



BILL NO. 7

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
56 Elizabeth II, 2007*

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

CHAPTER 45
ACTS OF 2007

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 13, 2007**

The Honourable Murray K. Scott
Minister of Transportation and Infrastructure Renewal

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

This page is intentionally blank.

**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 and Chapter 20 of the Acts of 2007, is further amended by

(a) re-lettering clause (ua) as (ub) and adding immediately after clause (u) the following clause:

(ua) “image-capturing enforcement system” means a camera system as defined by and approved by the regulations;

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

(aoa) “pedestrian-activated beacon” means a flashing amber light activated by a pedestrian to indicate to drivers of vehicles on a roadway that the pedestrian is crossing, or waiting or about to cross, the roadway;

2 Chapter 293 is further amended by adding immediately after Section 7 the following Section:

7A The Minister may appoint persons by name, title or office as testers of image-capturing enforcement systems or types of image-capturing enforcement systems.

3 Subsection 37(1) of Chapter 293, as amended by Chapter 6 of the Acts of 2004, is further amended by

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

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

(h) to obstruct the number plate of a motor vehicle in a manner that prevents or is capable of preventing the numbers or letters from being accurately read by an image-capturing enforcement system.

4 Section 47 of Chapter 293 is amended by adding immediately after subsection (2) the following subsection:

(3) No person shall drive or permit to be driven on a highway a motor vehicle manufactured, or modified after its manufacture, such that nitrous oxide may be delivered into the fuel mixture unless

(a) the part of the fuel system that may connect to a canister, bottle, tank or pressure vessel capable of containing nitrous oxide can be clearly seen by looking at the interior or exterior of the motor vehicle;

(b) there is no canister, bottle, tank or pressure vessel connected to that part; and

(c) either

(i) where that part is located inside the passenger compartment, there is no canister, bottle, tank or pressure vessel capable of containing nitrous oxide in the passenger compartment,

or

(ii) that part is completely disconnected from the part of the system that connects to the engine,

(iii) the disconnection can be clearly seen by looking at the interior or exterior of the motor vehicle, and

(iv) the disconnected part cannot be reconnected from inside the passenger compartment.

5 (1) Clause 67(5)(c) of Chapter 293, as enacted by Chapter 20 of the Acts of 2002 and amended by Chapter 35 of the Acts of 2005, is further amended by adding “, 249.2, 249.3, 249.4” immediately after “249.1(1)” in the fourth line.

(2) Subsection 67(16) of Chapter 293, as amended by Chapter 42 of the Acts of 2004, is amended by striking out “252” in the second and in the fourth lines and substituting in each case “249.2, 249.3, 249.4, 252,”.

(3) Subsection 67(21A) of Chapter 293, as enacted by Chapter 32 of the Acts of 1998 and amended by Chapter 42 of the Acts of 2004, is further amended by adding “249.2, 249.3, 249.4,” immediately after “section” in the third line.

6 Clause 93(2)(i) of Chapter 293 is repealed and the following clause substituted:

(i) “*don't walk*” light - pedestrian traffic facing this signal, either flashing or solid, shall not start to cross the roadway in the direction of the signal;

7 Chapter 293 is further amended by adding immediately after Section 100C the following Section:

100D (1) It is an offence for a person to use a hand-held cellular telephone or engage in text messaging on any communications device while operating a vehicle on a highway.

(2) This Section does not apply to a person who uses a hand-held cellular telephone or other communications device to report an immediate emergency situation.

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

106B (1) A person commits an offence who exceeds the speed limit in a temporary work area or in an area in proximity to an emergency vehicle exhibiting a flashing light by

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

(2) The Governor in Council may make regulations defining a temporary work area and its limits, the manner in which a temporary work area is to be designated and defining “emergency vehicle” and “in proximity to” for the purpose of this Section.

