



BILL NO. 133

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
64 Elizabeth II, 2015*

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

CHAPTER 45
ACTS OF 2015

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 18, 2015**

The Honourable Geoff MacLellan
Minister of Transportation and Infrastructure Renewal

*Halifax, Nova Scotia
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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 of 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, Chapters 20 and 45 of the Acts of 2007, Chapter 21 of the Acts of 2008, Chapters 59 and 60 of the Acts of 2010, Chapter 35 of the Acts of 2011 and Chapters 20 and 53 of the Acts of 2014, is further amended by

(a) striking out “Communications” in the second line of clause (k) and substituting “Infrastructure Renewal”;

(b) striking out “Communications” in the second line of clause (ab) and substituting “Infrastructure Renewal”;

(c) striking out clause (aea) and substituting the following clause:

(aea) “novice driver” means a person who has the status of a novice driver under Section 70C;

(d) adding immediately after clause (af) the following clauses:

(afa) “nurse practitioner” means a registered nurse as defined in the *Registered Nurses Act*, whose name appears on the nurse practitioner roster pursuant to the regulations made under that Act and whose registration is not suspended or revoked;

(afb) “occupational therapist” means a person licensed to practise occupational therapy under the *Occupational Therapists Act* and whose licence is not suspended or revoked;

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

(ak) “optometrist” means a person licensed to practise optometry under the *Optometry Act* and whose licence is not suspended or revoked;

(f) striking out “, a bond or deposit of money or security given or made” in the second and third lines of clause (av) and substituting “or certificate of the Superintendent of Insurance for the Province given”;

(g) adding immediately after clause (awb) the following clause:

(awba) “qualified medical practitioner” means a medical practitioner as defined in the *Medical Act*;

and

(h) adding immediately after clause (ay) the following clause:

(aya) “registered psychologist” means a person whose name is on the Register of Psychologists established under the *Psychologists Act* and whose registration is not suspended or cancelled;

2 (1) Section 23 of Chapter 293, as amended by Chapter 12 of the Acts of 1994-95, is further amended by adding immediately after subsection (7) the following subsections:

(7A) Where a registered owner dies intestate or dies leaving an estate that is not subject to a grant of probate, the Department may determine and recognize a person as the personal representative of the deceased registered owner, and the priorities prescribed by clauses (a) to (e) of subsection (1) of Section 32 of the *Probate Act* apply *mutatis mutandis* to the determination.

(7B) Where the Department is unable to determine and recognize a personal representative of a deceased registered owner under subsection (7A), the Department may recognize as the personal representative of the deceased registered owner any person that the Department considers fit to act as the personal representative.

(7C) The personal representative of a deceased registered owner of a vehicle, as recognized by the Department under subsection (7A) or (7B), may apply to the Department for and obtain the registration of the vehicle.

(2) Subsection 23(9) of Chapter 293 is amended by adding “, (7C)” immediately after “(7)” in the first line.

(3) Section 23 of Chapter 293, as amended by Chapter 12 of the Acts of 1994-95, is further amended by adding immediately after subsection (11) the following subsection:

(12) No action or other proceeding for damages shall be instituted against the Registrar, any employee of the Department or Her Majesty in Right of the Province for any act done in good faith in the execution or intended execution of a power or duty under this Section or for any alleged neglect or default in the execution in good faith of that power or duty.

3 Section 67 of Chapter 293, as amended by Chapter 12 of the Acts of 1994-95, Chapter 34 of the Acts of 1996, Chapter 32 of the Acts of 1998, Chapter 11 of the Acts of 1999, Chapter 44 of the Acts of 2001, Chapters 20 and 30 of the Acts of 2002, Chapter 42 of the Acts of 2004, Chapter 32, 38 and 54 of the Acts of 2005, Chapter 36 of the Acts of 2006, Chapter 45 of the Acts of 2007, Chapter 21 of the Acts of 2008, Chapter 20 of the Acts of 2010, Chapter 22 of the Acts of 2011, Chapter 10 of the Acts of 2013 and Chapter 53 of the Acts of 2014, is further amended by adding immediately after subsection (1) the following subsection:

(1A) The Department may refuse to issue a driver’s license to any person whom the Registrar determines to have provided misleading information to the Department in the course of applying for the driver’s license.

4 Section 69A of Chapter 293, as enacted by Chapter 53 of the Acts of 2014, is amended by adding immediately after subsection (2) the following subsection:

(3) A person must at all times be prepared and able to take over control of a vehicle being driven by a newly licensed driver or licensed learner in respect of whom the person is acting as a supervising driver.

5 (1) Subsection 70A(1) of Chapter 293, as enacted by Chapter 24 of the Acts of 1994, is amended by striking out “after the coming into force of this Section” in the third and fourth lines.

(2) Subsection 70A(2) of Chapter 293 is repealed.

6 Section 70C of Chapter 293 is repealed and the following Section substituted:

70C A person has the status of a novice driver if the person

(a) is a licensed learner;

(b) is a newly licensed driver; or

(c) holds a driver’s license of class 1, 2, 3, 4, 5 or 6 as set out in the regulations made pursuant to Section 66 and has been the holder of

(i) such a driver’s license for less than two years after the day on which the person ceased to be a newly licensed driver, or

(ii) driver’s licenses of more than one such class for a combined period of less than two years after the day on which the person ceased to be a newly licensed driver.

