



BILL NO. 35

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act Respecting the Control of Body Armour

CHAPTER 2
ACTS OF 2011

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 19, 2011**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
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An Act Respecting the Control of Body Armour

Be it enacted by the Governor and Assembly as follows:

- 1 This Act may be cited as the *Body Armour Control Act*.
- 2 In this Act,
 - (a) “body armour” means
 - (i) a garment or item designed, intended or adapted for the purpose of protecting the human body from projectiles discharged from a firearm, as defined in the *Criminal Code* (Canada),
 - (ii) a garment or item designed, intended or adapted for the purpose of protecting the human body from an item or object used to, or adapted to, stab, pierce, puncture or otherwise wound the body, or
 - (iii) a prescribed garment or item;
 - (b) “body armour permit” means a permit issued under this Act authorizing a person to possess body armour;
 - (c) “body armour seller’s permit” means a permit issued under this Act authorizing a person to sell body armour;
 - (d) “compliance officer” has the same meaning as in the *Security and Investigative Services Act*;
 - (e) “conservation officer” means a conservation officer as defined in the *Crown Land Act*, the *Forest Act* or the *Wildlife Act*;
 - (f) “crime” means an offence under an Act of the Parliament of Canada or of a province of Canada that is prescribed by the Governor in Council to be a crime for the purpose of this Act, for which a pardon has not been granted or has been revoked or has ceased to have effect;
 - (g) “peace officer” means a police officer or a conservation officer;
 - (h) “police officer” means a member of the Provincial Police, the Royal Canadian Mounted Police, a municipal police department or another police department;
 - (i) “prescribed” means prescribed by the regulations;
 - (j) “Registrar” means the Registrar of Security and Investigative Services appointed under the *Security and Investigative Services Act*;
 - (k) “security agency” has the same meaning as in the *Security and Investigative Services Act*;
 - (l) “security agent” has the same meaning as in the *Security and Investigative Services Act*;
 - (m) “sell” includes offer for sale, expose for sale, have in possession for sale, distribute, give, transfer, lend, send or otherwise dispose of, whether or not for consideration.

POSSESSION AND SALE OF BODY ARMOUR

3 (1) No person shall possess body armour unless the person holds a valid body armour permit.

(2) Subsection (1) does not apply to

- (a) a police officer;
- (b) a conservation officer;
- (c) a special constable or by-law enforcement officer appointed under the *Police Act*;
- (d) a sheriff or deputy sheriff;
- (e) a correctional services employee;
- (f) a paramedic;
- (g) a security agent;
- (h) a security agency;
- (i) the holder of a valid body armour seller's permit; or
- (j) a prescribed person or a member of a prescribed class of persons.

(3) The exemption in clauses (2)(a) to (f) applies only while the person who is the subject of the exemption is using body armour in the course of the person's employment or duties.

(4) Where the exemption in subsection (2) ceases to apply to a person and that person is in possession of body armour, the person shall

- (a) return all body armour possessed to the Registrar; or
- (b) dispose of the body armour in accordance with written directions from the Registrar.

4 (1) A person may apply to the Registrar for a body armour permit or renewal of a body armour permit.

(2) An application for a body armour permit or renewal must

- (a) be made to the Registrar in the form and manner required by the Registrar;
- (b) set out the reasons why the applicant or permit holder requires body armour;
- (c) include an authorization for the Registrar to carry out the prescribed checks regarding the applicant or permit holder; and
- (d) be accompanied by the prescribed fee.

(3) An applicant for a body armour permit or the renewal of a body armour permit must meet all conditions and requirements imposed by this Act and the regulations.

- 5 (1) The Registrar may refuse to issue or renew a body armour permit if
- (a) the applicant or permit holder fails to comply with, or does not meet the requirements of, Section 4;
 - (b) the application is for renewal of a body armour permit and the Registrar is satisfied that the permit holder has contravened this Act, the regulations or a term or condition of the permit holder's body armour permit;
 - (c) the Registrar considers that the applicant or permit holder has failed to demonstrate a need to possess or continue to possess body armour;
 - (d) the Registrar considers that it is not in the public interest for the applicant or permit holder to possess or continue to possess body armour, having regard to the applicant or permit holder's past conduct; or
 - (e) there is an unresolved charge against the applicant or permit holder for a crime or the applicant or permit holder has been convicted of a crime.
- (2) The Registrar shall give the applicant or permit holder written reasons for a decision under subsection (1).
- 6 (1) The Registrar may issue or renew a body armour permit for a prescribed term.
- (2) The body armour permit must contain the prescribed terms and conditions.
- (3) The Registrar may
- (a) impose any additional terms and conditions on a body armour permit that the Registrar considers appropriate; and
 - (b) amend or remove such terms and conditions.
- (4) A permit holder shall comply with all terms and conditions imposed on a body armour permit.
- (5) A permit holder shall carry the permit at all times when body armour is in the permit holder's possession, and shall produce it on the request of a compliance officer or peace officer.
- (6) Where the term of a body armour permit expires or the permit for any other reason ceases to be valid, the permit holder shall immediately return the permit to the Registrar and
- (a) return all body armour possessed under the permit to the Registrar; or
 - (b) dispose of the body armour in accordance with written directions from the Registrar.
- 7 The Registrar may, by written authorization, exempt a person from the requirement to hold a body armour permit for a specified period if the Registrar is satisfied that
- (a) the person does not reside within the Province; and
 - (b) the nature of the person's proposed activities in the Province makes it desirable that the person be authorized to possess body armour for the specified period.

