



BILL NO. 94

Government Bill

*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act

CHAPTER 60
ACTS OF 2010

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 10, 2010**

The Honourable Ramona Jennex
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 293
of the Revised Statutes, 1989,
the Motor Vehicle Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 293 of the Revised Statutes, 1989, the *Motor Vehicle Act*, as amended by Chapter 24 of the Acts of 1994, Chapter 12 the Acts of 1994-95, Chapter 23 of the Acts of 1995-96, Chapter 12 of the Acts of 2001, Chapter 20 of the Acts of 2002, Chapter 42 of the Acts of 2004, Chapter 35 of the Acts of 2006, Chapter 20 of the Acts of 2007, Chapter 45 of the Acts of 2007 and Chapter 21 of the Acts of 2008, is further amended by

(a) adding immediately after clause (c) the following clause:

(cb) "brand" means an identification placed on a certificate of registration by the Registrar indicating that the vehicle is a lemon, a non-repairable vehicle, a rebuilt vehicle or a salvage vehicle;

(b) adding immediately after clause (v) the following clause:

(w) "lemon" means a vehicle that

(i) has been branded by another jurisdiction as being a manufacturer buy-back or a brand deemed equivalent by the Registrar,

(ii) has been listed as manufacturer buy-back vehicle by the Canadian Motor Vehicle Arbitration Plan, or

(iii) has been bought back by a manufacturer because of any defect or non-conformity, or combination of defects, that substantially impair the use, value or safety of the new vehicle and that are not repaired within a reasonable number of attempts;

(c) adding immediately after clause (z) the following clause:

(za) "manufacturer" means any person, partnership, firm, association, corporation or trust, whether resident or non-resident, that is engaged in the business of manufacturing or assembling new motor vehicles or importing new motor vehicles that are manufactured or assembled outside of Canada;

(d) adding immediately after clause (ada) the following clause:

(adb) "non-repairable vehicle" means a vehicle that has been immersed in liquids to the top of its floorboards or of which any major parts of its electrical system have been, or appear to have been, immersed in liquid or that has incurred damage requiring the replacement of

(i) seven or more of the structural assemblies prescribed by the regulations if the occupant compartment of the vehicle extends from the front-most cross-member of the vehicle to the rear-most cross-member of the vehicle,

(ii) five or more of the structure assemblies prescribed by the regulations if the occupant compartment of the vehicle extends from the door hinge pillar assemblies to the rear most cross-member of the vehicle,

(iii) three or more of the structural assemblies prescribed by the regulations in any other case,

(iv) its structural fire wall or bulkhead assembly, or

(v) an integral part of its full frame assembly by cutting or welding if the vehicle is a motorcycle;

(e) adding immediately after clause (aw) the following clause:

(awa) "rebuilt vehicle" means a salvage vehicle that has passed the required inspections prescribed by the Registrar;

and

(f) adding immediately after clause (bh) the following clause:

(bha) "salvage vehicle" means a vehicle that has incurred damage requiring replacement of one or more of the structural assemblies prescribed by regulations and can be rebuilt, but does not include a non-repairable vehicle;

2 Section 16 of Chapter 293 is amended by adding immediately after subsection (3) the following subsection:

(4) The Department shall not issue a permit for a vehicle that is branded as a non-repairable vehicle or a salvage vehicle.

3 Chapter 293 is further amended by adding immediately after Section 44 the following Sections:

44A (1) Before advertising a used vehicle for sale, a dealer shall

(a) conduct a search to determine whether the vehicle is listed as manufacturer buy-back vehicle by the *Canadian Motor Vehicle Arbitration Plan*; and

(b) where the vehicle has been imported into Canada from the United States of America, conduct a search on the *National Motor Vehicle Title Information System* maintained by the United States Department of Justice to determine any brands associated with the vehicle.

(2) A dealer of used vehicles shall display, in a manner prescribed by the Registrar, on every vehicle that the dealer is advertising for sale the brand, if any, of the vehicle.

(3) Before completing an agreement of purchase and sale for a used vehicle, a dealer shall provide the potential purchaser with

(a) a copy of the certificate of registration or, where the vehicle is registered outside of the Province, the equivalent from the jurisdiction in which the vehicle was last registered;

(b) written confirmation of whether the vehicle is listed by the *Canadian Motor Vehicle Arbitration Plan* as a manufacturer buy-back;

(c) written confirmation of whether the vehicle was a fleet vehicle, a leased or rental vehicle, a taxi cab or limousine, a police car or an emergency vehicle if the dealer has knowledge of it having been such a vehicle;

(d) a history of the vehicle's repairs and any other information that the dealer has that a reasonable buyer would want to be aware of, if the dealer has knowledge of such information; and

(e) where the vehicle has been imported from the United States of America, written confirmation of whether the vehicle is listed in the *National Motor Vehicle Title Information System* maintained by the United States Department of Justice and any brands associated with the vehicle.

44B A dealer shall provide a purchaser of a used vehicle with a sales agreement that includes

(a) the name and address of the purchaser and the dealer;

(b) an acknowledgment from the purchaser that the purchaser has received the information required by Section 44A;

(c) the year, make, model, colour, options included and number of doors of the vehicle;

(d) the vehicle identification number;

(e) the odometer reading of the vehicle as of the date of sale;

(f) any warranty conditions associated with the vehicle;

(g) where the vehicle is covered under warranty, confirmation of the existence of the *Canadian Motor Vehicle Arbitration Plan*;

(h) the sale price of vehicle, together with any trade-in allowance, taxes or fees;

(i) the amount of the down payment or deposit paid by the purchaser;

(j) where the vehicle is branded as a non-repairable vehicle, written confirmation that the vehicle is not eligible to be repaired and registered for road use;

(k) confirmation, as of the date of the sale, of whether the vehicle is listed as manufacturer buy-back vehicle by the *Canadian Motor Vehicle Arbitration Plan*; and

(l) any other terms and conditions of the sale.

