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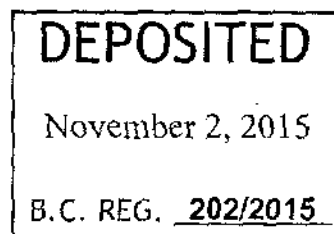
PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

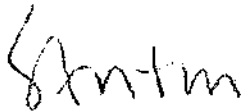
Order in Council No. 608 , *Approved and Ordered* October 30, 2015


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that sections 5, 23, 31, 34, 47, 51, 55 and 56 of the *Motor Vehicle Amendment Act, 2015*, S.B.C. 2015, c. 13, are brought into force.





Attorney General and Minister of Justice



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Motor Vehicle Amendment Act, 2015*, S.B.C. 2015, c. 13, s. 60

Other: _____

September 30, 2015

R/673/2015/15



Ministry of Justice

OIC
Approval Form

Name of Legislation: Motor Vehicle Act

Subject: Bringing into force amendments to the Motor Vehicle Act relating to the ability for the Superintendent of Motor Vehicles to consider technical documents in an IRP review and the ability for ICBC to collect on monetary penalties.

CLIFF #: 512286

Contact: David Coburn, Policy Analyst, 250-356-8070

	Signature	Date
Branch Contact/Analyst		
Originating Branch ADM		
CPPO Director		
Deputy Minister		
Comments: 		

MINISTRY OF JUSTICE
RoadSafetyBC
BACKGROUNDER

PURPOSE: For INFORMATION for the Honourable Suzanne Anton, QC Attorney General, Minister of Justice

ISSUE: Bringing into force two legislative amendments in Bill 15: the ability for the Superintendent to consider technical materials on review of an Immediate Roadside Prohibition (IRP) **AND** the authority for the ICBC to account for and collect on unpaid monetary penalties that result from the issuance of an IRP.

Technical Materials

- In the *Buhr* decision, the Court found that, in an IRP review, there is no authority for the Superintendent to consider "other relevant information" if it is not evidence submitted by the police or the applicant.
- This amendment will allow the Superintendent to effectively address new issues as they are raised by defence counsel and ensures that relevant and accurate information can be considered to make the most fair and informed decisions possible.
- This amendment (once in force) defines "technical materials" as technical, medical or scientific evidence or information and includes:
 - manuals and training materials relating to, and documents provided by the manufacturer of, an approved screening device;
 - summaries of technical, medical or scientific evidence or information that are prepared by the Superintendent; and
 - documents that are prescribed or in a prescribed class of documents.

Collection of Monetary Penalties

- An IRP monetary penalty is imposed through s.215.44 of the *Motor Vehicle Act* (MVA). However, following the introduction of the IRP program, s.65 was not amended to include the accounting for monetary penalties under s.215.44 and the *MVA*, *Insurance (Vehicle) Act* and *Insurance Corporation Act* lack clarity respecting the accounting and collection of administrative monetary penalty revenue.
- While the ICBC has the legislative authority under the *Motor Vehicle Act* to refuse to issue or cancel a driver's licence for the failure to pay a monetary penalty, it does not have the general authority to receive, hold, manage and collect the monetary penalties on the government's behalf or consider the outstanding monetary penalty when managing vehicle indebtedness.
- Providing ICBC with clear legislative authority to collect on monetary penalties will allow for collection action to be taken on over \$8 million in outstanding IRP penalties.
- These amendments will provide the ICBC with the clear authority to manage and collect monetary penalties issued under the IRP program and provide the ICBC additional authority to take actions to collect penalties, such as refusing insurance services to individuals who fail to pay monetary penalties.
- ICBC was consulted in December 2014 as part of the legislative process and the amendment to clarify financial authority was identified in the Consultation Draft.

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Page 121 to/à Page 123

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Wilkinson, Anita JAG:EX

From: Coburn, David JAG:EX
Sent: Wednesday, September 23, 2015 4:31 PM
To: Gerhart, Bradley JAG:EX
Subject: bullets

Follow Up Flag: Follow up
Flag Status: Flagged

Brad,

Pulled this from the Cabinet Summary Information document...

s.12



David Coburn
Policy Analyst – RoadSafetyBC
(250) 356-8070



It Can Wait - Distracted Driving

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Wilkinson, Anita JAG:EX

From: Bowness, Corey JAG:EX
Sent: Wednesday, March 25, 2015 3:56 PM
To: Coburn, David JAG:EX
Subject: FW: For Sam's approval: Media request - Info News Kamloops - MVA IRP amendments
Importance: High

David – anything on this?