8 (1) Except as authorized under this Act or the regulations, no person shall sell body armour unless

- (a) the person is the holder of a valid body armour seller's permit; or
- (b) the person is exempted by the regulations from the requirement of this subsection.

(2) No person shall sell body armour to another person unless that other person

- (a) holds a valid body armour permit; or
- (b) is exempt from the requirement to hold a body armour permit.

9 (1) A person may apply to the Registrar for a body armour seller's permit or renewal of a body armour seller's permit.

(2) An application for a body armour seller's permit or renewal of a body armour seller's permit must

- (a) be made to the Registrar in the form and manner required by the Registrar;
- (b) include an authorization for the Registrar to carry out the prescribed checks regarding the applicant; and
- (c) be accompanied by the prescribed fee.

(3) An applicant for a body armour seller's permit or the renewal of a body armour seller's permit must meet all conditions and requirements imposed by this Act and the regulations.

10 (1) The Registrar may refuse to issue or renew a body armour seller's permit if

- (a) the applicant or permit holder fails to comply with, or does not meet the requirements of, Section 9;
- (b) the application is for renewal of a body armour seller's permit and the Registrar is satisfied that the permit holder has contravened this Act, the regulations or a term or condition of the permit holder's body armour seller's permit;
- (c) the Registrar considers that it is not in the public interest for the applicant or permit holder to sell or continue to sell body armour, having regard to the applicant or permit holder's past conduct; or
- (d) there is an unresolved charge against the applicant or permit holder for a crime or the applicant or permit holder has been convicted of a crime.

(2) The Registrar shall give the applicant or permit holder written reasons for a decision under subsection (1).

11 (1) The Registrar may issue or renew a body armour seller's permit for a prescribed term.

tions. (2) The body armour seller's permit must contain the prescribed terms and conditions.

(3) The Registrar may

(a) impose any additional terms and conditions on a body armour seller's permit that the Registrar considers appropriate; and

(b) amend or remove such terms and conditions.

(4) A permit holder shall comply with all terms and conditions imposed on a body armour seller's permit.

(5) A permit holder shall produce the permit on the request of a compliance officer or peace officer.

12 No person shall knowingly provide false or misleading information when applying for a permit or renewal of a permit under this Act.

13 The holder of a body armour permit or a body armour seller's permit shall, in accordance with the regulations, report the following in writing to the Registrar:

(a) a change of address, within thirty days of the date of the change;

(b) a change in any information provided to the Registrar when the application for the permit was made, within thirty days of the date of the change;

(c) where the permit holder has been charged or convicted of a crime, notice of the charge or conviction, within twenty-four hours of the charge or conviction;

(d) where a permit issued under this Act has been lost, stolen or destroyed, notice of the loss, theft or destruction of the permit, within twenty-four hours of the permit holder becoming aware of the loss, theft or destruction;

(e) any prescribed information, within the prescribed time period;

(f) any other information requested by the Registrar, within the time period specified by the Registrar.

14 (1) Where a body armour permit or a body armour seller's permit has been lost, stolen or destroyed, the permit holder may apply to the Registrar for the replacement of the permit.

(2) An application for the replacement of a permit must

(a) be made to the Registrar in the form and manner required by the Registrar; and

(b) be accompanied by the prescribed fee.

(3) The Registrar shall issue a replacement permit to a permit holder if the Registrar is satisfied that the permit holder's licence has been lost, stolen or destroyed.

(4) Where the Registrar is not satisfied that the permit holder's licence has been lost, stolen or destroyed, the Registrar shall refuse to issue a replacement permit and shall give the permit holder written reasons for the decision.

(5) Where a replacement permit has been issued and the original permit is recovered by the permit holder, the permit holder shall return the original permit to the Registrar forthwith.

15 (1) The Registrar may suspend or revoke a body armour permit or a body armour seller's permit if the Registrar determines that

- (a) the holder has contravened this Act; or
- (b) it is no longer in the public interest for the holder to have the permit.

(2) The Registrar shall give the permit holder written reasons for a decision under subsection (1).

