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ANNOTATED BRITISH COLUMBIA MOTOR VEHICLE ACT

**Michael Libby & Alex Choi
Release No. 1, June 2022**

Publisher's Special Release Note 2021

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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What's New in this Update:

Recent case law discussed in the updates to the commentary includes:

- *Bowe v. Bowe*, 2022 BCCA 35 (B.C. C.A.) This appeal clarifies whether a passenger of a vehicle – who had taken it without the owner's explicit consent and then permitted another to drive it – can be found to be “operating” the vehicle from the passenger seat. It takes into account the purpose of the legislation and the appropriate statutory interpretation of it. It concludes that to suggest a passenger who neither directs nor counsels the driver to operate the vehicle in a negligent manner is, nevertheless, “operating” the vehicle pursuant to s. 86(1) runs too far afield from the ordinary meaning ascribed to the operation of a motor vehicle. Furthermore, the idea that the driver became the owner's agent when the owner's son gave him permission to drive, is not supported by the structure of s. 86(1), the language of s. 86(1)(b), or the governing jurisprudence.
- *R. v. Zhang*, 2021 BCSC 2535 (B.C. S.C.) The accused was providing unlicensed passenger services under the ride hailing app called Udi. He was ticketed for operating a motor vehicle without the appropriate class license under s. 24(1) of the *Motor Vehicle Act* among other offences. Held, the accused was operating a commercial passenger vehicle. Pursuant to s. 1 of the *Passenger Transportation Act*, it made no difference that compensation had not been paid by the time the ticket was issued as the accused was a person “who charges or collects compensation for the transportation of passengers”.
- *R. v. Rajani*, 2021 BCCA 292 (B.C.C.A.) The accused either had his cell phone on his right lap or wedged between his right thigh and the seat with the screen facing up. Held, accused guilty of using an electronic device while driving or operating a motor vehicle on a highway. “Holding” in s. 214.1(a) means physically grasping, carrying, or supporting an electronic device with any part of one's body in a position in which the device may be used.

ProView Developments

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- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages