

Manitoba Laws

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C.C.S.M. c. H60

The Highway Traffic Act

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PART VII

ENFORCEMENT PROVISIONS AND SUSPENSION OF REGISTRATION AND LICENCES

DIVISION I

ENFORCEMENT PROVISIONS

ARREST WITHOUT WARRANT

Arrest without warrant

241(1). A peace officer who, on reasonable and probable grounds, believes that a violation of any of the following provisions, that is to say,

- (a) subsection 24(1) or (1.1);
- (b) [repealed] S.M. 2005, c. 37, Sch. B, s. 47;
- (c) subsection 95(1) or (2);
- (d) subsection 98(5) or (7);
- (e) subsection 114(1);
- (f) subsection 155(1), (2), (3), (4), or (5);
- (g) clause 170(1)(a), (b), or (c);
- (h) section 171 or 173;
- (i) subsection 174(1) or (3);
- (j) subsection 188(2);
- (k) subsection 201(1);
- (l) section 210, 213, 213.1, 213.2, 224 or 225;
- (m) subsection 279.1(5) or (5.1);

Exhibit: National Inquiry into Missing and Murdered Indigenous Women and Girls		
Location/Phase: <u>Parts 2/3 St. John's</u>		
Witness: <u>Danny Smyth</u>		
Submitted by: <u>Kimberly Carswell</u>		
Add'l info: <u>P02-03 P04 P04 01</u>		
Date: <u>OCT 18 2018</u>		
Initials	I/D	Entered
<u>53</u>		<u>74</u>

of this Act, or any provision of section 249, 252, 253, 254, 255, 259 or 335 of the *Criminal Code*, has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed such a violation, may arrest that person without warrant whether he is guilty or not.

Assistance of peace officer

241(2) A person called upon to assist a peace officer in the arrest of a person suspected of having committed any offence mentioned in subsection (1), may assist if he believes that the person calling on him for assistance is a peace officer, and does not know that there are no reasonable grounds for the suspicion.

S.M. 1986-87, c. 14, s. 26; S.M. 1989-90, c. 56, s. 33; S.M. 2005, c. 37, Sch. B, s. 47; S.M. 2013, c. 7, s. 3; S.M. 2017, c. 22, s. 11.

INSPECTION AND SEARCH AND SEIZURE

Definition of "place"

241.1(1) In this section, "place" includes a vehicle.

Certificate to be produced

241.1(2) On entering any place for the purpose of exercising powers under this section, a peace officer shall show his or her official identification to the person in charge of the place if the person so requests.

Entering a dwelling place

241.1(3) A peace officer who intends to exercise powers under this section may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant.

Inspection

241.1(4) A peace officer may at any reasonable time enter a place and make any inspection that is reasonably required for the purpose of determining compliance with this Act and the regulations and, without limitation, the peace officer may

- (a) examine, and require the production of, any records or documents in the place that are relevant for the purposes of the inspection;
- (b) use a computer system at the place to examine any data in or available to the system;
- (c) reproduce any record or document from the data in the form of a print-out or other intelligible output for the purpose of examination or copying;
- (d) use any copying equipment at the place to make copies of any record or document; and
- (e) require any person to present any vehicle or thing for inspection in the manner and under the conditions that the peace officer reasonably considers necessary to carry out the inspection.

No obstruction

241.1(5) No person shall obstruct or hinder, or make a false or misleading statement to, a peace officer who is carrying out an inspection under this section.

Assistance to peace officer

241.1(6) The owner or person in charge of a place referred to in subsection (4) and every person found in that place shall give the peace officer all reasonable assistance to enable the peace officer to carry out his or her duties and shall furnish the peace officer with any information the peace officer may reasonably require.

Removal of records

241.1(7) For the purpose of exercising the powers under subsection (4), a peace officer may remove any record or document or reproduction of a record or document that he or she is entitled to examine or copy, but shall give a receipt to the person from whom it is taken and shall examine or copy it within a reasonable time and return it promptly on completion of the examination or copying.