From: MacLeod, Sam JAG:EX
Sent: Wednesday, March 25, 2015 3:53 PM
To: Bowness, Corey JAG:EX; Kirby, Katherine JAG:EX
Subject: FW: For Sam's approval: Media request - Info News Kamloops - MVA IRP amendments

Do we have specifics on other jurisdictions with mandatory referrals?

From: Smith, Curtis M JAG:EX
Sent: Wednesday, March 25, 2015 3:03 PM
To: MacLeod, Sam JAG:EX
Cc: Chapman, Kathryn JAG:EX; Kirby, Katherine JAG:EX; Roberts, Steven JAG:EX; LeBlanc, Catherine JAG:EX
Subject: FW: For Sam's approval: Media request - Info News Kamloops - MVA IRP amendments

Hi Sam,

For sign-off, a follow up from yesterday's media request. For attribution to you.

Thanks!

Curtis Smith

Correspondence & Program Issues Officer, Stakeholder Relations
RoadSafetyBC
Ministry of Justice
Desk: 250-387-7566 | Mobile: 250-580-4277



RoadSafetyBC

From: Pandachuck, Niki GCPE:EX
Sent: Wednesday, March 25, 2015 3:01 PM
To: Smith, Curtis M JAG:EX
Cc: Nelson, Tiffany GCPE:EX; Bertrand, Stuart GCPE:EX
Subject: For Sam's approval: Media request - Info News Kamloops - MVA IRP amendments

Hi Curtis,

For Sam's approval, please. One minor addition to the tail end of Q2 statement.

Date/Time: 25/Mar/1:10 p.m.

Deadline @ 4:30 p.m. {can push until tomorrow if she is getting an interview}

Media: Info News Kamloops

Reporter: Glynn Brothen, gbrothen@infonews.ca

Topic: MVA IRP amendments

Background: The reporter is following up on her request yesterday and wants an interview with either MSA or Sam MacLeod regarding the MVA IRP amendments. She has previously contacted us for IRP stats and is interviewing a lawyer about the ^{s.22} IRP case, which is still awaiting trial in the Supreme Court of Canada. She mentioned that she does not simply want a response by email.

Questions:

Why are you shifting the burden of proof back on the authorities, rather than the drivers? How did that decision come about?

"The original intent of this section of the legislation was that once the police officer complied with his obligations under the Motor Vehicle Act (MVA), it was for the driver to overcome the evidence. However, this has been interpreted by the courts in a manner that is different from the original intent. This amendment is intended to resolve conflict that has occurred in case law, and to clarify the original intent.

This change clarifies that the onus is clearly on the driver to satisfy the Superintendent that they meet one of the legislated grounds for the IRP to be revoked. The evidentiary requirements for police are extensive and detailed in the existing legislation. For example, police must offer two breath demands on two separate approved screening devices and the lower of the two results must be used. Also, under these proposed changes, if police do not submit the sworn Report to Superintendent he must revoke the prohibition on review."

A Statistics Canada stat states that impaired driving criminal cases have dropped by 37% in B.C. since the IRP program came in. Why are there less criminal cases/charges now?

"I am unable to speak to why police and Crown Counsel may or may not proceed with recommending and approving criminal charges against drivers in drinking and driving cases. But by introducing a larger range of administrative tools for police, B.C. has given police the ability to remove drinking drivers from the road immediately and deliver them swift and certain sanctions. This approach has led to a 52% drop in alcohol related driving fatalities since the program was introduced in September of 2010."

Why did you make the remedial programs mandatory?

"We will be able to say more about the details of the mandatory referrals, and the specific criteria for those referrals, as regulations are developed over the next year. The Province's remedial programs, the Responsible Driver Program and Ignition Interlock Program, have been in use in B.C. since 2005 to help to ensure drivers receive remediation and are safe to be on the road, which in turn prevents serious injuries and deaths on B.C.'s roads.

