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Bill 170

**An Act to amend the Highway Traffic Act
to increase the penalty for transporting a passenger for compensation
without a licence, permit or authorization**

Mr. J. Fraser

Private Member's Bill

1st Reading December 12, 2019

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Highway Traffic Act* with respect to the offences related to picking up a passenger in a motor vehicle for the purpose of transporting him or her for compensation without a required licence, permit or authorization under section 39.1 of the Act. The fine for these offences is increased.

If a person is convicted of an offence and if the Lieutenant Governor in Council has made a regulation providing for a demerit point system, the Registrar shall record three demerit points in respect of the person. If an officer believes on reasonable and probable grounds that a person has committed this offence after having been convicted of the same offence within the preceding five years, the officer shall suspend the driver's licence and impound his or her motor vehicle for 30 days.

**An Act to amend the Highway Traffic Act
to increase the penalty for transporting a passenger for compensation
without a licence, permit or authorization**

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

1 (1) Subsection 39.1 (8) of the *Highway Traffic Act* is repealed and the following substituted:

Offence

(8) Every person who contravenes subsection (1), (2), (3), (4) or (6) is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$30,000.

(2) Section 39.1 of the Act is amended by adding the following subsection:

Penalty, demerits

(8.1) If a person is convicted of an offence under subsection (1) and if the Lieutenant Governor in Council has made a regulation providing for a demerit point system under subsection 56 (1), the Registrar shall record three demerit points in respect of the person as of the date of the commission of the offence.

2 The Act is amended by adding the following section:

Contravention of s. 39.1 (1)

Surrender of licence and vehicle detention

39.2 (1) If a police officer or officer appointed for carrying out the provisions of this Act believes on reasonable and probable grounds that a person has picked up a passenger in contravention of subsection 39.1 (1) and, if the officer determines that the person has been convicted within the preceding five years of an offence under subsection 39.1 (1), the officer shall,

- (a) request that the person surrender his or her driver's licence; and
- (b) detain the motor vehicle that was used to pick up the passenger until it is impounded under clause (3) (b).

Administrative 30-day licence suspension

(2) Upon a request being made under clause (1) (a), the person to whom the request is made shall immediately surrender his or her driver's licence to the officer and, whether or not the person is unable or fails to surrender the licence to the officer, his or her driver's licence is suspended for a period of 30 days from the time the request is made.

Administrative vehicle impoundment

(3) Upon a motor vehicle being detained under clause (1) (b), the motor vehicle shall, at the cost of and risk to its owner,

- (a) be removed to an impound facility as directed by the officer; and
- (b) be impounded for 30 days from the time it was detained under clause (1) (b).

Release of vehicle

(4) Subject to subsection (12), the motor vehicle shall be released to its owner from the impound facility upon the expiry of the period of impoundment.

Early release of vehicle

(5) Despite the detention or impoundment of a motor vehicle under this section, a police officer or officer appointed for carrying out the provisions of this Act may release the motor vehicle to its owner before it is impounded under subsection (3) or, subject to subsection (12), may direct the operator of the impound facility where the motor vehicle is impounded to release the motor vehicle to its owner before the expiry of the 30 days if the officer is satisfied that the motor vehicle was stolen at the time that it was driven on a highway in contravention of subsection 39.1 (1).

Duty of officer re licence suspension

(6) Every officer who asks for the surrender of a person's driver's licence under this section shall keep a record of the licence received with the name and address of the person and the date and time of the suspension and shall, as soon as practicable after

receiving the licence, provide the person with a notice of suspension showing the time from which the suspension takes effect and the period of time for which the licence is suspended.

Duty of officer re impoundment

(7) Every officer who detains a motor vehicle under this section shall prepare a notice identifying the motor vehicle that is to be impounded under subsection (3), the name and address of the driver and the date and time of the impoundment and shall, as soon as practicable after the impoundment of the motor vehicle, provide the driver with a copy of the notice showing the time from which the impoundment takes effect, the period of time for which the motor vehicle is impounded and the place where the vehicle may be recovered.

Same

(8) An officer shall provide a copy of the notice prepared under subsection (7) to the owner of the motor vehicle by delivering it personally or by mail to the address of the owner shown on the permit for the motor vehicle or to the latest address for the owner appearing on the records of the Ministry.

Personal property in vehicle available to owner

(9) Any personal property that is left in the impounded motor vehicle and that is not attached to or used in connection with its operation shall, upon request and proof of ownership, be made available, at reasonable times, to the owner of the property.

No appeal or hearing

(10) There is no appeal from, or right to be heard before, a vehicle detention, driver's licence suspension or vehicle impoundment under subsection (1), (2) or (3).

Lien for storage costs

(11) The costs incurred by the person who operates the impound facility where a motor vehicle is impounded under this section are a lien on the motor vehicle that may be enforced under the *Repair and Storage Liens Act*.

Costs to be paid before release of vehicle

(12) The person who operates the impound facility where a motor vehicle is impounded under subsection (3) is not required to release the motor vehicle until the removal and impound costs for the vehicle have been paid.

Owner may recover losses from driver

(13) The owner of a motor vehicle that is impounded under this section may bring an action against the driver of the motor vehicle at the time the vehicle was detained under clause (1) (b) to recover any costs or other losses incurred by the owner in connection with the impoundment.

Offence

(14) Every person who obstructs or interferes with a police officer or officer appointed for carrying out the provisions of this Act in the performance of his or her duties under this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Intent of suspension and impoundment

(15) The suspension of a driver's licence and the impoundment of a motor vehicle under this section are intended to promote compliance with this Act and to thereby safeguard the public and do not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

Impoundment concurrent with other administrative impoundments

(16) The impoundment of a motor vehicle under this section runs concurrently with an impoundment, if any, of the same motor vehicle under section 41.4, 48.4, 55.1, 55.2, 82.1 or 172.

Regulations

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

- (a) requiring police officers or officers appointed for carrying out the provisions of this Act to keep records with respect to licence suspensions and vehicle impoundments under this section for a specified period of time and to report specified information with respect to licence suspensions and vehicle impoundments to the Registrar and governing such records and reports;
- (b) exempting any class of persons or class or type of vehicles from any provision or requirement of this section or of any regulation made under this section, prescribing conditions for any such exemptions and prescribing different requirements for different classes of persons or different classes or types of vehicles.

Definition

(18) In this section,

“driver's licence” includes a driver's licence issued by another jurisdiction.

3 Subsection 41.4 (21) of the Act is amended by adding “39.2” before “48.4”.

4 Subsection 48.4 (21) of the Act is amended by adding “39.2” before “41.4”.

5 Subsection 55.1 (37) of the Act is amended by adding “39.2” before “41.4”.

6 Subsection 55.2 (21) of the Act is amended by adding “39.2” before “41.4”.

7 Subsection 82.1 (36.2) of the Act is amended by adding “39.2” before “41.4”.

8 Subsection 172 (18.1) of the Act is amended by adding “39.2” before “41.4”.

Commencement

9 This Act comes into force on the day it receives Royal Assent.

Short title

10 The short title of this Act is the *Protecting Passenger Safety Act, 2019*.