

2010 Bill 12

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 12

BODY ARMOUR CONTROL ACT

MR. QUEST

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 12
Mr. Quest

BILL 12

2010

BODY ARMOUR CONTROL ACT

(Assented to , 2010)

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

Definitions

1(1) In this Act,

- (a) “body armour” means a garment or item designed, intended or adapted for the purpose of protecting the body from an item or object used to, or adapted to, stab, pierce, puncture or otherwise wound the body;
- (b) “Director” means the Director of Law Enforcement appointed under section 8 of the *Police Act* or an individual designated by the Director to act on his or her behalf;
- (c) “permit” means a body armour permit issued or renewed under section 8;
- (d) “Registrar” means the individual designated as Registrar under the *Security Services and Investigators Act*.

(2) For the purposes of sections 12 and 20, “peace officer” means

- (a) a police officer under the *Police Act*, while the police officer is in the exercise or discharge of the police officer’s powers or duties,
- (b) a member of a police service under the *Police Act*, while the member is in the exercise or discharge of the member’s powers or duties, or
- (c) a peace officer appointed under the *Peace Officer Act*, while the peace officer is in the exercise or discharge of the peace officer’s powers or duties.

Application

2 This Act does not apply to

- (a) safety equipment designed, intended for use, and worn by an individual, for sports or recreational purposes,
- (b) safety equipment or personal protective equipment designed, intended for use, and worn by an individual, to

protect an individual from injury in the course of the individual's employment, and required by an OHS code within the meaning of the *Occupational Health and Safety Act*, or

- (c) any other type of equipment designated in the regulations.

Body armour

3 Subject to section 4, no individual shall possess body armour without a valid permit issued under this Act.

Exemptions

4 Subject to the regulations, the following individuals or classes of individuals are exempt from the requirement to hold a permit issued under this Act:

- (a) members of the Royal Canadian Mounted Police, members of a police service as defined in the *Police Act*, and peace officers while acting within the scope of their authority and in the course of their employment or designation;
- (b) an ambulance attendant under the *Emergency Health Services Act* while the ambulance attendant is acting within the scope of the ambulance attendant's authority and in the course of the ambulance attendant's employment or designation;
- (c) an individual designated as an inspector under section 98 of the *Gaming and Liquor Act* while the inspector is acting within the scope of the inspector's employment;
- (d) an individual who is a security services licensee or an investigator licensee under the *Security Services and Investigators Act* while the licensee is acting within the scope of the licensee's authority and in the course of the licensee's employment or designation;
- (e) a wildlife officer under the *Wildlife Act* while the wildlife officer is acting within the scope of the wildlife officer's authority and in the course of the wildlife officer's employment or designation;

- (f) an individual who has been issued a valid licence under the *Firearms Act* (Canada);
- (g) a firefighter while the firefighter is acting in the course of the firefighter's employment;
- (h) a business owner, or an employee of a business, who in the ordinary course of that business or employment purchases, sells, transports or otherwise deals with body armour;
- (i) an individual who has been authorized to use or permitted to wear body armour under the authority of an enactment;
- (j) an individual designated or described in the regulations for the purposes of this section.

Registrar's functions

5 The Registrar may, in accordance with this Act and the regulations,

- (a) issue, cancel, suspend or renew a permit,
- (b) prescribe the terms and conditions of a permit or vary the terms and conditions of a permit, and
- (c) specify the term of a permit.

Permit application

6(1) An individual may apply to the Registrar for a permit or for the renewal of a permit.

(2) An application under this section must

- (a) be made in the form and manner acceptable to the Registrar,
- (b) be accompanied with the prescribed fee,
- (c) indicate whether body armour is needed for occupational or personal purposes, with reasons,
- (d) be accompanied with a criminal record check and a police information check,

- (e) include any information requested by the Registrar for the purpose of determining the applicant's eligibility for a permit or the renewal of a permit, and
- (f) include any other information prescribed by the regulations, which may include personal information as defined in the *Freedom of Information and Protection of Privacy Act*.

Personal information

7 For the purpose of determining whether to issue or renew a permit, the Registrar may collect personal information as defined in the *Freedom of Information and Protection of Privacy Act* or personal employee information as defined in the *Personal Information Protection Act* from the applicant or the applicant's employer.

Issue of permit

8 On receiving an application from an applicant under section 6, the Registrar may issue a permit to the applicant or renew the permit of the applicant subject to the terms and conditions the Registrar considers appropriate.