7 Section 73 of Chapter 293 is amended by adding immediately after subsection (2) the following subsection:

(2A) Notwithstanding subsection (2) of Section 74, an examination of the applicant’s visual acuity or a written examination of the applicant’s understanding of traffic rules and traffic signs may be administered by any person whom the Registrar directs to administer the examination.

8 (1) Subsection 98(6) of Chapter 293 is amended by

(a) striking out “subsection (7)” in the first line and substituting “subsections (7) and (7B)”; and

(b) striking out “the Registrar, the Department or the police force to which they are made” in the third and fourth lines and substituting the following clauses:

(a) the Registrar;

(b) the Department;

(c) where there is no vehicle safety division of the Department, the vehicle safety division of any department of the Government;

- (d) the police force to which the reports are made; or
- (e) the vehicle safety division of the municipality to which the reports are made,

(2) Subsection 98(7) of Chapter 293 is repealed and the following subsections substituted:

(7) Where a person, an insurance company or Her Majesty in right of the Province has paid or may be liable to pay for damages resulting from an accident in which a motor vehicle is involved, the person, the insurance company or a public officer responsible for risk management for the Government of the Province, as the case may be, and any solicitor, agent or other representative of the person, company or public officer authorized by the person, company or public officer in writing, may obtain from the Registrar a copy of any report made pursuant to this Section and, in furnishing a copy of any such report, the Registrar is authorized, subject to subsection (7A), to disclose any personal information contained in the report.

(7A) Before furnishing a copy of a report pursuant to subsection (7), the Registrar shall remove from the report any personal information that the Registrar considers to be appropriate to remove.

(7B) The Registrar may provide data derived from reports made pursuant to this Section to any person conducting research respecting traffic safety or motor vehicle safety.

9 Clause 206(2)(c) of Chapter 293 is repealed.

10 Section 235 of Chapter 293, as enacted by Chapter 1 of the Acts of 2003 (Second Session), is amended by striking out “and subject to subsection (3) of Section 236” in the first and second lines.

11 Subsection 236(1) of Chapter 293, as amended by Chapter 1 of the Acts of 2003 (Second Session), is further amended by

- (a) striking out “Subject to subsection (3), proof” in the first line and substituting “Proof”; and**
- (b) striking out clauses (b) and (c).**

12 Subsection 237(1) of Chapter 293 is amended by striking out “The” in the first line and substituting “A”.

13 Subsection 246(4) of Chapter 293 is repealed and the following subsection substituted:

(4) An insurer shall, at the request of the Registrar, notify the Registrar of the cancellation or expiry of the motor vehicle liability policy to which the request relates and the date on which the policy was cancelled or expired.

14 Section 275 of Chapter 293, as enacted by Chapter 12 of the Acts of 2001 and amended by Chapter 21 of the Acts of 2008, is further amended by adding immediately after subsection (2) the following subsection:

(2A) Whenever any motor vehicle is impounded under this Act by an impoundment facility by order of the Minister, the Registrar, an official of the Department or a peace officer, any towing and storage costs incurred by the impoundment facility under this Act, the *Warehouseman's Act* or the *Liens Act* are a lien upon the motor vehicle.

15 Chapter 293 is further amended by adding immediately following Section 275 the following Section:

275A Where an impoundment facility is authorized under this Act, the *Warehouseman's Act* or the *Liens Act* to sell an impounded vehicle after providing notice to the registered owner, the Registrar or any peace officer may disclose the name, address and telephone number of the registered owner to the impoundment facility.

16 (1) Subsection 279(7) of Chapter 293 is amended by adding “, optometrist, nurse practitioner or occupational therapist” immediately after “practitioner” in the first and in the fourth lines.

(2) Subsection 279(9) of Chapter 293, as enacted by Chapter 11 of the Acts of 1999, is amended by

- (a) adding “, an optometrist, a nurse practitioner, an occupational therapist” immediately after “practitioner” in the second line; and**
- (b) striking out “, respectively” in the last line.**

(3) Subsection 279(9A) of Chapter 293 is repealed.

17 (1) Section 279C of Chapter 293, as enacted by Chapter 32 of the Acts of 1998 and amended by Chapter 11 of the Acts of 1999, Chapter 42 of the Acts of 2004, Chapter 21 of the Acts of 2009 and Chapter 53 of the Acts of 2014, is further amended by adding immediately after subsection (2) the following subsections:

(3) Where a peace officer has reasonable grounds to suspect that a person who is acting as a supervising driver has consumed alcohol and, as a result, is not prepared and able to take over control of a vehicle being driven by a newly licensed driver or licensed learner in respect of whom the person is acting as a supervising driver, the peace officer may, by demand made to that person forthwith or as soon as practicable, require that person to provide then or as soon thereafter as is practicable such samples of the person's breath as in the opinion of a qualified technician are necessary to enable proper analysis to be made in order to determine the concentration, if any, of alcohol in the person's blood, and to accompany the peace officer for the purpose of enabling such samples to be taken.

