



Province of Alberta

## TRAFFIC SAFETY ACT

# VEHICLE SEIZURE AND REMOVAL REGULATION

### **Alberta Regulation 251/2006**

With amendments up to and including Alberta Regulation 67/2017

### Office Consolidation

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(Consolidated up to 67/2017)

**ALBERTA REGULATION 251/2006**

**Traffic Safety Act**

**VEHICLE SEIZURE AND REMOVAL REGULATION**

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### **Definitions**

**1(1)** In this Regulation,

- (a) "abandoned vehicle" means a vehicle that is an abandoned vehicle under section 69(8) or 76 of the Act;
- (b) "Act" means the *Traffic Safety Act*;
- (c) "Administrator" means the Administrator of the *Motor Vehicle Accident Claims Act*;
- (d) "Board" means Board as defined in the Act;
- (e) "designated official" means an employee of the government designated by the Minister as a designated official;
- (f) "designated program" means a program of alternative measures designated by the Minister of Justice and Solicitor General pursuant to section 2;
- (g) "disposal costs" means any costs, fees or charges reasonably incurred in the disposal of a vehicle;
- (h) "immobilize" includes detain;
- (i) "operator of a vehicle impoundment area" means the person having the care, custody and control of a vehicle impoundment area;
- (j) "owner" includes the owner of a seized or removed motor vehicle at the time it was seized or removed;
- (k) "peace officer" includes the Registrar or another person authorized under the Act to seize a vehicle;

- (l) “physical address” means the location of a person’s residence in Alberta as shown in the records of the Registrar, at which the person can be personally served with documents under the Act;
- (m) “Registrar” means Registrar as defined in the Act;
- (n) “remove” includes impound, take or store;
- (o) “seize” includes immobilize or detain;
- (p) “seizure costs” means the costs referred to in section 63 of the Act;
- (q) “vehicle impoundment area” means the location at which a seized or removed vehicle is kept during the term of the seizure or removal.

(2) For the purposes of section 77 of the Act and this Regulation, “worthless”, in respect of a vehicle, means a vehicle that is unlikely to have such value on resale as will allow for the full recovery of seizure costs and disposal costs likely to be incurred in the removal and storage of the vehicle.

AR 251/2006 s1;170/2012

#### **Designated program**

**2** For the purposes of section 173.1 of the Act, the Minister of Justice and Solicitor General may

- (a) designate a program of alternative measures authorized under section 717(1)(a) of the *Criminal Code* (Canada), and
- (b) set a period of time within which the designated program must be completed.

AR 251/2006 s2;170/2012

#### **Signature of peace officer**

**3** A peace officer who issues a notice under this Regulation must sign the notice.

#### **Service of notice**

**4** A notice issued under this Regulation may be served on the owner of a vehicle by sending the notice by ordinary mail to the owner at the latest physical or postal address for that person as shown in the records of the Registrar.

## **Part 1 Abandoned and Immobilized Vehicles**

### **Abandoned vehicle notice**

**5(1)** A peace officer who has reason to believe that a vehicle is an abandoned vehicle may attach an abandoned vehicle notice to the vehicle.

**(2)** An abandoned vehicle notice must include

- (a) the date and time the notice is issued,
- (b) the location of the vehicle when the notice is issued, and
- (c) a statement to the effect that the vehicle will be removed if it is still at that location in 72 hours.

**(3)** If a vehicle to which a notice is attached under subsection (1) is at the same location 72 hours after the time the notice is attached to the vehicle, a peace officer may remove the vehicle without issuing a notice of seizure or removal.

### **Immobilization notice**

**6(1)** A peace officer who immobilizes a vehicle under section 141, 171, 172, 172.1, 173 or 173.1 of the Act, but does not remove the vehicle, must issue an immobilization notice that includes the following:

- (a) the name and physical or postal address of the person who is driving the vehicle at the time it is immobilized;
- (b) if the driver of the vehicle is not the owner of the vehicle, the name and physical or postal address of the owner;
- (c) the date and time of the immobilization;
- (d) the date and time at which the immobilization expires;
- (e) the section of the Act under which the immobilization is authorized;
- (f) the conditions under which the immobilization ends.

