

BILL NO. 21

(as passed, with amendments)



*2nd Session, 58th General Assembly
Nova Scotia
50 Elizabeth II, 2001*

Government Bill

Transportation Amendments (2001) Act

CHAPTER 12 OF THE ACTS OF 2001

The Honourable Ronald S. Russell, C.D.
Minister of Transportation and Public Works

[First Reading](#): April 6, 2001

Second Reading: May 18, 2001

[Third Reading](#): May 29, 2001 (WITH COMMITTEE AMENDMENTS)

Royal Assent: June 1, 2001



**An Act to Amend the Law
Respecting Motor Vehicles,**

Public Highways and Railways

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Transportation Amendments (2001) Act*.

PART I

MOTOR VEHICLE ACT

2 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 and Chapter 23 of the Acts of 1995-96, is further amended by

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

(ga) "crossing guard" means a person appointed by a regional municipality, town or municipality of a county or district and employed to direct the movement of children along or across highways going to or from school while so employed;

and

(b) striking out "or a person appointed by a city, town or municipality and employed to supervise the movement of children along or across highways going to or from school while so employed" in the second, third, fourth and fifth lines of clause (an).

3 Chapter 293 is further amended by adding immediately after Section 106 the following Section:

106A A person commits an offence who contrary to Sections 104 or 106 exceeds the speed limit by

- (a) between one and fifteen kilometres per hour, inclusive;
- (b) between sixteen and thirty kilometres per hour, inclusive; or
- (c) by thirty-one kilometres per hour or more.

4 (1) Subsection 125(1) of Chapter 293 is repealed and the following subsection substituted:

(1) The driver of a motor vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk.

(2) Subsection 125(2) of Chapter 293, as amended by Chapter 36 of the Acts of 1990, is further amended by striking out "marked" in the first line.

(3) Subsection 125(3) of Chapter 293 is amended by striking out "marked or unmarked" in the second line.

5 Chapter 293 is further amended by adding immediately after Section 125 the following Section:

125A (1) A crossing guard may direct children across a roadway only at a marked crosswalk and as part of the crossing guard's employment.

(2) Before directing children across a roadway, a crossing guard shall

- (a) display an approved stop sign in an upright position so that it is visible to all approaching vehicular traffic;
- (b) enter into the middle of the intersection while continuing to display the stop sign; and
- (c) ensure that all approaching vehicles have stopped.

(3) When a stop sign is displayed as required by subsection (2), the driver of any vehicle approaching the crosswalk shall stop no closer than five metres from the crosswalk.

(4) It is an offence for a driver of a vehicle to fail to obey a crossing guard who is directing children in a crosswalk.

6 Subsection 191(1) of Chapter 293, as amended by Chapter 12 of the Acts of 1994-95, is further amended by adding immediately after clause (ad) the following clause:

(ae) incorporating by reference standards relating to vehicle weights and dimensions;

7 (1) Subsections 201(1) and (2) of Chapter 293 are repealed and the following subsections substituted:

(1) No person shall conduct, maintain, operate, manage or hold himself or herself out as operating an official testing station unless the person is licensed to do so and the license has not expired or been cancelled or suspended.

(2) A person may apply to the Minister, in the manner prescribed by the regulations, for a license to operate an official testing station.

(2A) Subject to this Act and the regulations, the Minister may issue or renew a license and the license is valid for the person, location and type of vehicle indicated on the license.

(2B) The Minister may cancel, suspend or refuse to issue or renew a license if the Minister is satisfied that the licensee or an agent or employee of the licensee has violated this Act or the regulations.

(2C) A license is cancelled when the licensee ceases to operate or own the official testing station for which the license was issued.

(2) Subsection 201(7) of Chapter 293 is amended by

(a) striking out "operators" in the third line of clause (g) and substituting "licensees"; and

(b) repealing clause (m) and substituting the following clauses:

(m) establishing official testing stations and designating a garage as an official testing station;

(n) prescribing the duration of licenses issued pursuant to this Section and requiring the payment of annual or other periodic fees by licensees;

(o) prescribing the manner and fees for applying for a license;

(p) prescribing the term and fees for a tester's license;

(q) respecting the duties of persons who have been issued a license to operate an official testing station;

(r) permitting the recognition of an out-of-Province inspection sticker or certificate based upon a reciprocal agreement;

(s) prescribing the requirements of a person applying for a license;

(t) incorporating by reference any classification, standard, procedure or other specification relating to motor vehicle inspections as it is amended from time to time;

(u) prescribing penalties for a violation of the regulations made pursuant to this Section.

