make written representations to the minister respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Written representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).
- (6) After considering any written representations, the minister may:
- (a) assess a penalty and set a date by which the penalty is to be paid in full; or
 - (b) determine that no penalty should be assessed.
- (7) The minister shall serve a copy of the minister's decision pursuant to subsection (6) on the person who made the written representations.
- (8) The minister may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.
- (9) A penalty payable pursuant to this section is a debt due to and recoverable by the Crown in right of Saskatchewan and may be recovered in the manner authorized by *The Financial Administration Act, 1993* or in any other manner authorized by law.

“Enforcement of administrative penalty

57.2(1) The minister may file in the Court of Queen's Bench a certificate signed by the minister and setting out:

- (a) the amount of the penalty assessed pursuant to section 57.1; and
- (b) the person from whom the penalty is to be recovered.

(2) 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.

“Appeal to the Court of Queen's Bench re administrative penalty

57.3(1) Any person aggrieved by a decision of the minister to impose a penalty pursuant to section 57.1 may appeal that decision on a question of law or fact to a judge of the Court of Queen's Bench within 30 days after the date of service of the minister's decision.

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- (2) The record of an appeal pursuant to subsection (1) consists of:
- (a) the minister's decision;
 - (b) any written representations made to the minister by the person named in the decision;
 - (c) the notice of appeal commencing the appeal;
 - (d) any other prescribed documents or material; and
 - (e) any other material that the Court of Queen's Bench may require.
- (3) On hearing an appeal pursuant to this section, the judge of the Court of Queen's Bench may issue an order:
- (a) confirming the penalty;
 - (b) amending the amount of the penalty; or
 - (c) quashing the minister's decision to assess a penalty".

Section 69 amended**15 Subsection 69(1) is amended:**

- (a) **by adding the following clause after clause (d):**
“(d.1) prescribing any closure, restriction, fee or toll for the purposes of clause 12.1(2)(c)”;
- (b) **by adding the following clauses after clause (ww):**
“(ww.1) respecting automated weigh scales;
“(ww.2) prescribing any other fact or matter for the purposes of clause 37.1(h)”;
- (c) **by adding the following clauses after clause (bbb):**
“(bbb.1) for the purposes of section 57.1:
 - (i) prescribing the amount of an administrative penalty;
 - (ii) prescribing the person or class of persons against whom an administrative penalty may be assessed; and
 - (iii) prescribing contraventions of this Act, the regulations or an order made pursuant to this Act for the purposes of assessing an administrative penalty;“(bbb.2) prescribing any other documents or materials to be included in a record of appeal”.

Coming into force

- 16** This Act comes into force by order of the Lieutenant Governor in Council.

SECOND SESSION

Twenty-ninth Legislature

SASKATCHEWAN

B I L L

No. 47

An Act to amend *The Highways and
Transportation Act, 1997*

Received and read the

First time

Second time

Third time

And passed

Honourable Fred Bradshaw