Admissibility of copies

241.1(8) A copy made as provided in this section and purporting to be certified by a peace officer is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

Authority to issue warrant

241.1(9) A justice who is satisfied by information on oath that

- (a) the conditions for entry described in subsection (4) exist in relation to a dwelling place;
- (b) entry to the dwelling place is necessary for the purpose of exercising the powers under subsection (4); and
- (c) entry to the dwelling place has been refused or there are reasonable grounds to believe that entry will be refused;

may at any time issue a warrant authorizing a peace officer and any person named in the warrant to enter the dwelling place, subject to any conditions that may be specified in the warrant.

Search and seizure without warrant

241.1(10) When a peace officer believes on reasonable and probable grounds that

- (a) an offence under this Act has been committed; and
- (b) a record, document, vehicle or other thing that affords evidence of the offence is to be found in a place;

and it is not practicable in the circumstances to obtain a warrant, the peace officer may, without warrant, enter and search the place for the record, document, vehicle or other thing and may seize it and bring it before a justice, or report on it to a justice, to be dealt with according to law.

Search and seizure with warrant

241.1(11) A justice who is satisfied by information on oath that there are reasonable grounds to believe that

- (a) an offence under this Act has been committed; and
- (b) there is to be found in any place anything that will afford evidence in respect of the commission of an offence;

may at any time issue a warrant authorizing a peace officer and any person named in the warrant to enter and search the place for the thing and seize and bring it before a justice, or report on it to a justice, to be dealt with according to law.

Use of force

241.1(12) A peace officer and any person named in a warrant may use whatever reasonable force is necessary to execute the warrant and may call on a police officer for assistance in executing it.

Preserving status quo

241.1(13) A peace officer may take such measures as are reasonably necessary to secure any place or thing in relation to which a warrant under this section may be issued so as to preserve that place or thing pending the making and disposition of an application for the warrant.

S.M. 1997, c. 37, s. 22; S.M. 2005, c. 37, Sch. B, s. 48.

DETENTION OF VEHICLE

Detention of motor vehicle by peace officer

242(1) A peace officer who has reason to believe that an offence has been committed by means of, or in relation to, a motor vehicle may detain the vehicle for five clear days, but the vehicle may be released sooner

- (a) if security for its production is given to the satisfaction of a justice; or
- (b) the justice is satisfied, by a certificate signed by a qualified mechanic, that the motor vehicle complies with the requirements set out in clauses 204(1)(a), (b), (d), (e) and (f).

Order for extending period of detention

242(2) Where a motor vehicle has been detained under subsection (1) and it is required

- (a) as evidence in a prosecution for an alleged offence under this Act or an alleged offence under the *Criminal Code* (Canada) committed by means of, or in relation to, a motor vehicle or off-road vehicle; or
- (b) for further investigation related to an offence under this Act or an alleged offence under the *Criminal Code* (Canada) committed by means of, or in relation to, a motor vehicle or off-road vehicle; or
- (c) the owner has failed to furnish to a justice a certificate signed by a qualified mechanic as provided for in clause (1)(b);

a peace officer may apply to a justice for an order to continue the detention of the motor vehicle beyond the period prescribed in subsection (1), and the peace officer making the application shall furnish to the justice full particulars of the reasons for the continuance of detention of the motor vehicle.

Period of extension to be reasonable

242(3). The justice, in making an order under subsection (2), may order that the motor vehicle be detained for such further period as to him appears reasonable and just.

Notification of detention to owner

242(4). Where the owner of a motor vehicle was not present at the time when it was detained, the peace officer shall take all reasonable steps to notify the owner that his motor vehicle was detained, together with the reasons for its detention and of the place where it is detained or stored.

Personal property to be returned

242(5). Any personal property present in a motor vehicle which has been detained shall be returned to the owner thereof upon request, unless it is required as evidence in a prosecution or in connection with an investigation of an offence under this Act, in which case subsections (1), (2) and (3) apply mutatis mutandis.

Person arrested brought before a justice

242(6). A peace officer making an arrest shall, with reasonable diligence, take the person arrested before a justice to be dealt with according to law.

Disposal of vehicle detained

242(7). Where a motor vehicle is detained under this section,

- (a) if repairs are necessary and immediately desired by the owner, it shall be taken to, and kept in, such repair shop or garage as the owner may select, for the purpose of having it repaired; or
- (b) if repairs are not necessary or are not immediately desired by the owner, to such garage or storage place as the owner may select, unless otherwise required by the police, in which case the peace officer may direct it to be taken to a garage or storage place maintained by any police force or other public authority, if available, and otherwise to a garage or storage place designated by the peace officer.

