



**HOUSE USE ONLY**

**CHAIR:**

WITH  / WITHOUT

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2nd SESSION, 66th GENERAL ASSEMBLY  
Province of Prince Edward Island  
1 CHARLES III, 2022

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**(Bill No. 130)**

## **Zero-emission Vehicles Act**

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Sidney MacEwen  
MLA

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PRIVATE MEMBER'S BILL

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Andrea MacRae  
Acting Queen's Printer  
Charlottetown, Prince Edward Island





## **ZERO-EMISSION VEHICLES ACT**

**BILL NO. 130**

**2022**

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WHEREAS transportation is the second largest source of greenhouse gas emissions in Canada, and the largest source in Prince Edward Island;

AND WHEREAS driving down transportation-related greenhouse gas emissions is critical to achieving climate change reduction goals and is consistent with the global shift toward zero-emission vehicles;

AND WHEREAS one way to reduce the amount of transportation-related greenhouse gas emissions in Prince Edward Island is to put more zero-emission vehicles on the road;

AND WHEREAS several jurisdictions have enacted legislation to require automakers to meet an escalating annual percentage of new light-duty zero-emission sales and leases;

AND WHEREAS the Legislative Assembly believes that such legislation is in the interest of the people of Prince Edward Island, and will encourage automakers to increase the number of zero-emission vehicles that they sell in Prince Edward Island to meet consumer demand, and spur the automobile market to develop greater numbers of vehicle models that rely on increasingly efficient low-carbon technologies;

THEREFORE, BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

## PART 1 - INTERPRETATION

### 1. Definitions

In this Act

- (a) “**consumer sale**” in relation to a motor vehicle, means a retail sale or retail lease in the province of the motor vehicle that is the first retail sale or retail lease, as the case may be, of that motor vehicle in the province or another jurisdiction in or outside Canada;
- (b) “**director**” means the government employee designated in writing by the Minister as the director for the purposes of this Act;
- (c) “**greenhouse gas**” means any or all of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulphur hexafluoride and any other substance prescribed by regulation;
- (d) “**inspector**” means a government employee who is designated in writing by the director as an inspector, or a person in a class of government employees that is designated in writing by the director as inspectors;
- (e) “**light-duty vehicle**” means an on-road motor vehicle that is designed primarily for the transportation of persons and has a designated seating capacity of not more than 12 persons;
- (f) “**Minister**” means the Minister of Environment, Energy and Climate Action;
- (g) “**model year**” in relation to a motor vehicle, has the meaning prescribed in the regulations;
- (h) “**motor vehicle**” means a motor vehicle within the meaning of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap H-5, but does not include a vehicle in a class of vehicles prescribed in the regulations;
- (i) “**supplier**” in relation to a motor vehicle, means
  - (i) subject to subclause (ii), the person who supplies motor vehicles of the vehicle make for consumer sale by the person or another person;
  - (ii) the person who deemed under the regulations to be the supplier.
- (j) “**vehicle class**” in relation to a motor vehicle, means a prescribed class of motor vehicles, and;
- (k) “**vehicle make**” means the name of a motor vehicle marketed by one or more related corporations or other persons who
  - (i) are engaged in the business of manufacturing motor vehicles, and
  - (ii) use a common corporate name and vehicle marque;
- (l) “**zero-emission vehicle**” or “**ZEV**” means
  - (i) a motor vehicle that
    - (A) is propelled by electricity or hydrogen from an external source, and
    - (B) emits no greenhouse gases at least some of the time while the motor vehicle is being operated, or
  - (ii) is a type of vehicle prescribed in the regulations;
- (m) “**ZEV class**” in relation to a zero-emission vehicle, means a class of zero-emission vehicles prescribed in the regulations.

**2. Classification of motor vehicles**

For the purposes of this Act, motor vehicles are classified by

- (a) model year;
- (b) vehicle class; and
- (c) in the case of a zero-emission vehicle, ZEV class.

**PART 2 – CREDITS AND CHARGES**

**3. Credits**

- (1) When, on average, for three consecutive model years, more than the prescribed number of new motor vehicles are sold or leased in Prince Edward Island by a supplier, that supplier must, for the model year that immediately follows the last of those three consecutive model years, accumulate credits whose number is determined according to the parameters, calculation method and conditions determined by the regulations.