(3) Where a body armour permit or a body armour seller's permit is suspended or revoked, the permit holder shall immediately return the permit to the Registrar and

- (a) return all body armour possessed under the permit to the Registrar; or
- (b) dispose of the body armour in accordance with written directions from the Registrar.

16 (1) A person affected by a decision of the Registrar under this Act may request that the Registrar review the decision.

(2) The request must

- (a) be in writing;
- (b) set out the reasons for the request; and
- (c) be received by the Registrar within thirty days after the Registrar issued written reasons for the decision.

(3) The Registrar is not required to hold a hearing if a request for review is made, but the Registrar shall give the person seeking the review the opportunity to make written submissions.

(4) The Registrar may confirm the original decision or may revoke or vary it in any manner the Registrar considers appropriate.

(5) A request for review does not operate as a stay of the decision under review.

(6) The decision of the Registrar on a review is final and not subject to further review or appeal.

ENFORCEMENT

- 17 (1)** A compliance officer or peace officer may conduct an inspection for
- (a) determining whether a person is in compliance with this Act, the regulations or the terms and conditions of the person's body armour permit or body armour seller's permit;
 - (b) assisting the Registrar in making a decision under this Act.
- (2)** For the purpose of an inspection, a compliance officer or peace officer may
- (a) enter and inspect the premises, vehicle or vessel of a person who holds a body armour permit or a body armour seller's permit;
 - (b) inquire into any business, affairs or conduct of a person;
 - (c) inspect, audit or examine any record, goods or other thing, in the premises, vehicle or vessel;
 - (d) demand that a document or any other thing be produced for inspection;
 - (e) make a record, including a record on film, audio tape or otherwise, of the premises, vehicle or vessel or of any thing in or on the premises, vehicle or vessel;
 - (f) remove a record or any other thing for review and copying;
 - (g) remove and retain any record or other thing that may be required as evidence from the premises, vehicle or vessel;
 - (h) question a person.
- (3)** Where a record or thing is removed under clause (2)(f) or (g), the compliance officer or peace officer
- (a) may make copies of, take extracts from or otherwise record it; and
 - (b) shall give a receipt to the person from whom it is taken.
- (4)** The authority under subsection (2) must not be used to enter a private dwelling except with the consent of the occupant or under the authority of a warrant under Section 18.
- (5)** A compliance officer, on request of a person whose premises the compliance officer enters, shall produce identification provided by the Registrar for this purpose.
- 18** A compliance officer or peace officer may, in accordance with the *Summary Proceedings Act*, obtain a warrant or investigative warrant in the exercise of any of the powers under this Act.
- 19** No person shall obstruct, impede or refuse to admit a compliance officer or peace officer who is exercising powers or performing duties under this Act or a warrant issued for the purpose of enforcing this Act.

20 (1) Where a person is in possession of body armour, a compliance officer or peace officer may seize the person's body armour if, on the request of the compliance officer or peace officer, the person

(a) refuses or is unable to produce a valid body armour permit or body armour seller's permit; or

(b) is unable to provide satisfactory evidence to the compliance officer or peace officer that the person is exempted from the requirement to hold a body armour permit or body armour seller's permit.

(2) A compliance officer or peace officer shall return seized body armour to the person from whom it was seized if the person, within seventy-two hours after the seizure, shows the compliance officer or peace officer a valid body armour permit or body armour seller's permit or provides satisfactory evidence that the person is exempt from the requirement to hold a body armour permit or body armour seller's permit.

(3) Where seized body armour is not returned within seventy-two hours after the seizure, the body armour is forfeited to Her Majesty in right of the Province and may be destroyed in such manner as may be prescribed.

GENERAL

21 (1) An individual who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than ten thousand dollars, or imprisonment for a term of not more than three months, or both.

(2) A corporation that contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than twenty-five thousand dollars.

(3) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in subsection (1), whether or not the corporation has been prosecuted or convicted.

22 (1) The Governor in Council may make regulations

(a) prescribing anything that, by this Act, is required to be prescribed or is to be determined or regulated by the regulations;

(b) prescribing conditions and requirements for the purpose of subsections 4(3) and 9(3);

(c) exempting a person from the requirement that a person selling body armour hold a valid body armour seller's licence;

(d) defining any word or expression used but not defined in this Act;

(e) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

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

23 (1) Subsection 3(1) does not apply for a period of three months after the date this Section comes into force to a person who, on that date, is in possession of body armour.

(2) Section 8 does not apply for a period of three months after the date this Section comes into force to a person who, on that date, is in possession of body armour for the purpose of selling that body armour to another person.

24 Schedule B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2004, Chapter 32 of the Acts of 2007 and Chapter 9 of the Acts of 2010, is amended by adding “Body Armour Control Act” immediately after “Animal Cruelty Prevention Act”.

25 This Act comes into force on such day as the *Security and Investigative Services Act* comes into force.