9 Section 125 of Chapter 293 is repealed and the following Section substituted:

125 (1) Where pedestrian movements are not controlled by traffic signals,

(a) the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing a crosswalk; or

(b) where the traffic on a highway is divided into separate roadways by a median, the driver of a vehicle shall yield the right of way to a pedestrian lawfully within a crosswalk or stopped facing the crosswalk on the roadway on which the vehicle is travelling.

(2) Where a vehicle has stopped at a crosswalk to yield to a pedestrian pursuant to subsection (1), it is an offence for the driver of any other vehicle approaching from the rear to overtake and pass the stopped vehicle.

(3) A pedestrian shall not leave a curb or other place of safety and walk or run into the path of a vehicle that is so closely approaching that it is impractical for the driver of the vehicle to stop.

(4) Where a pedestrian is crossing a roadway at a crosswalk that has a pedestrian-activated beacon, the pedestrian shall not leave a curb or other place of safety unless the pedestrian-activated beacon has been activated.

(5) A pedestrian crossing a roadway at any point other than within a crosswalk shall yield the right of way to vehicles upon the roadway.

(6) This Section does not relieve a pedestrian or a driver of a vehicle from the duty to exercise due care.

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

125B (1) Where a peace officer is satisfied that a motor vehicle is being or has been operated in the course of committing an offence contrary to subsection (1) or (2) of Section 125 or subsection (3) or (4) of Section 125A, the peace officer shall request that the person surrender the person’s driver’s license.

(2) Upon a request being made under subsection (1), the person to whom the request was made shall forthwith surrender the person's driver's license to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's license to the peace officer, the person's driver's license is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's license or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's license is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's license shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's license or driving privilege is suspended, the place where the driver's license may be recovered upon the termination of the suspension and acknowledging receipt of the driver's license that is surrendered.

11 Subsection 163(1) of Chapter 293 is amended by adding “, in a contest, while performing a stunt” immediately after “race” in the second line.

12 Chapter 293 is further amended by adding immediately after Section 163 the following Sections:

163A (1) Where a peace officer is satisfied that a motor vehicle is being operated in the course of committing an offence contrary to Section 163, the peace officer shall

(a) detain the motor vehicle until it is impounded under Section 273A; and

(b) request that the person surrender the person's driver's license.

(2) Upon a request being made under clause (1)(b), the person to whom the request was made shall forthwith surrender the person's license to the peace officer and, whether or not the person is unable or fails to surrender the person's driver's license to the peace officer, the person's driver's license is revoked and the person's driving privilege is suspended for a period of seven days from the time the request is made.

(3) The suspension of a driver's license or the suspension of a driving privilege pursuant to this Section is in addition to and not in substitution for any proceeding or penalty arising from the same circumstances.

(4) Where a driver's license is suspended or a driving privilege is suspended pursuant to this Section, the peace officer who requested the surrender of the driver's license shall

(a) keep a written record of the suspension with the name and address of the person and the date and time of the suspension; and

(b) provide the person with a written statement of the time at which the suspension takes effect, the length of the period during which the person's driver's license or driving privilege is suspended, the place where the driver's license may be recovered upon the termination of the suspension and acknowledging receipt of the driver's license that is surrendered.

163B (1) The Governor in Council may make regulations

(a) defining "race", "contest" and "stunt" for the purpose of Section 163;

(b) exempting any class of persons or vehicles from Section 163;

(c) respecting any records or reports required by Section 163A.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

13 Chapter 293 is further amended by adding immediately after Section 173 the following Section:

173A (1) No person, while on a roadway, shall stop, attempt to stop or approach a motor vehicle for the purpose of offering, selling or providing any commodity or service to or soliciting the driver or any other person in the motor vehicle.

(2) Subsection (1) does not apply to the offer, sale or provision of towing or repair services or any other commodity or service in an emergency.

(3) Subsection (1) does not apply to fund-raising activities that are

(a) permitted by a by-law of the municipality in which the activities are conducted; and

(b) approved by the traffic authority responsible for the roadway on which the activities are conducted.

