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MANUAL OF MOTOR VEHICLE LAW

Segal

Release No. 8, September 2025

This resource provides detailed annotations for the Ontario *Highway Traffic Act* as well as related provincial and federal statutes, and features a convenient words and phrases section of related judicially defined terms.

What's New in this Update:

This release adds new or updated case annotations to Chapter 26 (Regulations to *Highway Traffic Act*) and Appendix WP (Words and Phrases).

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Highlights

Updates to the Words & Phrases include the following new judicial interpretations of relevant terminology:

- **REASONABLE EXCUSE—*Alberta*—**"[The applicant] seeks judicial review of an adjudicator's decision (Decision) to uphold a Notice of Administrative Penalty (NAP) that was issued pursuant to section 88.1(1)(e) of the *Traffic Safety Act*, RSA 2000, c T-6 (*TSA*). [. . .] [The applicant] argues that there is over 50 years of jurisprudence under both the *Criminal Code* [R.S.C. 1985, c. C-46] and in the administrative context that unequivocally states that a "reasonable excuse" includes refusing an unlawful demand, and that it is an error to interpret it otherwise because words "that have a well-understood legal meaning when used in a statute should be given that meaning unless Parliament clearly indicates otherwise": *R v DLW*, 2016 SCC 22 at paras 20-21. [The applicant] also points to section 37 of the *Interpretation Act*, RSA 2000 c I-8 [. . .] I disagree with [the applicant] that "reasonable excuse" has a "well-understood meaning" in all matters and contexts involving breath sample demands, in the way that he suggests. Rather . . . authorities (including those [the applicant] relies on, or which have later considered those authorities) suggest that the meaning of "reasonable excuse" may be different depending on the specific statutory or administrative context in which it is found. This is evident in the criminal law context, both pre and post *Charter*, as courts have grappled with changing criminal law demand provisions, changing individual rights, and the advent of the *Charter*.": per Marion J., at paras. 1, 62, and 63 of *McWilliam v. Alberta (Director of SafeRoads)*, 2024 ABKB 559, 2024 CarswellAlta 2404 (Alta. K.B.).
- **WINDFALL—*Alberta*—**"October 8, 2024, following the hearing, I allowed the application for judicial review, and quashed the decision of the *SafeRoads* Adjudicator that had denied [the applicant] a late review under section 20 of the *Provincial Administrative Penalties Act* [S.A. 2020, c. P-30.8]. [. . .] At the conclusion of the hearing, the Applicant requested clarification on whether, on the new hearing, he would be permitted to file new materials in support of his application for a late review. [. . .] With respect to the evidentiary record, the Director argues that the rehearing ought to be limited to the original evidentiary record, in order to avoid a "windfall benefit or advantage". But it is not a "windfall" for the court to decline to impose limitations or restrictions on a rehearing. It is not a windfall for justice to follow the usual course. When circumstances warrant additional remedies on judicial review, the court has the jurisdiction to exercise that discretion. But exercising that discretion and using the authority of this court to control the process of the tribunal should not be the norm. In this case I see no need to impose any limitation or restriction on the rehearing.": per McGuire J., at paras. 1, 2, and 8 of *Hick v. Alberta (Director of SafeRoads)*, 2024 ABKB 712, 2024 CarswellAlta 3152 (Alta. K.B.).