



3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
67 ELIZABETH II, 2018

CHAPTER 49

(Bill No. 44)

An Act to Amend the Highway Traffic Act (No. 4)

Hon. Paula J. Biggar
Minister of Transportation, Infrastructure and Energy

GOVERNMENT BILL

Carol Mayne
Acting Queen's Printer
Charlottetown, Prince Edward Island



AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT (NO. 4) Chapter 49

(Assented to December 5, 2018)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **Clauses 1(a), (a.001) and (a.01) of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, are amended by the deletion of the words “section 254” and the substitution of the words “section 320.11”.**
2. (1) **The Act is amended in the following provisions by the addition of the words “as those provisions read before December 18, 2018, or subsection 320.14(1) or (4) or subsection 320.15(1) of the *Criminal Code*,” after the words “section 253 or subsection 254(5) of the *Criminal Code*,”:**
 - (a) **subclause 73(1)(n)(i);**
 - (b) **subsection 73(1.5);**
 - (c) **subsection 255(1);**
 - (d) **subsection 262(2);**
 - (e) **subclause 271(2)(a)(i).**
- (2) **Clause 90(b) of the Act is amended by the addition of the words “, as those provisions read before December 18, 2018, or subsection 320.14(1) or (4) or subsection 320.15(1) of the *Criminal Code*” after the words “section 253 or subsection 254(5) of the *Criminal Code*”.**
- (3) **The Act is amended in the following provisions by the addition of the words “, as those provisions read before December 18, 2018, or subsection 320.14(1) or (4) or subsection 320.15(1) of the *Criminal Code*,” after the words “section 253 or subsection 254(5) of the *Criminal Code*”:**
 - (a) **clause 261(1)(a);**
 - (b) **clause 271(2)(b);**
 - (c) **clauses 312(y) and (y.1).**

3. (1) Paragraphs 73(1.3)(b)(i)(A) and (B) of the Act are amended by the deletion of the words “160 milligrams” and the substitution of the words “120 milligrams”.

(2) Subclause 73(1.3)(b)(ii) of the Act is amended by the addition of the words “, as that section read before December 18, 2018, or section 320.27 or 320.28 of the *Criminal Code*,” after the words “section 254 of the *Criminal Code*”.

4. Clause 90(c) of the Act is amended

(a) by the addition of the words “, as that section read before December 18, 2018,” after the words “section 253 of the *Criminal Code*”; and

(b) by the deletion of the words “subsection 255(5) thereof” and the substitution of the words “subsection 255(5) of the *Criminal Code*, as that subsection read before December 18, 2018”.

5. (1) Subclause 255.1(1)(b)(ii) of the Act is amended by the deletion of the words “*Criminal Code*,” and the substitution of the words “*Criminal Code*, as that subsection read before December 18, 2018, or subsection 320.18(1) of the *Criminal Code*”.

(2) Subsections 255.1(1.01) and (1.1) of the Act are repealed and the following substituted:

Impoundment for specific offences

(1.01) A peace officer may cause a motor vehicle to be taken to and impounded at a place directed by the peace officer if the peace officer is satisfied that by means of or in relation to the person’s operation of the motor vehicle an offence under one of the following provisions of the *Criminal Code* has been committed:

- (a) paragraph 320.14(1)(a) (impaired driving);
- (b) paragraph 320.14(1)(b) (blood alcohol equal to or over .08);
- (c) paragraph 320.14(1)(c) (blood drug concentration equal to or over legal limit);
- (d) paragraph 320.14(1)(d) (blood alcohol and blood drug concentration equal to or over legal limit for combination);
- (e) subsection 320.14(4) (blood drug concentration equal to or over legal limit, and less than blood drug concentration prescribed for paragraph 320.14(1)(c));
- (f) subsection 320.15(1) (failure or refusal to comply with demand).