Change of place of impoundment

242(8). Where, under subsection (7), a motor vehicle has been taken to a repair shop, garage, or storage place, selected by the owner, the chief constable, or the officer in command in Manitoba, of the police force of which the peace officer who detained the motor vehicle is a member, on receipt of a written application by the owner, may authorize the motor vehicle to be transferred to such other repair shop, garage, or storage place, as the applicant may select, and may give all necessary directions to that end; and shall in that case, give to the owner, operator, and manager or other person in charge of the repair shop, garage, or other storage place, to which the motor vehicle is transferred a notice as prescribed in subsection (9).

Notice to garage keeper

242(9). Where a motor vehicle detained under this section is placed in a repair shop, garage, or storage place, the peace officer detaining it shall notify the owner, operator, manager, or other person in charge, of the repair shop, garage, or storage place, in writing, on a form prescribed by the registrar, that the motor vehicle is detained and must not be removed or permitted to be removed or released from detainment except upon the order of a justice or of the chief constable or the officer in command in Manitoba of the police force of which the peace officer who detained the motor vehicle is a member.

No removal from detention

2(10) Subject to subsection (8), no person shall remove, or permit to be removed, from the place of detention, or release from detention, any motor vehicle detained under this section except upon the written order of a justice or of the chief constable or the officer in command in Manitoba of the police force of which the peace officer who detained the motor vehicle is a member.

Cost of moving and storage

242(11) Costs and charges incurred in moving or storing a vehicle, or both, under this section, are a lien on the vehicle that may be enforced under *The Garage Keepers Act* by the person who moved or stored the vehicle at the request of the peace officer.

Meaning of "owner"

242(12) In subsections (7) and (8), the word "owner" includes any person who has sold the motor vehicle under the terms of a conditional sale agreement or lien note upon which all or part of the purchase price remains unpaid, or to whom a bill of sale by way of chattel mortgage thereon has been given, in respect of which all or part of the moneys secured thereby remain unpaid; and also includes an assignee of any such person.

S.M. 2000, c. 34, s. 2.

SEIZURE AND IMPOUNDMENT OF VEHICLES FOR CERTAIN OFFENCES**Definitions****Definitions**

242.1(1) In this section,

"designated person" means a person designated by the Minister of Justice for the purpose of this section; (« personne désignée »)

"motor vehicle" includes an off-road vehicle. (« véhicule automobile »)

Seizure of Vehicles**Seizure and impoundment of certain vehicles**

242.1(1.1) Subject to subsection (1.2), a peace officer shall seize a motor vehicle and impound it if the officer has reason to believe

- (a) that a person who was operating the vehicle contravened subsection 225(1) or (1.1) (suspended and other prohibited driving) or 279.1(5) or (5.1) (restricted licence contraventions) of this Act or subsection 259(4) (operation while disqualified) of the *Criminal Code*;
- (b) based on an analysis of the breath or blood of a person who was operating the vehicle or had care or control of it, that the person had consumed alcohol in such a quantity that the concentration of it in his or her blood exceeded 80 mg of alcohol in 100 mL of blood;
- (b.1) based on an analysis of the blood of a person who was operating the vehicle or had care or control of it, that the person had consumed drugs, or alcohol and drugs, in such a quantity that the concentration of drugs, or alcohol and drugs, in the person's blood equalled or exceeded the limit prescribed by regulation under the *Criminal Code* for the purpose of paragraph 253(3)(a) or (c) of that Code;
- (c) that a person who was operating the vehicle, or had care or control of it, failed or refused to comply with a demand to supply a sample of breath, oral fluid, urine or blood, under section 254 of the *Criminal Code*;
- (d) that, after a demand from a peace officer under clause 254(2)(a) of the *Criminal Code* to perform a physical coordination test, the driver of the vehicle
 - (i) refused to perform the test, or
 - (ii) failed to follow the peace officer's instructions regarding the test; or
- (e) that, after a demand in accordance with subsection 254(3.1) of the *Criminal Code*, the driver of the vehicle
 - (i) refused to comply with the demand or to submit to an evaluation as defined in subsection 263.1(1), or

- (ii) failed to follow instructions regarding the evaluation.