(3) Subsection 201(8) of Chapter 293 is repealed and the following subsections substituted:

(8) Every person who operates an official testing station without a license is guilty of an offence and is liable on summary conviction to a penalty of five hundred dollars for a first offence, seven hundred and fifty dollars for a second offence and one thousand dollars for a third or subsequent offence.

(9) Every person who fails to have the person's vehicle inspected or repaired as required by subsection (6) is guilty of an offence and is liable to a penalty of one hundred dollars for a first offence, two hundred dollars for a second offence and five hundred dollars for a third or subsequent offence.

8 Sections 275 and 276 of Chapter 293 are repealed and the following Sections substituted:

275 (1) Whenever any motor vehicle is seized, taken into custody or possession or impounded under this Act by an official of the Department or a peace officer or upon an order of the Minister or the Registrar, all charges necessarily incurred by the official, officer or person acting under that order in the performance of such duty are a lien upon the motor vehicle.

(2) Any person who is designated by an official of the Department, a peace officer or upon an order of the Minister or the Registrar to tow, store or perform other services in connection with the seizure, taking into custody or possession or impoundment of a motor vehicle has a lien on the vehicle for the charges for those services.

(3) Where the motor vehicle has been impounded for a period of thirty days, the official of the Department or peace officer who seized or impounded the motor vehicle or the person who ordered the seizure, taking into custody or possession, or impoundment of the motor vehicle may order the sale of the motor vehicle.

276 (1) Whenever a motor vehicle is sold by the Minister, the Registrar, the Department or a person who has a lien on the motor vehicle under this Act, the sale shall be by tender or by public auction and, at least seven days before the sale, notice of the sale shall be published in one or more newspapers published and circulated in the Province and at the same time mailed to the registered owner of the motor vehicle by registered mail addressed to the owner at the owner's name and address as they appear on the records of the Department.

(2) The proceeds of a sale referred to in subsection (1) shall be applied to the payment of any debt, lien or charge incurred in connection with the seizure, towing, taking into custody or possession, storage or impoundment of the motor vehicle and, where the proceeds are insufficient to pay all such debts, liens or charges, the proceeds shall be paid to the persons entitled thereto *pari passu*.

(3) Any proceeds remaining after payment of the debts, liens or charges referred to in subsection (2) shall be held by the Department for one month after the sale, and any claim or claims to the proceeds, or any portion thereof, must be established within the one-month period, and, after the one-month period has elapsed, where no claim to the proceeds has been established, the proceeds so held by the Department escheat to Her Majesty in right of the Province and all claims for interest in the motor vehicle or in the proceeds derived from the sale of the motor vehicle are forever barred.

9 (1) Subsection 279(2) of Chapter 293 is amended by adding ", reinstate the license or privilege of obtaining a license subject to any conditions prescribed by the Registrar" immediately after "suspension" in the third last line.

(2) Section 279 of Chapter 293 is further amended by adding immediately after subsection (2) the following subsection:

(2A) Where a hearing is held or an explanation offered pursuant to subsection (2) following the suspension of the license of a person for the reason that the Registrar believes that the person is afflicted with a mental or physical infirmity or disability rendering it unsafe for the person to operate a motor vehicle upon the highway, the Registrar may refer the information on the infirmity or disability that is available to the Registrar to a medical advisory committee appointed by the Minister pursuant to regulations respecting the classification of drivers' licenses for an opinion on the ability of the person to operate a motor vehicle.

(3) Subsection 279(3) of Chapter 293 is amended by adding "or the privilege of obtaining a driver's license" immediately after "license" in the second line.

10 The POINT SYSTEM TABLE in subsection 282(2) of Chapter 293, as amended by Chapter 24 of the Acts of 1994, is further amended by

(a) striking out "87" in the last line of 3. and substituting "97";

(b) repealing 6. and substituting the following:

6. Passing school bus or failure 103(3), 125A 6
to obey crossing guard

(c) repealing 8. and 9. and substituting the following:

8. Speeding in excess of *prima facie* 102 4
speed limit

9. Speeding in excess of posted limit 103(1) 4

9A. Speeding in excess of posted 106A(c) 4
limit by 31 kilometres per hour

and over

9B. Speeding in excess of posted 106A(b) 3
limit by between 16 and 30
kilometres per hour, inclusive

9C. Speeding in excess of posted 106A(a) 2
limit by between 1 and 15
kilometres per hour, inclusive

9D. Failure to yield to pedestrian 125(1), (2) 4

and

(d) striking out "125" in 13.

