

PROPOSED AMENDMENTS TO BILL 11

Honourable David R. P. Eby to move, in Committee of the Whole, on
Bill 11

Attorney General Statutes (Vehicle Insurance) Amendment Act, 2020

to amend as follows:

SECTION 21, in the proposed section 72 (t), by adding the underlined text as shown:

(t) respecting exceptions for the purposes of section 61 (1) (a) or (b).

SECTION 27.1, by adding the following section:

27.1 Section 93.1 (5) is amended by striking out “as defined in section 83 (1) of this Act,”.

SECTION 31, by deleting the proposed section 111 and substituting the following:

Consequences of offer and payment of pre-litigation payment

111 An offer under section 108 or a pre-litigation payment is not an acknowledgment or admission of liability, including for the purposes of the *Limitation Act*, and does not prejudice the rights of the insured or the corporation.

SECTION 32, in the proposed section 116 (1), by adding the underlined text as shown:

(1) In this section:

“garage service operator” has the prescribed meaning;

“out-of-province owner” means a person who has ownership of a vehicle in a jurisdiction outside British Columbia in accordance with the law of that jurisdiction;

“voluntary occupant” means a person who is a voluntary operator of, or a voluntary passenger in or on, a vehicle that the person knew or ought to have known was being operated without the consent of the owner, the out-of-province owner or, in the case of a leased motor vehicle, the lessee.

SECTION 32, in the proposed section 153 (2), by deleting the text shown as struck out and adding the underlined text as shown:

- (2) The corporation must calculate and determine the ~~caregiver benefit~~amount of the reimbursement to which the insured is entitled under subsection (1) in accordance with the regulations.

SECTION 32, in the proposed section 170, by deleting the definition of “licensed vehicle” and substituting the following:

“licensed vehicle” means a vehicle

- (a) that is not any of the following:
 - (i) a non-standard motor vehicle;
 - (ii) an excluded vehicle;
 - (iii) a vehicle in a class of prescribed class of vehicles, and
- (b) that is one of the following:
 - (i) a vehicle registered and licensed under the *Motor Vehicle Act* or the *Commercial Transport Act*;
 - (ii) a vehicle for which a permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*;
 - (iii) a vehicle registered in a jurisdiction in the area described in section 118 of this Act for which licensing requirements of the jurisdiction in which the vehicle is registered are fulfilled; .

SECTION 32, in the proposed section 172 (2), by adding the underlined text as shown:

- (2) Subsection (1) does not apply respecting actions to be brought or proceedings to be commenced or maintained against
- (a) persons who, at the time of the accident, are not owners, lessees named in an owner’s certificate, occupants or operators of included vehicles involved in the accident, and
 - (b) persons in a prescribed class of persons by persons in a prescribed class of persons.

SECTION 32, in the proposed section 173, by adding the underlined text as shown:

**No actions or proceedings for vehicle damage –
accident off-highway**

- 173** (1) In this section, **“licensed person”**, in relation to a licensed vehicle, means

- (a) an owner, a lessee named in an owner's certificate, an occupant or an operator, or
 - (b) a person in a prescribed class of persons.
- (2) Despite any other law or enactment,
- (a) a licensed person, other than a licensed person in a prescribed class of licensed persons, has no right of action and must not commence or maintain proceedings against another licensed person respecting vehicle damage sustained to a licensed vehicle in an accident that
 - (i) occurred off-highway, and
 - (ii) involved at least 2 licensed vehicles;
 - (b) no action or proceeding may be commenced or maintained by a licensed person, other than a licensed person in a prescribed class of licensed persons, against another licensed person respecting vehicle damage sustained to the licensed vehicle in an accident that
 - (i) occurred off-highway, and
 - (ii) involved at least 2 licensed vehicles.
- (3) Despite the *Negligence Act*, in an action to which subsection (2) of this section does not apply respecting an accident that
- (a) occurred off-highway, and
 - (b) involved at least 2 licensed vehicles,
- if 2 or more persons are responsible for the vehicle damage arising out of the accident, they are liable for any damages awarded for that vehicle damage in the degree to which they are respectively responsible and are not liable to make contribution to and indemnify each other respecting that liability or any payment made in relation to it.

SECTION 32, in the proposed section 174 (1) and (4), by deleting the text shown as struck out and adding the underlined text as shown:

- (1) In this section, **"eligible vehicle"** means
- (a) a licensed vehicle with respect to which coverage is, under this Part, provided by a certificate,
 - (b) a non-standard motor vehicle
 - (i) with respect to which
 - (A) a licence or permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*, and
 - (B) coverage is provided by a certificate, and
 - (ii) that was involved in an accident that occurred on the portion of the highway on which the vehicle is authorized to be operated,
 - (c) an excluded vehicle

- (i) with respect to which
 - (A) a permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*, and
 - (B) coverage is provided by a certificate, and
 - (ii) that was involved in an accident that occurred on the portion of the highway on which the vehicle is authorized to be operated, and
 - (d) a vehicle with respect to which coverage is provided by a certificate and that is in a prescribed class of vehicles-
but does not include a vehicle in a prescribed class of vehicles.
- (4) The total value of indemnification under subsection (3) must be reduced by the extent to which, expressed as a percentage,
- (a) ~~the insured is responsible for the accident, and~~ the owner and the operator of the insured's eligible vehicle and a person in a prescribed class of persons is responsible for the accident, and
 - (b) another person whose name is not ascertainable is responsible for the accident.

