

## APPENDIX

### Traffic Safety Act

#### COMMERCIAL VEHICLE CERTIFICATE AND INSURANCE AMENDMENT REGULATION

**1** The *Commercial Vehicle Certificate and Insurance Regulation (AR 314/2002)* is amended by this Regulation.

**2** The following is added after section 31:

#### Liability

**31.1(1)** In this section,

- (a) “business entity” includes a corporation, partnership or sole proprietorship;
- (b) “lender” means a lender as defined in section 187(0.1) of the Act;
- (c) “lessor” means a lessor as defined in section 187(0.1) of the Act;
- (d) “related group” means a group of persons, each member of which is related to every other member of the group;
- (e) “renter” means a renter as defined in section 187(0.1) of the Act;
- (f) “seller” means a seller as defined in section 187(0.1) of the Act.

**(2)** For the purposes of this section,

- (a) an individual is related to another individual if the individuals are related by blood relationship, marriage or adoption or by virtue of an adult interdependent relationship,
- (b) a business entity is related to
  - (i) a person who controls the business entity, if it is controlled by one person,
  - (ii) a person who is a member of a related group that controls the business entity,

- (iii) a person who is an officer or member of the board of, or a partner or member of a partnership group in that business entity or is an officer or member of the board of, or a partner or member of a partnership group in a business entity associated with that business entity,
- (iv) a person who is an officer, shareholder or member of the board of, or a partner or member of a partnership group in that business entity and is also an officer, shareholder or member of the board of, or a partner or member of a partnership group in a business entity associated with that business entity, or
- (v) any person related to a person described in subclauses (i), (ii), (iii) or (iv),

or

- (c) in the case of any 2 business entities, a person is related to another person if
  - (i) both business entities are controlled by the same person or group of persons,
  - (ii) each business entity is controlled by a different person and the person who controls one of the business entities is related to the person who controls the other business entity,
  - (iii) one of the business entities is controlled by one person and that person is related to any member of a related group that controls the other business entity,
  - (iv) one of the business entities is controlled by one person and that person is related to each member of an unrelated group that controls the other business entity,
  - (v) any member of a related group that controls one of the business entities is related to each member of an unrelated group that controls the other business entity, or
  - (vi) each member of an unrelated group that controls one of the business entities is related to at least one

member of an unrelated group that controls the other business entity.

(3) For the purposes of this section,

- (a) a business entity is associated with another business entity if
  - (i) one of the business entities controls the other business entity,
  - (ii) both of the business entities are controlled by the same person or group of persons,
  - (iii) each of the business entities is controlled by a different person and the person who controls one of the business entities is related to the person who controls the other, and one of those persons owns, directly or indirectly, one or more shares of the capital stock of, or otherwise has a financial interest other than a nominal interest in, each of the business entities,
  - (iv) one of the business entities is controlled by one person and that person is related to each member of a group of persons that controls the other business entity, and any one of those persons owns, directly or indirectly, one or more shares of the capital stock of, or otherwise has a financial interest other than a nominal interest in, each of the business entities, or
  - (v) each of the business entities is controlled by a related group and each of the members of one of the related groups is related to all of the members of the other related group, and one of the members of one of the related groups owns, directly or indirectly, one or more shares of the capital stock of, or otherwise has a financial interest other than a nominal interest in, each of the business entities,
- (b) related persons are deemed not to deal with each other at arm's length, and
- (c) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

(4) A lender, lessor, seller or renter of a commercial vehicle, that is used or intended to be used to transport passengers is exempt from section 187(2.1) of the Act if

- (a) the lender, lessor, seller or renter of the commercial vehicle is either related to the person who operates the commercial vehicle or is a business entity associated with the business entity who operates the commercial vehicle, or is not dealing at arm's length with the person or business entity who operates the commercial vehicle, and the commercial vehicle
  - (i) is specifically exempted by section 10(2) from requiring an operating authority certificate under this Regulation, or
  - (ii) has been exempted by the Registrar under section 10(2.1) from the requirement of an operating authority certificate in respect of the commercial vehicle,

or

- (b) the lender, lessor, seller or renter of the commercial vehicle is either related to the person who operates the commercial vehicle or is a business entity associated with the business entity who operates the commercial vehicle, or is not dealing at arm's length with the person or business entity who operates the commercial vehicle, and the person or business entity who operates the commercial vehicle
  - (i) is operating under a valid permit issued under the Act by the Registrar exempting the commercial vehicle from the requirement of an operating authority certificate,
  - (ii) cannot operate the commercial vehicle other than under the authority of an operating authority certificate under this Regulation, or
  - (iii) is exempt under section 10(3) from the requirement to hold an operating authority certificate with respect to an extra-provincial undertaking.

**3** This Regulation comes into force on the coming into force of sections 13 and 14 of the *Traffic Safety Amendment Act, 2007* and section 9 of the *Traffic Safety Amendment Act, 2009*.