**(2)** A peace officer who immobilizes a vehicle under subsection (1) must

- (a) serve a copy of the immobilization notice on the driver at the time of the immobilization,

- (b) serve a copy of the immobilization notice on the owner of the vehicle if the driver is not the owner,
- (c) where the vehicle is immobilized under section 172.1 or 173 of the Act, provide a copy of the immobilization notice to the Registrar, and
- (d) where the vehicle is immobilized under section 173.1 of the Act, provide a copy of the immobilization notice to the designated official.

**(2.1)** Non-compliance with the notice and service provisions under this section does not invalidate the immobilization of a vehicle under section 172.1 of the Act.

**(2.2)** Subsection (2)(a) does not apply where the vehicle has been stolen or the driver is otherwise in unlawful possession of the vehicle.

**(3)** A peace officer may remove a vehicle immobilized in accordance with subsections (1) and (2) without issuing a notice of seizure or removal if the conditions referred to in subsection (1)(f) are not met within the time required.

**(4)** This section does not apply where a vehicle has been seized or immobilized under section 173.1 of the Act and is released by a peace officer in accordance with section 173.1(2) of the Act.

AR 251/2006 s6;102/2012

## **Part 2 Seizure and Removal**

### **Seizure notice**

**7(1)** A peace officer who seizes or removes a vehicle under section 69(7), 77, 127, 141, 142, 170, 171, 172, 172.1, 173 or 173.1 of the Act must issue a notice of seizure or removal that includes the following:

- (a) the name and physical or postal address of the person who is driving the vehicle at the time it is seized or removed;
- (b) if the driver of the vehicle is not the owner of the vehicle, the name and physical or postal address of the owner of the vehicle;
- (c) the date and time of the seizure or removal;
- (d) the section of the Act under which the seizure or removal is authorized;

- (e) if the vehicle is to be kept at a vehicle impoundment area, the area's location and the name of the area's operator;
  - (f) the date and time at which the seizure of the vehicle expires;
  - (g) subject to clause (g.1), a statement to the effect that the vehicle may be disposed of by the Registrar under section 18(1) if it is not claimed within 15 days after it is eligible to be reclaimed under section 15;
  - (g.1) where the vehicle is seized or removed under section 172.1 of the Act, a statement to the effect that the vehicle may be disposed of by the Registrar under section 18(1) if it is not claimed within 30 days after it is eligible to be reclaimed under section 15;
  - (h) for a vehicle that has been seized or immobilized under section 173.1 of the Act, a statement to the effect that upon conviction the vehicle will be forfeited for disposal, subject to any security interest registered under the *Personal Property Security Act* before the seizure or immobilization, as directed by the Registrar.
- (2)** A peace officer who seizes or removes a vehicle under section 69(7), 77, 127, 141, 142, 170, 171, 172, 172.1, 173 or 173.1 of the Act must
- (a) where the vehicle is to be kept at a vehicle impoundment area, give the driver of the vehicle the area's location and the name of the area's operator,
  - (b) serve a copy of the notice of seizure or removal on the driver, if any, at the time of the seizure or removal,
  - (c) serve a copy of the notice of seizure or removal on the owner of the vehicle if the person driving the vehicle is not the owner,
  - (d) give a copy of the notice of seizure or removal to the tow truck operator who removes or otherwise accepts responsibility for the seized or removed vehicle at the direction of the peace officer,
  - (e) provide a copy of the notice of seizure or removal to the operator of the vehicle impoundment area who is to keep the seized or removed vehicle,
  - (f) where the vehicle is seized or removed under section 172.1 or 173 of the Act, provide a copy of the notice of seizure or removal to the Registrar, and



- (g) where the vehicle is seized or removed under section 172.1 or 173.1 of the Act, provide a copy of the notice of seizure or removal to the designated official.

**(2.1)** Non-compliance with the notice and service provisions under this section does not invalidate the seizure or removal of a vehicle under section 172.1 of the Act.

**(2.2)** Subsection (2)(a) and (b) do not apply where the vehicle has been stolen or the driver is otherwise in unlawful possession of the vehicle.

**(3)** This section does not apply where a vehicle has been seized or immobilized under section 173.1 of the Act and is released by a peace officer in accordance with section 173.1(2) of the Act.