The decision to legislate mandatory referrals for remedial programs is based on the best practices of other jurisdictions, experience of B.C.'s programs to date, and existing research on the issue. These proposed changes will

help target the most dangerous drivers – so that those who insist on drinking and driving will face swift and certain penalties, including a mandatory referral to remedial programs. The intent of remedial programs has always been to ensure that all drivers with serious or multiple alcohol or drug related sanctions receive an appropriate level of remediation if they are to drive again. The Superintendent will continue to have the authority to make discretionary referrals outside of the mandatory process.”

Your response yesterday said “some of the proposed changes respond to recent court decisions, for example, the move to allow the Superintendent to consider technical evidence and other relevant information not submitted by the applicant during an IRP review is a result of the Buhr decision.” What do you mean by technical evidence?

“This change will allow the Superintendent to consider expert technical evidence about the Approved Screening Devices. Previously, a BC Supreme Court decision found that under the legislation, the Superintendent could only consider evidence submitted by the applicant or the police in an IRP review.”

Provided to the reporter on Tues. March 24:

What are all of the amendments?

- Bill 15, the Motor Vehicle Amendment Act, 2015, can be viewed in its entirety online at: http://www.leg.bc.ca/40th4th/1st_read/gov15-1.htm

The NR says that “proposed changes will also create mandatory requirements for drivers, whose driving records meet certain criteria that demonstrate unsafe driving behaviour, to participate in the Province’s remedial driving programs.” What are the criteria for unsafe driving behaviour?

- We will be able to say more about the details of the mandatory referrals, and the specific criteria for those referrals, as regulations are developed over the next year.
- The Province’s remedial programs, the Responsible Driver Program and Ignition Interlock Program, have been in use in B.C. since 2005 to help to ensure drivers receive remediation and are safe to be on the road, which in turn prevents serious injuries and deaths on B.C.’s roads.
- While remedial programs are an important part of government’s approach to drinking and driving, they exist separately from the Immediate Roadside Prohibition (IRP) program, and provide remediation to drivers who have been convicted criminally, or served with other administrative sanctions for driving while affected by drugs or alcohol.
- These proposed changes will help target the most dangerous drivers – so that those who insist on drinking and driving will face swift and certain penalties, including a mandatory referral to remedial programs.
- The intent of remedial programs has always been to ensure that all drivers with serious or multiple alcohol or drug related sanctions receive an appropriate level of remediation if they are to drive again.
- The decision to legislate mandatory referrals for remedial programs is based on the best practices of other jurisdictions, experience of B.C.’s programs to date, and existing research on the issue.
- Please note that drivers who are referred to the program based on a discretionary decision by the Superintendent will continue to have access to a formal administrative reconsideration process.

Why were these amendments necessary? What do they respond to?

- The Province introduced amendments to the Motor Vehicle Act to continue to uphold and enhance B.C.’s tough approach to curbing drinking and driving.
- If passed, the proposed amendments will further protect road users by streamlining the remedial referral and reconsideration process and preserving the IRP program’s integrity.

- Some of the proposed changes respond to recent court decisions, for example, the move to allow the Superintendent to consider technical evidence and other relevant information not submitted by the applicant during an IRP review is a result of the Buhr decision.
- As mentioned, the decision to legislate mandatory referrals for remedial programs is based on the best practices of other jurisdictions, experience of B.C.'s programs to date, and existing research on the issue.

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Wilkinson, Anita JAG:EX

From: Coburn, David JAG:EX
Sent: Thursday, August 20, 2015 2:02 PM
To: Kirby, Katherine JAG:EX
Subject: FW: Motor Vehicle Amendment Act, 2015, Section 215.49 (5) and (6)

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Kathy,

Just flagging this as something we need to look into. I forwarded to Shelly and will follow up with Natalie once she is s.22



David Coburn
Policy Analyst – RoadSafetyBC
(250) 356-8070



It Can Wait - Distracted Driving

s.14

Page 194 to/à Page 197

Withheld pursuant to/removed as

s.14

Wilkinson, Anita JAG:EX

From: Burchnall, Shelly K JAG:EX
Sent: Wednesday, October 14, 2015 8:55 AM
To: Coburn, David JAG:EX
Subject: FW: Posting of Technical Documents on RoadSafetyBC Website

Importance: High

Another FYI

From: Burchnall, Shelly K JAG:EX
Sent: Monday, September 21, 2015 1:39 PM
To: Gerhart, Bradley JAG:EX; Kirby, Katherine JAG:EX; Roberts, Steven JAG:EX; Steinmetz, Susanne K JAG:EX; Esposito, Tony JAG:EX
Cc: Teague, John JAG:EX; Murray, Melanie JAG:EX; Martorana, Silvia J JAG:EX; Barnes, Natalie JAG:EX
Subject: Posting of Technical Documents on RoadSafetyBC Website
Importance: High

Good Afternoon,
s.16

I will ask Anita to set up a quick meeting between you policy folks, Tony and I to discuss further....

