

## **COMMITTEE OF THE WHOLE – MAY 5, 2008**

### **MOTION IN SUPPORT BILL 56 – UNLAWFUL FIREARMS IN VEHICLES**

Councillor Sandra Yeung Racco recommends:

1. That Council supports the Private Members Bill (Bill 56) presented by M.P.P. Mike Colle which amends the Highway Traffic Act and the Civil Remedies Act 2001. This Act is to promote public safety and to suppress conditions leading to crime by prohibiting driving on the highway in a motor vehicle in which there is an unlawfully possessed firearm,
2. That this motion be forwarded to the Safe City Committee seeking their support,
3. That this motion be forwarded to York Region Council for their support,
4. That this motion be forwarded to York Region Police Services Board for their support,
5. That a copy of this resolution be forwarded to the Prime Minister of Canada, the Premier of Ontario, M.P.P. Mike Colle, all Members of Federal and Provincial Parliaments, the Association of Municipalities of Ontario (AMO), the Federation of Canadian Municipalities (FCM) and to the Big Cities Mayors' Caucus of FCM, and
6. That all municipalities across Canada be encouraged to pass motion supporting this resolution.

#### **Economic Impact**

N/A

#### **Communications Plan**

N/A

#### **Purpose**

To promote public safety and suppress conditions that lead to criminal activities.

#### **Background - Analysis and Options**

On April 9, 2008, MPP Mike Colle introduced a Private Member's Bill (Bill 56) entitled, "Unlawful Firearms in Vehicles Act 2008.

In the past year, there have been an increased ongoing number of tragic gun-related crimes in our communities, and a growing pattern of unlawful firearms found within vehicles, causing a danger not only to the police but also to the public at large.

The Federal Government currently has jurisdiction over ownership of firearms, but the Provincial Government have jurisdiction over transportation and motor vehicle licensing and as such, by supporting this Act, it will send a strong message to the public that we are serious about public safety and about eliminating these unlawful firearms in our community.

With the passing of this Bill, it will become the first of its kind in Canada. This Bill would allow a police officer who, on reasonable and probable grounds, believes that a person has committed an offence, the officer will (a) request that the driver surrender his/her driver's license; and (b) detain the motor vehicle until it is impounded. The driver's license will automatically be suspended for a period of seven days from the time the request is made and the vehicle will be detained and

impounded for seven days from the time it was detained (under clause (4) (b) of the Bill.) However a police officer may release the motor vehicle to its owner before its impoundment or be released BEFORE the expiry of the seven day period, IF the officer is satisfied that the vehicle was stolen when the prohibited act of driving took place.

### **Relationship to Vaughan Vision 2020**

Enhance and Ensure Community Safety, Health and Wellness.

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

### **Regional Implications**

That the Region of York Council and the York Region Police Board support this recommendation.

### **Conclusion**

By supporting this motion, we are not only promoting public safety but we are suppressing conditions leading to crime by prohibiting driving on the highway in a motor vehicle in which there is an unlawfully possessed firearm.

### **Attachments**

1. Bill 56
2. Bill 56 – Backgrounder
3. Bill 56 – Petition Form

Respectfully submitted,

Sandra Yeung Racco  
Councillor, Ward 4

# ATTACHMENT 1



1st SESSION, 39<sup>TH</sup> LEGISLATURE, ONTARIO  
57 ELIZABETH II, 2008

1<sup>RE</sup> SESSION, 39<sup>E</sup> LÉGISLATURE, ONTARIO  
57 ELIZABETH II, 2008

## Bill 56

**An Act to amend the  
Highway Traffic Act and the  
Civil Remedies Act, 2001 to promote  
public safety and suppress conditions  
leading to crime by prohibiting  
driving on the highway in a motor  
vehicle in which there is an unlawfully  
possessed firearm**

**Mr. Colle**

### Private Member's Bill

1st Reading     April 9, 2008  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 56