Delaying Impoundment

Motor vehicle released for safety, undue hardship

242.1(1.2) Where a peace officer is satisfied that the seizure and impoundment of a motor vehicle under subsection (1.1) would jeopardize the safety of, or cause undue hardship to, any person, or is, in the opinion of the officer, not practicable in the circumstances the peace officer may delay taking custody of the motor vehicle, in which case the peace officer may permit the motor vehicle to be driven to a location specified by the peace officer, where any peace officer may take custody of it.

Later Seizure of Vehicle

Application for order to seize and impound

242.1(1.3) Where under subsection (1.2) a peace officer permits a motor vehicle to be driven to a specified location and the vehicle is not impounded at that location, a peace officer may make application to a justice for an order to seize the vehicle and impound it in accordance with this section, with necessary modifications.

Stolen Vehicles

Release of stolen vehicle

242.1(1.4) If, at any time before a hearing is conducted under this section, a peace officer is satisfied that a motor vehicle seized under subsection (1.1) had been stolen, the officer may, subject to the approval of the designated person, release the vehicle to the owner, or a person authorized by the owner to take possession of it, and subsection (13) (indemnification) applies, with necessary modifications.

Procedure on Seizure

Duties of peace officer

242.1(2) Where a motor vehicle has been seized and impounded, the peace officer shall

- (a) complete a notice of seizure setting out
 - (i) the name and address of the driver, and of the owner if the driver is not the owner and discloses the name and address of the owner,
 - (ii) the year, make and serial number of the motor vehicle,
 - (iii) the date and time of the seizure,
 - (iv) the place where the vehicle is to be impounded, and
 - (v) if the vehicle is seized under clause (1.1)(b) (blood alcohol over .08), the result of the analysis of the breath or blood;
- (a.1) if the driver is not, or does not appear to be, the owner of the motor vehicle, request that the driver disclose the name and address of the owner;
- (b) give the driver a copy of the notice;
- (c) give a copy of the notice to the owner, if the owner is present at the time of the seizure, or, if the owner is not present, without delay mail a copy to the owner
 - (i) at the owner's last known address as recorded in the registrar's records of motor vehicle registrations, or
 - (ii) if the owner's address is not recorded in the registrar's records, at the address indicated by the driver in response to the peace officer's request under clause (a.1);
- (c.1) without delay, mail a copy of the notice to the designated person;
- (d) cause a copy of the notice to be given to the garage keeper who stores the motor vehicle; and
- (e) retain a copy of the notice.

Lien for Costs of Storage

Costs relating to impoundment are lien on vehicle

242.1(3) A motor vehicle that is seized and impounded under this section shall be stored where the peace officer directs, and the following amounts are a lien on the impounded vehicle that may be enforced in the manner provided in *The Garage Keepers Act*:

- (a) costs and charges prescribed by a regulation made under subsection 319(1);
- (b) expenditures for searches, registrations and other charges under *The Personal Property Security Act* that are reasonably necessary for the garage keeper to comply with the requirements of *The Garage Keepers Act*.

Release on Return of Licence or Permit

Vehicle to be released if driver's licence is returned

242.1(3.1) Where a motor vehicle is seized and impounded under any of clauses (1.1)(b) to (e) and an application by the driver under section 263.2 (review of suspension and disqualification) results in the return of his or her licence or permit,

- (a) the vehicle is no longer subject to impoundment under this section, unless the vehicle was also seized under clause (1.1)(a) (drive disqualified) or detained under another provision of this Act or *The Drivers and Vehicles Act*; and
- (b) the designated person shall, subject to subsection (9) (lien), authorize the release of the vehicle to the owner or to a person authorized by the owner.

Application for Early Release Based on Owner's Reasonable Belief or Knowledge

Application by certain owners for early release of vehicle

242.1(4) An owner of a motor vehicle seized and impounded under this section, other than an owner who was the driver or had care or control at the time the vehicle was seized under any of clauses (1.1)(b) to (e), may, at any time before the expiry of the period of impoundment, apply to a justice for the hearing of such applications for the revocation of the seizure by

- (a) making application in the form and in the manner required by the Minister of Justice; and
- (b) paying the prescribed fee.