AR 251/2006 s7;102/2012

#### **Authorization to impound**

**8(1)** A peace officer may authorize a tow truck operator to transport a seized or removed vehicle to a vehicle impoundment area.

**(2)** A peace officer may authorize a vehicle impoundment area operator to hold a seized or removed vehicle until directed to take further action as may be authorized by the Registrar, peace officer, designated official or in accordance with this Regulation.

**(3)** The tow truck operator who removes a vehicle under a notice of seizure or removal must give the copy of the notice of seizure or removal to the operator of the vehicle impoundment area where the vehicle is kept, if the tow truck operator is not the operator of the vehicle impoundment area.

#### **Operator of a vehicle impoundment area**

**9** An operator of a vehicle impoundment area must not release a vehicle that has been seized or removed unless

- (a) in the case of a vehicle that has been seized or removed under section 69(7), 77, 127, 141, 142, 170, 171, 172, 172.1 or 173 of the Act, the term of the seizure expires or the Board rescinds the seizure,
- (b) in the case of a vehicle that has been seized under section 173.1 of the Act,
  - (i) the peace officer releases the vehicle in accordance with section 173.1 of the Act, or

- (ii) the vehicle is forfeited to the Government in accordance with section 173.1(3) of the Act,
- (c) the operator is satisfied
  - (i) that the person claiming the seized or removed vehicle is entitled to take possession of the vehicle, and
  - (ii) that the vehicle will be transported from the vehicle impoundment area in a manner consistent with the Act and Regulations,
- (d) subject to a direction of the Board or the peace officer, as appropriate, the seizure costs incurred in respect of the seized or removed vehicle are paid,
- (e) the vehicle is reclaimed within the times specified under section 15, and
- (f) all other conditions imposed by the Registrar, peace officer, Board or Court have been fulfilled.

AR 251/2006 s9;102/2012

**When owner may apply for release of vehicle**

**10(1)** The owner of a motor vehicle seized and impounded or immobilized pursuant to section 173.1 of the Act may make an application in a form approved by the Minister for release of the vehicle by depositing with the designated official

- (a) cash, a certified cheque or a money order payable to the President of Treasury Board and Minister of Finance in an amount equal to the fair market value of the vehicle as determined by the designated official, or
- (b) an irrevocable letter of credit payable to the President of Treasury Board and Minister of Finance in an amount equal to the fair market value of the vehicle as determined by the designated official.

**(2)** On receiving an application and deposit pursuant to subsection (1), the designated official may authorize the release of the vehicle to the owner or to a person authorized by the owner, subject to the payment of the seizure costs and disposal costs in respect of the vehicle to the operator of the vehicle impoundment area.

AR 251/2006 s10;68/2008;31/2012;62/2013

**Appeal to the Board**

**11(1)** The grounds on which an appeal may be made under section 40(1) of the Act with respect to a seizure under section 173 of the Act are one or more of the following:

- (a) the person driving the vehicle when it was seized was an unauthorized driver under section 94 of the Act who did not know and could not reasonably have known that the person was an unauthorized driver under section 94 of the Act;
- (b) the owner was not driving the vehicle when it was seized and did not know and could not reasonably have known that the person who was driving the vehicle when it was seized was an unauthorized driver under section 94 of the Act;
- (c) the owner was not driving the vehicle when it was seized and the vehicle was not driven with the express or implied consent of the owner;
- (d) the person driving the vehicle when it was seized was not an unauthorized driver under section 94 of the Act.

**(2)** For the purposes of an appeal based on grounds set out in subsection (1)(b),

- (a) in a case where the vehicle concerned is a commercial vehicle and the driver is a person who is driving for a carrier who is the owner of the commercial vehicle, the owner must produce a driver's abstract for the driver which is dated not more than one year before the date on which the driving occurred, or
- (b) in any other case, the owner must establish that, before driving the vehicle, the person driving the vehicle showed the owner an operator's licence that
  - (i) was issued in the name of the person driving the vehicle,
  - (ii) was the appropriate class of licence for the vehicle concerned, and
  - (iii) had not expired as of the date on which the driving occurred.