Thanks,

Shelly

Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Tel: 250-356-0601 | Fax: 250-356-5577



RoadSafetyBC

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From: Benny Wong [<mailto:Benny.Wong@rcmp-grc.gc.ca>]
Sent: Monday, September 21, 2015 6:37 AM
To: Burchnall, Shelly K JAG:EX
Cc: Keith Derksen
Subject: Posting of Documents on RoadSafetyBC Website

Good Morning Shelly:

s.13,s.16

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s.16;s.13

Regards,
Benny Wong

Benny K. Wong
Program Manager, Toxicology Services - NFLS
Acting Program Manager, Trace Evidence - NFLS
Phone: 613-993-0557
Cell: 613-277-2051
Fax: 613-952-0156

Motor Vehicle Amendment Act 2015 – Bill 15

March 2015

The RoadSafetyBC sponsored elements of Bill 15 aim to improve the operational efficiency of existing road safety programs and administrative review processes. Moreover, the proposed amendments maintain the effectiveness of the Province's comprehensive approach to high risk driving. The Bill also contains minor amendments related to the AirCare program and items sponsored by the Ministry of Transportation and Infrastructure.

Road Safety:

- 1) Establish mandatory remedial programs for prescribed driving events.
- 2) Validate and authorize remedial program service provider charges in addition to the prescribed fees.
- 3) Create proper authority for ICBC to manage and collect Immediate Roadside Prohibition (IRP) monetary penalties.
- 4) Revoke an Administrative Driving Prohibition (ADP) or IRP on review if the peace officer does not provide a sworn or solemnly affirmed Report to Superintendent within 7 days.
- 5) In an IRP, where the officer has complied with the statutory requirements and provided the required documents to the Superintendent, the onus is on the applicant to prove one of the grounds of revocation.
- 6) Remove an applicant's requirement to inform ICBC prior to making an application to the court for a review of the length of the court ordered prohibition.
- 7) Establish vehicle impoundment exemptions for emergency vehicles and create authority for early release policies for prescribed vehicles, including taxis, fleet vehicles, etc.
- 8) Create the ability for the Superintendent on his own initiative to obtain and consider "technical information" in an IRP review hearing.
- 9) Validate the calculation of the duration of an IRP.
- 10) Provide regulatory authority for administrative limits on submissions for an IRP review.
- 11) Allow adjudicators to consider relevant related materials on review.
- 12) Transitional pieces.
- 13) Consequential amendments to the *Motor Vehicle Amendment Act 2010*.

AirCare:

- 1) Amendments to the *Motor Vehicle Act* and the *South Coast British Columbia Transportation Authority Act* consequential to the winding down of the AirCare program on December 31, 2014.

Ministry of Transportation and Infrastructure

- 1) Clarify the "keep right" rule for drivers and to simplify enforcement.
- 2) Allow specifications for winter tires and traction control devices.
- 3) Provide that motorcycles, subject to municipal bylaw, may park within six meters of an intersection where there are traffic control devices located adjacent to the roadway.

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Wilkinson, Anita JAG:EX

From: Coburn, David JAG:EX
Sent: Wednesday, October 14, 2015 9:00 AM
To: Powell, Charlotte PREM:EX
Cc: Kirby, Katherine JAG:EX; Gerhart, Bradley JAG:EX
Subject: RE: OIC R673 - another question

Follow Up Flag: Follow up
Flag Status: Flagged

Morning Charlotte,

Technical documents allows the Superintendent to get expert guidance when new issues regarding the use and operation of ASD's or new medical issues were raised by applicant, which the adjudicators were not able to address on their own. "Technical materials" mean technical, medical or scientific evidence or information and includes:

- (a) manuals and training materials relating to, and documents provided by the manufacturer of, an approved screening device,
- (b) summaries of technical, medical or scientific evidence or information that are prepared by the superintendent, and
- (c) documents that are prescribed or in a prescribed class of documents.

The following includes a couple examples of the types of technical documents that the Superintendent may consider in an IRP review:
s.12,s.13

!

