



# **BILL NO. 1**

*Government Bill*

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

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

CHAPTER 22  
ACTS OF 2011

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

The Honourable Bill Estabrooks, M.B.  
*Minister of Transportation and Infrastructure Renewal*

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*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 67 of Chapter 293 of the Revised Statutes, 1989, the *Motor Vehicle Act*, 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 30 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, Chapter 45 of the Acts of 2007, Chapter 21 of the Acts of 2008 and Chapter 20 of the Acts of 2010, is further amended by adding immediately after subsection (5B) the following subsection:**

(5C) Where, following a review under Section 279G, the Registrar is satisfied that a child was present at the time of an offence under Section 253 or 255 of the *Criminal Code* (Canada) and the person is convicted of, pleads guilty to or is found guilty of the offence, an application for restoration of the person's driver's license or privilege of obtaining a driver's license may not be made until twelve months after the end of time period that must otherwise elapse, as set out in this Section, before an application for restoration can be considered under this Section.

**2 Chapter 293 is further amended by adding immediately after Section 297C the following Sections:**

279D (1) In this Section and Sections 279E to 279H, "child" means a person under the age of sixteen years.

(2) Where a peace officer has reason to believe that a person committed an offence under Sections 253 or 255 of the *Criminal Code* (Canada) in relation to operating or having care and control of a motor vehicle and that a child was present in the motor vehicle at the time of the alleged offence, the peace officer shall prepare and submit to the Registrar a report of the matter.

(3) A report under subsection (2) must include the driver's name and, where available, the child's name and date of birth and must be in such form and include such other matters as may be prescribed by the Registrar.

279E (1) Where the Registrar receives a report under Section 279D, the Registrar shall provide a copy of the report to the person named in the report together with a written notice advising that

(a) the Registrar will review the matter to determine whether the Registrar is satisfied a child was present in the vehicle at the time of the alleged offence;

(b) the person has a right to participate in the review by providing a written submission within thirty days of receipt of the notice;

(c) where the person fails to provide a written submission within thirty days of the receipt of notice, the Registrar will make a determination based upon the report provided by the peace officer;

(d) the decision made by the Registrar cannot be appealed; and

(e) where the person is convicted, pleads guilty or is found guilty of the alleged offence and Registrar is satisfied that a child was present in a motor vehicle at the time of the offence, the person is subject to an increased period of revocation of the person's driver licence or privilege of obtaining a driver's licence and to mandatory participation in an ignition interlock program established under this Act.

(2) A notice under subsection (1) must be delivered by mail or delivery service to the person's address on file with the Registry of Motor Vehicles and, in the absence of the evidence to the contrary, is deemed to be received by the person five days after the date of mailing or delivery to the delivery service.

279F (1) Unless otherwise permitted by the Registrar, a review must be done by consideration of written submissions.

(2) A person who is issued a notice under Section 279E may participate in the review by providing a written submission to the Registrar within thirty days of receiving the notice.

(3) The submission of the person must include

(a) any prescribed fee;

(b) a written statement, including sworn or solemnly affirmed statements to be considered during the review;

(c) the person's full name, current mailing address, telephone number and fax number, if any; and

(d) contact information for the person's legal counsel or agent, if any.

(4) Where the submission states that person is represented by legal counsel or an agent, the Registrar shall communicate with the person through the legal counsel or agent, as the case may be.

(5) A submission and any related documents may be delivered to the Registrar's office by hand, mail, courier or facsimile.

(6) A document that is received outside the Registrar's business hours is deemed to be delivered on the next day that the Registrar's office is open for business.

(7) Where the person fails to make a submission within thirty days of delivery of the notice, the participation of that person is deemed to be waived by that person and the Registrar may proceed to make any decision that the Registrar could make following a review.

279G (1) In conducting a review, the Registrar shall consider

(a) the report from the peace officer;

(b) the submission, if any, of the person with respect to whom the review is being made; and

(c) where the review is done in person or by telephone, information delivered verbally.

(2) In conducting a review, the Registrar may do any or all of the following:

(a) request additional information from the person in the form and within the time period determined by the Registrar, including sworn or solemnly affirmed statements;

(b) request or permit a request to receive a submission in person or by telephone or other electronic means if the Registrar determines that it would be more efficient than a review by written submission only or there may be issues of credibility;

(c) allow additional time for information to be submitted;

(d) request additional information from the peace officer that prepared the report or any other person.

(3) In conducting a review, the sole question for determination by the Registrar is whether a child was in the motor vehicle at the time of the alleged offence.

279H(1) On completion of a review, where the Registrar is satisfied a child was present in a vehicle at the time of the alleged offence, the Registrar shall make a note of that finding on the record of the person with respect to whom the review was made.

(2) The Registrar's decision must

(a) be in writing; and

(b) state the reason for the decision.

(3) The Registrar's decision must be delivered by mail or delivery service to

(a) the person's address as indicated in the person's submission;

(b) the person's legal counsel or agent if one is designated; or

(c) where no submission was received, to the last address on file with the Registry of Motor Vehicles.

(4) The Registrar's review decision is final and is not subject to any review or appeal.

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

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