**(2.1)** The grounds on which an appeal may be made under section 40(1) of the Act are

- (a) with respect to an appeal of a seizure of a vehicle under section 172.1 of the Act related to a disqualification from driving under section 88 or 90 of the Act,
  - (i) that the person driving the vehicle when it was seized has not been served with a notice of suspension or a notice of disqualification under section 88 or 90 of the Act,
  - (ii) that the owner was not driving the vehicle when it was seized and could not reasonably have known that the vehicle was being operated in a manner that would result in the driver being disqualified from driving under section 88 or 90 of the Act, or
  - (iii) that at the time the vehicle was seized, the driver of the vehicle was in possession of it without the express or implied consent of the vehicle's owner;
- (b) with respect to an appeal of a seizure of a vehicle for 7 days under section 172.1 of the Act related to a disqualification from driving under section 88 or 88.1 of the Act, that the person driving the vehicle has not been disqualified from driving under section 88 or 88.1 for a 2nd or subsequent time within 10 years;
- (c) with respect to an appeal of a seizure of a vehicle under section 172.1 of the Act related to a disqualification from driving under section 88.1 of the Act,
  - (i) that the driver of the vehicle has not been charged with an offence under section 253, subsection 254(5) or section 255 of the *Criminal Code* (Canada),
  - (ii) that the driver of the vehicle has been charged with an offence under section 253, subsection 254(5) or section 255 of the *Criminal Code* (Canada), but has not been served with a notice of suspension or a notice of disqualification under section 88.1 of the Act relating to that charge,
  - (iii) that the owner was not driving the vehicle when it was seized and could not reasonably have known that the vehicle was being operated in a manner that would result in the driver being disqualified from driving under section 88.1 of the Act, or
  - (iv) that at the time the vehicle was seized, the driver of the vehicle was in possession of it without the express or implied consent of the vehicle's owner;

- (d) with respect to an appeal of a seizure of a vehicle under section 172.1 of the Act related to a charge under section 130 of the *National Defence Act* (Canada) by reason of a person contravening section 253, 254 or 255 of the *Criminal Code* (Canada),
  - (i) that the driver of the vehicle has not been charged with an offence under section 130 of the *National Defence Act* (Canada) by reason of the driver contravening section 253, 254 or 255 of the *Criminal Code* (Canada),
  - (ii) that the owner was not driving the vehicle when it was seized and could not reasonably have known that the vehicle was being operated in the course of committing an offence under section 130 of the *National Defence Act* (Canada) by reason of a person contravening section 253, 254 or 255 of the *Criminal Code* (Canada), or
  - (iii) that at the time the vehicle was seized, the driver of the vehicle was in possession of it without the express or implied consent of the vehicle's owner.

**(3)** The grounds on which an appeal may be made under section 40(3) of the Act are one or both of the following:

- (a) the owner could not reasonably have known that the vehicle was being operated in the course of committing an offence referred to under section 173.1 of the Act;
- (b) at the time the vehicle was seized, the driver of the vehicle was in possession of it without the express or implied consent of the vehicle's owner.

AR 251/2006 s11;102/2012

#### **Rescission of seizure**

**12(1)** The Board may rescind the seizure of a vehicle or vary the term of the seizure if it is satisfied that one of the grounds on which an appeal may be made under section 11 in respect of that seizure exists.

**(2)** If the Board rescinds the seizure of a vehicle or varies the term of the seizure, the Board may direct

- (a) that the owner or other person taking possession of the vehicle is not required to pay all or a portion of the seizure costs associated with that vehicle, and
- (b) that the fee for the appeal be refunded.

### **Part 3**

#### **Effect of Seizure**

##### **Application**

**13(1)** This Part applies to a vehicle that is seized or removed under section 69(7), 77, 141, 172, 172.1, 173 or 173.1 of the Act.

**(2)** This Part applies to seizure costs that occur after a court orders the release of a vehicle seized or removed under section 127, 142, 170 or 171 of the Act.

**(3)** If a court orders the owner of a vehicle to pay seizure costs respecting a vehicle seized or removed under section 127, 142, 170 or 171 of the Act, this Part and Part 4 apply to the costs.

AR 251/2006 s13;102/2012

##### **Seizure costs and disposal costs**

**14** Seizure costs and disposal costs payable with respect to a seized or removed vehicle are a debt owing to the Crown by the owner of the vehicle in the records of the Registrar or by a subsequent owner.

