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(Consolidated up to 264/2005)

ALBERTA REGULATION 323/2002

Traffic Safety Act

VEHICLE SEIZURE AND REMOVAL REGULATION

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) “immobilize” includes detain;
- (e) “lien” means a lien under [section 63](#) of the [Act](#);

(f) “peace officer” includes the Registrar or another person authorized under the Act to seize a vehicle;

(g) “physical address” means the location of a person’s residence in Alberta at which the person can be personally served with documents under the Act;

(h) “remove” includes impound, take or store;

(i) “seize” includes immobilize or detain;

(j) “seizure costs” means the costs referred to in [section 63](#) of the Act;

(k) “vehicle impoundment area” means the location at which a seized vehicle is kept during the term of the seizure.

(2) In Division 4, “vehicle” includes a wrecked or partially dismantled vehicle or a part of a vehicle.

Signature of peace officer

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

Service of notice

3 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.

Division 1

Abandoned and Immobilized Vehicles

Abandoned vehicle notice

4(1) A peace officer who has reason to believe that a vehicle in a particular location 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.

Immobilization notice

5(1) A peace officer who immobilizes a vehicle under [section 141](#), [171](#), [172](#) or [173](#) 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 registered 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 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 173](#) of the [Act](#), provide a copy of the immobilization notice to the Registrar.
- (3) A peace officer may remove a vehicle immobilized in accordance with subsections (1) and (2) without issuing a notice of seizure if the conditions referred to in subsection (1)(e) are not met within the time required.

AR 323/2002 s5;139/2003

Division 2

Seizure and Removal

Seizure notice

- 6(1)** A peace officer who seizes or removes a vehicle under [section 77, 127, 141, 142, 170, 171, 172](#) or [173](#) of the [Act](#) must issue a seizure 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 seized or removed;
 - (b) the name and physical or postal address of the owner of the vehicle;
 - (c) the date and time of the seizure or removal;
 - (d) if the vehicle is to be kept at a vehicle impoundment area, the area's location and the name of the area's operator;
 - (e) the date and time at which the seizure of the vehicle expires;
 - (f) a statement to the effect that the vehicle may be disposed of if it is not claimed within 15 days after it is eligible to be released from the seizure.

(2) A peace officer who seizes or removes a vehicle under [section 77, 127, 141, 142, 170, 171, 172](#) or [173](#) of the [Act](#) must

- (a) give the driver of the vehicle, if any, directions as to where the vehicle is taken and stored;
- (b) serve a copy of the seizure notice on the driver, if any, at the time of the seizure or removal;
- (c) serve a copy of the seizure notice on the owner of the vehicle if the person driving the vehicle is not the owner;
- (d) give a copy of the seizure notice to the tow truck operator who takes possession of or otherwise accepts responsibility for the seized vehicle at the direction of the peace officer;
- (e) where the vehicle is seized or removed under [section 173](#) of the [Act](#), provide a copy of the seizure notice to the Registrar.

(3) The tow truck operator who takes possession of a vehicle under a seizure notice must give the copy of the seizure notice 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.

AR 323/2002 s6;139/2003

Operator of impoundment area

7 An operator of a vehicle impoundment area must not release a seized vehicle unless

- (a) the term of the seizure expires or the Board revokes the seizure,
- (b) the operator is satisfied that the person claiming the seized vehicle is entitled to take possession of the vehicle, and
- (c) subject to a direction of the Board, the seizure costs incurred in respect of the seized vehicle are paid.

Appeal to the Board

8(1) The grounds on which an appeal may be made under [section 40](#) of the [Act](#) are one or more of the following:

- (a) the person driving the vehicle when it was seized was a suspended person who did not know and could not reasonably have known of the suspension;
- (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 a suspended person;
- (c) the owner was not driving the vehicle when it was seized and the vehicle was not driven with the consent of the owner;
- (d) the person driving the vehicle when it was seized was not a suspended person.

(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;

(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.

Revocation of seizure

9(1) The Board may revoke the seizure of a vehicle if it is satisfied that one of the grounds referred to in [section 8](#) in respect of that seizure exists.

(2) If the Board revokes a seizure of a vehicle, the Board may direct

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

Division 3 Effect of Seizure

Application

10(1) This Division applies to a vehicle that is seized or removed under [section 77, 141, 172 or 173](#) of the [Act](#).

(2) This Division 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 Division and Division 4 apply to the costs.

Seizure costs

11 Seizure 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 purchaser.

Abandoned vehicle

12(1) The owner of a vehicle that is removed by a peace officer as an abandoned vehicle may reclaim the vehicle if

- (a) it is reclaimed not more than 30 days after it is removed, and
- (b) the owner pays the seizure costs.

