

**ROAD TRANSPORT AND SAFETY BILL, 2014**

S.No	Section	Reason for Amendment	Suggested Amendment
1	<p>49. Vehicle and parts not to be sold without required certificate of conformity</p> <p>(1)A person is guilty of an offence if that person supplies a vehicle or vehicle part of a class and it does not appear from one or more certificates in force at that time under section (44) or section (45), or section (46), or section (47) of this Act, that the vehicle or vehicle part complies with all the relevant type approval requirements prescribed by those regulations.</p> <p>(2) In this section, references to supply include:                      (a) sell,                      (b) offer to sell or supply, and                      (c) display such vehicles with an intention to invite offers for sale, by way of advertisement or otherwise.</p> <p>(3) A person shall not be convicted of an offence under this section in respect of the supply of a vehicle or vehicle part if he proves:                      (a) that it was supplied for export from India,                      (b) that he had reasonable cause to believe that it would not be used on a road in India or, in the case of a vehicle part, that it would not be</p>	<p>As per this section, if a person sells the vehicle not in conformity with the vehicle type approval certificate granted by national authority under sections 44 &amp; 45, and with the certificate of conformity issued by the manufacturer under section 47 of the bill, such person is guilty of an offence. Only the person engaged in the business of dealership knows and can verify that vehicles intended to be sold conforms with the requirements indicated in the above certificates. Therefore, Sec. 49 (1) is applicable only to the first sale by the person engaged in the business of dealership to the buyer.</p> <p>The person engaged in the business of dealership is specifically brought in within the definition of “dealer”, among others, including the financiers. Therefore, the using of the term “person engaged in the business of dealership” in Sec. 49 (1), excludes other persons mentioned in the definition of “dealer”.</p> <p>In the light of the above, Sec. 49 (1) requires amendment.</p>	<p>Section 49 (1)                      A person engaged in the business of dealership is guilty of an offence, if that person supplies a vehicle or vehicle part of a class and it does not appear from one or more certificates in force at that time under section (44) or section (45), or section (46), or section (47) of this Act, that the vehicle or vehicle part complies with all the relevant type approval requirements prescribed by those regulations.</p> <p>The remaining sub sections can be retained as such.</p>

	<p>fitted to a vehicle used on a road in India or would not be so used or fitted until it had been certified under section (44) or section (45), or section (46), or section (47) of this Act.</p> <p>(4) Nothing in subsection (1) above shall affect the validity of a contract or any rights arising under or in relation to a contract.</p>		
2	<p>53. Operator’s duty to inspect and keep records of inspection of goods and passenger transport vehicles.</p> <p>4. In this section, “the operator”, in relation to a transport vehicle, means the person to whom it belongs or the hirer of it under a hire-purchase agreement or an operator under a concession agreement.</p>	<p>In the definition “operator”, only the hirer is brought in. The hypothecator under the hypothecation agreement and the lessee under the lease agreement should also be included in the definition.</p>	<p>Sec. 53 (4) - In this section “the operator”, in relation to a transport vehicle, means the person to whom it belongs, or in the case of transport vehicle subject to the hire purchase, hypothecation or the lease agreement, the hirer, the hypothecator or the lessee as the case may be, or an operator under a concession agreement.</p>
3	<p>55 - Recall of Vehicles.</p> <p>1) The national authority is conferred with power to order a recall of a particular model of vehicles for the reasons stated there in.</p> <p>2. (a) compensate the buyers for the full value of the motor vehicle subject to such hire-purchase and lease-hypothecation agreement</p>	<p>The compensation shall be payable to the financiers. If there is any surplus, the same shall be payable to the buyer.</p>	<p>2. (a)- compensate the buyers for the full value of the motor vehicle.</p> <p>2. (b)- If the vehicle is under hire purchase, lease or hypothecation, the compensation amount should be paid to the financier who will in turn appropriate the amount due to them and refund the excess. If any, to the buyer(hirer/borrower/lessee),</p>
4	<p>The National Authority is required to have interactions with the stake holders for making regulations u/s. 16 and also for developing unified vehicle registration system/s.85.</p>	<p>The term stakeholders is not defined under the bill. The stakeholders used under the relevant sections have not included banks and NBFCs. Since majority of automobiles are purchased by availing of finance from the banks and also Non-banking finance</p>	<p>Sec. 16 (2) (f) – the framing of implementation schedule for any regulations, which shall be determined after due consultation with all stakeholders including consumers, industry, banks, Non-banking finance companies and their association or any other Apex body representing</p>