**Loi modifiant le Code de la route  
et la Loi de 2001 sur les recours civils  
afin de promouvoir la sécurité  
publique et d'éliminer les conditions  
engendrant le crime en interdisant  
la conduite sur la voie publique  
d'un véhicule automobile  
dans lequel se trouve une arme à feu  
dont la possession est illégale**

**M. Colle**

### Projet de loi de député

1<sup>RE</sup> lecture     9 avril 2008  
2<sup>E</sup> lecture  
3<sup>E</sup> lecture  
Sanction royale

Printed by the Legislative Assembly  
of Ontario

Imprimé par l'Assemblée législative  
de l'Ontario



## EXPLANATORY NOTE

The purpose of the Bill is to promote public safety and suppress conditions that lead to criminal activities by adding to the *Highway Traffic Act* new section 172.0.1, which makes it an offence to drive on a highway a motor vehicle in which there is an unlawfully possessed firearm. The penalties associated with the offence are a fine of not less than \$2,000 and not more than \$10,000 or imprisonment of not more than six months, or both, and a driver's licence suspension of one year for a first conviction under the section, five years for a second conviction and indefinitely for a third conviction. A police officer who has reasonable and probable grounds for believing an offence has been committed shall request the surrender of the driver's licence and detain the vehicle. The licence is suspended for seven days and the vehicle is impounded for the same length of time. The new section applies to drivers' licences issued both inside and outside of Ontario.

Part III.1 (Unlawful Activities Related to Road Safety) of the *Civil Remedies Act, 2001* is amended so that a vehicle involved in a contravention of section 172.0.1 of the *Highway Traffic Act* may become subject to civil forfeiture for the purposes of that Act.

## NOTE EXPLICATIVE

Le projet de loi vise à promouvoir la sécurité publique et à éliminer les conditions engendrant des activités criminelles en ajoutant au *Code de la route* le nouvel article 172.0.1, qui crée une infraction lorsqu'un véhicule automobile dans lequel se trouve une arme à feu dont la possession est illégale est conduit sur une voie publique. Les peines associées à une telle infraction sont une amende d'au moins 2 000 \$ et d'au plus 10 000 \$ et un emprisonnement d'au plus six mois, ou une seule de ces peines, et la suspension du permis de conduire pendant un an, cinq ans ou une période indéterminée pour la première, la deuxième et la troisième déclaration de culpabilité, respectivement, sous le régime du présent article. L'agent de police qui a des motifs raisonnables et probables de croire qu'une infraction a été commise demande la remise du permis de conduire et détient le véhicule. Le permis est suspendu pour une période de sept jours et le véhicule demeure en fourrière pendant cette même période. Le nouvel article s'applique aux permis de conduire délivrés tant en Ontario qu'à l'extérieur de la province.

La partie III.1 (Activités illégales liées à la sécurité routière) de la *Loi de 2001 sur les recours civils* est modifiée de sorte qu'un véhicule impliqué dans une contravention de l'article 172.0.1 du *Code de la route* peut faire l'objet d'une confiscation civile pour l'application de cette loi.

**An Act to amend the  
Highway Traffic Act and the  
Civil Remedies Act, 2001 to promote  
public safety and suppress conditions  
leading to crime by prohibiting  
driving on the highway in a motor  
vehicle in which there is an unlawfully  
possessed firearm**

Note: This Act amends or repeals more than one Act. For the legislative history of these Acts, see the Table of Consolidated Public Statutes – Detailed Legislative History on [www.e-Laws.gov.on.ca](http://www.e-Laws.gov.on.ca).