11 Subsection 285(1) of Chapter 293 is amended by striking out ", 103, 104, 106 or" in the fourth line and substituting "or 103, clause (b) or (c) of Section 106A or Section".

12 (1) Subsection 290(1) of Chapter 293 is amended by striking out "by registered or certified mail from the Registrar" in the last two lines and substituting "in the manner prescribed by the Registrar".

(2) Subsection 290(2) of Chapter 293 is amended by striking out "by registered or certified mail" in the sixth line.

(3) Subsection 290(4) of Chapter 293 is amended by striking out "by registered or certified mail" in the fourth line.

13 Section 294 of Chapter 293, as amended by Chapter 36 of the Acts of 1990 and Chapter 12 of the Acts of 1994-95, is further amended by striking out "subsections (1) and (6) of Section 103, 104, 106" in the third line and substituting "clause (a) of Section 106A, Section".

14 Section 295 of Chapter 293, as amended by Chapter 36 of the Acts of 1990, Chapter 12 of the Acts of 1994-95, Chapter 23 of the Acts of 1995-96, Chapter 34 of the Acts of 1996 and Chapter 11 of the Acts of 1999, is further

amended by striking out ", 99A," in the second line and substituting "or 99A, subsection (1) of Section 103, clause (b) of Section 106A, Section 107A,".

15 Section 295A of Chapter 293, as enacted by Chapter 36 of the Acts of 1990 and 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 and Chapter 5 of the Acts of 1997, is further amended by striking out "Section 125" in the second line and substituting "clause (c) of Section 106A, Section 125 or 125A".

16 Subsection 303(1) of Chapter 293 is amended by adding immediately after clause (e) the following clause:

(ea) incorporating by reference any document as it exists when the regulations are made and incorporating by reference, as amended from time to time, any Act of the Parliament of Canada or regulations made pursuant thereto or any classification, standard, procedure or other specification;

17 Section 303A of Chapter 293, as enacted by Chapter 30 of the Acts of 1993, is amended by

(a) adding "or the Republic of Mexico" immediately after "America" in the third line of clause (c);

(b) striking out the period at the end of clause (c) and substituting a semicolon; and

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

(d) "safety fitness certificate" means a safety fitness certificate issued to a carrier pursuant to the regulations.

18 Subsection 303C(2) of Chapter 293, as enacted by Chapter 30 of the Acts of 1993, is amended by striking out "province" in the third line and substituting "jurisdiction or to the carrier or an insurer authorized by the carrier to obtain such records".

19 Section 303F of Chapter 293, as enacted by Chapter 30 of the Acts of 1993, is amended by adding "or refuse to issue" immediately after "cancel" in the first line.

20 Clause 303G(b) of Chapter 293 is repealed and the following clauses substituted:

(b) prescribing a system of rating the performance of commercial motor vehicle carriers and drivers with respect to warnings, cancellations, suspensions, facility audits, safety inspections, trip inspections and contraventions of enactments of the Province, another reciprocating province of Canada, the Parliament of Canada, the United States of America or the Republic of Mexico relating to motor vehicles, and prescribing penalties, including suspension, that may be assessed against those carriers and drivers having an unsatisfactory rating;

(ba) authorizing the issuance of a safety fitness certificate and prescribing a fee for the certificate;

21 Section 303I of Chapter 293, as enacted by Chapter 30 of the Acts of 1993, is amended by adding "or the Republic of Mexico" immediately after "America" in the third line.

PART II

PUBLIC HIGHWAYS ACT

22 Subsection 48(1) of Chapter 371 of the Revised Statutes, 1989, the *Public Highways Act*, is amended by striking out "twenty" in the eighth line and substituting "one thousand".