Impoundment for specific offences

(1.1) A peace officer may cause a motor vehicle to be taken to and impounded at a place directed by the peace officer if the peace officer is satisfied that

- (a) by means of or in relation to the person’s operation of the motor vehicle an offence under one of the following provisions of the *Criminal Code* has been committed:
 - (i) section 220 (criminal negligence causing death),
 - (ii) section 221 (criminal negligence causing bodily harm),
 - (iii) section 236 (manslaughter),
 - (iv) subsection 320.13(2) (dangerous operation of a motor vehicle causing bodily harm),
 - (v) subsection 320.13(3) (dangerous operation of a motor vehicle causing death),



- (vi) subsection 320.14(2) (operation while impaired causing bodily harm),
 - (vii) subsection 320.14(3) (operation while impaired causing death),
 - (viii) subsection 320.15(2) (failure or refusal to comply with demand after accident resulting in bodily harm),
 - (ix) subsection 320.15(3) (failure or refusal to comply with demand after accident resulting in death); or
- (b) by means of or in relation to the person's operation of the motor vehicle
- (i) an offence under one of the following provisions of the *Criminal Code* has been committed:
 - (A) subsection 320.13(1) (dangerous operation of a motor vehicle),
 - (B) paragraph 320.14(1)(a) (impaired driving),
 - (C) paragraph 320.14(1)(b) (blood alcohol equal to or over .08),
 - (D) paragraph 320.14(1)(c) (blood drug concentration equal to or over legal limit),
 - (E) paragraph 320.14(1)(d) (blood alcohol and blood drug concentration equal to or over legal limit for combination),
 - (F) subsection 320.14(4) (blood drug concentration equal to or over legal limit, and less than blood drug concentration prescribed for paragraph 320.14(1)(c)),
 - (G) subsection 320.15(1) (failure or refusal to comply with demand),
 - (H) section 320.16 (failure to stop motor vehicle after accident),
 - (I) section 320.17 (flight from peace officer),
 - (J) subsection 320.18(1) (operating motor vehicle while prohibited), and
 - (ii) within 10 years before the commission of the offence referred to in subclause (i), the person was convicted of
 - (A) one of the offences listed in clause 255.1(1.1)(a), as that clause read immediately before December 18, 2018, and in clause (a), or
 - (B) two or more of the offences listed in clause 255.1(1.1)(b), as that clause read immediately before December 18, 2018, and subclause (b)(i).

6. Clause 261(1)(b) of the Act is amended

- (a) **by the addition of the words “, as that section read before December 18, 2018,” after the words “section 253 of the *Criminal Code*”; and**
- (b) **by the deletion of the words “subsection 255(5) thereof” and the substitution of the words “subsection 255(5) of the *Criminal Code*, as that subsection read before December 18, 2018”.**

7. Subsection 264.1(2) of the Act is amended by the deletion of the words “section 253 or subsection 254(5)” and the substitution of the words “subsection 320.14(1) or (4) or subsection 320.15(1)”.

8. Clause 271(3)(b) of the Act is amended by the addition of the words “, as that provision read before December 18, 2018, or section 320.18 of the *Criminal Code*” after the words “subsection 259(4) of the *Criminal Code*”.

9. (1) **Subclause 277.1(1) of the Act is amended in the words preceding clause (a) and in subclause (c)(ii) by the deletion of the words “section 254 of the *Criminal Code*” and the substitution of the words “section 320.27 or 320.28 of the *Criminal Code*”.**

(2) **Subsection 277.1(1.1) of the Act is amended by the deletion of the words “section 254(2)(a)” and the substitution of the words “paragraph 320.27(1)(a)”.**

(3) **Subsection 277.1(3.3) of the Act is repealed and the following substituted:**

Thirty-day driving suspension

(3.3) Where a peace officer requests the surrender of a person’s driver’s license under clause (1)(a) or (c), and this is the second time a peace officer has requested the surrender of the person’s driver’s license under any of clause (1)(a), clause (1)(c) and section 277.2 within a three-year period,

(a) subsection 277.2(1.1) applies to the person as if the person had received an administrative driving prohibition under subsection 277.2(1), and subclause 277.3(1)(a)(i) and section 277.4 apply with the necessary changes;

(b) the person’s driver’s license and driving privileges are suspended and invalid for any purpose for a period of 30 days from the end of the period specified in subclause 277.3(1)(a)(i), regardless of whether the person surrenders the person’s driver’s license; and

(c) the person may apply to the Registrar in accordance with subsection 277.5(1) for a review of the driving suspension as if it were an administrative driving prohibition, and sections 277.6 and 277.7 apply to the review with any necessary changes.

