



BILL NO. 146

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

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

CHAPTER 21
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 27, 2008**

The Honourable Murray K. Scott
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1 Subclause 2(ac)(i) of Chapter 293 of the Revised Statutes, 1989, the *Motor Vehicle Act*, is repealed and the following subclause substituted:

(i) a design to travel on not more than three wheels in contact with the ground,

2 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, Chapter 20 of the Acts of 2002, Chapter 42 of the Acts of 2004, Chapter 32 of the Acts of 2005, Chapter 38 of the Acts of 2005, Chapter 54 of the Acts of 2005, Chapter 36 of the Acts of 2006 and Chapter 45 of the Acts of 2007, is further amended by adding immediately after subsection (5A) the following subsection:

(5B) The driver's license of a person that has been restored upon application pursuant to subsection (5A) is restored only for the purpose of that person's participation in an ignition interlock program established by the regulations and for all other purposes the license remains revoked.

3 Section 273 of Chapter 293 is repealed and the following Section substituted:

273 (1) The Registrar, any official of the Department or any peace officer may from any place seize and impound a motor vehicle if

(a) a peace officer has reason to believe that the operator of the vehicle has committed an offence under this Act or under any section of the *Criminal Code* (Canada) having particular relation to motor vehicles;

(b) the seizure is made to prevent the continuation of an offence under this Act or any section of the *Criminal Code* (Canada) having particular relation to motor vehicles;

(c) the owner or operator of the vehicle has any outstanding defaulted fine imposed pursuant to this Act or a section of the *Criminal Code* (Canada) having particular relation to motor vehicles;

(d) the operator of the vehicle does not have a valid driver's license;

(e) the driver's license of the owner or operator of the vehicle is suspended or revoked;

(f) the vehicle was used during the commission of an offence under the *Criminal Code* (Canada);

(g) the vehicle was being operated by a person at the time of an offence under this Act for which that person received a conviction that

was that person's third, or subsequent to third, conviction for an offence under this Act; or

(h) the vehicle was taken into custody pursuant to Section 158.

(2) Subject to subsection (4), where a motor vehicle is seized or impounded pursuant to this Section, the vehicle may be released to its owner upon the owner providing a bond satisfactory to the Registrar and on

(a) the condition that the vehicle is not operated upon any highway by persons not legally entitled to do so during such period of time as the Registrar directs; and

(b) such other conditions with respect to the vehicle as the Registrar considers appropriate in the circumstances.

(3) Where a bond is provided pursuant to subsection (2), the bond is forfeited upon the breach of any of the conditions referred to in that subsection.

(4) Where a motor vehicle that has been seized or impounded pursuant to this Section is required as evidence in a prosecution or in connection with an investigation of an offence under this Act or under the *Criminal Code* (Canada), it must not be released until it is no longer required for such purpose.

(5) Any personal property present in a motor vehicle that is seized or impounded pursuant to this Section, other than personal property attached to or used in connection with the operation of the vehicle, must be released to the owner of the personal property upon request, unless it is required as evidence in a prosecution or in connection with an investigation of an offence under this Act or under the *Criminal Code* (Canada).

(6) Every person who obstructs or interferes with the Registrar, an official of the Department or a peace officer in the performance of that person's duties under this Section is guilty of an offence and liable upon summary conviction to a fine of not less than two hundred and not more than twenty thousand dollars or to imprisonment for a term of not more than six months, or to both.

4 Section 274 of Chapter 293 is repealed.

5 (1) Subsection 275(3) of Chapter 293, as enacted by Chapter 12 of the Acts of 2001, is amended by striking out "thirty days, the" in the second line and substituting "fifteen days, the Registrar,".

(2) Section 275 of Chapter 293, as enacted by Chapter 12 of the Acts of 2001, is further amended by adding immediately after subsection (3) the following subsections:

(4) Where a motor vehicle that was seized, taken into custody or possession or impounded pursuant to this Act is determined by the Registrar to be unlikely to have sufficient value upon sale to allow for recovery of the seizure costs and disposal costs likely to be incurred in the removal and storage of the vehicle, the Registrar may transfer ownership of the vehicle to the operator of an impound facility or may order that the vehicle be moved to a salvage yard, dump, landfill or waste disposal site for disposal, or that the vehicle be otherwise dealt with.