Justice to consider report and certificate

242.1(4.1) In a hearing conducted under subsection (4), the justice shall consider a report of a peace officer respecting the seizure of the motor vehicle, and may consider

- (a) a certificate of the registrar respecting any licence or permit issued under *The Drivers and Vehicles Act* or this Act in the name of
 - (i) the owner who applies under subsection (4),
 - (ii) the person named as the driver of the motor vehicle in a notice completed under subsection 242.1(2), and
 - (iii) the person named as the driver of the motor vehicle by the applicant owner, where the person is not the same person named in subclause (ii); and
- (b) a report of the designated person respecting a record of any previous seizure under this section of a motor vehicle that was at the time of the seizure registered in the name of, or owned by, the owner applying under subsection (4).

Issue to be determined when driver is not owner

242.1(5) Where, after considering an application under subsection (4) by an owner who was not the driver at the time the motor vehicle was liable to seizure, the justice is satisfied that

- (a) the driver was in possession of the vehicle without the knowledge and consent of the owner;
- (b) in the case of a seizure under clause (1.1)(a) (drive disqualified), the owner could not reasonably have been expected to know that the licence or permit of the person to whom the vehicle was delivered was suspended or cancelled or that the driver was disqualified or prohibited from driving or operating a motor vehicle; or

- (c) in the case of a seizure under any of clauses (1.1)(b) to (e), the owner could not reasonably have been expected to know that the driver would operate or have care or control of the vehicle in such circumstances;

the justice shall

- (d) revoke the seizure;
- (e) subject to subsection (9) (lien), direct that a peace officer order the garage keeper to return the motor vehicle to the owner or to a person authorized by the owner; and
- (f) direct that the fee paid by the applicant be refunded.

Issue to be determined when driver is owner

242.1(6) Where, after considering an application under subsection (4) by an owner who was the driver at the time the motor vehicle was liable to seizure under clause (1.1)(a) (drive disqualified), the justice is satisfied that the owner, before he or she drove the motor vehicle, had no reason to believe that his or her licence or permit was suspended or that he or she was disqualified from holding a driver's licence or was disqualified or prohibited from driving or operating a motor vehicle, and the justice is satisfied that the owner had at the time of the seizure complied with section 13 of *The Drivers and Vehicles Act* and, if applicable, section 82 of that Act, the justice shall

- (a) revoke the seizure;
- (b) subject to subsection (9) (lien), direct that a peace officer order the garage keeper to return the motor vehicle to the owner or to a person authorized by the owner; and
- (c) direct that the fee paid by the applicant be refunded.

Release on Expiry of Impoundment Period

Release of vehicle after impoundment period

242.1(7) Unless otherwise required by this Act or *The Drivers and Vehicles Act*, and subject to subsection (9) (lien), a peace officer shall, on the written request of the owner or a person authorized by the owner, direct that the motor vehicle be released to the owner or a person authorized by the owner after the period of impoundment expires.

Periods of Impoundment

First seizure

242.1(7.1) Subject to subsection (7.1.1) (previous seizure), a motor vehicle seized under this section shall be impounded for the following periods:

- (a) when the seizure is under clause (1.1)(a) (suspended and other prohibited driving), 30 days;
- (b) when the seizure is under clause (1.1)(b) (blood alcohol over .08) and the concentration of alcohol is 160 mg or less in 100 mL of blood, 30 days;
- (c) when the seizure is under clause (1.1)(b) (blood alcohol over .08) and the concentration of alcohol is more than 160 mg in 100 mL of blood, 60 days;
- (c.1) when the seizure is under clause (1.1)(b.1) (blood drug, or alcohol and drug, concentration equal to or over legal limit), 30 days;
- (d) when the seizure is under clause (1.1)(c) (refuse to supply sample), 60 days;
- (e) when the seizure is under clause (1.1)(d) (refusal or failure respecting physical coordination test), 60 days;
- (f) when the seizure is under clause (1.1)(e) (refusal or failure respecting evaluation), 60 days.