14 Chapter 293 is further amended by adding immediately after Section 202 the following Section:

202A (1) Her Majesty in right of the Province, a regional municipality, town or municipality of a county or district or a peace officer acting on behalf of Her Majesty or a regional municipality, town or municipality of a county or district, may, in accordance with the regulations, use an image-capturing enforcement system for enforcing clause (e) of subsection (2) of Section 93.

(2) For a period of thirty months immediately following the coming into force of this subsection, Her Majesty in right of the Province, a regional municipality, town or municipality of a county or district or a peace officer acting on behalf of Her Majesty or a regional municipality, town or municipality of a county or district, as determined by the Minister, may use an image-capturing enforcement system for enforcing subsection (1) of Section 102, subsection (1) of Section 103, subsection (1) of Section 104 or Section 106A or 106B at sites within the Province designated

by the Minister, identified by signs warning operators of motor vehicles approaching the site of that use and at which the maximum speed permitted by or pursuant to this Act is seventy kilometres per hour or less.

(3) The Minister shall cause an evaluation of the use of an image-capturing enforcement system pursuant to subsection (2) to be carried out during the last six months of the period referred to in that subsection.

(4) The Governor in Council may make regulations

(a) respecting image-capturing enforcement systems and their use, including

(i) prescribing types of image-capturing enforcement systems,

(ii) prescribing what constitutes a particular type of image-capturing enforcement system and governing the features and functions that it must or may have or be able to carry out,

(iii) approving specified image-capturing enforcement systems by name or other description, and governing how approved systems may be referred to in certificates under Section 265A and other documents, or in evidence in relation to an alleged offence under a provision referred to in subsection (1),

(iv) governing the use of image-capturing enforcement systems by a regional municipality, town or municipality of a county or district, and by peace officers on behalf of a regional municipality, town or municipality of a county or district or Her Majesty in right of the Province, and

(v) governing the cost and administration of image-capturing enforcement systems and their use;

(b) prescribing, for the purpose of Section 265A, information to be displayed on or appended to a reproduction on paper of an image obtained through the use of an image-capturing enforcement system or any specified image-capturing enforcement system relating to an alleged offence under a provision referred to in Section 202A;

(c) prescribing a time for the purpose of clause (b) of subsection (3) of Section 265A.

(5) The exercise by the Governor in Council of the authority contained in subsection (4) is regulations within the meaning of the *Regulations Act*.

15 Chapter 293 is further amended by adding immediately after Section 259 the following Section:

259A (1) Where a motor vehicle is involved in an offence referred to in Section 202A and the number plate is captured by an image-capturing enforcement system, the owner of the motor vehicle to which the number plate is assigned is guilty of that offence.

(2) Subsection (1) does not apply if the owner satisfies the court that, at the time that the vehicle was involved in the offence,

- (a) the owner was not driving the motor vehicle; and
- (b) no other person was driving the motor vehicle with the owner's expressed or implied consent.

(3) A person who is guilty of an offence pursuant to this Section is not liable to imprisonment in respect of that offence or to imprisonment in respect of a default of payment of a fine imposed in respect of that offence, and the point system table in subsection 282(2) does not apply to that offence.

16 Chapter 293 is further amended by adding immediately after Section 265 the following Section:

265A (1) A reproduction on paper of an image obtained through the use of an image-capturing enforcement system is admissible in evidence in a proceeding commenced pursuant to the *Summary Proceedings Act* respecting an alleged offence under a provision referred to in Section 202A if the reproduction

- (a) shows a vehicle and the number plate displayed on it; and
- (b) displays, or has appended to it, the information prescribed by the regulations in relation to the provision.

(2) In the absence of evidence to the contrary, a reproduction as described in subsection (1) is proof of the number plate displayed on the vehicle and of the information displayed on the reproduction or appended to it.

(3) In any prosecution under a provision referred to in Section 202A and based on evidence obtained through the use of an image-capturing enforcement system, a certificate

- (a) stating the result of the test of the image-capturing enforcement system identified in the certificate;
- (b) stating that the test was conducted at a specified time that is within the time prescribed in the regulations before or after the date of the offence charged; and
- (c) purporting to be signed by a tester who is appointed by the Minister to test image-capturing enforcement systems of the type identified in the certificate,

is, in the absence of evidence to the contrary, admissible in evidence as proof of the facts stated in the certificate without proof of the signature or appointment as tester of the person signing the certificate.