(2) If an abandoned vehicle is not claimed by the owner under subsection (1), the Administrator must send a notice containing the information described in subsection (3) by ordinary mail to the owner at the latest physical or postal address for the owner as shown in the records of the Registrar.

(3) A notice under subsection (2) must include

- (a) the date and time the notice is issued,
- (b) the location at which the vehicle may be claimed by the owner, including the name of the operator of the location,
- (c) a statement that the owner is liable for the seizure costs, and
- (d) repealed AR 139/2003 s4,
- (e) a statement to the effect that the vehicle will be disposed of without further notification within 15 days from the date of the notice unless
 - (i) the vehicle is removed from that location, and
 - (ii) all seizure costs are paid.

AR 323/2002 s12;139/2003

Notice of release

13(1) The Registrar must notify the owner of a seized or removed vehicle if the vehicle is released.

(2) A notice that a vehicle is released from seizure or removal under [section 127](#), [142](#), [170](#) or [171](#) of the [Act](#) must include

- (a) the date and time the notice is issued,
- (b) the location at which the vehicle may be claimed by the owner, including the name of the operator of the location,
- (c) a statement of the seizure costs, if any, payable by the owner,
- (d) a statement to the effect that the owner is liable for the costs of storage after 15 days from the date of the notice if the vehicle is not removed from that location before then, and
- (e) an estimate of the daily cost of storage.

(3) A notice that a vehicle is released from seizure or removal under [section 77](#), [141](#), [172](#) or [173](#) of the [Act](#) must include

- (a) the date and time the notice is issued,
- (b) the location at which the vehicle may be claimed by the owner, including the name of the operator of the location,

- (c) a statement of the seizure costs payable by the owner,
- (d) a statement to the effect that the owner is liable for the costs of storage after 15 days from the date of the notice if the vehicle is not removed from that location before then,
- (e) an estimate of the daily cost of storage, and
- (f) a statement to the effect that the vehicle will be disposed of by the Administrator without further notification 30 days after the date of the notice unless
 - (i) the vehicle is removed from that location, and
 - (ii) all seizure costs are paid.

AR 323/2002 s13;139/2003

Division 4 Disposal of Vehicles

Debt collection

14(1) The Administrator may dispose of a vehicle if it is

- (a) removed or seized under the Act,
- (b) subject to seizure costs, and
- (c) not claimed by the owner within the times set out in this Regulation or the owner does not pay the amount of the lien within the time allowed.

(2) The Administrator may dispose of a vehicle that is not claimed by the owner

- (a) within 30 days after the Registrar issues a notice of release under [section 13](#), or
 - (a.1) repealed AR 139/2003 s7,
- (b) in the case of an abandoned vehicle in respect of which notification has been given under [section 12\(2\)](#), within 15 days after the Administrator gives notification under [section 12\(2\)](#).

(3) The Administrator 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 under the *Personal Property Security Act*.

(4) The proceeds of the disposal must be distributed in the following order:

- (a) to pay the seizure costs;
- (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.

AR 323/2002 s14;139/2003

Claim to remaining money

15(1) If, within one year of the removal or seizure 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 14\(4\)\(c\)](#), 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 14\(4\)\(c\)](#).

Seizure costs

16(1) If the money from the disposal of a vehicle is not enough to cover the seizure 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

17 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) refuse to register a vehicle in the name of the debtor, or
- (b) suspend the registration of all vehicles registered in the name of the debtor.

Title to vehicle

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

Division 5

General

Transitional

19(1) A Seizure and Impoundment Notice issued under the *Section 112 Motor Vehicle Seizure and Immobilization Regulation (AR 395/91)* is deemed to be issued under this Regulation under the same terms and conditions and with the same expiry date.

(2) The costs of the seizure, immobilization, detention, removal, transportation or storage of a vehicle under the *Motor Vehicle Administration Act* that are unpaid at the time this Regulation comes into force are a lien on the vehicle and are deemed to be payable under this Regulation under the same terms and conditions and with the same expiry date.

Repeal

20 The [Section 112 Motor Vehicle Seizure and Immobilization Regulation \(AR 395/91\)](#) is repealed.

Expiry

21 For the purpose of ensuring that this Regulation is reviewed for ongoing relevance and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on April 30, 2012.

Coming into force

22(1) Subject to subsection (2), this Regulation comes into force on the date on which [sections 77, 127, 141, 142](#) and Part 8 Division 3 of the [Traffic Safety Act](#) come into force.

(2) [Sections 13](#) and [14\(2\)\(a\)](#) come into force on July 1, 2006.

AR 323/2002 s22;139/2003;101/2004;274/2004;156/2005;264/2005