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Bill 197

An Act to amend the Highway Traffic Act

The Hon. P. Sarkaria
Minister of Transportation

Government Bill

1st Reading May 16, 2024
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill makes various amendments to the *Highway Traffic Act*, including the following:

1. A new section provides for the indefinite suspension of a person's driver's licence if the person is convicted under the *Criminal Code* (Canada) of operating a vehicle while impaired and causing the death of another person.
2. New sections provide for the suspension of a person's driver's licence if the person is convicted of motor vehicle theft under the *Criminal Code* (Canada) and the circumstances of the theft included certain factors such as violence, weapons or the pursuit of financial or material gain. The suspension is for 10 years upon a first conviction and 15 years upon a second conviction, and is an indefinite suspension for a third or subsequent conviction. Other *Criminal Code* (Canada) offences may be prescribed by regulation, and upon conviction, the same periods of suspension would result.
3. Currently under the Act, a driver's licence may be administratively suspended for increasing periods of time if the driver is found to be driving while having a specified level of alcohol or a drug in their body. The Bill increases the periods of time from three days to seven days for a first suspension and from seven days to 14 days for a second suspension.
4. A regulation-making power is added to permit regulations providing for and governing the imposition of a condition on a driver's licence that prohibits drivers from having alcohol or a drug present in their body.
5. The Act is amended to make various changes to the rules relating to ministry enforcement vehicles, such as the rate of speed they may travel and other matters.
6. Amendments are made to the penalties imposed for driving in a race or contest, on a bet or wager or while performing a stunt. The court is given discretion to extend the period for which a person's driver's licence shall be suspended.
7. The term "power-assisted bicycle" and all related provisions are removed.
8. Regulation-making powers are added to permit regulations to establish new classes of vehicles and set out rules respecting such classes.

An Act to amend the Highway Traffic Act

Preamble

The Government of Ontario:

Is upholding Ontario's status as a world-class leader in road safety.

Is taking action to reduce the number of collisions, injuries and fatalities on Ontario's roads by targeting alcohol- and drug-impaired drivers and those who engage in high-risk driving.

Recognizes the need to fight vehicle theft to create safer roads and communities.

Is strengthening the enforcement of commercial vehicle safety.

Is focused on ensuring everyone can travel safely throughout Ontario.

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 (1) The definition of “bicycle” in subsection 1 (1) of the *Highway Traffic Act* is amended by striking out “a tricycle, a unicycle and a power-assisted bicycle” and substituting “a tricycle and a unicycle”.

(2) The definition of “motor vehicle” in subsection 1 (1) of the Act is amended by striking out “a power-assisted bicycle”.

(3) The definition of “power-assisted bicycle” in subsection 1 (1) of the Act is repealed.

2 (1) Clause 1.2 (b) and (c) of the Act are repealed and the following substituted:

- (b) exempting a specified class of vehicles, or drivers, operators, owners or lessees of a specified class of vehicles, from any provision of this Act or of a regulation, and prescribing conditions and circumstances for any such exemption, or providing that any provision of this Act or of a regulation does not apply to a specified class of vehicles, or drivers, operators, owners or lessees of a specified class of vehicles, and prescribing conditions and circumstances in which the provision does not apply;
- (c) defining “operator” and “owner” for the purposes of regulations made under clause (a) or (b);
- (d) authorizing persons or classes of persons to do or use a thing that is prohibited or regulated under this Act, the *Dangerous Goods Transportation Act*, the *Motorized Snow Vehicles Act* or the *Off-Road Vehicles Act* or to not do or use a thing that is required or authorized by any of those Acts;
- (e) authorizing or requiring the Minister or Ministry or any person authorized or required to do anything under this Act, the *Dangerous Goods Transportation Act*, the *Motorized Snow Vehicles Act* or the *Off-Road Vehicles Act* to do anything that is not authorized or required under any of those Acts or to do anything that is authorized or required under any of those Acts in a way that is different from the way it is authorized or required;
- (f) authorizing police officers to require a driver or operator of a vehicle to stop the vehicle and surrender documents, requiring persons to carry specified documents and surrender them upon demand, and otherwise governing the carrying and surrendering of documents;
- (g) establishing classes of vehicles and prescribing and governing requirements, qualifications and standards for them, including,
 - (i) governing their operation,
 - (ii) prescribing the duties of owners, operators, drivers and other persons, or any class of them, with respect to their operation,
 - (iii) requiring the use of any equipment or other thing in or on prescribed vehicles, or any class of them, and governing that use,
 - (iv) defining classes of vehicles and including or excluding in the definition, based on a use or uses to which a vehicle may be put or any other factor, any vehicle or class of vehicles, including a class of vehicle defined in the Act;