Refusal of permit

9 The Registrar may refuse to issue a permit or to renew a permit if the Registrar is satisfied that the applicant

- (a) has contravened or is contravening this Act or the regulations,
- (b) has not met the requirements of this Act or the regulations,
- (c) in the case of an application for a permit or renewal of a permit, has provided false or misleading information,
- (d) in the case of an application for renewal of a permit, has not complied with the terms and conditions of the permit,
- (e) is not a fit and proper person to be issued a permit or to continue to hold a permit,

- (f) should not be issued a permit or renewal of a permit because it is not in the public interest,
- (g) has failed to identify in his or her application a valid reason to possess or continue to possess body armour, or
- (h) has been charged with or convicted of a criminal offence.

Reporting of information

10 A permit holder must, in accordance with the regulations, report the following in writing to the Registrar:

- (a) a change of address, within 30 days of the date of the change;
- (b) a change in any information provided to the Registrar when the application for the permit was made, within 30 days of the date of the change;
- (c) if the permit holder has been charged or convicted of a criminal offence, within 24 hours of the charge or conviction;
- (d) any other information requested by the Registrar, within the time period specified by the Registrar;
- (e) any other information prescribed by the regulations, within the time period prescribed in the regulations.

Permit not transferable

11 A permit issued under this Act is not transferable.

Production of permit

12(1) Every permit holder must carry his or her permit when the body armour is in his or her possession and must produce the permit to a peace officer on request.

(2) When a peace officer requests the production of a permit under subsection (1) and the individual

- (a) refuses or is unable to produce a valid permit, or

- (b) in the case of an individual who claims to be exempt from the requirement to hold a permit under this Act, is unable to identify and demonstrate the basis on which he or she is exempt,

the peace officer may seize any body armour in that individual's possession.

Loss of permit

13 If a permit holder loses his or her permit, the permit holder must report the loss to the Registrar within 24 hours of becoming aware of the loss.

Suspension, cancellation, variation of permit

14 The Registrar may, at any time and without notice, suspend or cancel a permit or vary the terms and conditions of a permit if

- (a) the permit holder is charged or convicted of a criminal offence,
- (b) the permit holder is convicted of an offence under this Act or the regulations,
- (c) the permit holder fails to comply with a term or condition of the permit holder's permit,
- (d) the permit holder makes an untrue statement or misleading statement in the application for a permit or the renewal of a permit,
- (e) in the opinion of the Registrar, the permit holder is not a fit and proper person to hold a permit,
- (f) in the opinion of the Registrar, it is in the public interest to suspend or cancel the permit, or
- (g) in the opinion of the Registrar, the reason to possess body armour identified by the permit holder in his or her permit application no longer exists.

Return of permit

15 If the Registrar suspends or cancels a permit, the permit holder must promptly return the permit to the Registrar or a person designated by the Registrar.

Registrar's decision

16 The Registrar must inform the applicant or permit holder in writing of the decision, with reasons, when the Registrar

- (a) refuses to issue or renew a permit under section 9,
- (b) suspends or cancels a permit under section 14 or 18, or
- (c) varies the terms or conditions of a permit under section 14 or 18.

Review of Registrar's decision by Director

17(1) Within 30 days from the date that the applicant or permit holder is advised in writing under section 16 of the Registrar's decision, the applicant or permit holder may, in writing, request the Director to review the Registrar's decision.

(2) The Director may, in the course of reviewing the Registrar's decision, engage in or refer the matter to mediation in an attempt to resolve the issues.

(3) The Director must, within 30 days of receiving a request under subsection (1), inform the applicant or permit holder in writing of the Director's decision confirming, reversing or varying the Registrar's decision.

(4) The Director may direct the Registrar to issue, suspend or cancel a permit or to vary the terms and conditions or impose additional terms and conditions on a permit, and the decision of the Director is final.

(5) Notwithstanding subsection (3), the Director may, on notice to the applicant or permit holder, extend the time referred to in subsection (3) if additional time is required to review the Registrar's decision.

(6) No action lies against an individual who conducts a mediation in good faith under this section for any act done or omitted to be done with respect to the mediation.

Complaints about permit holder

18(1) Any individual may make a complaint in writing about a permit holder to the Registrar within 90 days after the incident or matter giving rise to the complaint occurs.