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**HIGHWAY TRAFFIC ACT**

1. Subsection (1) of the *Highway Traffic Act* is amended by adding the following definitions:

“firearm” means a firearm within the meaning of the *Criminal Code* (Canada), whether the firearm is lost, stolen or recovered; (“arme à feu”)

“unlawfully possessed firearm” means any firearm whose possession is not authorized under the *Firearms Act* (Canada); (“arme à feu illégale”)

2. The Act is amended by adding the following section:

**Driving with unlawfully possessed firearm in motor vehicle prohibited**

**172.0.1** (1) No person shall drive on a highway a motor vehicle in which there is an unlawfully possessed firearm.

**Offence**

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 and not more \$10,000 or to imprisonment for a term of not more than six months, or to both, and in addition the person’s driver’s licence may be suspended,

- (a) on a first conviction under this section, for one year;
- (b) on the first subsequent conviction under this section, for five years; and

**Loi modifiant le Code de la route  
et la Loi de 2001 sur les recours civils  
afin de promouvoir la sécurité  
publique et d’éliminer les conditions  
engendrant le crime en interdisant  
la conduite sur la voie publique  
d’un véhicule automobile  
dans lequel se trouve une arme à feu  
dont la possession est illégale**

Remarque : La présente loi modifie ou abroge plus d’une loi. L’historique législatif de ces lois figure aux pages pertinentes de l’Historique législatif détaillé des lois d’intérêt public codifiées sur le site [www.lois-en-ligne.gouv.on.ca](http://www.lois-en-ligne.gouv.on.ca).

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

**CODE DE LA ROUTE**

1. Le paragraphe 1 (1) du *Code de la route* est modifié par adjonction des définitions suivantes :

«arme à feu» S’entend au sens du *Code criminel* (Canada), que l’arme soit perdue, volée ou recouvrée. («firearm»)

«arme à feu illégale» Arme à feu dont la possession n’est pas autorisée sous le régime de la *Loi sur les armes à feu* (Canada). («unlawfully possessed firearm»)

2. Le Code est modifié par adjonction de l’article suivant :

**Interdiction : arme à feu illégale dans un véhicule automobile**

**172.0.1** (1) Nul ne doit conduire sur une voie publique un véhicule automobile dans lequel se trouve une arme à feu illégale.

**Infraction**

(2) Quiconque contrevient au paragraphe (1) est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au moins 2 000 \$ et d’au plus 10 000 \$ et d’un emprisonnement d’au plus six mois, ou d’une seule de ces peines. En outre, son permis de conduire peut être suspendu :

- a) pour une première déclaration de culpabilité sous le régime du présent article, pendant un an;
- b) pour une première déclaration de culpabilité subséquente sous le régime du présent article, pendant cinq ans;

- (c) on the second subsequent conviction under this section, indefinitely.

**Determining subsequent conviction**

(3) In determining whether a conviction is a subsequent conviction for the purposes of subsection (2), the only question to be considered is the sequence of convictions and no consideration shall be given to the sequence of commission of offences or whether any offence occurred before or after any conviction.

**Police to require surrender of licence, detention of vehicle**

(4) If a police officer believes on reasonable and probable grounds that a person has committed an offence under subsection (1), the officer shall,

- (a) request that the person surrender his or her driver's licence; and
- (b) detain the motor vehicle until it is impounded under clause (6) (b).

**Administrative seven-day licence suspension**

(5) Upon a request being made under clause (4) (a), the person to whom the request is made shall forthwith surrender his or her driver's licence to the police officer and, whether or not the person is unable or fails to surrender the licence to the police officer, his or her driver's licence is suspended for a period of seven days from the time the request is made.

**Administrative seven-day vehicle impoundment**

(6) Upon a motor vehicle being detained under clause (4) (b), the motor vehicle shall, at the cost of and risk to its owner,

- (a) be removed to an impound facility as directed by a police officer; and
- (b) be impounded for seven days from the time it was detained under clause (4) (b).

**Release of vehicle**

(7) Subject to subsection (14), the motor vehicle shall be released to its owner from the impound facility upon the expiry of the period of impoundment.

**Early release of vehicle**

(8) Despite the detention or impoundment of a motor vehicle under this section, a police officer may release the motor vehicle to its owner before it is impounded under subsection (6) or, subject to subsection (14), may direct the operator of the impound facility where the motor vehicle is impounded to release the motor vehicle to its owner before the expiry of the seven days if the officer is satisfied that the motor vehicle was stolen at the time of the contravention of subsection (1).