- (h) requiring owners, operators or drivers of prescribed vehicles, or any class of them, to carry insurance and governing that insurance, including prescribing the form, amount, nature, class, provisions and conditions of the insurance and requirements respecting the evidence of such insurance.

(2) Section 1.2 of the Act is amended by adding the following subsections:

Conflict

- (2) In the event of a conflict between a regulation made under this section and this Act, the regulation prevails.

Offence

- (3) Every person who contravenes a regulation made under this section is guilty of an offence and on conviction is liable to a fine of not less than \$60 and not more than \$2,500.

3 Subsection 35 (3) of the Act is amended by adding “or officer appointed for carrying out the provisions of this Act” after “Any police officer” at the beginning.

4 Section 38 of the Act is repealed and the following substituted:

Minimum age to drive motor assisted bicycle

- 38 (1)** No person under the age of 16 years shall drive or operate a motor assisted bicycle on a highway.

Same

- (2) No person who is the owner or is in possession or control of a motor assisted bicycle shall permit a person who is under the age of 16 years to ride on, drive or operate the motor assisted bicycle on a highway.

5 Subsection 41 (9) of the Act is repealed and the following substituted:

Interpretation

- (9) Where a conviction is made under the *Criminal Code* (Canada) in relation to an offence set out in subsection (1) or 41.0.1 (1) or section 42, and that conviction is reported to the Ministry without a section number or as having taken place under section 320.19, 320.2, 320.21 or 320.24 of the *Criminal Code* (Canada), the conviction shall be treated as if it were made and reported under the applicable provision of the *Criminal Code* (Canada) set out in subsection (1) or 41.0.1 (1) or section 42.

6 The Act is amended by adding the following sections:

Suspension on conviction for causing death

- 41.0.1 (1)** The driver’s licence of a person who is convicted of an offence under subsection 320.14 (3) of the *Criminal Code* (Canada) committed while driving or having the care, charge or control of a motor vehicle or street car within the meaning of this Act or a motorized snow vehicle, is thereupon suspended indefinitely, subject to early reinstatement under section 57.

Same

- (2) Subsections 41 (5) and (8) apply to this section with necessary modifications.

Suspension related to theft of a motor vehicle

- 41.0.2 (1)** The driver’s licence of a person who is convicted of an offence under section 333.1 of the *Criminal Code* (Canada) is thereupon suspended,

- (a) on a first conviction, for 10 years;
- (b) on a second conviction, for 15 years; and
- (c) on a third or subsequent conviction, indefinitely.

Requirements

- (2) The suspension under subsection (1) applies only where the judge or provincial judge making the conviction finds as a fact that the circumstances surrounding the commission of the offence or the manner of the commission of the offence included one or more of,

- (a) an assault or violence or intimidation;
- (b) a weapon;
- (c) a threat or implied threat;
- (d) the use of force, including to enter onto or into any place;
- (e) the pursuit of financial or material gain; or
- (f) any attempt, plan or preparation for anything that is described in clauses (a) to (e).

Notification

(3) The judge or provincial judge who makes the finding of fact described in subsection (2) shall cause the clerk of the court in which the conviction is made to promptly notify the Registrar of the finding, and the notification to the Registrar shall provide the person's name, the particulars of the offence, and if available, the person's address, driver's licence number and date of birth.

Same

(4) Subsections 41 (5) and (8) apply to this section with necessary modifications.

Determining subsequent conviction

(5) In determining whether a conviction is a subsequent conviction for the purposes of subsection (1), the only question to be considered is the sequence of convictions, and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

10-year limitation

(6) A conviction that is more than 10 years after the previous conviction is deemed to be a first conviction for the purposes of subsection (1).