##### **Reclaiming a vehicle**

**15(1)** An owner of a vehicle that has been abandoned or that has been immobilized, seized or removed by a peace officer under section 69(7), 77, 127, 141, 142, 170, 171, 172, 173 or 173.1 of the Act may reclaim a vehicle from the vehicle impoundment area operator within 15 days of the following:

- (a) for an abandoned vehicle, from the date and time the vehicle is removed by a peace officer;
- (b) for an immobilized vehicle, from the date and time the immobilization expires as stated in the immobilization notice issued under section 6;
- (c) for a vehicle seized under section 7, from the date and time that the seizure expires as stated in the notice of seizure or removal issued under section 7;
- (d) for a removed vehicle, from the date and time of removal as stated in the notice of seizure or removal issued under section 7;
- (e) for a vehicle seized under section 173.1 of the Act, from the date the vehicle is eligible to be released from seizure under section 20(3).

(2) An owner of a vehicle that has been immobilized, seized or removed by a peace officer under section 172.1 of the Act may reclaim a vehicle from the vehicle impoundment area operator within 30 days of the following:

- (a) for an immobilized vehicle, from the date and time the immobilization expires as stated in the immobilization notice issued under section 6;
- (b) for a seized vehicle, from the date and time that the seizure expires as stated in the notice of seizure or removal issued under section 7;
- (c) for a removed vehicle, from the date and time of removal as stated in the notice of seizure or removal issued under section 7.

AR 251/2006 s15;102/2012

#### **Vehicle deemed abandoned**

**16(1)** A vehicle that is not reclaimed by its owner in accordance with this Regulation is deemed abandoned.

(2) When a vehicle is deemed abandoned, the Registrar must issue a notice of disposal to the owner of the vehicle that includes

- (a) the name and physical or postal address of the owner,
- (b) the date and time the notice of disposal is issued,
- (c) the location of the vehicle impoundment area where the vehicle may be claimed by the owner and the name of the operator of the vehicle impoundment area,
- (d) a statement to the effect that the owner is liable for the seizure costs and disposal costs, and
- (e) a statement to the effect that the vehicle will be disposed of by the Registrar without further notification 15 days after the date the notice of disposal is issued unless
  - (i) the vehicle is claimed from the location, and
  - (ii) all seizure costs are paid.

## **Part 4 Disposal of Vehicles**

### **Definition**

**17** In this Part, “vehicle” includes a wrecked or partially dismantled vehicle or a part of a vehicle.

### **Disposal of vehicle**

**18(1)** The Registrar may dispose of a vehicle

- (a) that is forfeited to the Government under section 173.1 of the Act, or
- (b) that is deemed abandoned under section 16 if
  - (i) the vehicle is subject to seizure costs, and
  - (ii) the vehicle is not claimed by the owner within 15 days after the date the notice of disposal is issued.

**(2)** The Registrar must give written notice of the proposed disposal to the holders of security interests registered in respect of the vehicle at the Personal Property Registry before the seizure or immobilization under the *Personal Property Security Act*.

**(3)** The proceeds of disposition must be distributed in the following order:

- (a) to pay the seizure costs and disposal costs of the vehicle;
- (b) to pay the amounts owing to holders of security interests under the *Personal Property Security Act*;
- (c) to pay any remaining money to the Administrator.

### **Disposal of worthless vehicle**

**19(1)** Subject to subsection (2), if the Registrar, peace officer or another person authorized by the Registrar believes on reasonable and probable grounds that a vehicle under section 77 of the Act is worthless, the Registrar, a peace officer or another person authorized by the Registrar may cause the vehicle to be moved to a salvage yard or municipal dump for disposal.

**(2)** When a vehicle that is to be disposed of under this section does not have a manufacturer’s serial number or similar identifying mark or a special identification number or mark authorized under the Act, the vehicle may be moved to a salvage yard or municipal dump for disposal by a peace officer or another person authorized by the Registrar only with the authorization issued by the Registrar



certifying that a worthless abandoned vehicle may be transported to a salvage yard or municipal dump.