44C (1) Where a dealer intends to sell a used vehicle and it has knowledge that it is a lemon, the dealer shall notify the Registrar in the manner and form prescribed by the Registrar.

(2) Where the Registrar receives notice pursuant to subsection (1), the Registrar shall issue a certificate of registration for the vehicle with the brand of “lemon”.

(3) A dealer shall not sell a vehicle identified in subsection (1) until a certificate of registration has been issued and received by the dealer stating the brand.

4 (1) Subsections 99A(1) to (5) of Chapter 293 are repealed and the following subsections substituted:

(1) The Registrar may brand any vehicle registered or required to be registered under this Act as a lemon, a non-repairable vehicle, a rebuilt vehicle or a salvage vehicle.

(2) Where a vehicle has been registered under this Act and was previously branded in another jurisdiction with a brand the Registrar determines is equivalent to a brand under this Act, the Registrar may revoke the registration and re-issue it with a brand.

(3) Before paying a claim in respect to damage to a vehicle, an insurer shall engage a qualified appraiser to examine the vehicle and report whether the vehicle is a non-repairable vehicle or a salvage vehicle.

(4) Where the qualified appraiser engaged pursuant to subsection (3) has determined that a vehicle is a non-repairable vehicle or a salvage vehicle, the insurer shall provide a copy of the qualified appraiser's report to the Registrar, or a person designated by the Registrar, within five days of payment of a claim in respect of damage to a vehicle.

(5) Upon receipt of a report under subsection (4), the Registrar, or a person designated by the Registrar, shall brand the vehicle in accordance with the report of the qualified appraiser.

(5A) Where a vehicle has suffered serious damage and an insurance claim has not been paid out to the owner in respect of such damage, the owner shall report the particulars of the damage to the Registrar within thirty days of the vehicle sustaining such damage.

(5B) Where a vehicle has suffered serious damage and the owner has engaged a qualified appraiser to appraise the vehicle, the qualified appraiser shall report to the Registrar if the vehicle is non-repairable or a salvage vehicle and the Registrar shall brand the vehicle in accordance with the report of the qualified appraiser.

(5C) Where the Registrar has reason to believe that any vehicle registered or required to be registered under the Act should have a brand, the Registrar may require the owner to engage a qualified appraiser to examine the vehicle and report to the Registrar whether the vehicle is a lemon, a non-repairable vehicle, a rebuilt vehicle or salvage vehicle.

(5D) Upon receipt of a report under subsection (5C), the Registrar shall brand the vehicle in accordance with the report of the qualified appraiser.

(5E) The owner of the vehicle required to engage a qualified appraiser under subsection (5C) is responsible for all costs associated with engaging the qualified appraiser.

(5F) Where a report is not received by the Registrar within thirty days of a request being made under subsection (5C), the Registrar may revoke the certificate of registration for the vehicle and issue a brand the Registrar determines is appropriate.

(2) Subsection 99A(6) of Chapter 293, as enacted by Chapter 11 of the Acts of 1999, is amended by striking out "this Act" in the second and third lines and substituting "the regulations".

(3) Section 99A of Chapter 293 is further amended by adding immediately after subsection (7) the following subsections:

(8) The Minister may make regulations

(a) prescribing the qualifications of a appraiser who is determining the brand of a vehicle and who is certifying the repairs;

(b) specifying the forms required to be completed in certifying a rebuilt vehicle;

(c) exempting certain vehicle types from branding;

(d) specifying the manner and form of how a brand is to be reported to the Registrar;

(e) specifying structural assemblies of various types of vehicles;

(f) specifying the inspection requirements for a rebuilt vehicle;

(g) such other matters or things as the Minister considers necessary or advisable to ensure a vehicle registered under this Act has an accurate brand.

(9) The exercise by the Minister of the authority contained in subsection (8) is regulations within the meaning of the *Regulations Act*.

5 Section 295 of Chapter 293, as enacted by Chapter 10 of the Acts of 2002, and amended by Chapter 8 of the Acts of 2005 and Chapter 45 of Acts of 2007, is further amended by striking out "99A," in the third line.

6 Section 297 of Chapter 293, as enacted by Chapter 10 of the Acts of 2002 and amended by Chapter 42 of the Acts of 2004, Chapter 8 of the Acts of 2005 and Chapter 45 of the Acts of 2007, is further amended by adding ", 44B" immediately after "37" in the second line.

7 Section 298 of Chapter 293, as enacted by Chapter 10 of the Acts of 2002, and amended by Chapter 8 of the Acts of 2005, Chapter 45 of the Acts of 2007 and Chapter 21 of the Acts of 2008, is further amended by adding ", Section 99A" immediately after "98" in the third line.

8 Section 299 of Chapter 293, as enacted by Chapter 10 of the Acts of 2002 and amended by Chapter 21 of the Acts of 2008, is further amended by adding “44A, 44C or” immediately after “Section” in the second line.

9 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