Exception

(7) Despite subsections (5) and (6), when the subsequent conviction is within 10 years after the previous conviction, all previous convictions that were not followed by a 10-year period without a conviction shall be taken into account for the purposes of subsection (1).

Convictions for prescribed offences

(8) A conviction for an offence prescribed for the purposes of section 41.0.3 shall be taken into account, in accordance with any regulations made under that section, when considering whether a conviction is a first, second or subsequent conviction for the purposes of subsection (1) of this section.

Judge to secure possession

(9) Where a judge or provincial judge convicts a person of an offence under section 333.1 of the *Criminal Code* (Canada) and the driver's licence of the person convicted is suspended by operation of this section, the judge shall take the driver's licence and forward it to the Registrar.

Notice to be given

(10) Upon the arraignment of a person accused of an offence under section 333.1 of the *Criminal Code* (Canada) and before the court accepts the plea of the person, the clerk or registrar of the court shall orally give a notice to the person to the following effect:

"The Highway Traffic Act provides that upon conviction of the offence with which you are charged, in the circumstances indicated therein, your driver's licence shall be suspended for the period prescribed by statute".

Same

(11) The suspension of a driver's licence by operation of this section shall not be held to be invalid by reason of failure of the clerk or registrar of the court to give the notice provided for in subsection (10).

Appeal

(12) Where an appeal is taken from a conviction that resulted in a suspension under this section, the court being appealed to has jurisdiction to consider or reconsider anything found under this section and the court being appealed to may cause the Registrar to be notified accordingly.

Suspension for prescribed offences

41.0.3 (1) Subject to the regulations made under this section, the driver's licence of a person who is convicted of a prescribed offence under the *Criminal Code* (Canada) is thereupon suspended,

- (a) on a first conviction, for 10 years;
- (b) on a second conviction, for 15 years; and
- (c) on a third or subsequent conviction, indefinitely.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

- (a) prescribing offences under the *Criminal Code* (Canada) for the purposes of subsection (1);

- (b) governing findings of fact that are required to be made before a court may determine whether the Registrar is to be notified, including findings in relation to the manner of the commission of an offence or the circumstances in which the offence was committed;
- (c) governing the circumstances in which a court shall direct a clerk of the court to notify the Registrar of a conviction for a prescribed offence;
- (d) governing the circumstances in which a clerk of the court shall notify the Registrar of a conviction for a prescribed offence and prescribing information to be included in the notice;
- (e) governing the circumstances in which a suspension under this section applies;
- (f) governing whether a conviction for a prescribed offence is to be considered a first, second or subsequent conviction for the purposes of subsection (1), and whether previous suspensions under section 41.0.2 or this section, or convictions for an offence under section 333.1 of the *Criminal Code* (Canada) or a prescribed offence, are to be considered;
- (g) governing how a prescribed offence is to be taken into account for the purposes of subsection 41.0.2 (8).

Same

(3) Subsections 41 (5) and (8) and 41.0.2 (9) to (12) apply to this section with necessary modifications.

7 Subsection 42 (3) of the Act is amended by striking out “five” and substituting “10”.

8 Subsection 43 (1) of the Act is amended by striking out “under subsection 41 (1) or under subsection 42 (1)” and substituting “under subsection 41 (1), 41.0.1 (1) or 42 (1)”.

9 (1) Clauses 48 (14) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section; and

(2) Paragraph 1 of subsection 48 (15) of the Act is amended by striking out “five” and substituting “10”.

(3) The definition of “driver” in subsection 48 (18) of the Act is repealed and the following substituted:

“driver” includes a person who has care, charge or control of a motor vehicle while the vehicle is on or off a highway; (“conducteur”)

(4) The definition of “motor vehicle” in subsection 48 (18) of the Act is repealed and the following substituted:

“motor vehicle” includes a street car, a motorized snow vehicle and any other motor vehicle within the meaning of section 2 of the *Criminal Code* (Canada); (“véhicule automobile”)

10 (1) Clauses 48.0.1 (3) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section;

(2) Subsection 48.0.1 (4) of the Act is amended by striking out “five” and substituting “10”.