**Where fewer than prescribed number of vehicles**

- (2) If the average number of new motor vehicles referred to in subsection (1) is equal to or less than the prescribed number of new motor vehicles, a supplier may, even if not required to do so, accumulate credits according to the same parameters, calculation method and conditions as those provided for in this Part.

**Categories of suppliers**

- (3) The Lieutenant Governor in Council may, by regulation, classify suppliers by category, and the parameters, calculation method and conditions referred to in subsection (1) may then vary according to the category of supplier to which they apply.

**4. List of vehicles enabling credits**

- (1) Each year, the Minister shall draw up a list, by model year, of the new or reconditioned motor vehicles whose sale or lease enables a supplier to accumulate credits.

**Publication of list**

- (2) The Minister must publish the list and post it on the website of the Minister's department not later than May 1 of each year.

**List may include specifications**

- (3) The Minister may, in the list, include specifications for each of those vehicles.

**Minister may update list**

- (4) The Minister may update the list at any time, and shall publish and post the amended list as set out in subsection (2).

**5. Accumulation of credits**

A supplier may accumulate credits under section 3

- (a) by selling or leasing, in Prince Edward Island, new motor vehicles whose number, for each model year, is established according to the calculation method determined by the regulations and which meet the following conditions and any further conditions prescribed in the regulations:
  - (i) they must be propelled, either solely or in conjunction with another means of propulsion, by an electric motor, a hydrogen internal combustion engine or another means of propulsion that emits no pollutants,
  - (ii) if the electric motor referred to in subclause (i) draws current from a battery, the battery must be rechargeable from a source that is not on board the vehicle, and
  - (iii) they must appear in the list drawn up under section 4;
- (b) by selling or leasing, in Prince Edward Island, reconditioned motor vehicles whose number, for each model year, is established according to the calculation method determined by the regulations and which meet the same conditions as those that must be met by new motor vehicles under clause (a) and the following conditions:
  - (i) they are sold or leased for the first time in Prince Edward Island, and
  - (ii) any other condition prescribed by regulation; or
- (c) by acquiring them from another supplier that has accumulated them under this Act.

## **6. Transfer of credits**

- (1) A supplier may transfer its credits to another supplier to which this Act applies.

### **Transfer contract to be in writing**

- (2) A contract between the parties to transfer credits must be evidenced in writing.

### **Recognition of transfers**

- (3) For the purposes of this section, the Minister shall only recognize a transfer that has been reported to the Minister by both parties to the contract.

## **7. Calculation of credits and charges**

- (1) At the end of each period of three consecutive calendar years, the Minister shall determine, not later than September 1 following that period, the number of credits accumulated by a supplier for each of the three model years that corresponds to one of the three calendar years concerned.

### **Determination of model year for credits**

- (2) The credits accumulated by a supplier through the sale or lease of a motor vehicle referred to in clause 5(b) are considered, for the purposes of this section, to have been accumulated for the model year, among those referred to in the subsection (1), that corresponds to the calendar year during which it was sold or leased for the first time in Prince Edward Island.

### **Assessment of charge**

- (3) A supplier that has not accumulated the number of credits required to fulfill its obligations under this Act or the regulations must, within three months after the Minister sends a notice of claim, pay to the Minister a charge whose parameters, calculation method, conditions and terms of payment are determined by the regulations.

**Calculation of charge**

- (4) The Lieutenant Governor in Council shall determine, by regulation, the value of a credit for the purpose of calculating the charge assessed under subsection (3).

**8. Use of excess credits**

- (1) A supplier that, at the end of a period referred to in section 7, has accumulated a number of credits greater than that required to fulfill its obligations under this Act or the regulations may use or transfer the excess credits later.

**Minister may limit use of excess credits**

- (2) The Minister may, by regulation, limit the number of credits referred to in subsection (1) that may be used by a supplier during a later period for the purpose of establishing the number of credits it has accumulated.

**9. Prohibition in 2035 and subsequent years**

On or after January 1, 2035, no person may make a consumer sale of a light-duty motor vehicle that is not a zero-emission vehicle.

**10. Information requests**

On request by the director, a supplier of a vehicle make shall provide information about consumer sales of the vehicle make, by model year, vehicle class or ZEV class, within the period of time specified by the director.