		<p>companies, the banks and the Non-banking finance companies play a crucial role for the promotion of road transport industry. Consequently, they are also stakeholders to be consulted before implementing rules and regulations connected with road transport. Accordingly, the banks, the Non-banking finance companies, and their associations/ federations should be included in the stakeholders list.</p>	<p>banks and Non-banking finance companies.</p> <p>Sec. 85 (2) (e) – It appropriately integrates various stakeholders including manufacturers, insurance firms, banks, Non-banking finance companies and their associations/ federations/ or any other Apex body representing them, centres of fitness certification, revenue departments of the Central and state governments, enforcement agencies, consumers and motor accident claims tribunal to both provide and share information in order to meet the objectives of the Act.</p>
5	<p>88 (6) -If a person is found, at any time, to be driving a motor vehicle or trailer or semi-trailer or mobile machinery, or causing or permitting to cause the vehicle to be driven without a valid certificate of registration, the certificate of registration ordinarily associated with that motor vehicle or trailer or semi-trailer or mobile machinery shall be cancelled or suspended and the motor vehicle or trailer or semi-trailer or mobile machinery confiscated or impounded, as may be specified by the National Authority, and the fact of such cancellation, suspension, confiscation or impoundment shall be communicated to the competent registering authority for appropriate action.</p>	<p>This sub section comes under Sec. 88 which spells out necessity for registration. As such this sub section deals with the consequences for driving the vehicle without a valid certificate of registration. On reading this sub section in the context of main Sec. 88 (1) - necessity for registration, the act of driving the vehicle without a valid certificate of registration really means driving the vehicle without getting it registered. When there is no registration, the question of suspension or cancellation of the registration certificate doesn't arise. Consequently, the suspension or cancellation of the registration certificate as provided under this sub section requires deletion. But the confiscation of the vehicle may have to be retained. Added to this, Sec. 103 of the bill exclusively deals with the cancellation of registration.</p> <p>Sec. 88 (2) provides exemption to the application of Sec. 88 of the bill to the Motor Vehicle in possession of the Manufacturer, dealer or importer. Consequently, the possession of the unregistered vehicle in the hands of the financier who is defined as the dealer under this bill cannot be disturbed.</p>	<p>88 (6)</p> <p>Subject to the provisions of Sec. 88 (2),</p> <p>a) If a person is found, at any time, to be driving a motor vehicle or trailer or semi-trailer or mobile machinery, or causing or permitting to cause the vehicle to be driven without getting it registered as per the provisions of this Act, the motor vehicle or trailer or semi-trailer or mobile machinery shall be confiscated or impounded. The fact of such confiscation or impoundment of the vehicles shall be communicated to the competent registering authority for appropriate action.</p> <p>b) No person shall drive motor vehicle or trailer or semi-trailer or mobile machinery, or causing or permitting to cause the vehicle to be driven without possession of the original registration certificate, or its copy attested by the notary public or the gazetted officer. Any person who is contravening this provision shall be punishable with fine as provided under schedule III and shall also be awarded penalty points in accordance with schedule II.</p>

		<p>Assuming that this sub section stipulates the possession of the valid registration certificate while driving the vehicle, the punishment of cancellation or suspension of the registration certificate and also the confiscation of the vehicle is too harsh.</p> <p>In the light of the above, this sub section requires amendment and a new sub section shall be provided for carrying the original certificate of registration or its attested copy.</p>	
6	<p>99. Special provisions regarding vehicle subject to hire-purchase agreement, etc.</p> <p>1.An application for registration of a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement for hypothecation, lease or hire-purchase shall be made through the Unified Vehicle Registration System to the competent registering authority in such form and manner, and with such accompanying documents as the National Authority may specify by regulations.</p> <p>2) The competent registering authority shall process an application for the registration of a motor vehicle or a trailer or a semi-trailer or mobile machinery in accordance with the regulations specified by the National Authority.</p>	<p>This section merely provides the procedural aspect of filing an application for registration of a motor vehicle subject to the agreements without casting any duty on the registering authority. It shall be amended suitably.</p>	<p>Sec. 99 - Special provisions regarding vehicle subject to hire-purchase agreement, etc.</p> <p>1) Where an application for registration of a motor vehicle or trailer or semi-trailer or mobile machinery which is held under a hire-purchase, lease or hypothecation agreement (hereafter in this section referred to as the said agreement) is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.</p> <p>2) Where the ownership of any motor vehicle or trailer or semi-trailer or mobile machinery registered under this chapter is transferred and the transferee enters into the said agreement with any person, the last registering authority shall, on receipt of an application in such prescribed form from the parties to the said agreement, make an entry as to the existence of the said agreement in the certificate of registration and an intimation in this regard shall be sent to the original registering authority, if the last</p>