- c) pour une deuxième déclaration de culpabilité subséquente sous le régime du présent article, pendant une période indéterminée.

**Déclaration de culpabilité subséquente**

(3) Afin de déterminer s'il s'agit d'une déclaration de culpabilité subséquente pour l'application du paragraphe (2), il ne doit être tenu compte que de l'ordre des déclarations de culpabilité et non de l'ordre dans lequel les infractions ont été commises, ni du fait qu'une infraction a été commise avant ou après une déclaration de culpabilité.

**Obligation de remettre le permis de conduire ou de détenir le véhicule**

(4) L'agent de police qui a des motifs raisonnables et probables de croire qu'une personne a commis l'infraction prévue au paragraphe (1) fait ce qui suit :

- a) il demande qu'elle lui remette son permis de conduire;
- b) il détient le véhicule automobile jusqu'à ce que celui-ci soit mis en fourrière en application de l'alinéa (6) b).

**Suspension administrative de sept jours**

(5) À la suite de la demande visée à l'alinéa (4) a), la personne qui en fait l'objet remet sans délai son permis de conduire à l'agent de police. Qu'elle le fasse ou non ou soit ou non en mesure de le faire, son permis de conduire est suspendu pour une période de sept jours à compter du moment de la demande.

**Mise en fourrière administrative de sept jours**

(6) Lorsqu'il est détenu en application de l'alinéa (4) b), le véhicule automobile, aux frais et risques du propriétaire :

- a) d'une part, est envoyé à la fourrière comme l'ordonne l'agent de police;
- b) d'autre part, demeure en fourrière pendant sept jours à compter du moment où il a été détenu en application de l'alinéa (4) b).

**Restitution du véhicule**

(7) Sous réserve du paragraphe (14), le véhicule automobile est restitué à son propriétaire à l'expiration de la période de mise en fourrière.

**Restitution anticipée du véhicule**

(8) Malgré la détention ou la mise en fourrière d'un véhicule automobile en application du présent article, l'agent de police peut restituer le véhicule à son propriétaire avant sa mise en fourrière en application du paragraphe (6) ou, sous réserve du paragraphe (14), il peut enjoindre à l'exploitant de la fourrière où le véhicule est envoyé de le restituer à son propriétaire avant l'expiration des sept jours s'il est convaincu que le véhicule était un véhicule volé au moment où a eu lieu la contravention au paragraphe (1).

**Duty of officer re licence suspension**

(9) Every officer who asks for the surrender of a person's driver's licence under this section shall keep a record of the licence received with the name and address of the person and the date and time of the suspension and shall, as soon as practicable after receiving the licence, provide the person with a notice of suspension showing the time from which the suspension takes effect and the period of time for which the licence is suspended.

**Duty of officer re impoundment**

(10) Every officer who detains a motor vehicle under this section shall prepare a notice identifying the motor vehicle that is to be impounded under subsection (6), the name and address of the driver and the date and time of the impoundment and shall, as soon as practicable after the impoundment of the motor vehicle, provide the driver with a copy of the notice showing the time from which the impoundment takes effect, the period of time for which the motor vehicle is impounded and the place where the vehicle may be recovered.

**Same**

(11) A police officer shall provide a copy of the notice prepared under subsection (10) to the owner of the motor vehicle by delivering it personally or by mail to the address of the owner shown on the permit for the motor vehicle or to the latest address for the owner appearing on the records of the Ministry.

**No appeal or hearing**

(12) There is no appeal from, or right to be heard before, a vehicle detention, driver's licence suspension or vehicle impoundment under subsection (4), (5) or (6), but this subsection does not affect the taking of any proceeding in court.

**Lien for storage costs**

(13) The costs incurred by the person who operates the impound facility where a motor vehicle is impounded under this section are a lien on the motor vehicle that may be enforced under the *Repair and Storage Liens Act*.