**11. Audits**

- (1) Where the director has reasonable grounds to believe it is necessary, the director may
- (a) require a supplier who submits a report to have the report audited in accordance with the directions of the director, or
  - (b) conduct or authorize a person to conduct an audit of a report submitted.

**Supplier to comply within specified period**

- (2) A supplier who is required to have a report audited under clause (1)(a) shall do so within the period of time specified by the director.

**Supplier to pay reasonable costs**

- (3) A supplier who is required to have a report audited under clause (1)(b) shall pay to the Government the reasonable costs of the audit within 30 days after the receipt of an invoice from the director.

**12. Record-keeping requirements**

- (1) A supplier shall maintain the following records:
- (a) records sufficient to verify the information required to be reported under the regulations; and
  - (b) any other records prescribed in the regulations.

**Records to be stored in the province**

- (2) The records required under subsection (1) shall be maintained in the province.

**Records retention requirements**

- (3) The records required under subsection (1) shall be retained for six years after the records are created, or such longer period as may be prescribed.

**Records to be recorded and retained in accordance with the regulation**

- (4) The recording, maintenance and retention of records shall be done in accordance with any requirements established by regulation.

## **PART 3 – COMPLIANCE AND ENFORCEMENT**

### **Division 1 – Inspections**

#### **13. Inspections**

- (1) For the purposes of ensuring compliance with this Act or the regulations,
- (a) the director may designate persons or classes of persons as inspectors and issue identification to those inspectors, and
  - (b) an inspector designated under clause (a) may do all of the following for the purposes of an inspection:
    - (i) at any reasonable time enter land or premises, other than premises or a part of premises used solely as a private residence,
    - (ii) inspect, analyze, measure, sample or test anything,
    - (iii) use or operate anything or require the use or operation of anything, under conditions specified by the inspector,
    - (iv) take away samples, including motor vehicles, or
    - (v) make or take away copies of records, photographs or audio or video records.

**Entry by inspector**

- (2) An inspector who enters land or premises in accordance with this section
- (a) may take along the persons and equipment that the inspector considers may be necessary for the purposes of the inspection, and
  - (b) on request, shall provide proof of identity to a person present on the land or premises entered.

**Compliance by subject of inspection**

- (3) A person who is the subject of an inspection under this section, or who is or was a director, receiver, receiver manager, officer, employee, banker, auditor or agent of a person who is the subject of an inspection under this section, on request of an inspector, shall, without charge or unreasonable delay,
- (a) produce for examination by the inspector any record relating to requirements under this Act, and
  - (b) provide the inspector with information relevant to the purposes of the inspection.



**Seizure of items**

- (4) If an inspector concludes in the course of an inspection under this Act that the inspector has reasonable grounds to believe that a person has contravened or is contravening this Act or the regulations, the inspector may seize anything validly inspected by the inspector that the inspector believes on reasonable grounds
- (a) was used or is being used in the contravention; or
  - (b) will afford evidence of the contravention.

**Items seized**

- (5) Where items have been seized under subsection (4), the detention of things seized, access to things seized and orders for disposition of things seized, shall be carried out in accordance with the regulations.

**Division 2 – Offences**

**14. Offences and Penalties**

- (1) A person who contravenes any of the following provisions commits an offence:
- (a) a provision of this Act; or
  - (b) a provision of the regulations the contravention of which is prescribed to be an offence.

**Offences respecting non-compliance with director or an inspector**

- (2) A person who does either of the following commits an offence:
- (a) obstructs or resists the director or an inspector exercising powers or performing duties under this Act; or
  - (b) fails to comply with a direction given or requirement imposed under this Act by the director or an inspector.

**Offences – fines to be prescribed**

- (3) A person convicted of an offence under subsection (1) is liable to a fine of not more than the maximum amount prescribed in the regulations for the purpose of this subsection.

**Offences – fines to be prescribed**

- (4) A person convicted of an offence under subsection (2) is liable to a fine of not more than the maximum amount prescribed in the regulations for the purpose of this subsection.

**15. Offences of providing false or misleading information and penalties**

- (1) A person who knowingly provides false or misleading information when required under this Act to provide information commits an offence and is liable on conviction to a fine of not more than the maximum amount prescribed in the regulations for the purpose of this subsection.