		<p>In the present economic scenario, the consolidation of companies by way of amalgamation/ absorption/ reconstruction by Court Order emerges frequently. Therefore, the introduction of this new sub section is suggested.</p> <p>There have been instances that the registered owners cancelled the hire purchase/Hypothecation/Leasing endorsements by way of forging the financier's signatures. In order to prevent such fraudulent activities, suitable amendment is suggested.</p>	<p>registering authority is not the original registering authority.</p> <p>New sub section 99 (3) shall be introduced as follows:</p> <p>Where there is an amalgamation/absorption/ reconstruction of companies, the Registering Authority concerned shall substitute the name of the transferee company i.e. amalgamated/absorbed/ reconstructed company in the certificate of registration relating to the vehicle, on obtaining a letter along with a suitable proof from the transferee company for effecting such substitution without disturbing the entry made under sub-section (1) or (2).</p> <p>Sec. 99 (4) - (a) For cancelling the entry made under sub-section (1) or sub-section (2) in the certificate of registration on termination of the said agreement, the hirer, hypothecator or the lessee shall submit to the last registering authority an application in such prescribed form.</p> <p>(b) On receipt of the application under sub-clause (a), the last registering authority shall seek confirmation regarding the cancellation of entry made under sub-section (1) or sub-section (2) in the certificate of registration from the financier.</p> <p>(c) The financier shall confirm or deny the termination in writing within 7 days from the date of receipt of communication from the last registering authority, failing which it shall be construed that the financier has no objection for cancellation of entry made under sub-section (1) or sub-section (2);</p> <p>(d) The last registering authority may cancel the entry made under sub-section (1) or sub-section (2) or reject</p>
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		<p>In the event of a change in the constitution of the financiers being companies by way of amalgamation/absorptions/ reconstructions, the borrowers or financiers shall be constrained to approach the Court for directions to the registering authorities for cancellation of entry in the certificate of registration. To avoid these kinds of unnecessary litigation, it is suggested to introduce this new sub section by which the registering authority can proceed with the cancellation of hypothecation, hire purchase or lease endorsements on receipt of confirmation in writing from the financiers.</p> <p>This sub section is suggested to prevent the fraudulent transfer of ownership of motor vehicles without the knowledge of financiers.</p>	<p>the application for cancellation of the entry on the basis of the communication received from the financier.  (e) An intimation in this behalf shall be sent to the original registering authority, if the last registering authority is not the original registering authority.</p> <p>INTRODUCTION OF NEW SUB-SECTION - Sec.99 (5)  Where the financier is a company which is amalgamated/ absorbed/reconstructed, the entry made under sub-section (1) or sub-section (2) may be cancelled upon termination of the said agreement on receipt of confirmation along with a suitable proof of such amalgamation/ absorption/reconstruction from the amalgamated/absorbed/reconstructed company.</p> <p>Sec. 99 (6)-No entry regarding the transfer of ownership of any motor vehicle or trailer or semi-trailer or mobile machinery which is held under the said agreement shall be made in the certificate of registration except with the written confirmation from the financier (in the case of the financier being a company , the financier includes the amalgamated/ absorbed/ reconstructed company ) who shall signify objection or no objection within 7 days from the date of receipt of communication from the</p>
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		<p>This sub section is for providing fresh registration certificate in the name of the financiers on repossession of vehicles due to the default committed by the parties and their refusal to deliver the original certificate of registration or failure to register the vehicles or absconded.</p>	<p>registering authority who shall seek confirmation from the financier on receipt of application from the hirer, hypothecator or the lessee for transfer of ownership made in such prescribed form.</p> <p>Sec. 99 (7)-</p> <ul style="list-style-type: none"><li>(a) Where the financier has taken possession of the motor vehicle or trailer or semi-trailer or mobile machinery from the hirer, hypothecator or the lessee due to the default under the provisions of the said agreement and he/it refused to deliver the original certificate of registration or has absconded, the financier shall apply in the prescribed form with such registering authority for issuing fresh registration certificate in the name of the financier.</li><li>(b) On receipt of the application, such authority shall send a notice only once to him/it at the address mentioned in the certificate of the registration by registered post with acknowledgement due or by courier or by any other means of transmission of documents like fax message or electronic mail service for the purpose of giving an opportunity to make such representation as he/it may wish to make.</li><li>(c) On satisfying that the financier has taken possession of the motor vehicle or trailer or semi-trailer or mobile machinery from him/it due to his/its default under the provisions of the said agreement and he/it refuses to deliver the original certificate of registration or has absconded, the registering authority shall cancel the original certificate of registration, and issue a fresh certificate of registration in the name of the financier within 30 days from the date of</li></ul>
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			<p>receipt of the application from the financier, notwithstanding any objections beyond the scope of this sub section, made by him/it and also notwithstanding that the certificate of registration is not produced before such authority.</p> <p>(d) Where the hirer/hypothecator/lessee failed to register the motor vehicle or trailer or semi-trailer or mobile machinery and the financier has taken possession of the same from the hirer, hypothecator or the lessee due to the default under the provisions of the said agreement, the financier is entitled to have the registration certificate in its name for the above vehicles, by submitting the prescribed form mentioned in sub clause (a), along with the copy of the hire purchase, hypothecation or lease agreements to such registering authority within whose jurisdiction the financier's place of business is situate.</p> <p>(e) On receipt of the application under sub clause (d), such authority shall send a notice only once to the hirer/hypothecator/lessee at the address mentioned in the said agreement by registered post with acknowledgement due or by courier or by any other means of transmission of documents like fax message or electronic mail service for the purpose of giving an opportunity to make such representation as he/it may wish to make.</p> <p>(f) On satisfying that the financier has taken possession of the above vehicles from him/it due to his/its default under the provisions of the said agreement and he/it failed to register the vehicles, the registering authority shall issue a</p>
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			<p>certificate of registration for the above vehicles in the name of the financiers within 30 days from the date of receipt of the application from the financier, notwithstanding any objections beyond the scope of this sub section, made by him/it.</p> <p>Provided that a fresh/ original certificate of registration shall not be issued in respect of the above vehicles, unless the financier pays the prescribed fee:</p> <p>Provided further that the fresh certificate of registration issued in respect of the above vehicles, other than a transport vehicle, shall be valid only for the remaining period for which the certificate cancelled under this section would have been in force.</p> <p>Sec. 99 (8) - The appropriate registering authority shall send a notice to the financier, calling for the issue of a no objection certificate for modification of permit which includes replacement of vehicles, and for renewal of a permit under <b>sections 157 &amp; 174</b> or for transfer of permit under <b>Sec. 142</b> or for the issue of duplicate certificate of registration under <b>section 90 (11)</b>, or for change of address under section. 97 or for the alteration of the vehicle.</p> <p>Sec. 99 (9) - Within seven days of receipt of notice under <b>sub-section (8)</b>, the financier shall issue or refuse to issue no objection certificate, recording the reasons in writing for refusal, communicated to the registering authority, with a copy to the hirer, hypothecator or the lessee. Where the financier fails to respond, it is presumed that the financier has no objection.</p>
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			entry under sub-section (4) or issuing the fresh certificate of registration under sub-section (7) shall communicate the same to the original registering authority.
7	100 (6) Subject to the provisions made under sub-section (1), (2), (3) and (4), no person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle except with the written consent of the financier.	This sub section can be deleted in view of the same is covered u/s 99 (8).	
8	Section 154 (2) (g) - if it is not carrying any goods or passengers or their goods, any transport vehicle which is subject to a hire-purchase or lease hypothecation agreement, and which, owing to the default of the owner, has been taken possession of by or on behalf of, the person with whom the owner has entered into such agreement, to enable such transport vehicle to reach the principal place of business of the owner	This section provides that permit is not necessary when the vehicle was repossessed without goods or passengers.	The last sentence" the principal place of business of the owner." Shall be changed as" the place of business of the financier".
9	(211) Tampering with vehicles.  A person is guilty of an offence if, while a motor vehicle is on a road or on a parking place provided by a local authority, without consent of the owner, the person:  (a) gets on to the vehicle; or  (b) tampers with the brake or other part of its mechanism, without lawful authority or reasonable cause; or	This section affects the right of repossession by the financiers. Therefore, suitable exception should be provided.	(211) Tampering with vehicles.  A person is guilty of an offence if, while a motor vehicle is on a road or on a parking place provided by a local authority, without consent of the owner, the person:  (a) gets on to the vehicle; or  (b) tampers with the brake or other part of its mechanism, without lawful authority or reasonable cause; or  (c) Tampers with safety electronic device.