**Costs to be paid before release of vehicle**

(14) The person who operates the impound facility where a motor vehicle is impounded under subsection (6) is not required to release the motor vehicle until the removal and impound costs for the vehicle have been paid.

**Owner may recover losses from driver**

(15) The owner of a motor vehicle that is impounded under this section may bring an action against the driver of the motor vehicle at the time the vehicle was detained under clause (4) (b) to recover any costs or other losses incurred by the owner in connection with the impoundment.

**Obligations de l'agent : suspension du permis de conduire**

(9) L'agent qui demande que lui soit remis le permis de conduire d'une personne en application du présent article tient un relevé de la réception du permis avec le nom et l'adresse de la personne ainsi que la date et l'heure de la suspension. Dès que possible après avoir reçu le permis, l'agent remet à la personne un avis de suspension indiquant l'heure où la suspension prend effet et la durée de celle-ci.

**Obligations de l'agent : mise en fourrière**

(10) L'agent qui détient un véhicule automobile en application du présent article rédige un avis qui identifie le véhicule devant être mis en fourrière en application du paragraphe (6) et qui donne le nom et l'adresse du conducteur ainsi que la date et l'heure de la mise en fourrière. Dès que possible après la mise en fourrière du véhicule, l'agent remet au conducteur une copie de l'avis indiquant l'heure où la mise en fourrière prend effet, la durée de celle-ci et le lieu où le véhicule peut être recouvré.

**Idem**

(11) L'agent de police remet une copie de l'avis rédigé en application du paragraphe (10) au propriétaire du véhicule automobile, soit à personne, soit par courrier envoyé à l'adresse du propriétaire figurant sur le certificat d'immatriculation du véhicule ou à sa dernière adresse figurant dans les dossiers du ministère.

**Aucun appel ni aucune audience**

(12) Les détentions de véhicules, les suspensions de permis de conduire ou les mises en fourrière de véhicules visées au paragraphe (4), (5) ou (6) ne peuvent faire l'objet ni d'un appel ni d'une audience. Toutefois, le présent paragraphe n'a pas pour effet d'empêcher l'introduction d'une instance devant un tribunal.

**Privilège : frais de remisage**

(13) Les frais engagés par la personne qui exploite la fourrière où un véhicule automobile est envoyé en application du présent article constituent un privilège sur le véhicule qui peut être exécuté en vertu de la *Loi sur le privilège des réparateurs et des entreposeurs*.

**Paiement des frais avant la restitution**

(14) La personne qui exploite la fourrière où un véhicule automobile est envoyé en application du paragraphe (6) n'est pas tenue de restituer le véhicule tant que les frais d'enlèvement et de mise en fourrière de celui-ci n'ont pas été payés.

**Recouvrement par le propriétaire**

(15) Le propriétaire d'un véhicule automobile qui est mis en fourrière en application du présent article peut intenter contre la personne qui conduisait le véhicule au moment où celui-ci a été détenu en application de l'alinéa (4) b) une action en recouvrement des frais qu'il a engagés ou autres pertes qu'il a subies relativement à la mise en fourrière.

**Offence**

(16) Every person who obstructs or interferes with a police officer in the performance of his or her duties under this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

**Intent of suspension and impoundment**

(17) The suspension of a driver's licence and the impoundment of a motor vehicle under this section are intended to promote compliance with this Act and to thereby safeguard the public and do not constitute an alternative to any proceeding or penalty arising from the same circumstances or around the same time.

**Forms**

(18) The Minister may require that forms approved by the Minister be used for any purpose of this section.

**Regulations**

(19) The Lieutenant Governor in Council may make regulations,

- (a) requiring police officers to keep records with respect to licence suspensions and vehicle impoundments under this section for a specified period of time and to report specified information with respect to licence suspensions and vehicle impoundments to the Registrar and governing such records and reports;
- (b) exempting any class of persons or class or type of vehicles from any provision or requirement of this section or of any regulation made under this section, prescribing conditions for any such exemptions and prescribing different requirements for different classes of persons or different classes or types of vehicles.