(5) Any determination of the value of a motor vehicle pursuant to subsection (4) is deemed to be the fair market value of the vehicle.

(6) Notwithstanding any rights or obligations that any person providing towing or impound services under this Section or Section 272, 273, 273A or 291A may have pursuant to this Act or any other enactment, where the Registrar orders the sale of a motor vehicle pursuant to subsection (3), the Registrar or an impound facility may sell the vehicle pursuant to Section 276.

(7) No action or other proceeding for damages may be instituted against the Registrar, any official of the Department or any peace officer for any act done in good faith in the execution or intended execution of the person's duty under this Section or Section 272, 273, or 273A, or for any alleged neglect or default in the execution in good faith of that duty.

6 Subsection 276(1) of Chapter 293 is repealed and the following subsections substituted:

(1) Whenever a motor vehicle is sold by the Registrar or an impound facility pursuant to an order made under subsection (3) of Section 275, the sale must be by tender or public auction.

(1A) Where an impound facility intends to sell a motor vehicle pursuant to subsection (1), the impound facility shall, at least twenty days before the sale, deliver to the Registrar

(a) a notice of the intended sale; and

(b) a statutory declaration setting out the amount of the lien claimed pursuant to subsection (2) of Section 275.

(1B) Upon receipt of notice of an intended sale pursuant to subsection (1A) or before sale of a motor vehicle by the Registrar, the Registrar shall, at least seven days before the sale, mail a notice to the registered owner of the vehicle by registered mail addressed to the owner using the owner's name and address as they appear on the records of the Department,

(a) a general description of the vehicle including the serial number; and

(b) the time and place of the sale.

(1C) At least seven days before a motor vehicle is to be sold pursuant to subsection (1), the Registrar or the impound facility that will be selling the vehicle, as the case may be, shall cause notice of the sale to be published in one or more newspapers circulated in the Province and shall include in the notice

(a) a general description of the vehicle including the serial number; and

(b) the time and place of the sale.

(1D) Where an impound facility sells a motor vehicle pursuant to this Section, the impound facility shall notify the Registrar of the sale within seven days of it taking place and shall apply the proceeds of the sale in the manner prescribed in the regulations.

7 Chapter 293 is further amended by adding immediately after Section 276 the following Section:

276A The Governor in Council may make regulations

- (a) defining “impound facility”;
- (b) prescribing fees that may be charged by impound facilities for services provided pursuant to this Act;
- (c) prescribing the manner in which an impound facility must apply the proceeds of the sale of a motor vehicle pursuant to Section 276;
- (d) respecting the manner in which orders and notices are to be issued for the purpose of Section 276;
- (e) classifying persons and motor vehicles and prescribing exemptions for classes of persons and classes of motor vehicles from the application of Section 276 or regulations made respecting Section 276 and prescribing conditions for such exemptions;
- (f) prescribing an amount of defaulted fines for the purpose of limiting the application of clause (c) of subsection (1) of Section 273.

8 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 and Chapter 45 of the Acts of 2007, is further amended by striking out “or (2)” in the fourth line.

9 Section 299 of Chapter 293, as enacted by Chapter 10 of the Acts of 2002, is amended by adding “or subsection (2) of Section 287” immediately after “230” in the second line.

10 Section 19 of Chapter 45 of the Acts of 2007, *An Act to Amend Chapter 293 of the Revised Statutes, 1989, the Motor Vehicle Act*, is amended by

- (a) striking out “282(1)” in the first line and substituting “282(2)”;
- (b) striking out “, 106(1)(c)” in the first line of clause (a) and substituting “, 106B(1)(c)”;
- (c) striking out “, 106(1)(b)” in the first line of clause (b) and substituting “, 106B(1)(b)”;
- (d) striking out “, 106(1)(a)” in the first line of clause (c) and substituting “, 106B(1)(a)”.

11 Sections 25 and 26 of Chapter 45 are repealed and the following Sections substituted:

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 subsection (1) 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 subsection (1) 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 subsection (1) 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 303J the following Section:

303K (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, of acquiring and using the systems, Her Majesty or the municipality, respectively, shall use the surplus revenue for road-safety purposes.

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