

# **BILL**

## **No. 72**

An Act to amend *The Traffic Safety Act* and to make a consequential amendment to *The Summary Offences Procedure Act, 1990*

(Assented to )

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

**Short title**

**1** This Act may be cited as *The Traffic Safety Amendment Act, 2012*.

**S.S. 2004, c.T-18.1 amended**

**2** *The Traffic Safety Act* is amended in the manner set forth in this Act.

**Section 2 amended**

**3 The following clause is added after clause 2(1)(oo):**

“(oo.1) ‘**speed monitoring device**’ means a prescribed speed monitoring device that is capable of photographing or capturing the image of a motor vehicle while accurately and simultaneously measuring and recording the vehicle’s speed”.

**Section 192 amended**

**4(1) Subsection 192(5) is repealed.**

**(2) Subsection 192(6) is repealed and the following substituted:**

“(6) No person shall drive a vehicle on a highway if the licence plate or any portion of the licence plate is obscured in any manner that prevents the licence plate, or any of the numbers or letters on the licence plate, from being accurately photographed or captured by a red light camera system or a speed monitoring device”.

**Section 236 amended**

**5 Section 236 is amended by adding “or a speed monitoring device” after “a red light camera system”.**

**Section 258 amended**

**6 Subsection 258(2) is amended:**

**(a) by striking out “or” after paragraph (a)(i)(D);**

**(b) by adding the following after paragraph (a)(i)(D):**

“(D.1) a speed monitoring device identified in the certificate; or”; and

**(c) by repealing paragraph (a)(ii)(C) and substituting the following:**

“(C) in the case of a red light camera system or a speed monitoring device, not more than 30 days before or after the date of the offence charged”.

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**New section 259.1****7 The following section is added after section 259:****“Use of photograph of a vehicle from speed monitoring devices**

**259.1(1)** Subject to subsections (2) and (3), at a trial respecting an alleged contravention of subsection 203(1), a photograph obtained through the use of a speed monitoring device is admissible in evidence as proof, in the absence of evidence to the contrary, that on the date and at the time shown or indicated on the photograph, the vehicle was being driven at the rate of speed shown or superimposed on the photograph by the speed monitoring device.

(2) A photograph obtained through the use of a speed monitoring device must:

- (a) show the vehicle and the licence plate number displayed on the vehicle;
- (b) show or have superimposed on it:
  - (i) an indication of the rate of speed at which the vehicle was being driven when the photograph was taken; and
  - (ii) the date on which and time at which the photograph was taken; and
- (c) show or have superimposed on it any additional prescribed information.

(3) No person shall be convicted at a trial mentioned in subsection (1) on the basis of a photograph obtained through the use of a speed monitoring device unless:

- (a) the speed monitoring device used to take the photograph was used in the prescribed conditions;
- (b) the photograph or a copy of the photograph was served on the person together with the offence notice issued pursuant to *The Summary Offences Procedure Act, 1990*; and
- (c) either:
  - (i) the photograph is tendered in evidence at trial; or
  - (ii) the person consents to the photograph not being tendered and admits that the information contained in or superimposed on the photograph is true.

(4) In a prosecution for an alleged contravention of subsection 203(1), an affidavit that is signed by a prescribed person or a member of a prescribed class of persons and that meets the prescribed requirements is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts alleged in the affidavit, without proof of the signature or official character of the person purporting to have signed the affidavit.

(5) No affidavit mentioned in subsection (4) shall be received in evidence unless a copy of the affidavit is served on the accused by ordinary mail addressed to the last known address of the accused as indicated on the records of the administrator, at least 10 days before the date of the hearing.

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(6) The accused may, with leave of the court, require the attendance of any person purporting to have signed the affidavit pursuant to subsection (4) for the purpose of cross-examination”.

New section 280

**8 Section 280 is repealed and the following substituted:**

**“When vehicle may be seized and impounded**

**280(1)** In this section and in section 287, ‘**impounded vehicle**’ means a vehicle or a combination of vehicles seized and impounded pursuant to subsection (2).

(2) Without a warrant, a peace officer may seize and impound a vehicle or combination of vehicles:

(a) if that vehicle or combination of vehicles is being operated in the prescribed manner; or

(b) if that vehicle or combination of vehicles is parked on a highway at a place, or in a manner, that constitutes a hazard to other users of the highway.

(3) An impounded vehicle must remain impounded for the prescribed period.

(4) A peace officer may retain the impounded vehicle in the peace officer’s possession or store the impounded vehicle with a garage keeper.

(5) A garage keeper who stores an impounded vehicle pursuant to this section is deemed to have a lien on the vehicle pursuant to section 3 of *The Commercial Liens Act* for all unpaid amounts of prescribed fees, costs and charges relating to the impoundment of that vehicle, and that Act applies, with any necessary modification, to the enforcement and realization of that lien.

(6) The impounded vehicle may be sold by the garage keeper for the purpose of recovering the fees, costs and charges mentioned in subsection (5) if:

(a) the owner of the vehicle cannot be found after reasonable inquiry; or

(b) the owner of the vehicle fails to pay the fees, costs and charges within 14 days after the day on which a notice requiring the owner to do so has been served on the owner.

(7) Section 158 applies, with any necessary modification, to:

(a) a sale pursuant to subsection (6);

(b) the application of the proceeds of the sale mentioned in clause (a); and

(c) the disposition of any surplus moneys from the sale mentioned in clause (a)”.

Section 287 amended

**9 Subsection 287(1) is amended:**

**(a) in clause (bbbb) by adding “, including prescribing testers or classes of testers for speed monitoring devices,” after “classes of testers”; and**

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**(b) by adding the following clauses after clause (bbbb.1):**

“(bbbb.2) for the purposes of clause 2(1)(oo.1) and sections 201, 203 and 259.1:

- (i) prescribing speed monitoring devices;
- (ii) prescribing conditions governing the use of speed monitoring devices;
- (iii) prescribing any additional information that must be displayed on a photograph obtained through the use of a speed monitoring device;
- (iv) prescribing persons or classes or persons who may sign affidavits; and
- (v) prescribing requirements for affidavits;

“(bbbb.3) for the purposes of section 280:

- (i) prescribing the offences for which a peace officer may seize and impound a vehicle or the conditions under which a peace officer may seize and impound a vehicle;
- (ii) prescribing any terms and conditions to which the release of an impounded vehicle is subject and requiring those terms and conditions to be complied with;
- (iii) prescribing the circumstances in which the owner of a vehicle may appeal to the board for the release of an impounded vehicle;
- (iv) prescribing the costs of an appeal to the board for the release of an impounded vehicle;
- (v) prescribing the powers of the board on an appeal;
- (vi) prescribing the manner in which the proceeds of the sale of an impounded vehicle are to be applied;
- (vii) prescribing the period for which an impounded vehicle is to be impounded;
- (viii) prescribing the amount of fees, costs and charges to which a garage keeper is entitled”.

S.S. 1990-91, c.S-63.1, section 55 amended

**10 Clause 55(p.1) of *The Summary Offences Procedure Act, 1990* is repealed and the following substituted:**

“(p.1) respecting the service of an offence notice where the offence relates to evidence obtained through either a red light camera system or a speed monitoring device authorized pursuant to *The Traffic Safety Act*”.

**Coming into force**

**11** This Act comes into force on assent.