**Definition**

(20) In this section,

“driver's licence” includes a driver's licence issued by another jurisdiction.

**CIVIL REMEDIES ACT, 2001**

3. Clause (b) of the definition of “vehicular unlawful activity” in section 11.1 of the *Civil Remedies Act, 2001* is amended by adding “or 172.0.1 (1)” after “subsection 53 (1.1)”.

4. (1) Section 11.2 of the Act is amended by adding the following subsection:

**Same**

(1.1) Despite subsection (1), the Superior Court of Justice shall, subject to subsection (4) and except where it would clearly not be in the interests of justice, make an order forfeiting a vehicle to the Crown in right of Ontario if the court finds that the vehicle,

**Infraction**

(16) Quiconque empêche ou entrave un agent de police dans l'exercice des fonctions que lui attribue le présent article est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au moins 200 \$ et d'au plus 5 000 \$ et d'un emprisonnement d'au plus six mois, ou d'une seule de ces peines.

**But de la suspension et de la mise en fourrière**

(17) La suspension d'un permis de conduire et la mise en fourrière d'un véhicule automobile visées au présent article ont pour but de favoriser l'observation de la présente loi et, ce faisant, de protéger le public. Elles n'ont pas pour effet de remplacer une instance ou une peine qui découle des mêmes circonstances ou qui survient vers la même date.

**Formules**

(18) Le ministre peut exiger l'emploi des formules qu'il approuve pour l'application du présent article.

**Règlements**

(19) Le lieutenant-gouverneur en conseil peut, par règlement :

- a) exiger que les agents de police tiennent des relevés à l'égard des suspensions de permis de conduire et des mises en fourrière de véhicules visées au présent article pour une période précisée et indiquent dans un rapport au registraire les renseignements précisés à leur égard, et régir ces relevés et rapports;
- b) soustraire une catégorie de personnes ou une catégorie ou un type de véhicules à l'application d'une disposition ou à une exigence du présent article ou des règlements pris en application de celui-ci, prescrire les conditions de telles exemptions et prescrire différentes exigences pour des catégories de personnes différentes ou des catégories ou types de véhicules différents.

**Définition**

(20) La définition qui suit s'applique au présent article.

«permis de conduire» S'entend en outre d'un permis de conduire délivré par une autre autorité législative.

**LOI DE 2001 SUR LES RECOURS CIVILS**

3. L'alinéa b) de la définition de «activité illégale liée à l'utilisation d'un véhicule» à l'article 11.1 de la *Loi de 2001 sur les recours civils* est modifié par insertion de «ou 172.0.1 (1)» après «paragraphe 53 (1.1)».

4. (1) L'article 11.2 de la Loi est modifié par adjonction du paragraphe suivant :

**Idem**

(1.1) Malgré le paragraphe (1), la Cour supérieure de justice rend, sous réserve du paragraphe (4) et sauf s'il est clair que cela ne serait pas dans l'intérêt de la justice, une ordonnance de confiscation d'un véhicule au profit de la Couronne du chef de l'Ontario si elle conclut que le véhicule :



(a) was or is likely to be used to engage in vehicular unlawful activity in contravention of section 172.0.1 of the *Highway Traffic Act*; and

(b) is owned by or is in the care, control or possession of a person whose driver's licence has been suspended under section 172.0.1 of the *Highway Traffic Act*.

(2) Subsection 11.2 (3) of the Act is amended by adding "or (1.1)" after "(1)" wherever it appears.

(3) Subsection 11.2 (4) of the Act is amended by adding "or (1.1)" after "(1)".

5. Section 11.3 of the Act is amended by adding the following subsection:

Same

(2.1) Despite subsection (2), the Superior Court of Justice shall make an order under subsection (1) if the court is satisfied that there are reasonable grounds to believe that the vehicle is owned by or is in the care, control or possession of a person whose driver's licence has been suspended under the *Highway Traffic Act* for vehicular unlawful activity that is a contravention of section 172.0.1 of that Act and that the vehicle,

(a) is impounded under the *Highway Traffic Act* as a result of such vehicular unlawful activity; or

(b) was or is likely to be used to engage in such vehicular unlawful activity.

