

Sections 184 and 187 of the *Traffic Safety Act*, as amended by sections 12 and 13 of the *Traffic Safety Amendment Act, 2007*, and section 9 of the *Traffic Safety Amendment Act, 2009*.

The bolded provisions below are new subsections, or wording added to the existing section.

This is how sections 184 and 187 will appear as of March 1, 2011.

Action for negligence not affected

184 Subject to section 187, nothing in this Act shall be construed to curtail or abridge the right of any person to commence and maintain an action for damages by reason of any injuries to a person or any property resulting from

- (a) the negligence of the owner or driver of any motor vehicle, or
- (b) the negligence of any agent or employee of the owner of the motor vehicle.

When driver deemed agent of owner

187 (0.1) In this section,

- (a) “lender” means a person who holds a security interest in a motor vehicle through a written security agreement, who under that agreement has lent money to a person in respect of the motor vehicle and who is not in possession of the motor vehicle but retains title to the motor vehicle, or a person to whom the lender has assigned the agreement;
 - (b) “lessor” means a person who by agreement, in the ordinary course of the person’s business, leases or grants exclusive use of a motor vehicle to another person for a term of more than 30 days or otherwise grants exclusive use of a motor vehicle to another person for a period of more than 30 days, and who is not in possession of the motor vehicle, or a person to whom the lessor has assigned the agreement;
 - (c) “motor vehicle liability policy” means a motor vehicle liability policy under the *Insurance Act*;
 - (c.1) “renter” means a person who, by agreement, in the ordinary course of the person’s business, rents a motor vehicle to another person for a term of no more than 30 days and who is not in possession of the motor vehicle, or a person to whom the renter has assigned the agreement;
 - (d) “security agreement” means a security agreement under the *Personal Property Security Act*;
 - (e) “security interest” means a security interest under the *Personal Property Security Act*;
 - (f) “seller” means a person who holds a security interest in a motor vehicle through a written security agreement and sells the motor vehicle to another person under a contract in writing but retains title to the motor vehicle until the purchaser has carried out the terms of the contract and who is not in possession of the motor vehicle, or a person to whom the seller has assigned the security agreement or the contract.
- (1) In an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle on a highway, a person who, at the time that the loss or damage occurred,
- (a) was driving the motor vehicle, and
 - (b) was living with and as a member of the family of the owner of the motor vehicle, is deemed, with respect to that loss or damage,

- (c) to be the agent or employee of the owner of the motor vehicle,
 - (d) to be employed as the agent or employee of the owner of the motor vehicle, and
 - (e) to be driving the motor vehicle in the course of that person's employment.
- (2) In an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle on a highway, a person who, at the time that the loss or damage occurred,
- (a) was driving the motor vehicle, and
 - (b) was in possession of the motor vehicle with the consent, expressed or implied, of the owner of the motor vehicle, is deemed, with respect to that loss or damage,
 - (c) to be the agent or employee of the owner of the motor vehicle,
 - (d) to be employed as the agent or employee of the owner of the motor vehicle, and
 - (e) to be driving the motor vehicle in the course of that person's employment.
- (2.1) Notwithstanding any other provision in this Division except subsections (5) and (6), in an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle on a highway, the maximum amount for which a lender, lessor, renter or seller of the motor vehicle is liable in respect of the same incident in its capacity as a lender, lessor, renter or seller of the motor vehicle is the amount determined under subsection (4) less any amounts that**
- (a) are recovered for loss or damage under the third party liability provisions of contracts evidenced by a motor vehicle liability policy issued to a person other than a lender, lessor, renter or seller,**
 - (b) are in respect of the use or operation of the motor vehicle, and**
 - (c) are in respect of the same incident.**
- (3) Notwithstanding subsections (1) to (2.1), nothing in this section relieves any person who is deemed to be the agent or employee of the owner and to be driving the motor vehicle in the course of that person's employment from liability for the loss or damage.
- (4) The maximum amount for which a lender, lessor, renter or seller of a motor vehicle is liable for the purposes of subsection (2.1) is the greatest of
- (a) \$1 000 000,
 - (b) the amount of third party liability insurance required by law to be carried in respect of the motor vehicle, and
 - (c) the amount established, or determined in the manner prescribed, by regulation.

- (5) Subsection (2.1) does not apply**
- (a) in respect of amounts payable by a lender, lessor, renter or seller other than by reason of vicarious liability imposed by this section, or**
 - (b) to prescribed lenders, lessors, renters or sellers or motor vehicles, or prescribed classes of lenders, lessors or sellers or motor vehicles.**
- (6) This section applies only in relation to loss or damage sustained on or after the date this section comes into force.**
- (7) The Minister may make regulations**
- (a) establishing amounts payable, or prescribing the manner of determining amounts payable, for the purposes of subsection (4)(c);**
 - (b) prescribing lenders, lessors and sellers and motor vehicles or classes of lenders, lessors, renters and sellers and motor vehicles for the purposes of subsection (5)(b).**
- (8) The Minister may make different regulations under subsection (7)(b) in relation to lenders, lessors, renters and sellers and motor vehicles, or classes of lenders, lessors, renters and sellers and motor vehicles, for different circumstances.**