Please feel free to give me a call if you have any more q's!

Thanks



David Coburn
Policy Analyst – RoadSafetyBC
(250) 356-8070



[Vision Zero – Click Here](#)

From: Powell, Charlotte PREM:EX
Sent: Tuesday, October 13, 2015 3:26 PM
To: Coburn, David JAG:EX
Subject: OIC R673 - another question

Hi David – thanks again for answering my questions on Friday. I have another one... what are some examples of the types of technical materials that the Superintendent could consider?

Thanks!

Charlotte Powell | Cabinet Operations | phone: 250-387-9791 | mobile: 250-361-5381 | charlotte.powell@gov.bc.ca

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Wilkinson, Anita JAG:EX

From: Burchnall, Shelly K JAG:EX
Sent: Friday, June 12, 2015 3:33 PM
To: 'Melanie.Brisson@rcmp-grc.gc.ca'
Subject: Posting of documents on RoadSafetyBC's Website

Good Afternoon Melanie,

s.13

I hope this information assists. Please feel free to contact me directly at the telephone number below should you require further information.

Best regards,
Shelly

.....
Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Tel: 250-356-0601 | Fax: 250-356-5577



RoadSafetyBC

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Wilkinson, Anita JAG:EX

From: Benny Wong <Benny.Wong@rcmp-grc.gc.ca>
Sent: Monday, September 21, 2015 6:37 AM
To: Burchnall, Shelly K JAG:EX
Cc: Keith Derksen
Subject: Posting of Documents on RoadSafetyBC Website

Good Morning Shelly:

s.13,s.16

Regards,
Benny Wong
Benny K. Wong
Program Manager, Toxicology Services - NFLS
Acting Program Manager, Trace Evidence - NFLS
Phone: 613-993-0557
Cell: 613-277-2051
Fax: 613-952-0156

Wilkinson, Anita JAG:EX

From: Benny Wong <Benny.Wong@rcmp-grc.gc.ca>
Sent: Monday, September 21, 2015 11:09 AM
To: Burchnall, Shelly K JAG:EX
Cc: Derksen, Keith
Subject: RE: Posting of Documents on RoadSafetyBC Website

Thank you Shelly for your cooperation.
Benny

Benny K. Wong
Program Manager, Toxicology Services - NFLS
Acting Program Manager, Trace Evidence - NFLS
Phone: 613-993-0557
Cell: 613-277-2051
Fax: 613-952-0156
>>> "Burchnall, Shelly K JAG:EX" 2015-09-21 1:18 PM >>>

Good Morning Benny,

.s.13

Please feel free contact me directly at the telephone number below should you have any questions or wish to discuss further.

Best regards,
Shelly

.....
Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Tel: 250-356-0601 | Fax: 250-356-5577



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Sent: Monday, September 21, 2015 6:37 AM
To: Burchnall, Shelly K JAG:EX
Cc: Keith Derksen
Subject: Posting of Documents on RoadSafetyBC Website

Good Morning Shelly:

s.13,s.16

Regards,
Benny Wong

Benny K. Wong
Program Manager, Toxicology Services - NFLS
Acting Program Manager, Trace Evidence - NFLS
Phone: 613-993-0557
Cell: 613-277-2051
Fax: 613-952-0156

Wilkinson, Anita JAG:EX

From: Coburn, David JAG:EX
Sent: Wednesday, October 14, 2015 8:55 AM
To: Burchnall, Shelly K JAG:EX
Subject: RE: Posting of Technical Documents on RoadSafetyBC Website

Thank you!



David Coburn
Policy Analyst – RoadSafetyBC
(250) 356-8070



[Vision Zero – Click Here](#)

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Sent: Wednesday, October 14, 2015 8:55 AM
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Cc: Teague, John JAG:EX; Murray, Melanie JAG:EX; Martorana, Silvia J JAG:EX; Barnes, Natalie JAG:EX
Subject: Posting of Technical Documents on RoadSafetyBC Website
Importance: High

Good Afternoon,
s.13

Thanks,

Shelly

Shelly Burchnall
Director, Administrative Justice
RoadSafetyBC
Ministry of Justice

Tel: 250-356-0601 | Fax: 250-356-5577



RoadSafetyBC

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Sent: Monday, September 21, 2015 6:37 AM
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Regards,
Benny Wong

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