**Fine to be prescribed**

- (2) A person who provides false or misleading information when required under this Act to provide information, other than a person described in subsection (1), commits an offence and is liable on conviction to a fine of not more than the maximum amount prescribed in the regulations for the purpose of this subsection.

**Defence of reasonable diligence**

- (3) A person does not commit an offence under subsection (2) if, at the time the information was provided, the person, despite the exercise of reasonable diligence, could not have known that the information was false or misleading.

**16. Continuing offences**

If an offence under this Act continues for more than one day, separate fines, each not exceeding the maximum fine for the offence, may be imposed for each day the offence continues.

**17. Corporate liability**

- (1) If a corporation commits an offence under this Act, an officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence, whether or not the corporation is prosecuted or convicted.

**Offences by employees, officers, directors or agents are offences by the corporation**

- (2) If an employee, officer, director or agent of a corporation commits an offence under this Act while acting on behalf of the corporation, the corporation also commits the offence, whether or not the officer, director or agent is identified, prosecuted or convicted.

**Burden of proof is on corporation**

- (3) For the purposes of subsection (2), a corporation has the burden of proving that an employee, officer, director or agent of the corporation was not acting on behalf of the corporation at the time the employee, officer, director or agent committed an offence referred to in that subsection.

**18. Time limit for information**

- (1) The time limit for laying an information for an offence under this Act is
- (a) three years after the date that the facts on which the information is based arose, or
  - (b) if the Minister completes a certificate described in subsection (2), 18 months after the date that the facts on which the information is based first came to the knowledge of the Minister.

**Certificate by Minister is proof**

- (2) A document purporting to have been issued by the Minister, certifying the date on which the Minister became aware of the facts on which the information is based, is proof of the certified facts.

## PART 4 – GENERAL

### Division 1 – General

#### 19. Notice and service under this Act

- (1) A notice that is required to be served on a supplier under this Act is deemed to have been served if it is
- (a) sent by ordinary mail or registered mail to the supplier’s address for service;
  - (b) transmitted by email to the supplier at the email address provided as part of the supplier’s address for service; or
  - (c) sent, transmitted or delivered by any method of service prescribed in the regulations

#### Deemed service by mail

- (2) If service is by ordinary mail or registered mail, the notice is deemed to have been served eight days after it is mailed.

#### Deemed service by email

- (3) If service is by email, the notice is deemed to have been served three days after it is transmitted.

#### Deemed service by other prescribed method

- (4) If service is by a prescribed method of service, the notice is deemed to have been served the prescribed number of days after it is sent, transmitted or delivered, as the case may be.

#### 20. Confidentiality

- (1) In this section
- (a) “**protected information**” means information that would reveal
    - (i) trade secrets of a third party, or
    - (ii) commercial, financial, labour relations, scientific or technical information of or about a third party;
  - (b) “**third party**” has the same meaning as in the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01;
  - (c) “**trade secret**” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

#### Prohibition on disclosure of protected information

- (2) Subject to this section, a person who has access to protected information that is in the custody or under the control of the Government through
- (a) reports to be provided by a supplier under this Act; or
  - (b) an information-sharing agreement under section 21 that provides that the information is to be kept confidential;
- shall not disclose the protected information to any other person.

**Exceptions to prohibition**

- (3) The prohibition in subsection (2) does not apply to disclosure of the following information:
- (a) information that is publicly available;
  - (b) if the regulations classify suppliers, the classification of a supplier;
  - (c) the number or proportion of consumer sales, by supplier, model year or vehicle class, that are zero-emission vehicles; or
  - (d) information that is required or authorized to be made public under this Act.

**21. Information-sharing agreements**

- (1) For the purposes of this section, “**information-sharing agreement**” means a data-matching or other agreement to provide or exchange information related to any of the following:
- (a) the administration of this Act;
  - (b) the reduction of greenhouse gas emissions from motor vehicles in the province;
  - (c) consumer sales of zero-emission vehicles; or
  - (d) the registration of motor vehicles.

**Agreements with other jurisdictions or public bodies**

- (2) With the prior approval of the Lieutenant Governor in Council, the Minister may enter into an information-sharing agreement with any of the following:
- (a) the government of another jurisdiction in or outside Canada or an agent of that government;
  - (b) a public body as defined in the *Freedom of Information and Protection of Privacy Act*.