11 (1) Clauses 48.0.2 (2) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section;

(2) Subsection 48.0.2 (3) of the Act is amended by striking out “five” and substituting “10”.

12 (1) Clauses 48.0.3 (2) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section;

(2) Subsection 48.0.3 (3) of the Act is amended by striking out “five” and substituting “10”.

13 (1) Clauses 48.1 (5) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section;

(2) Section 48.1 of the Act is amended by adding the following subsection:

Same

(5.1) A previous suspension that took effect more than 10 years before the current suspension takes effect shall not be taken into account in determining whether the current suspension is a first, second or subsequent suspension for the purpose of subsection (5).

14 (1) Clauses 48.2.1 (10) (a) and (b) of the Act are repealed and the following substituted:

- (a) seven days, in the case of a first suspension under this section;
- (b) 14 days, in the case of a second suspension under this section;

(2) Section 48.2.1 of the Act is amended by adding the following subsection:**Same**

(11) A previous suspension that took effect more than 10 years before the current suspension takes effect shall not be taken into account in determining whether the current suspension is a first, second or subsequent suspension for the purpose of subsection (10).

15 Section 55 of the Act is repealed and the following substituted:**Suspension on appeal**

55 If a person whose driver's licence has been suspended following a conviction commences an appeal against their conviction and provides the Registrar with notice of the appeal that is satisfactory to the Registrar, the suspension is stayed until the appeal is concluded.

16 (1) Clause 57 (4) (h) of the Act is amended by adding “at the commencement of or during a conduct review program or” after “including”.**(2) Subsection 57 (4) of the Act is amended by adding the following clause:**

- (I) provide for and govern the imposition of a condition on a driver's licence that prohibits a driver from having alcohol or a drug present in their body, or a prescribed concentration of either, including,
 - (i) governing the procedures for screening drivers for the presence of alcohol or a drug,
 - (ii) prescribing the devices or equipment that are approved for the purposes of screening, and
 - (iii) providing that any procedure, rule, duty, consequence or other matter described in section 48.0.2, 48.1 or 48.2.1 may be applied, with or without modifications, to the imposition of a condition.

(3) Paragraph 2 of subsection 57 (4.2) of the Act is amended by striking out “(b.1) or”.**(4) Subsection 57 (4.2) of the Act is amended by adding the following paragraph:**

- 4. Where the licence is suspended under subsection 41.0.1 (1) and the suspension has been in effect for at least 25 years before the reinstatement takes effect.

(5) Section 57 of the Act is amended by adding the following subsection:**Same**

(4.3) Where a court or judge, when sentencing an offender or making a conviction, orders the imprisonment of the offender, the period referred to in paragraph 3 or 4 of subsection (4.2) is increased by,

- (a) the period of imprisonment ordered for the offender; or
- (b) upon application by the offender, the period of imprisonment served by the offender.

17 Paragraph 2 of subsection 62 (14.2) of the Act is amended by striking out “or the *Public Vehicles Act*”.**18 (1) Subsection 64 (2) of the Act is amended by striking out “Every motorcycle, motor assisted bicycle or power-assisted bicycle” at the beginning and substituting “Every motorcycle and motor assisted bicycle”.****(2) The definition of “bicycle” in subsection 64 (4) of the Act is amended by striking out “unicycle, tricycle or power-assisted bicycle” and substituting “unicycle or tricycle”.****19 (1) Subsection 82 (2) of the Act is amended by striking out “that is not a power-assisted bicycle”.****(2) Subsection 82 (3) of the Act is amended by striking out “that is not a power-assisted bicycle”.****20 Section 103.1 of the Act is repealed.****21 (1) Subsection 104. (2.1) of the Act is amended by striking out “Subject to subsection 103.1 (2)” at the beginning.****(2) Subsection 104 (2.2) of the Act is amended by striking out “other than a power-assisted bicycle”.****22 Clauses 128 (13) (a) to (c) of the Act are revoked and the following substituted:**

- (a) a fire department vehicle while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call;
- (b) a police department vehicle being used in the lawful performance of a police officer's duties;
- (c) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation; or
- (d) a ministry vehicle being used by an officer appointed for carrying out the provisions of this Act in the lawful performance of the officer's duties.