(4) **Subsection 277.1(3.5) of the Act is repealed and the following substituted:**

Ninety-day driving suspension

(3.5) Where a peace officer requests the surrender of a person’s driver’s license under clause (1)(a) or (c), and this is the third time a peace officer has requested the surrender of the person’s driver’s license under any of clause (1)(a), clause (1)(c) and section 277.2 within a three-year period,

(a) subsection 277.2(1.1) applies to the person as if the person had received an administrative driving prohibition under subsection 277.2(1), and subclause 277.3(1)(a)(i) and section 277.4 apply with the necessary changes;

(b) the person’s driver’s license and driving privileges are suspended and invalid for any purpose for a period of 90 days from the end of the period specified in subclause 277.3(1)(a)(i), regardless of whether the person surrenders the person’s driver’s license; and

(c) the person may apply to the Registrar in accordance with subsection 277.5(1) for a review of the driving suspension as if it were an administrative driving prohibition, and sections 277.6 and 277.7 apply to the review with any necessary changes.

(5) **Subsection 277.1(3.51) of the Act is repealed.**

(6) **Subsection 277.1(3.6) of the Act is amended by the deletion of the words “or (3.51)”.**

(7) **Subsection 277.1(5.2) of the Act is repealed.**

- (8) **Subsection 277.1(5.3) of the Act is amended by the deletion of the words “subsection (5), (5.1) or (5.2)” and the substitution of the words “subsection (5) or (5.1)”.**
10. **Subsection 277.2(1) of the Act is amended**
- (a) **in clause (b), by the deletion of the word “exceeded” and the substitution of the words “equalled or exceeded”; and**
 - (b) **in clause (c.2), by the deletion of the words “section 254” and the substitution of the words “section 320.27 or 320.28”.**
11. **Clause 277.4(e) of the Act is amended by the deletion of the words “section 258” and the substitution of the words “section 320.32”.**
12. **Clause 277.6(1)(c) of the Act is amended by the addition of the words “, as that provision read before December 18, 2018, or section 320.32 of the *Criminal Code*,” after the words “section 258 of the *Criminal Code*”.**
13. (1) **Subsection 277.7(1) of the Act is amended**
- (a) **in clause (b), by the deletion of the word “exceeding” and the substitution of the words “equal to or exceeding, as applicable,”; and**
 - (b) **in clause (e), by the addition of the words “, as that provision read before December 18, 2018, or section 320.27 or 320.28 of the *Criminal Code*,” after the words “section 254 of the *Criminal Code*”.**
- (2) **Subsection 277.7(2) of the Act is amended**
- (a) **in clause (b), by the deletion of the word “exceeding” and the substitution of the words “equal to or exceeding, as applicable,”;**
 - (b) **in clause (e), by the addition of the words “, as that provision read before December 18, 2018, or section 320.27 or 320.28 of the *Criminal Code*” after the words “section 254 of the *Criminal Code*”; and**
 - (c) **in clause (f), by the addition of the words “, as that provision read before December 18, 2018, or section 320.27 or 320.28 of the *Criminal Code*” after the words “section 254 of the *Criminal Code*”.**
14. **Section 277.71 of the Act is amended by the deletion of the words “subsection 254(1)” and the substitution of the words “section 320.11”.**
15. **Subsection 277.9(3) of the Act is amended by the deletion of the words “subsection 254(2)” and the substitution of the words “section 320.27”.**
16. **Subsection 282(1) of the Act is amended by the addition of the words “as those provisions read before December 18, 2018, or section 320.13 or 320.16 or subsection 320.14(1) or (4),**

320.15(1) or 332.18(1) of the *Criminal Code*,” **after the words “259(4) of the *Criminal Code*,”.**

17. **Subclause 312(aa.2)(ii) of the Act is amended by the deletion of the words “(3.51)”.**
18. **Subsection 316 of the Act is amended**
 - (a) **in the words preceding clause (a), by the addition of the words “any of” after the words “violation of”; and**
 - (b) **by the repeal of clause (c) and the substitution of the following:**
 - (c) sections 249, 252 and 253 of the *Criminal Code*, as those provisions read before December 18, 2018, and sections 220, 221, 236, 320.13 and 320.16 and subsections 320.14(1) and (4) and 320.15(1) of the *Criminal Code*, involving the use of a motor vehicle,
19. **Clause 319(1.1)(b) of the Act is amended by the deletion of the words “Criminal Code” and the substitution of the words “*Criminal Code*”.**
20. **This Act comes into force on December 18, 2018.**



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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 13, 2018
<i>2nd Reading:</i>	November 14, 2018
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<i>Assent:</i>	December 5, 2018

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Hon. Paula J. Biggar
Minister of Transportation, Infrastructure and Energy

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