(3A) Where a person fails or refuses to comply with a demand made to that person by a peace officer under subsection (3), the peace officer shall request the person to surrender the person's licence.

(3B) Where, upon demand of a peace officer made under subsection (3), the person acting as a supervising driver provides a sample of the person's breath that, on analysis by an approved screening device, registers "Warn", the peace officer shall request the person to surrender the person's license.

(3C) Where, upon demand of a peace officer made under subsection (3), the person acting as a supervising driver provides a sample of the person's breath that, on analysis by an approved instrument, indicates that the concentration of alcohol in the person's blood is more than fifty milligrams of alcohol in one hundred millilitres of blood, a peace officer shall request the person to surrender the person's license.

(2) Subsection 279C(4) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998 and amended by Chapter 21 of the Acts of 2009, is further amended by striking out "or (2)" in the second line and substituting ", (2), (3A), (3B) or (3C)".

(3) Subsection 279C(6) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998 and amended by Chapter 21 of the Acts of 2009, is further amended by

- (a) adding "or (3B)" immediately after "(1)" in the second line;**
- (b) adding "or (3C), as the case may be" immediately after "(2)" in the fourth line; and**
- (c) adding "or (3B)" immediately after "(1)" in the second-last line.**

(4) Subsection 279C(7) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998, is amended by

- (a) adding "or (3B)" immediately after "(1)" in the second line; and**
- (b) adding "or (3B), as the case may be," immediately after "(1)" in the fourth line.**

(5) Subsection 279C(8) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998, is amended by striking out "subsection (1)" in the first line and substituting "subsections (1) and (3B)".

(6) Subsection 279C(9) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998, is amended by adding "or (3B)" immediately after "(1)" in the third line.

(7) Subsection 279C(10) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998 and amended by Chapter 42 of the Acts of 2004 and Chapter 21 of the Acts of 2009, is further amended by striking out "or (3)" in the fourth line and substituting ", (3A), (3B) or (3C)".

18 Section 281 of Chapter 293 is amended by

- (a) striking out the period at the end of clause (c) and substituting "; or"; and**

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

(d) when the Registrar determines that the applicant for the registration or permit provided false information to the Department in the course of obtaining the registration or permit.

19 Chapter 293 is further amended by adding immediately after Section 281 the following Section:

281A The Registrar may suspend or revoke the driver's license of any person if the Registrar determines that the person provided misleading information to the Department in the course of obtaining the driver's license.

20 (1) The POINT SYSTEM TABLE in subsection 282(2) of Chapter 293, as amended by Chapter 24 of the Acts of 1994, Chapters 12 and 44 of the Acts of 2001, Chapter 20 of the Acts of 2002, Chapters 20 and 45 of the Acts of 2007, Chapter 21 of the Acts of 2008, Chapter 61 of the Acts of 2010, Chapter 46 of the Acts of 2011 and Chapter 53 of the Acts of 2014, is further amended by renumbering item 15. as item 14.

(2) Section 282 of Chapter 293, as amended by Chapter 24 of the Acts of 1994, Chapters 12 and 44 of the Acts of 2001, Chapter 20 of the Acts of 2002, Chapters 20 and 45 of the Acts of 2007, Chapter 21 of the Acts of 2008, Chapters 61 and 62 of the Acts of 2010, Chapter 46 of the Acts of 2011 and Chapter 53 of the Acts of 2014, is further amended by adding immediately after subsection (2) the following subsection:

(3) Notwithstanding subsection (2), where a person is convicted of violating subsection (2) of Section 93, the Registrar shall enter four points on the person's record maintained pursuant to subsection (1) or (1A) in respect of the conviction if, in the course of committing the violation,

(a) the person failed to yield the right of way to a pedestrian as required under subsection (2) of Section 93; or

(b) the person was a pedestrian and proceeded at a time other than when authorized to do so under subsection (2) of Section 93.

21 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, Chapter 45 of the Acts of 2007, Chapter 60 of the Acts of 2010 and Chapter 53 of the Acts of 2014, is further amended by

(a) striking out “, 97” in the second line; and

(b) striking out “, subsections (3) to (5) of Section 125, subsections (1) and (2) of Section 125A or Section” in the third and fourth lines and substituting “or”.

22 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, Chapter 21 of the Acts of 2008 and Chapters 59 and 60 of the Acts of 2010, is further amended by

(a) adding “(1)” immediately after the Section number;

(b) striking out “subsections (1) and (2) of Section 125, subsections (3) and (4) of Section 125A, Section” in the third line and substituting “Section 125, 125A or”; and

(c) adding the following subsection:

(2) Notwithstanding Section 293, any person who violates subsection (2) of Section 93 is guilty of an offence and liable on summary conviction to the penalties provided for a category G offence in the *Summary Proceedings Act* if, in the course of committing the violation,

(a) the person fails to yield the right of way to a pedestrian as required under subsection (2) of Section 93; or

(b) the person is a pedestrian and proceeds at a time other than when authorized to do so under subsection (2) of Section 93.

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