(2) The Registrar may refuse to investigate a complaint or may discontinue the investigation of a complaint if, in the opinion of the Registrar,

- (a) the complaint is frivolous, vexatious or made in bad faith, or
- (b) having regard to all of the circumstances, no investigation is necessary.

(3) If the Registrar refuses to investigate a complaint or discontinues the investigation of a complaint under subsection (2), the Registrar must notify the complainant of the refusal or discontinuance in writing, with reasons, within 90 days of receiving the complaint.

(4) After completing an investigation of a complaint, the Registrar may vary the terms and conditions of or impose additional terms and conditions on the permit holder's permit or cancel or suspend the permit holder's permit.

(5) The Registrar must, in writing, notify the complainant and the permit holder who is the subject of the complaint of the Registrar's decision and the reasons for the decision.

(6) The Registrar may request a member of a police service or other individual to conduct an investigation into the incident or matter that gave rise to the complaint or to take over an investigation.

(7) If an incident or matter that is the subject of a complaint made under this section is being investigated pursuant to another enactment, the Registrar is not required to conduct an investigation into the incident or matter.

Review of complaint by Director

19(1) Within 30 days from the date that the complainant is notified in writing of the Registrar's decision under section 18, the complainant may, in writing, request the Director to review the Registrar's decision.

(2) The Director must, within 30 days of receiving a request under subsection (1), inform the complainant in writing of the Director's decision confirming, reversing or varying the Registrar's decision.

(3) The Director may direct the Registrar to suspend or cancel the permit holder's permit or to vary the terms and conditions of or impose additional terms and conditions on the permit holder's permit, and the decision of the Director is final.

(4) Notwithstanding subsection (2), the Director may, on notice to the complainant, extend the time referred to in subsection (2) if additional time is required to review the Registrar's decision.

Search and seizure of body armour

20 If a peace officer has reasonable grounds to believe that an individual is in possession of body armour in a public place, the peace officer may, without a warrant, search the individual and any personal property in that individual's possession and if that individual is found to be in possession of body armour when the peace officer requests production of a permit, the individual

- (a) refuses or is unable to produce a valid permit, or
- (b) in the case of an individual who claims to be exempt from the requirement to hold a permit under this Act, is unable to identify and demonstrate the basis on which he or she is exempt,

the peace officer may seize any body armour found.

Sale of body armour

21 An individual, business owner or employee of a business shall not sell, barter or give body armour to any individual unless that individual is able to produce a valid permit or can identify and demonstrate the basis on which he or she is exempt from the requirement to hold a permit under this Act.

Offence

22(1) An individual who contravenes or fails to comply with any of the following provisions is guilty of an offence:

- section 3;
- section 10;

section 12;
section 13;
section 15;
section 21.

(2) An individual who contravenes or fails to comply with the regulations is guilty of an offence.

Penalties

23(1) An individual who is guilty of an offence under section 22 is liable to a fine of not more than \$10 000 or to a term of imprisonment not exceeding 6 months or to both a fine and imprisonment.

(2) A prosecution under subsection (1) may be commenced within 2 years of the commission of the alleged offence but not afterwards.

Regulations

24 The Lieutenant Governor in Council may make regulations

- (a) designating types of equipment that are not subject to this Act;
- (b) designating or describing individuals or classes of individuals who are exempt from the requirement to hold a permit under this Act;
- (c) respecting the requirements for being issued a permit and for the renewal of a permit;
- (d) respecting the information that must be provided and conditions that must be met by an applicant for a permit or the renewal of a permit;
- (e) prescribing the fee payable for the issuance of a permit and for the renewal of a permit;
- (f) respecting terms and conditions that may be imposed on a permit;
- (g) respecting the issuance, term, use, retention and destruction of permits;

- (h) governing the return of permits that have been suspended or cancelled or that have expired;
- (i) respecting the collection, use and disclosure of personal information as defined in the *Freedom of Information and Protection of Privacy Act* for the purposes of making and approving applications, reviewing, cancelling, suspending or imposing terms and conditions on permits and administering this Act;
- (j) prescribing information that must be reported to the Registrar under section 10;
- (k) respecting the use, retention, destruction and return of body armour;
- (l) respecting any matter that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

Transitional

25 Section 3 does not apply for a period of 6 months after this date this section comes into force to an individual who, on that date, is in possession of body armour.

Coming into force

26 This Act comes into force on Proclamation.

