

Vehicle Seizure or Immobilization Appeal Hearing

NOTE: The purchase of an application does not guarantee the return of your vehicle.

Before purchasing an Application for Hearing, please read the following information, as the application and Alberta Registry Agent fees are NON-REFUNDABLE. The fee is \$125 for a non-oral written hearing or \$250 for an oral in-person hearing before the Alberta Transportation Safety Board (the "Board"). Alberta Registry Agents will charge an additional service fee for the application and this cost may vary from agent to agent.

Under Section 45(2) of the *Traffic Safety Act*, you have only 30 days to appeal. If the seizure period has expired the Board does not have the authority to provide you with relief.

APPLICATION PROCESS

The owner at the time the vehicle was seized, or a person who has an interest in the vehicle, may appeal the seizure to the Board. Hearings, under section 40 of the *Traffic Safety Act*, can be either written or in-person before the Board. An Application for Appeal - Vehicle Seizure can be purchased at any Alberta Registry Agent office.

If the applicant is not the registered owner of the seized vehicle, the registered owner must complete the back of the application.

The original application must be sent to the Board. Faxes will not be accepted. A copy of the Vehicle Seizure Notice, or any form provided by the police service which seized or immobilized the vehicle, must also accompany the application.

The issue of hardship caused by the vehicle seizure or immobilization, or any other ground not enumerated in the *Traffic Safety Act* or the *Vehicle Seizure and Removal Regulation*, will not be considered. For example, failure to accept a Notice of Suspension or a Vehicle Seizure Notice will not be an acceptable defence (e.g. refusal to accept the notice, or failure to notify Alberta Registries of an address change, etc.).

APPEAL / HEARING PROCESS

The Board will attempt to conduct non-oral and oral hearings within three (3) to five (5) business days of receipt of application. The Board will notify the applicant after the hearing of its decision regarding early release of the vehicle by mail.

Hearings may be held in Calgary or Edmonton.

GROUND FOR APPEAL - Unauthorized* Driver Related Offences

*** An unauthorized driver is a driver who is disqualified from driving, whose licence is suspended or cancelled (either in Alberta or elsewhere), or whose privilege to secure a licence or permit outside of Alberta is suspended or cancelled.**

Pursuant to the *Vehicle Seizure and Removal Regulation*, the grounds for appeal are:

- 11(1)(a) The driver did not know he/she was an unauthorized driver and could not have reasonably known he/she was an unauthorized driver.
- 11(1)(b) The owner was not driving the vehicle; and
The owner did not know that the driver was and could not reasonably have known that The driver was an unauthorized driver. (see additional requirements under section 11(2) below).
- 11(1)(c) The owner was not driving the vehicle; and
The vehicle was being driven without the express or implied consent of the owner.
- 11(1)(d) The driver was not an authorized driver.
- 11(2) For the purpose of an appeal based on grounds set out in subsection 11(1)(b):

- 11(2)(a) In the case of a commercial vehicle and the driver is driving for a carrier who is the owner, the owner must produce a driver's abstract for the driver that is dated not more than one year before the date of the vehicle seizure.
- 11(2)(b) In any other case, the owner must establish that before allowing the person to drive his/her vehicle the person showed the owner an operator's licence that was issued in the name of the person, was the appropriate class of licence for the vehicle, and that the operator's licence had not expired as of the date on which the driving occurred.

GROUNDINGS FOR APPEAL - IRS, AALS or AZAT Seizures

Grounds for appeal include:

- The owner was not driving the vehicle, and the vehicle was being driven without the owner's express or implied consent;
- The owner was not driving the vehicle when it was seized and could not have known the vehicle was being operated in a manner that would result in the driver being disqualified under IRS, AALS or AZAT or under section 130 of the *National Defence Act* by reason of contravening section 253, 254 or 255 of the *Criminal Code* (Canada);

Additional grounds of appeal for an IRS-related seizure:

- The person driving the vehicle has not been served with a notice of suspension/disqualification under section 88 of the *Traffic Safety Act*;
- If it is a 7-day seizure, that the driver had not been disqualified under IRS for a second or subsequent time in 10 years;

Additional grounds of appeal for an AZAT-related seizure:

- The person driving the vehicle has not been served with a notice of suspension/disqualification under section 90 of the *Traffic Safety Act*;

Additional grounds of appeal for an AALS-related seizure:

- If it is a 7-day seizure, that the driver had not been disqualified under AALS for a second or subsequent time in 10 years;
- The driver has not been charged with an offence under section 253, 254 or 255 of the *Criminal Code* (Canada), or under section 130 of the *National Defence Act* by reason of contravening section 253, 254 or 255 of the *Criminal Code* (Canada);
- The driver has been charged with an offence, but not served with a notice of suspension/disqualification relating to that charge.

GROUNDINGS FOR APPEAL - Prostitution Related Offences

Pursuant to the Vehicle Seizure and Removal Regulation and section 40(3) of the *Traffic Safety Act*, the grounds for appeal are:

- 11(3)(a) The registered owner could not reasonably have known that the vehicle was being operated in the course of committing an offence referred to under section 173.1(1) of the *Traffic Safety Act*.
- 11(3)(b) At the time the vehicle was seized, the driver of the vehicle was in possession of the vehicle without the knowledge or consent of the registered owner.

A copy of the Seizure Notice, Violation Ticket and/or the Information on Behalf of Her Majesty the Queen relating to the charge(s) must accompany the application.

For further information, contact the Alberta Transportation Safety Board:

Main Floor, Twin Atria Building
4999 - 98 Avenue
Edmonton, AB T6B 2X3 (780) 427-7178

OR

Suite 302 Willow Park Centre
10325 Bonaventure Drive SE
Calgary, AB T2J 7E4 (403) 297-3466

To locate an Alberta Registry Agent near you, call:

Edmonton: (780) 427-7013

Outside Edmonton, call: 310-0000 and ask for 427-7013 or, look under "Licence and Registry Services" in in your local directory.