23 (1) Subsection 159 (1) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Approaching, following emergency vehicles

Stop on approach of vehicle with flashing lights or bell or siren sounding

(1) The driver of a vehicle, upon the approach of an emergency vehicle mentioned in clause (a) of the definition of that term, with its bell or siren sounding or with its lamp producing intermittent flashes of red light or red and blue light, or upon the approach of a public utility emergency vehicle with its bell or siren sounding or its lamp producing intermittent flashes of red light, shall immediately bring such vehicle to a standstill,

(2) Clauses (a) and (b) of the definition of "emergency vehicle" in subsection 159 (11) of the Act are repealed and the following substituted:

- (a) an ambulance, fire department vehicle, police department vehicle or ministry vehicle operated by an officer appointed for carrying out the provisions of this Act,
- (b) public utility emergency vehicle,

24 (1) Subsections 172 (2) to (7) of the Act are repealed and the following substituted:

Fine or imprisonment

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

Suspension

(3) In addition to the penalty imposed under subsection (2), the driver's licence of a person convicted of a contravention of subsection (1) is suspended,

- (a) on a first conviction under this section, for a minimum of one year;
- (b) on a second conviction under this section, for a minimum of three years; and
- (c) on a third or subsequent conviction under this section, indefinitely.

Reduction

(4) An indefinite suspension imposed under clause (3) (c) that was not in relation to a fourth or subsequent conviction under this section may be reduced by the Registrar in the prescribed circumstances.

Discretion to extend

(5) Where the court making a conviction under this section considers it to be proper and desirable for the protection of the public using the highways, the court may make an order extending the period of suspension referred to in subsection (3) to,

- (a) a period greater than the period required under clause (3) (a) but not exceeding three years; or
- (b) a period greater than the period required under clause (3) (b) but not exceeding 10 years.

Same

(6) An order made under subsection (5) does not lessen the duration of the suspension imposed under clause (3) (a) or (b) or affect the duration of an indefinite suspension imposed under clause (3) (c).

Determining subsequent conviction

(7) In determining whether a conviction is a subsequent conviction for the purposes of subsections (3) and (4), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

10-year limitation

(7.1) A conviction that is more than 10 years after the previous conviction is deemed to be a first conviction for the purposes of subsection (3).

Exception

(7.2) Despite subsection (7) and (7.1), when the subsequent conviction is within 10 years after the previous conviction, all previous convictions that were not followed by a 10-year period without a conviction shall be taken into account for the purposes of subsections (3) and (4).

Transition

(7.3) Despite subsections (7.1) and (7.2), a conviction that was more than 10 years before the date on which subsection 23 (1) of the *Safer Roads and Communities Act, 2024* comes into force shall not be taken into account for the purpose of subsections (3) and (4).

(2) Clause 172 (23) (d) of the Act is repealed and the following substituted:

- (d) prescribing the circumstances in which an indefinite suspension under clause (3) (c) may be reduced by the Registrar, and the conditions or requirements that must be satisfied for reinstatement of the driver's licence.

25 Clause 214.1 (7) (b) of the Act is repealed and the following substituted:

- (b) the person's licence shall be suspended for a period of not more than the maximum period for which the licence would be suspended under section 172.

26 Section 216 of the Act is amended by adding the following subsection:**Definition**

(8) In this section,

“driver” includes a person who has care, charge or control of a vehicle and includes a person with care, charge or control of a vehicle that has recently travelled from or off the highway.

27 Subsection 219 (1) of the Act is amended by adding “or section 172” after “or 78.1 (6.1)”.**28 Subsections 228 (2) to (5) of the Act are repealed.****29 Sections 1, 3, 7, 8 and 23 of Schedule 1 to the *Moving Ontarians More Safely Act, 2021*, are repealed.****Commencement**

30 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) Sections 1, 2 and 4 to 8, subsections 9 (1) and (2), sections 10 to 14, subsections 16 (1), (2), (4) and (5) and sections 18 to 21, 24, 25 and 27 to 29 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

31 The short title of this Act is the *Safer Roads and Communities Act, 2024*.