Second or subsequent seizure within five years

242.1(7.1.1) Where a motor vehicle seized under this section is registered in the name of, or owned by, a person who, within the five year period before the day of the seizure, was registered as the owner, or was the owner, of a motor vehicle that was seized under an provision of this section, the vehicle shall be impounded for the following period:

- (a) when the seizure is under clause (1.1)(a) (suspended and other prohibited driving),
 - (i) for the second seizure, 90 days, and
 - (ii) for a subsequent seizure, 90 days and an additional 60 days for each seizure after the second;
- (b) subject to subsection (7.1.2), when the seizure is under clause (1.1)(b) (blood alcohol over .08) and the concentration of alcohol is 160 mg or less in 100 mL of blood,
 - (i) for a second seizure, 90 days, and
 - (ii) for a subsequent seizure, 90 days and an additional 60 days for each seizure after the second;
- (c) when the seizure is under clause (1.1)(b) (blood alcohol over .08) and the concentration of alcohol is more than 160 mg in 100 mL of blood,
 - (i) for a second seizure, 180 days, and
 - (ii) for a subsequent seizure, 180 days and an additional 60 days for each seizure after the second;
- (c.1) when the seizure is under clause (1.1)(b.1) (blood drug, or alcohol and drug, concentration equal to or over legal limit),
 - (i) for a second seizure, 90 days, and
 - (ii) for a subsequent seizure, 90 days and an additional 60 days for each seizure after the second;
- (d) when the seizure is under clause (1.1)(c) (refuse to supply sample),
 - (i) for a second seizure, 180 days, and
 - (ii) for a subsequent seizure, 180 days and an additional 60 days for each seizure after the second;
- (e) when the seizure is under clause (1.1)(d) (refusal or failure respecting physical coordination test),
 - (i) for a second seizure, 180 days, and
 - (ii) for a subsequent seizure, 180 days and an additional 60 days for each seizure after the second;
- (f) when the seizure is under clause (1.1)(e) (refusal or failure respecting evaluation),
 - (i) for a second seizure, 180 days, and
 - (ii) for a subsequent seizure, 180 days and an additional 60 days for each seizure after the second.

When previous seizure within five years relates to refusal or blood alcohol of more than 0.16

242.1(7.1.2) Where a motor vehicle seized under clause (1.1)(b) (blood alcohol over .08) is registered in the name of, or owned by, a person who, within the five year period before the day of the seizure, was registered as the owner, or was the owner, of a motor vehicle that was seized under

- (a) clause (1.1)(b) and the concentration of alcohol was more than 160 mg in 100 mL of blood;
- (b) clause (1.1)(c) (refuse to supply sample);
- (b.1) clause (1.1)(d) (refusal or failure respecting physical coordination test); or
- (b.2) clause (1.1)(e) (refusal or failure respecting evaluation);

the vehicle shall be impounded for the following period:

- (c) for a second seizure, 180 days;
- (d) for a subsequent seizure, 180 days and an additional 60 days for each seizure after the second.

Effect of revocation of previous seizure

242.1(7.1.3) For the purposes of subsections (7.1.1) and (7.1.2), the seizure of a vehicle shall not be considered as a previous seizure if

- (a) the vehicle was released under subsection (1.4), (3.1) or (13); or
- (b) the seizure was revoked under subsection (5) or (6).

Notice to be given of period of impoundment

242.1(7.2). Where a motor vehicle is subject to a period of impoundment under subsection (7.1.1) (second or subsequent seizure) or (7.1.2) (previous seizure for blood alcohol of more than 0.16), the designated person shall as soon as practicable give notice of the period of impoundment by regular mail to

- (a) the owner of the vehicle, or the person in whose name it is registered;
- (b) the garage keeper who has custody of the vehicle; and
- (c) the peace officer who seized the vehicle and impounded it.

Application for Review of Impoundment Period

Justice to consider designated person's report

242.1(7.3). Subsections (4) and (4.1) (application to justice for release of vehicle) apply, with necessary modifications, to an application by an owner of a motor vehicle who contests the application of subsection (7.1.1) (second or subsequent seizure) or (7.1.2) (previous seizure for blood alcohol of more than 0.16) to the vehicle, and the justice who hears the application shall consider a report from the designated person respecting any motor vehicle seized under this section

- (a) while registered in the name of, or owned by, the applicant; and
- (b) within five years before the seizure of the vehicle that is the subject of the application.