17 Subsection 273A(3) of Chapter 293, as enacted by Chapter 32 of the Acts of 2005, is amended by

- (a) striking out “twenty-four hours” in the second and third lines of clause (a) and substituting “seven days”; and

(b) adding “, subject to Section 274,” immediately after “for” in the second line of clause (b).

18 Clause 278(1)(b) of Chapter 293, as amended by Chapter 20 of the Acts of 2002, is further amended by adding “, 249.2, 249.3, 249.4” immediately after “249.1” in the second line.

19 Subsection 282(1) of Chapter 293, as amended by Chapter 24 of the Acts of 1994, Chapter 12 of the Acts of 2001 and Chapter 20 of the Acts of 2002, is further amended by

(a) adding “, 106(1)(c)” immediately after “106A(c)” in the second column of 9A. in the POINT SYSTEM TABLE;

(b) adding “, 106(1)(b)” immediately after “106A(b)” in the second column of 9B. in the POINT SYSTEM TABLE;

(c) adding “, 106(1)(a)” immediately after “106A(a)” in the second column of 9C. in the POINT SYSTEM TABLE.

20 Section 293 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 20 of the Acts of 2007, is further amended by

(a) striking out “, 93,” in the third line and substituting “or 93, subsection (1) of Section 100D, Section”;

(b) striking out “or” in the fifth line and substituting a comma; and

(c) striking out “, 165,” in the fifth and sixth lines and substituting “or 165, subsection (1) of Section 173A or Section”.

21 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, is further amended by striking out “(1) or” in the fourth line.

22 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 and Chapter 8 of the Acts of 2005, is further amended by

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

(b) striking out “163,” in the fourth line.

23 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, is further amended by adding “, subsections (1) and (2) of Section 125, subsections (3) and (4) of Section 125A” immediately after “98” in the third line.

24 Chapter 293 is further amended by adding immediately after Section 299A the following Section:

299AA Any person who violates any of the provisions of Section 163 is guilty of an offence and liable on summary conviction to the penalties provided for a category K offence in the *Summary Proceedings Act*.

25 Section 300A of Chapter 293 is repealed and the following Section substituted:

300A (1) Any person who violates any of the provisions of clause (a) of Section 106B is guilty of an offence and liable on summary conviction to double the penalties provided for a category C offence in the *Summary Proceedings Act*.

(2) Any person who violates any of the provisions of subsection (1) of Section 103 or clause (b) of Section 106B is guilty of an offence and liable on summary conviction to double the penalties provided for a category D offence in the *Summary Proceedings Act*.

(3) Any person who violates any of the provisions of clause (c) of Section 106B is guilty of an offence and liable on summary conviction to double the penalties provided for a category F offence in the *Summary Proceedings Act*.

26 Chapter 293 is further amended by adding immediately after Section 300J the following Section:

300K (1) In this Section, “municipality” means a regional municipality, town or municipality of a county or district.

(2) Where the fine revenue of Her Majesty in right of the Province or of a municipality from convictions based on evidence from image-capturing enforcement systems exceeds the costs of Her Majesty or the municipality, as the case may be, acquiring and using the systems, Her Majesty or the municipality, respectively, shall use the surplus revenue for road-safety purposes.

27 Section 8 of Chapter 16 of the Acts of 2006, the *Justice Administration Amendment (Fall 2006) Act*, is repealed.

28 Section 4B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 10 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2003 and Chapter 1 of the Acts of 2003 (Second Session), is further amended by

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

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

(k) where an enactment makes an offence punishable as a category K offence, a judge shall impose a fine of not less than two thousand dollars for the first offence, not less than five thousand dollars for the second offence and not less than ten thousand dollars for the third or a subsequent offence.

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