23 (1) Clauses 49(1)(a) and (b) of Chapter 371 are repealed and the following clause substituted:

(a) prohibiting or regulating the erecting, maintaining, pasting, painting or exposing of advertisements upon or within one thousand metres from the centre line of the travelled portion of any highway or class of highway vested in Her Majesty in right of the Province, whether or not the highway is within a city or town;

- (2) Subsection 49(2) of Chapter 371 is amended by striking out "hundred" in the fifth line and substituting "thousand".
- (3) Subsection 49(3) of Chapter 371 is amended by striking out "hundred" in the fourth line and substituting "thousand".
- (4) Subsection 49(4) of Chapter 371 is amended by striking out "fifty" in the sixth line and substituting "one thousand".
- (5) Subsection 49(7) of Chapter 371 is amended by adding ", but does not include a campaign sign during an election or plebiscite in the area in which the sign is located if the sign complies with the laws governing the election or plebiscite" immediately after "purpose" in the last line.

24 Chapter 371 is further amended by adding immediately after Section 49 the following Sections:

50 (1) Upon application and payment of such fee as the Minister may determine, the Minister may permit the placement on a highway, adjacent to the travelled portion of the highway, of a sign displaying a name or logo advertising fuel, food, accommodation or farm-market services or such services as the Governor in Council may designate by regulation, subject to such conditions as the Minister may determine.

(2) The Governor in Council may make regulations designating services for the purpose of subsection (1).

51 (1) Upon the recommendation of the council of a municipality or a village commission, the Minister may, for the protection of a scenic view, designate a highway or portion of a highway within the municipality or village as a no-sign zone.

(2) Upon designation of a highway or portion of a highway pursuant to subsection (1), no advertising sign may be erected, maintained, pasted, painted or exposed upon or within one thousand metres from the centre line of the travelled portion of the highway or portion of a highway, as the case may be.

PART III

RAILWAYS ACT

25 Section 2 of Chapter 11 of the Acts of 1993, the *Railways Act*, is amended by striking out "and to ensure the provision of railway services" in the second and third lines.

26 Section 3 of Chapter 11 is amended by

(a) striking out clause (b) and substituting the following clause:

(b) "industrial railway" means a railway that

(i) transports only goods or commodities that are manufactured, refined or otherwise produced, processed or handled by the person who operates the railway or on whose behalf the railway is operated, and

(ii) is operated wholly or in part within the confines of the industrial site on which goods or commodities are manufactured, refined or otherwise produced, processed or handled, and is not operated for the purposes of transporting goods or commodities for a toll or a fee or of being a common carrier;

(b) striking out "Communications" in the second line of clause (d) and substituting "Public Works";

(c) striking out the period at the end of clause (l) and substituting a semicolon; and

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

(m) "right of way" means the land occupied by a railway but does not include land that is not contiguous to a railway line.

27 Section 8 of Chapter 11 is repealed and the following Section substituted:

8 (1) The Minister may enter into any agreement with the Government of Canada or with any federal regulatory authority, person or class of persons for the better administration of this Act and the regulation of railway safety, accident investigation and railway crossings, and such agreement has the force of law as if enacted by the Legislature.

(2) The Minister may appoint any person as a railway inspector including railway safety inspectors appointed pursuant to the *Railway Safety Act* (Canada), and such an inspector has all of the powers and duties of a railway inspector pursuant to this Act.

28 Section 9 of Chapter 11 is amended by striking out "a permit and" in the second line.

29 Subsections 10(1), (3) and (4) of Chapter 11 are repealed.

30 Sections 11 to 13 of Chapter 11 are repealed and the following Sections substituted:

11 (1) No railway may connect with another railway except in accordance with the regulations.

(2) No railway may be operated after connection to another railway until it has been inspected by a railway inspector.

12 (1) In this Section, "road crossings" and "utility crossings" have the same meaning as in the *Canada Transportation Act*.

(2) Subject to the *Canada Transportation Act*, every decision, order, rule, regulation and direction made by the Canadian Transportation Agency or any predecessor thereof in relation to road crossings and utility crossings continues to apply to those crossings, even though the crossings have passed from federal to Provincial jurisdiction, until the decisions, orders, rules, regulations or directions are revoked or amended by the Canadian Transportation Agency or under this Act.

31 Section 15 of Chapter 11 is repealed.

32 (1) Subsection 18(1) of Chapter 11 is amended by striking out "operation has" in the third line and substituting "and proposed railway service have".

(2) Subsection 18(2) of Chapter 11 is amended by striking out "has been approved" in the third line and substituting "and its connections have been inspected".