Commencement

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. The short title of this Act is the *Unlawful Firearms in Vehicles Act, 2008*.

a) d'une part, a servi ou servira vraisemblablement à une activité illégale liée à l'utilisation d'un véhicule en contravention avec l'article 172.0.1 du *Code de la route*;

b) d'autre part, est la propriété ou est sous la garde ou le contrôle ou en la possession d'une personne dont le permis de conduire a été suspendu en application de l'article 172.0.1 du *Code de la route*.

(2) Le paragraphe 11.2 (3) de la Loi est modifié par insertion de «ou (1.1)» après «(1)» partout où figure cette expression.

(3) Le paragraphe 11.2 (4) de la Loi est modifié par insertion de «ou (1.1)» après «(1)».

5. L'article 11.3 de la Loi est modifié par adjonction du paragraphe suivant :

Idem

(2.1) Malgré le paragraphe (2), la Cour supérieure de justice rend une ordonnance visée au paragraphe (1) si elle est convaincue qu'il existe des motifs raisonnables de croire que le véhicule est la propriété ou est sous la garde ou le contrôle ou en la possession d'une personne dont le permis de conduire a été suspendu en application du *Code de la route* par suite de l'activité illégale liée à l'utilisation d'un véhicule qui constitue une contravention à l'article 172.0.1 de ce code et que le véhicule, selon le cas :

a) est mis en fourrière en application du *Code de la route* par suite d'une telle activité;

b) a servi ou servira vraisemblablement à une telle activité.

Entrée en vigueur

6. La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

7. Le titre abrégé de la présente loi est *Loi de 2008 sur les armes à feu illégales dans les véhicules*.

## ATTACHMENT 2

### BACKGROUNDER

#### Mike Colle's Private Members Bill – Unlawful Firearms in Vehicles Presented to the Ontario legislature – April 09, 2008

##### **Purpose of the Bill:**

- to promote public safety and suppress conditions that lead to criminal activities.

##### **This bill would see:**

- an addition to the *Highway Traffic Act* - new section 172.0.1.
- an addition to the definition of "vehicular unlawful activity" in section 11.1 of the *Civil Remedies Act, 2001* – to clarify that driving on a highway a motor vehicle in which there is an unlawfully possessed firearm may lead to forfeiture of the vehicle.

##### **It would make it an offence to:**

- drive on a highway a motor vehicle in which there is an unlawfully possessed firearm.

##### **The penalties associated with the offence are:**

- a fine of not less than \$2,000 and not more than \$10,000 or imprisonment of not more than six months, or both,

##### **AND a driver's licence suspension of:**

- one year for a first conviction
- five years for a second conviction
- indefinitely for a third conviction.

A police officer who has reasonable and probable grounds for believing an offence has been committed shall request the surrender of the driver's licence and detain the vehicle.

The person's driver's licence is suspended for seven days and the vehicle is impounded for the same length of time.

**The long title of this bill is:**

An Act to amend the Highway Traffic Act and the Civil Remedies Act, 2001 to promote public safety and suppress conditions leading to crime by prohibiting driving on the highway in a motor vehicle in which there is an unlawfully possessed firearm

**Short title**

The short title of this Act is the *Unlawful Firearms in Vehicles Act, 2008*.

NOTE: This bill is modelled and based on the street racing provision of the Highway Traffic Act contained in the Safer Roads for a Safer Ontario Act, 2007.

**Notes:**

- The federal government has jurisdiction over ownership of firearms, but, we as a Provincial government have jurisdiction over transportation and motor vehicle licensing and can enhance public safety. Although this may not be the total answer, this can be a strong step to eliminate these unlawful firearms in our community, and province.
- Given the ongoing number of gun-related crimes in our communities, and a growing pattern of unlawful firearms within vehicles, there is a danger not only to the police but also to the public at large.
- In my riding of Eglinton-Lawrence, there have been numerous shootings, most recently the tragic death of an innocent 18-year-old. There is no need for a youth's life to be cut short for any reason – least alone by a firearm!
- There is **NO** need for anyone to have a firearm within their vehicle (outside of military, law enforcement officers and legally registered firearms owners i.e. members of gun clubs, and hunters). This bill does not apply to anyone who has LEGAL right to carry and possess a firearm.

