

The Standing Committee on Statutory Instruments has the honour to present its

FOURTH REPORT

Your Committee has examined the draft Motor Vehicle Regulations made pursuant to the proposed Motor Vehicles Ordinance. (Bill #1 - 1977 Second Session).

Your Committee recognizes the Motor Vehicle Regulations to be in draft form. Your Committee, however, welcomed the opportunity to review the Regulations. Your Committee has identified the Regulations to be in three separate categories. One set being general Regulations, one set dealing with School Bus Regulations and one set dealing with the proposed Demerit Point System.

Your Committee recommends that as a general policy there should be one set of Regulations under each Ordinance. Since the draft Regulations were presented in three separate sets your Committee recommends that if all material presented is accepted as Regulations they should be combined. Because of the length of the Ordinance and the broad variety of subjects covered, your Committee recommends that the Regulations be divided into Parts for easy reference as the Ordinance has been.

The authority for every Regulation should be cited. Your Committee is pleased to note that this is done in Sections 3 and 4 of the draft Regulations.

Sections 5 to 25 of the Regulations appear to be made under section 35 of the Ordinance. Where several sections of a Regulation are made under one section of the Ordinance this should be reflected in the Regulations either in the text or by use of a marginal note.

Your Committee considers any general statements of law should be contained in the Ordinance and not in Regulations. Therefore, your Committee has recommended many sections of the draft Regulations be included in the Ordinance.

Regulations should only be used where the subject matter is too detailed and cumbersome (such as lengthy tables) or where the subject matter is likely to require change before legislative amendments could be scheduled - such as fees or technical standards.

A number of sections of these Regulations are redundant since they were written for the existing Ordinance and not the proposed bill.

Section 5 of the Regulations is unnecessary and simply restates Section 8 of the Ordinance.

Section 6 of the Regulations makes an incorrect reference to the Ordinance. Your Committee recommends that Sections 6 and 7 of the Regulations establishing the Classes of licences and the standards for obtaining each Class of licence should be included in the Ordinance. The Classes and standards set out here have simply been copied from existing Regulations and do not appear likely to change. Your Committee further recommends that the whole list of written test questions be prescribed by Regulation and not as policy as is set out in Section 13 of the Regulations. Testers can then select questions as appropriate.

Section 8 is acceptable.

Section 9 should be placed in the Ordinance if Section 5 and 6 are placed in the Ordinance.

Section 10 of the Regulations is redundant of Section 12 of the Ordinance.

Section 11 of the Regulations appears to usurp the function of the Medical Review Board to some extent. This section should be rewritten to fit the proposed bill.

Sections 14, 15 and 16 should be considered for inclusion in the

Ordinance since they are not likely to change. Also the section reference in Section 16 is incorrect. Section 17 must be placed in the Ordinance since presently only a general power to prescribe time periods for licence validity exists. Otherwise the Registrar would be exercising discretion under Section 12 of the Ordinance.

Section 18 should be considered for inclusion in the Ordinance since it creates a serious exemption from the law for a class of individuals.

Section 19 should be in the Ordinance.

Section 20 is now unnecessary.

Section 21 is appropriate and simply details the requirements of the prescribed form.

Section 22 is unnecessary as this is dealt with in the Ordinance.

Section 23 is taken from the old Ordinance and no longer has any statutory authority which could be found.

Section 24 is entirely appropriate, however, in many cases the forms are missing and only the heading exists.

Section 25 - The reference to the Ordinance in this Section is incorrect, otherwise it is quite proper.

Part II Registration of Motor Vehicles and Trailers

Your Committee recommends that Sections 26 to 29 of the Regulations be considered for inclusion in the Ordinance since they deal with classification only in a general way and are similar to the sections dealing with brakes and lights in the new Ordinance.

Section 30 is generally appropriate. However, changes to paragraph 30(2)(b) are illegible.

Section 32(1) is appropriate.

Section 32(3) and (4) - Your Committee questions what persons other than the R.C.M.P. would be entitled to obtain such information on a bulk basis and recommends an explanation be requested.

Section 33 is very general and appears to be quite appropriate for inclusion in the Ordinance.

Sections 34 and 35(1)(3) and 36 since they are very general should be included in the Ordinance.

Sections 35 (2)(4)(5)(6)(7) and (8) should then be Regulations under those sections of the Ordinance.

Section 37 - The section reference to the Ordinance is wrong.

Section 38 should be redrafted to eliminate the use of "and/or".

Your Committee also questions what standards are to be applied to the exemption in Section 39(1)(d).

Section 40 (1)(a) and (c) require some redrafting.

Your Committee further recommends that where a "standard" for safety or construction is applied as it is in Section 40 (1)(c) that standard be included in the Regulation since it is easily amended when new standards are set.

This practice would ensure that the applicable standards are always readily available for reference.

Section 41 - Either the number of flags and flares required per unit should be included in Section 41 or the standard referred to incorporated in the Regulations.

Sections 42, 43 and 44 appear to be acceptable.

Section 45 is redundant of Section 133 of the Ordinance.

Section 46 is redundant of Section 123 of the Ordinance.

Section 47 - Your Committee questions why passenger carrying liveries are totally exempted from the Fire Extinguisher part of the Regulations.

Section 48 is acceptable, if necessary.

Section 49 - Should be included in Part XIII of the Ordinance.

Sections 50 - 52 - The standards described should be included.

Sections 53 - 59 should be considered for inclusion in the Ordinance with the standards referred to included in Regulations made thereunder. In any event the standards should be included in the Regulations.

Section 60 - Section reference to Ordinance is incorrect.

Sections 61 - 63 - The standards referred to should be in Regulations.

Section 64 should be included in the Ordinance since it is a serious matter and will not change.

Section 65 is acceptable.

Sections 66 and 67 include standards.

Section 68 - phrase "required by this division" is inconsistent with organizational plan of the Regulations.

Sections 69 - 81 should be considered for inclusion in the Ordinance with Regulations used to set distances, pressures, etc.

Sections 82 - 86 appear to be redundant of the Ordinance - Part XI Rules of the Road.

"School Bus Regulations"

These are basically a copy of the existing Regulations. With the exception of the standards referred to in Section 2 they are very general and suitable for inclusion in the Ordinance. Since the subject matter is particularly important and as in some cases there are exceptions to the general rules of the road, your Committee recommends they be included in Part XI. If they are left as Regulations, they should be included as "Part" of the Motor Vehicle Regulations.

"Demerit Point System"

These Regulations involve a considerable change in the law as it has been enforced in this jurisdiction. Your Committee recommends that the whole of the Regulations be placed in the Ordinance. If it is necessary to allow implementation time, include them as Sections which will be proclaimed into force separately from the rest of the Ordinance.

Your Committee further recommends that sub-section 22 be extended to give every driver and every parent required to sign a licence application a right to search their own or their child's records.

Your Committee further recommends that consideration be given to including Criminal Code Sections relating to dangerous driving and criminal negligence in the demerit point system. This has been done in B.C.

Your Committee further recommends that a copy of the Report be transmitted to Mr. Doug Bell, Executive Committee Member responsible for

the Motor Vehicles Branch, for his consideration and action.

Respectfully submitted,


Bob Fleming
Chairman

December 7, 1977