	(c) Tamperers with safety electronic device.		<b>(d)</b> This section shall not apply to the repossession of the vehicles by the financiers in exercise of the rights provided under hire purchase / hypothecation / lease agreements in accordance with the circular dated 24/4/2009 (RBI /2008-09/454) issued by the Reserve Bank of India.
10	<p>(212) Holding or getting on to vehicle in order to be towed or carried.</p> <p>1. If, for the purpose of being carried, a person without lawful authority or reasonable cause takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road, the person is guilty of an offence.</p> <p>2. If, for the purpose of being drawn, a person takes or retains hold of a motor vehicle or trailer while in motion on a road, the person is guilty of an offence.</p>	The same observation as stated above.	<p>The above to be followed.</p> <p>(212) Holding or getting on to vehicle in order to be towed or carried.</p> <p>1. If, for the purpose of being carried, a person without lawful authority or reasonable cause takes or retains hold of, or gets on to, a motor vehicle or trailer while in motion on a road, the person is guilty of an offence.</p> <p>2. If, for the purpose of being drawn, a person takes or retains hold of a motor vehicle or trailer while in motion on a road, the person is guilty of an offence.</p> <p>3. This section shall not apply to the repossession of the vehicles by the financiers in exercise of the rights provided under hire purchase / hypothecation / lease agreements in accordance with the circular dated 24/4/2009 (RBI /2008-09/454) issued by the Reserve Bank of India.</p>
11	<p>(297) Taking a vehicle without authority.</p> <p>1. Whoever takes or drives away any motor vehicle without having either the consent of its owner or other lawful authority shall be punishable in accordance with Schedule III.</p>	Taking the vehicle without the consent of the owner or other lawful authority shall be punishable with the fine of Rs. 10,000/- and arrest without warrant (Sec. 321). The provisions contained in this section making repossession as an offence shall be deleted in as much as the RBI in its circular dated 24/4/2009 (RBI /2008-09/454) recognised the repossession of the vehicles by the financiers. Added to this, the exercise of	<p>(297) Taking a vehicle without authority.</p> <p>1. Whoever takes or drives away any motor vehicle without having either the consent of its owner or other lawful authority shall be punishable in accordance with Schedule III.</p> <p>2. No person shall be convicted under this section, if the Court is satisfied that such person acted in the</p>