## **What happens?**

If a police officer believes, on reasonable and probable grounds, that a person has committed an offence, the officer will (a) request that the person surrender his/her driver's licence; and (b) detain the motor vehicle until it is impounded.

The driver of the vehicle will have to surrender his/her driver's licence to the police officer. His/her driver's licence is **automatically suspended** for a period of seven days from the time the request is made.

The vehicle will be **detained at the cost of and risk to its owner.**

It will be removed to an impound facility as directed by a police officer, where it will be impounded for seven days from the time it was detained (under clause (4) (b) of the Bill.)

A police officer **may release the motor vehicle to its owner before its impoundment** or direct an impoundment facility to release it before the expiry of the seven day period, **IF** the officer is satisfied that the vehicle was **stolen when the prohibited act of driving took place.**

Every officer after asking for the surrender of a person's driver's licence will provide the person with a **notice of suspension showing the time from which the suspension takes effect** and the period of time for which the licence is suspended.

Every officer who detains a motor vehicle under this section will prepare a notice identifying the motor vehicle that is to be impounded under subsection (6), and shall as soon as practicable after the impoundment of the motor vehicle, provide the driver with a copy of **the notice showing the time from which the impoundment takes effect**, the period of time for which the motor vehicle is impounded **and the place where the vehicle may be recovered.**

The person who operates the impound facility where a motor vehicle is impounded is not required to release the motor vehicle until the removal and impound costs for the vehicle have been paid.

**The owner of a motor vehicle that is impounded may bring an action against the driver of the motor vehicle** at the time the vehicle was detained to recover any costs or other losses incurred by the owner in connection with the impoundment.

The suspension of a driver's licence and the impoundment of a motor vehicle are intended to promote compliance with this Act and to thereby safeguard the public.

April 11, 2008

Dear Friend,

On April 9th in the Legislature I introduced my Private Member's Bill, **Bill 56- the Unlawful Firearms in Vehicles Act 2008**.

A number of tragic gun-related crimes have taken place in my riding of Eglinton-Lawrence; the most recent took the life of an innocent 18-year-old who was shot in cold-blood. Given the ongoing number of gun-related crimes in our communities, and a growing pattern of unlawful firearms within vehicles, there is a danger not only to the police but also to the public at large.

If passed, this would be the **first legislation of its kind in Canada, if not North America**.

This bill would allow police to **immediately** suspend a person's driver's licence and have their vehicle **impounded for 7 days**, if the police have reasonable and probable grounds that a person has an unlawful firearm within their vehicle.

It would make it an offence to drive on a highway a motor vehicle in which there is an unlawfully possessed firearm. If convicted, this could result in

- a fine of not less than \$2,000 and not more than \$10,000 or,
- imprisonment of not more than six months, or both.

**In addition** to the suspension and impounding of a vehicle,

- For a **first offence**, their driver's licence will be suspended for **one year**;
- **second offence** for **five years**; and
- for the **third offence**, **lifetime suspension** of their driver's licence.

This bill **does not apply** to anyone who has **LEGAL** right to carry and possess a firearm.

Please feel free to contact me if you require further information or have any questions at **416-325-4091**.

Yours sincerely,



MPP Mike Colle  
Eglinton-Lawrence

**PS. You can help pass this Bill by**

- 1) **getting signatures on the Petition I have provided, or**
- 2) **sign my on-line Petition at [www.mikecolle.com](http://www.mikecolle.com)**
- 3) **by sending my office supporting emails – [mcolle.mpp@liberal.ola.org](mailto:mcolle.mpp@liberal.ola.org)**

