

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 (ATSB). 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 ATSB 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 ATSB. Hearings, under section 40 of the *Traffic Safety Act*, can be either written or in-person before the ATSB. 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 ATSB. Faxes will not be accepted. A copy of the Vehicle Seizure Notice 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 ATSB will attempt to conduct non-oral and oral hearings within three (3) to five (5) business days of receipt of application. The ATSB 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.

Grounds 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 unauthorized 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.

Grounds 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.

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 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 was not served with a notice of suspension/disqualification.

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 ATSB – North or South Region:

North Region

Toll Free (in Alberta) by dialing 310-0000
Telephone: 780-427-7178 Fax: 780-422-9739
Main Floor, Twin Atria Building
4999 – 98 Avenue NW
Edmonton AB T6B 2X3

Website: www.atsb.alberta.ca

South Region

Toll Free (in Alberta) by dialing 310-0000
Telephone: 403-297-3466 Fax: 403-297-4139
Suite 302 Willow Park Centre
10325 Bonaventure Drive SE
Calgary AB T2J 7E4

To locate an Alberta Registry Agent near you, please refer to:

- Service Alberta Contact Centre at 780-427-7013 (Toll Free by dialing 310-0000);
- Local telephone directory under “Licensing and Registry Services”;
- Online at www.alberta.ca/registry-services.aspx.

This information sheet is provided free of charge