



**SUBMISSION TO THE LAW AMENDMENTS COMMITTEE
REGARDING BILL 94 - AN AMENDMENT TO THE MOTOR VEHICLE ACT
- The Lemon Law -**

11:00 AM Wednesday, November 24, 2010

**Presented by John Sutherland, Executive Vice President,
Nova Scotia Automobile Dealers' Association**

Good Morning Mr. Chairman and members of the Committee. My name is John Sutherland; I am the Executive Vice President of the Nova Scotia Automobile Dealers' Association. Our Association represents 105 of the 120 new car franchised dealers in Nova Scotia. Our dealerships are privately owned by Nova Scotians who have a franchise from the manufacturer to sell and service that manufacturer's vehicles. The investment in real estate, buildings, inventory and staff is entirely Nova Scotian, as new car manufacturers do not own the dealerships that represent them here in Nova Scotia. As new car franchise dealers, our members, in addition to the sale of new cars, rely heavily on the sale of used cars and all our dealerships have used car departments. Many of the vehicles sold in used car departments are taken in on trade by our member dealers as customers move to another new or used vehicle.

Our Association has been consulted by the Registry of Motor Vehicles concerning the proposed amendments to the Motor Vehicle Act, known as Bill 94 or the Lemon Law. We are grateful today to be able to provide information for your consideration and we hope you will be able to use that information to improve the Bill.

The Board of the Nova Scotia Automobile Dealers' Association supports this legislation in principle. Bill 94 raises the bar on standards related to used vehicle sales in this province and its measures serve to protect the public who are in the market for a used car in Nova Scotia. However, there will be a significant element of the public that will not be protected by this legislation and we argue that the legislation needs to be broadened so that all Nova

Scotians in the market for a used vehicle can have the benefit of the measures this Bill proposes.

On Friday, November 19, Minister Jennex moved second reading of this Bill commenting that this Bill would, and I quote “help all Nova Scotians purchasing a used vehicle and protect that person who is purchasing a used vehicle”. Unfortunately, Bill 94 falls short of this goal and that is the area I want to address.

We know, according to the Registry of Motor Vehicles in Nova Scotia, that there are 200,000 used vehicle transactions per year in this province. Of those, 82,000 are dealer transactions and presently those transactions will be governed by Bill 94. This leaves 118,000 unprotected transactions. A significantly large number and we know that many of these transactions are, in fact, done by unlicensed dealers who chose to sell in the underground economy. They do not take the title of the vehicle into their names nor do they seek to become registered dealers in this province. They, in effect, shoulder no responsibility for the vehicles they sell and their actions are not subject to this legislation and the consumers who buy vehicles as a result are not protected.

The Registry of Motor Vehicles confirms that dealer transactions in this province account for 82,000 used vehicles, however, we need to better understand what comprises those 82,000 transactions. Approximately 35% or 29,000 of those transactions are ‘dealer to dealer’ transactions leaving 53,000 ‘dealer to consumer’ transactions which, in effect, the Bill will seek to protect.

In essence, Bill 94 will not protect all Nova Scotians buying used cars. It will protect 53,000 retail transactions out of a total of 200,000 used retail transactions.

We submit that this Legislation needs to be strengthened. We suggest that the Bill be amended by changing the word ‘dealer’ to the word ‘seller’ in the Legislation, in order to ensure that anyone selling a vehicle will be held accountable and it will provide a true

measure of protection to the public.

While I understand that this measure may have been considered and rejected because of a concern that we could not police all retail sales of used vehicles, let me remind the Committee that the key element here is to make sure that our Legislation protects all purchasers of used vehicles. It gives them the option to proceed to Small Claims Court by having a firm legal basis on which to seek a conviction in the event that lack of disclosure can be proved in a used sale.

The other key aspect of this process is to ensure that dealers and consumers have access to check the pedigree of a used vehicle. Presently, services such as CarProof and Car Fax exist and are available to all Nova Scotians. A third service, which operates nationally in Canada and throughout the United States is a company by the name of Experian. Experian has been denied access to Nova Scotia's Vehicle Database. In fact, Nova Scotia is the only province in Canada that denies access to Experian. Experian has been seeking access for 10 years and would be prepared to pay for access to that information on a similar basis to companies such as Car Fax. In our view, it would simply be a matter of the province sending a duplicate of the information to Experian at the same time it is sent to Car Fax. I attach letters from Experian and from our Minister that seem to indicate that access on the part of Experian to our database here in Nova Scotia will continue to be denied. This is simply not acceptable nor is it in the interest of the protection of the public. Mr. Chairman, with this I conclude my remarks and stand ready to answer any questions the Committee may have. Thank you.

John K. Sutherland
Executive Vice President
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APPENDIX A

BILL 94 - THE UNPROTECTED PUBLIC

Issue Date: November 22, 2010

	200,000	Used vehicle transactions in Nova Scotia per year <i>(source Registry of Motor Vehicles)</i>
Less	<u>82,000</u>	Used vehicle transactions done by dealers <i>(source Registry of Motor Vehicles)</i>
Equals	118,000	Unprotected consumers used vehicle transactions

BUT

	82,000	Used vehicle transactions done by dealers include 29,000 'dealer to dealer' sales, leaving 53,000 consumer protected transactions
Less	<u>29,000</u>	
	53,000	

SO

Bill 94, as it stands, protects approximately 53,000 or ¼ of the 200,000 used vehicle transactions done annually in Nova Scotia

Experian Automotive
955 American Lane [#1600]
Schaumburg, IL 60173-4983

Honourable Ramona Jennex, Minister
Department of Service Nova Scotia and Municipal Relations
14th Floor North, Maritime Centre
1505 Barrington Street P.O. Box 216
Halifax, Nova Scotia, B3J 2M4

Re: Access to and use of motor vehicle data

September 23, 2010

Dear Minister Jennex:

In April of this year I wrote asking for your assistance in gaining access to motor vehicle registration data on a continual basis. Your response at the time was that you were not able to accommodate our request. You stated that I can expect an update in the fall of this year.

Can you please advise if your agency is any closer to providing Experian with the service requested? If not now can you please advice when we might expect this situation to turn around?

Experian's lack of Nova Scotia vehicle data has reached the critical stage for our clients. We have been at a significant disadvantage from the beginning. Our competitors have had access for many years and they are able to service their customers in a manner that we cannot.

Please understand that all we are asking for is equal treatment. We lack an understanding as to why others have access and Experian does not. The services we could otherwise provide are highly beneficial to the auto industry in general and individual consumers in particular.

It is impossible to over stress the importance of this matter. I would appreciate an update as to when we can expect the circumstances to change.

Thank you for your consideration.

Respectfully,

Theodore "Ted" Hotham
Regulatory Affairs
Experian Information Solutions

Cc: Mr. Paul Arsenault, Registrar
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P.O. Box 2734
Halifax, NS B3J 3P7

Cc: John Sutherland
Nova Scotia Auto Dealers Association
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Service Nova Scotia and Municipal Relations
Office of the Minister

Appendix C

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2010

Mr. Theodore "Ted" Hotham
Regulatory Affairs
Experian Information Solutions
955 American Lane [#1600]
Schaumburg, IL 60173-4983

Dear Mr. Hotham

I have received your September 23, 2010, letter asking the status of your request for access to motor vehicle information.

As per my April 27, 2010, response to you, the Registrar of Motor Vehicles will provide an update to you within the next two months.

Sincerely,

Ramona Jennex