33 Section 22 of Chapter 11 is amended by adding "according to the regulations and industry standards" immediately after "condition" in the second line.

34 Subsection 24(2) of Chapter 11 is repealed.

35 Subsection 27(1) of Chapter 11 is repealed.

36 Section 35 of Chapter 11, as amended by Chapter 27 of the Acts of 1995-96, is further amended by adding immediately after subsection (4) the following subsection:

(5) The costs for the inspection may be recovered from any railway company, company or person by Her Majesty in right of the Province.

37 Subsection 39(2) of Chapter 11 is amended by striking out "both" in the first line and substituting "the".

38 Subsection 41(4) of Chapter 11 is amended by striking out "this Section" in the last two lines and substituting

"Section 42".

39 (1) Subsection 44(2) of Chapter 11 is amended by striking out "Board shall, in accordance with the regulations, determine that value" in the fourth and fifth lines and substituting "value shall be determined by an agreed upon independent appraiser".

(2) Section 44 of Chapter 11 is further amended by adding immediately after subsection (2) the following subsections:

(3) The cost of the appraiser shall be borne equally between the two parties.

(4) If the parties are unable to agree on an independent appraiser to determine the net salvage value, net salvage value shall be determined by arbitration pursuant to the *Arbitration Act*.

40 (1) Subsection 47(1) of Chapter 11 is repealed and the following subsection substituted:

(1) The Board, for the purpose of this Act, may authorize a person or body to sit jointly or concurrently with a board established pursuant to an Act of the Parliament of Canada or the legislature of a province of Canada, or a regulation made pursuant thereto.

(2) Subsection 47(2) of Chapter 11 is amended by striking out "Board" in the first and in the second lines and substituting in each case "person or body".

(3) Subsection 47(3) of Chapter 11 is amended by

(a) striking out "Board" in the first and in the last lines and substituting in each case "person or body"; and

(b) striking out "members of the Board" in the second and third lines and substituting "person or body".

(4) Subsection 47(4) of Chapter 11 is amended by striking out "Board" in the first and in the second lines and substituting in each case "person or body".

41 (1) Subsection 48(1) of Chapter 11, as amended by Chapter 27 of the Acts of 1995-96, is further amended by

(a) adding "or a part of the right of way" after "way" in the second line of clause (g);

(b) striking out clause (q) and substituting the following clause:

(q) respecting insurance requirements;

(c) striking out everything after "railways" in the second line of clause (u) to the end of the clause and substituting a semicolon; and

(d) striking out "defining 'industrial railway' and" in the fifth line of clause (ai).

(2) Subsection 48(3) of Chapter 11 is repealed.

(3) Section 48 of Chapter 11 is further amended by adding immediately after subsection (4) the following subsection:

(4A) Regulations made pursuant to subsection (1) or incorporated pursuant to subsection (4) may contain exemptions, either in whole or in part, for

(a) a particular railway or class of railways;

(b) specified railway equipment or a specified railway work; or

(c) a specified person,

from the application of a specified provision of the regulations.

42 Subsection 49(1) of Chapter 11 is amended by striking out ", the Board" in fourth line.

43 Section 51 of Chapter 11 is repealed and the following Section substituted:

51 The *Municipal Government Act* and any prescribed enactment does not apply to the right of way of a railway.

44 Subsection 52(1) of Chapter 11 is amended by adding "and subsequent amendments" immediately after "Limited" in the fourth line.

45 Section 53 of Chapter 11 is repealed.

46 (1) Clauses 9(b) and (c) of Chapter 27 of the Acts of 1995-96 are repealed and deemed not to have been enacted.

(2) Section 52B of Chapter 11, as enacted by Chapter 27 of the Acts of 1995-96, is repealed.

47 Subsection 3(1) of Chapter 363 of the Revised Statutes, 1989, the *Protection of Property Act*, is amended by adding immediately after clause (b) the following clause:

(ba) enters on premises that is apparently a railway line within the meaning of the *Railways Act* except to cross the railway line at a legally recognized crossing;

PART IV

EFFECTIVE DATES

48 Sections 2 to 5, 10, 11 and 13 to 15 come into force on such day as the Governor in Council orders and declares by proclamation.

49 Upon the coming into force of Chapter 11,

(a) Sections 25 to 47, except subsection 46(2), has effect on and after October 1, 1993; and

(b) subsection 46(2) has effect on and after May 30, 1994.