Removal or Release of Seized Vehicles

No removal of impounded vehicle except as authorized

242.1(8). No person shall remove or release or permit the removal or release of a motor vehicle that is impounded under this section from the place of impoundment unless one of the following provisions applies to the vehicle:

- (a) subsection (1.4) (stolen vehicle);
- (b) subsection (3.1) (return of licence or permit);
- (c) subsection (5) (direction by justice);
- (d) subsection (6) (direction by justice);
- (e) subsection (7) (expiry of impoundment period);
- (f) subsection (13) (wrongful seizure).

Officer may direct movement of vehicle

242.1(8.1). A peace officer may direct that an impounded motor vehicle be moved for the purpose of impounding it at another location.

Lien and Disposal of Vehicles

Effect of lien

242.1(9). A motor vehicle that is subject to a lien under this section shall remain impounded until the amount of the lien is paid or the vehicle is disposed of in accordance with this section and the regulations.

Notice by garage keeper

242.1(10). The garage keeper shall notify the Department of Justice of the sale of each motor vehicle sold under *The Garage Keepers Act*.

Disposal of impounded vehicle by garage keeper

242.1(10.1). Despite subsection (9), a garage keeper who stores a motor vehicle that is impounded under this section may, on the expiry of the period of impoundment and with the approval of the designated person, dispose of it, by sale or otherwise, after delivering the number plates from the vehicle to the designated person and filing with him or her

- (a) a statutory declaration of the garage keeper declaring that the amount of his or her lien on the motor vehicle exceeds his or her estimate of its value; and

- (b) a certificate issued under *The Personal Property Security Act* showing that the serial number of the motor vehicle is not identified as an item of collateral in the personal property registry.

Transfer of ownership to garage keeper

242.1(10.2) Where under subsection (10.1) the designated person approves the disposal of a motor vehicle by a garage keeper, the designated person shall complete a transfer of vehicle ownership, in a form that the Minister of Justice may prescribe, from the owner of the motor vehicle to the garage keeper, and the registrar shall, on receiving the completed form and the number plate or plates from the motor vehicle, cancel the registration of the motor vehicle and forward any refund therefrom to the designated person for application to any costs and charges owing to the Minister of Finance in respect of the motor vehicle, as prescribed by regulation, after which any balance shall be paid to the previous owner of the motor vehicle.

General Provisions

Personal property in motor vehicle

242.1(11) Subject to subsection 242(5) of this Act and subsection 54(3) of *The Off-Road Vehicles Act*, personal property present in or on a motor vehicle which has been seized and impounded, other than personal property attached to or used in connection with the operation of the motor vehicle, shall be returned to the owner upon request.

Owner's right against driver

242.1(12) The owner of a motor vehicle seized under this section may recover any lien costs that he or she has paid from the person who was the driver at the time of the seizure.

Minister may indemnify for wrongful seizure

242.1(13) Notwithstanding subsection 41(2) of *The Financial Administration Act* and any other provision in this section, the Minister of Justice may, where he or she is satisfied that a motor vehicle has been wrongfully seized under this section,

- (a) authorize the release of the motor vehicle from impoundment;
- (b) waive any fee, cost or charge prescribed by regulation; and
- (c) indemnify the owner of the motor vehicle for any direct cost incurred by the owner in respect of the seizure.

Justice may order seizure of motor vehicle

242.1(14) A peace officer may apply to a justice for an order authorizing the seizure of a motor vehicle under this section and, where the justice is satisfied that the peace officer has reason to believe that a person has operated or had care or control of a motor vehicle as set out in subsection (1.1), the justice may grant an order authorizing any peace officer to seize the vehicle and impound it and, for that purpose, to enter a building or place where the motor vehicle is stored or kept.

Result of failure to obtain order

242.1(15) The failure of a peace officer to obtain an order from a justice under subsection (14) does not invalidate any seizure and impoundment of a motor vehicle that is otherwise lawfully performed or authorized.