		<p>repossession is a contractual right and several courts including supreme court recognised the act of repossession by the financiers as valid.</p>	<p>bona fide belief that such person had lawful authority to take or drive the vehicle.</p> <p>3. Whoever, unlawfully by force or threat of force or by any other form of intimidation, seizes or exercises control of a motor vehicle, shall be punishable in accordance with Schedule III.</p> <p>4. Whoever attempts to commit any of the acts referred to in sub-section (1) or sub-section (2) in relation to any motor vehicle, or abets the commission of any such act, shall also be deemed to have committed an offence under sub-section (1) or, as the case may be, sub-section (2).</p> <p>5. This section shall not apply to the repossession of the vehicles by the financiers in exercise of the rights provided under hire purchase / hypothecation / lease agreements in accordance with the circular dated 24/4/2009 (RBI /2008-09/454) issued by the Reserve Bank of India.</p>
12	<p>(298) Unauthorised interference with vehicle.</p> <p>Whoever, without lawful authority or reasonable excuse, enters or moves any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punished in accordance with Schedule III.</p>	<p>This section also affects our right of repossession and hence to be amended.</p>	<p>(298) Unauthorised interference with vehicle.</p> <p>1. Whoever, without lawful authority or reasonable excuse, enters or moves any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punished in accordance with Schedule III.</p> <p>2. This section shall not apply to the repossession of the vehicles by the financiers in exercise of the rights provided under hire purchase / hypothecation / lease agreements in accordance with the circular dated 24/4/2009 (RBI /2008-09/454) issued by the Reserve Bank of India.</p>

18. The bill does not contain the provision of repeal of the existing Motor Vehicles Act, 1988.

20. Section 103 spells out cancellation of registration of the vehicle which has been rendered permanently incapable of using the road. Therefore, there is no necessity for incorporating new section for cancelling the certificate of registration in respect of the scrap vehicle.

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