**Division 2 - Regulations****22. General regulation-making powers**

- (1) Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.

**Scope of regulations**

- (2) A regulation made under this Act may do any or all of the following:
- (a) delegate a matter to a person;
  - (b) confer a discretion on a person;
  - (c) make different regulations in relation to different classes of persons, things, circumstances or other matters;
  - (d) adopt by reference, in whole, in part or with any changes considered appropriate, a regulation, code, standard or rule
    - (i) enacted as or under a law of another jurisdiction in or outside Canada, or
    - (ii) set by a provincial, national or international body or any other code, standard or rule-making body,
 as the regulation, code, standard or rule stands at a specific date, as it stands at the time of adoption or as amended from time to time.

**23. ZEV regulations**

Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations classifying types of zero-emission vehicles.

**24. Regulations in relation to reports**

Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations respecting reports, including, without limitation, respecting the timing, form, content and manner of submission of the reports.

**25. Regulations in relation to administrative penalties and fines**

Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations

- (a) prescribing administrative penalties;
- (b) in relation to administrative penalties:
  - (i) prescribing provisions of this Act and the regulations in relation to which an administrative penalty may be imposed,
  - (ii) prescribing a limitation period for imposing an administrative penalty and evidentiary matters in relation to that period,
  - (iii) prescribing procedures to be applied by the director in making a determination of non-compliance,
  - (iv) prescribing matters that shall be considered by the director in imposing an administrative penalty in a particular case,
  - (v) requiring the director to serve a person with a notice of intent to impose an administrative penalty and provide the person with an opportunity to be heard before sending an administrative penalty notice,
  - (vi) establishing procedures for providing a person on whom a notice of intent to impose an administrative penalty has been served with an opportunity to be heard, which may include opportunities that do not involve an oral hearing,
  - (vii) prohibiting the director from serving an administrative penalty notice on a person who has demonstrated to the satisfaction of the director that the person exercised due diligence to prevent the specified contravention or failure,
  - (viii) establishing the required content of administrative penalty notices,
  - (ix) prescribing the maximum or minimum amount of an administrative penalty that may be imposed generally or for specified contraventions, or the manner of calculating those amounts,
  - (x) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions,
  - (xi) respecting the manner and process for paying an administrative penalty,
  - (xii) prescribing the consequences of failing to pay an administrative penalty, which may include, but are not limited to, imposing additional administrative penalties,
  - (xiii) providing for the publication of information respecting the imposition of an administrative penalty; and

- (c) prescribing maximum amounts for fines provided for in subsections 14(3) and (4), and subsections 15(1) and (2).

## **PART 5 – TRANSITIONAL AND FINANCIAL PROVISIONS**

### **26. Transition – early action credits**

- (1) Subject to the regulations, the director may issue credits to a supplier of a vehicle make in relation to consumer sales of zero-emission vehicles of the vehicle make and the 2023 model year and any later model year before the date this section comes into force.

#### **Regulations**

- (2) Without limiting any other provision of this Act, the Lieutenant Governor in Council may make regulations for the purposes of subsection (1), including, without limitation, regulations
  - (a) respecting applications for issuance of credits,
  - (b) respecting the eligibility of suppliers and consumer sales for the issuance of credits, and
  - (c) specifying the number of credits to be issued in relation to each consumer sale of a zero-emission vehicle or providing a method for determining that number.

#### **Scheduled repeal**

- (3) This section is repealed two years after the date it comes into force.

#### **Effect of scheduled repeal on transitional regulations**

- (4) Unless earlier repealed, a regulation made under subsection (2) is repealed when this section is repealed.

### **27. Appropriation required**

The moneys required for the purpose of this Act shall be paid out of moneys appropriated for that purpose by the Legislature.

### **28. Commencement**

This Act comes into force on September 30, 2023.



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(Bill No. 130)

**Zero-emission Vehicles Act**

<b><i>STAGE:</i></b>	<b><i>DATE:</i></b>
<i>1st Reading:</i>	
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

**SIGNATURES:**

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Honourable Antoinette Perry, Lieutenant Governor

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Honourable Colin LaVie, Speaker

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Joseph Jeffrey, Clerk

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Sidney MacEwen  
MLA

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PRIVATE MEMBER'S BILL

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2022  
2nd SESSION, 66th GENERAL ASSEMBLY