SECTION 32, in the proposed section 175 (4), by deleting the text shown as struck out and adding the underlined text as shown:

- (4) The total value of indemnification under subsection (3) must be reduced by the extent to which, expressed as a percentage,
- (a) ~~the insured is responsible for the accident, and~~ the owner and the operator of the insured's eligible vehicle and a person in a prescribed class of persons is responsible for the accident, and
 - (b) another person whose name is not ascertainable is responsible for the accident.

SECTION 32, in the proposed section 178, by deleting the text shown as struck out and adding the underlined text as shown:

Recovery

- 178** (1) In this section:
- “**out-of-province owner**” means a person who has ownership of a ~~motor~~-vehicle in a jurisdiction outside British Columbia in accordance with the law of that jurisdiction;
 - “**owner**” includes an out-of-province owner.

- (2) Subject to the regulations and subsection (3), the corporation may recover indemnification paid to an insured under this Part ~~in relation to an accident on a highway,~~
- (a) in relation to an accident on a highway or off-highway, from an owner of a vehicle described in subsection (4) except in the prescribed circumstances,
 - (b) in relation to an accident on a highway, from an operator or occupant of a vehicle described in subsection (4) if
 - (i) the operator or occupant knew or ought to have known that the vehicle is not a licensed vehicle, or
 - (ii) the accident occurs on the portion of the highway on which the vehicle is not authorized to be operated, and
 - (c) in relation to an accident on a highway or off-highway, from a person in a prescribed class of persons in relation to a vehicle described in subsection (4).
- (3) Recovery under subsection (2) is limited to the extent to which, expressed as a percentage and applied to the amount paid under this Part, the applicable person referred to in subsection (2) is responsible for the accident.
- (4) The following vehicles are vehicles for the purposes of subsection (2):
- (a) a vehicle that is none of the following:
 - (i) an excluded vehicle, other than a vehicle described in paragraph (c) of this subsection;
 - (ii) a licensed vehicle;
 - (iii) a non-standard motor vehicle, other than a vehicle described in paragraph (b) of this subsection;
 - (b) a non-standard motor vehicle
 - (i) with respect to which
 - (A) a licence or permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*, and
 - (B) coverage is provided by a certificate, and
 - (ii) that is involved in an accident that occurs on the portion of the highway on which the vehicle is not authorized to be operated;
 - (c) an excluded vehicle
 - (i) with respect to which
 - (A) a permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*, and
 - (B) coverage is provided by a certificate, and
 - (ii) that is involved in an accident that occurs on the portion of the highway on which the vehicle is not authorized to be operated;
 - (d) a vehicle in a prescribed class of vehicles.

- (5) ~~An~~Subject to the regulations, an insurer that
- (a) is authorized to transact vehicle insurance in Canada or the United States of America, and
 - (b) has insured a vehicle for which the licensing requirements of the jurisdiction in which the vehicle is registered are fulfilled
- may recover insurance money paid under a contract of insurance as a result of an accident from a person referred to in subsection (2), but only to the extent that the corporation could recover under subsection (2) had the money been paid by the corporation under section 174 or 175.
- (6) ~~An~~Subject to the regulations, an owner of a vehicle described in section 1.01 may recover damage or losses with respect to vehicle damage as a result of an accident from a person referred to in subsection (2) of this section, but only to the extent that the corporation could recover under subsection (2) of this section had the money been paid by the corporation under section 174 or 175.

SECTION 32, in the proposed section 180 (2), by deleting the text shown as struck out and adding the underlined text as shown:

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations under this Part as follows:
- (a) establishing requirements and procedures respecting disputes ~~of claimants and insureds~~ in relation to a determination or decision made by the corporation under this Part;
 - (b) respecting an evaluation process for settling disputes between ~~an insurer~~the corporation and an insured about the nature and extent of repairs required for a vehicle, the replacement of a vehicle or the amount payable in respect of direct loss of or damage to the vehicle and how the costs of the evaluation are paid;
 - (c) exempting prescribed disputes or disputes in prescribed circumstances from the evaluation process;
 - (d) providing that prescribed disputes may or must be submitted to arbitration, and governing the rights and obligations of the arbitrator and a party to the arbitration;
 - (e) respecting the priority of claims under the plan or optional insurance contracts;
 - (f) respecting indemnification provided under section 174 (3) or 175 (3), including, without limitation, regulations respecting how and in what form indemnification may be provided;
 - (g) respecting indemnification that was not paid or that was reduced, suspended or cancelled in prescribed circumstances under section 177 (1) (f) if the circumstances change, including determining if interest is payable, and if so, the amount of interest and the manner of payment;

- (h) if an amount is paid under a regulation made under paragraph (g) and the circumstances revert to the prescribed circumstances in which insurance money should not have been paid or should have been reduced, suspended or cancelled, respecting the repayment of the insurance money paid, including the manner of repayment;
- (i) respecting claims under this Part, including, without limitation, regulations authorizing the corporation to establish requirements respecting
 - (i) the form and manner of making claims,
 - (ii) the time by which claims must be made,
 - (iii) the circumstances in which the corporation may extend a time established for making a claim, and
 - (iv) procedures ~~to be followed by claimants or insureds~~ respecting a determination or decision made by the corporation under this Part;
- (j) establishing requirements respecting how an authorization made under a regulation made under paragraph (f) is to be carried out.

SECTION 40, by deleting section 40.

SECTION 43,

- (a) **in Column 1 of item 7 by deleting “Section 28” and substituting “Sections 27.1 and 28”, and**
- (b) **by deleting item 8 in the table.**

The Honourable David R. P. Eby