#### **Vehicle forfeiture**

**20(1)** When a person who is in a motor vehicle at the time it is seized under section 173.1 of the Act is convicted of an offence referred to in that section,

- (a) if the owner of the vehicle has deposited money or an irrevocable letter of credit under section 10, the money or irrevocable letter of credit is forfeited to the Government, or
- (b) if at the time of the conviction the vehicle remains under seizure in a vehicle impoundment area and has not been released or disposed of, the vehicle is forfeited to the Government subject to any security interests registered under the *Personal Property Security Act* prior to the date the vehicle was seized.

**(2)** When a vehicle is forfeited to the Government under subsection (1)(a), the entire interest in the vehicle is deemed to be transferred to the Government.

**(3)** When no person is convicted of an offence under section 173.1 of the Act, the peace officer must

- (a) if the vehicle remains under seizure in a vehicle impoundment area and has not been released or disposed of, release the vehicle to the owner, or
- (b) if the owner of the vehicle has deposited money or an irrevocable letter of credit under section 10, return the money or irrevocable letter of credit to the owner.

#### **Claim to remaining money**

**21(1)** If, within one year of the disposal of a vehicle under the Act, a person proves to the satisfaction of the Administrator that the person is entitled to all or part of the money referred to in section 18(3)(c), the Administrator must pay that person an amount in accordance with the claim.

**(2)** An amount paid under subsection (1) must not be more than the amount referred to in section 18(3)(c).

#### **Seizure costs**

**22(1)** If the money from the disposal of a vehicle is not enough to cover the seizure costs and disposal costs, the person authorized to

remove and store the vehicle may apply to the Administrator for payment of the outstanding amount, and the Administrator, on being satisfied that the claim is proper, may order payment to be made.

(2) A payment under subsection (1) is subject to the limitations prescribed under the *Motor Vehicle Accident Claims Act*.

#### **Registrar's powers**

**23** If seizure costs with respect to a vehicle that is removed or seized under the Act are not paid in full, or if the Crown does not receive all the seizure costs from the disposal of the vehicle, the Registrar may

- (a) suspend the registration of all vehicles registered in the name of the debtor,
- (b) refuse to perform any function or service or to issue, renew or otherwise deal with any motor vehicle document or other document in respect of the debtor until the debt is paid, or
- (c) refuse to register a vehicle in the name of the new owner if the ownership of a registered vehicle passes directly or through intermediary owners from the person who owes the debt.

#### **Title to vehicle**

**24** A person who disposes of a vehicle under the authority of the Registrar passes good title to the vehicle as against the person from whom it was seized or removed or anyone claiming through that person.

#### **Personal property**

**25(1)** Subject to subsection (3), where personal property, within the meaning of section 175 of the Act, is not reclaimed, it must be retained by the vehicle impoundment area operator for at least 15 days from the date the notice of disposal is issued.

(2) If personal property is not reclaimed in accordance with subsection (1),

- (a) if the vehicle impoundment area operator is a municipality, the personal property may be disposed of by the municipality in accordance with section 610 of the *Municipal Government Act*, and

- (b) if the vehicle impoundment area operator is not a municipality, the personal property may be disposed of by the Registrar in such a manner as the Registrar sees fit.

**(3)** The vehicle impoundment area operator may dispose of personal property at any time if, in the opinion of the vehicle impoundment area operator, the property is unsafe, unsanitary or perishable.

#### **Proceeds of sale**

**26** Proceeds realized from the sale of a forfeited vehicle must be used

- (a) to pay the seizure costs and disposal costs of the vehicle,
- (b) to pay the amounts owing to holders of security interests under the *Personal Property Security Act*, and
- (c) to pay any remaining money to the Administrator.

## **Part 5 General**

#### **Transitional**

**27** A vehicle seized, removed or immobilized before the coming into force of this Regulation shall be dealt with under the *Vehicle Seizure and Removal Regulation* (AR 323/2002) as it read immediately before the coming into force of this Regulation.

#### **Repeal**

**28** The *Vehicle Seizure and Removal Regulation* (AR 323/2002) is repealed.

**29** Repealed AR 67/2017 s2.

#### **Coming into force**

**30** This Regulation comes into force on the coming into force of section 173.1 of the *Traffic Safety Act*.



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