Tabling of annual report in Assembly

242.1(16) The designated person shall, within 60 days of the end of each fiscal year, submit a report respecting operations under this section to the Minister of Justice who shall immediately lay a copy of the report before the Legislative Assembly if the Assembly is then in Session or, if the Assembly is not then in Session, within 15 days of the commencement of the next Session.

S.M. 1989-90, c. 4, s. 8; S.M. 1989-90, c. 7, s. 3 to 10; S.M. 1991-92, c. 23, s. 2; S.M. 1997, c. 37, s. 23; S.M. 1997, c. 38, s. 4; S.M. 1999, c. 12, s. 7; S.M. 1999, c. 13, s. 7; S.M. 1999, c. 35, s. 3 and 8; S.M. 2000, c. 34, s. 4; S.M. 2001, c. 19, s. 27; S.M. 2004, c. 11, s. 6; S.M. 2005, c. 8, s. 17; S.M. 2005, c. 37, Sch. B, s. 48; S.M. 2010, c. 52, s. 3; S.M. 2013, c. 7, s. 4; S.M. 2014, c. 23, s. 2; S.M. 2018, c. 19, s. 2.

SEIZURE OF VEHICLES IN SPECIFIED OFFENCES RELATED TO OBTAINING SEXUAL SERVICES OR PROCURING

Designated person

242.2(1). In this section and in section 242.3, "**designated person**" means a person designated by the Minister of Justice for the purposes of those sections.

Specified offence related to obtaining sexual services or procuring

242.2(1.1). In this section, "**specified offence related to obtaining sexual services or procuring**" has the same meaning as in section 264.

Appointment or designation of garage keeper

242.2(2). The Minister of Justice may appoint a person or designate a department or branch of the government as a garage keeper for the purpose of this section.

Seizure of vehicle used in committing specified offence

242.2(3). A peace officer who on reasonable grounds believes that a motor vehicle is being operated in the course of committing a specified offence related to obtaining sexual services or procuring must seize the motor vehicle and take it into the custody of the law.

Release of Seized Vehicles and Personal Property in Seized Vehicles

Release of personal property in seized vehicle

242.2(4). Any personal property present in or on a motor vehicle that is seized under this section, other than personal property attached to or used in connection with the operation of the vehicle, shall be released to the owner of the personal property upon request, unless it is required as evidence in a prosecution or in connection with an investigation of an offence under this Act, in which case subsections 242(2) and (3) (peace officer may apply for order to extend detention) apply, with necessary modifications.

No release or removal of vehicle except as authorized

242.2(5). No person shall remove or release, or permit the removal or release of, a seized motor vehicle from the place of storage except as authorized under this section.

Temporary release of seized vehicle by peace officer

242.2(6). Despite subsection (3), a peace officer who seizes a motor vehicle under this section but is satisfied that taking it into the custody of the law would jeopardize the safety of, or cause undue hardship to, any person, may delay taking custody of the vehicle and may permit it to be driven to a location specified by the officer, where any peace officer may take custody of it.

Seizure of released vehicle at other location

242.2(7). Where under subsection (6) a peace officer permits a seized motor vehicle to be driven to a location and the vehicle is not taken into custody at that location, a peace officer may apply to a justice for an order to take the vehicle into the custody of the law, and if the justice is satisfied that the officer had reason to seize the vehicle, the justice may grant an order authorizing a peace officer to take the vehicle into the custody of the law in accordance with this section, with necessary modifications, and for that purpose to enter a building or place where the vehicle is stored or kept.

Release of vehicle by peace officer of stolen vehicles or under alternative measures

242.2(8). Where a motor vehicle is seized under this section, a peace officer may, with the approval of the designated person, release the vehicle to the owner, or to a person authorized by the owner, if the officer is satisfied that

(a) the vehicle is stolen; or

(b) every person

(i) who was in the vehicle at the time it was seized, and

(ii) who the peace officer referred to in subsection (3) had reasonable grounds to believe had committed a specified offence related to obtaining sexual services or procuring,

is eligible for, and consents to be dealt with by way of, a program of alternative measures authorized under clause 717(1)(a) of the *Criminal Code* (Canada).

242.2(9). [Repealed] S.M. 1999, c. 13, s. 8.