



# Recommendations re the Nova Scotia Traffic Safety Act (TSA) and the proposed Rules of the Road Regulations

## Submission of **The Crosswalk Safety Society of Nova Scotia**

January 04, 2021

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Before providing our recommendations we want to thank Transportation and Infrastructure Renewal (TIR) for providing the public the opportunity to provide input to the proposed TSA.

The **Crosswalk Safety Society of Nova Scotia** is a group of individuals concerned about pedestrian safety in general and crosswalk safety in particular who came together in January 2016 to form a Society, registered with the Nova Scotia Registry of Joint Stocks with these objectives

*"To improve crosswalk safety, and more generally pedestrian safety, through education and providing research to the public, government and their staff, and police in order to improve the safety for pedestrians at crosswalks.*

*To facilitate community initiatives, e.g. crosswalk flag programs, in order to improve crosswalk safety"*

The Society, registered with the Nova Scotia Registry of Joint Stocks and the Canada Revenue Agency as a charitable organization, is responsible for the 311 crosswalk flag installations across 27 communities in Nova Scotia. As well Board Members often speak with the media on issues of crosswalk safety.

Although there are many other issues addressed by the TSA our submission will focus on pedestrian safety, with a particular focus on crosswalks.

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We want to commend the government for the change of the name of the Act to the Traffic Safety Act and its focus on the safety of vulnerable road users. We believe this more appropriately represents all those that use our roads.

We trust this is indicative of a sincere shift from an Act focused on motor vehicles to one that equally addresses all users of our roads – drivers, cyclists and pedestrians.

Our comments are premised on two Principles

- 1. The safety of all road users must take precedence over the convenience of those users, and**
- 2. All road users (drivers / cyclists / pedestrians) have equal rights to safely use the roads.**

This submission is a follow-up to and will reference our submission of June 2018.

Before addressing the Regulations there are three issues we wish to raise with respect to the TSA itself. We continue to believe these are shortcomings of the Act and should be addressed prior to the Act being proclaimed.

Our submission covers the following:

#### Issues with respect to the Traffic Safety Act

1. the definition of a crosswalk (TSA Section 2)
2. setting speed limits (TSA Section 23)
3. pedestrian use of hand-held communication device (TSA Section 183)

#### Issue with respect to the Regulations

4. crosswalk markings
5. yielding to a pedestrian (Section 20(1))
6. parking distance in advance of a crosswalk (Section 135)
7. pedestrian activated beacons
8. stopping in advance of a stop sign (Section 35)
9. movement of pedestrians
10. pedestrian leaving a curb or place of safety (Sections 20(1)(a) and 20(4))
11. speed limit in school areas (Section 61)
12. entering intersection (Section 22)
13. traffic signals
14. right turns on red
15. bicycle crossing highway (Section 116(1))

## 1. Definition of a crosswalk (TSA Section 2)

We are for the most part pleased the definition of a crosswalk has been retained in the TSA.

However in our June 2018 submission we recommended crosswalks not exist at uncontrolled intersections of a roadway with speed limits in excess of 60 kph, unless marked.

As we understand it the current definition provides for unmarked crosswalks at all intersections, regardless of the speeds being traveled on the uncontrolled roadway. There are sections of roadway with speeds up to 100 kph that have intersections, and therefore crosswalks. Following are examples on Highway 103 and Italy Cross Road and Evangeline Trail and Minor Lane



We believe it is not safe to require a vehicle traveling 90 or 100 kph to yield at such intersections.

Consistent with a focus on safety we do not believe intersections where speeds are at these levels should be legal crosswalks. While the speed limit can be debated we recommend the definition of a crosswalk at uncontrolled roadways be limited to those where speed limits are 60kph or less.

In the interest of safety we continue to recommend

### **Recommendation:**

**Crosswalks not exist at uncontrolled intersections of a roadway with speed limits in excess of 60 kph, unless marked.**

## 2. Setting speed limits (TSA Section 23)

Sections 23(4) and 23(5) of the TSA limits the authority of a municipal Traffic Authority to set speed limits

- (4) *Subject to subsection (5), a traffic authority, other than the Provincial Traffic Authority, may not set a speed limit greater than 80 kilometres per hour or less than 50 kilometres per hour without the approval of the Provincial Traffic Authority.*
- (5) *A municipal traffic authority may set the speed limit in a school area, park or beach area at less than 50 kilometres per hour without the approval of the Provincial Traffic Authority.*

We agree a traffic authority should not have the authority to increase a speed limit but neither understand why nor agree a traffic authority should not have the authority to set a speed limit at less than 50 kilometres per hour without the approval of the Provincial Traffic Authority.

If a local traffic authority, who is knowledgeable re the local highways and safety risks within their jurisdiction believe lower speed limits are warranted we see no reason why the traffic authority should not be authorized to set such lower limits, perhaps with limits.

As we recommended in June 2018 we continue to recommend local traffic authorities have the authority to set speed limits as low as 30 kilometres per hour on their own authority.

### **Recommendation:**

**Amend Section 23(4) of the TSA as follows:**

- 23(4) Subject to subsection (5), a traffic authority, other than the Provincial Traffic Authority, may not set a speed limit greater than 80 kilometres per hour or less than 30 kilometres per hour without the approval of the Provincial Traffic Authority.**

### **3. Driver, cyclist and pedestrian use of a hand-held communication device while driving, cycling or walking on a highway (TSA Section 183)**

Section 183 of the TSA limits the driver's use of a hand-held communication device, a hand-held entertainment device or any other prescribed electronic device while driving a vehicle or any other conveyance on a highway.

We believe cyclists and pedestrians, as well as drivers can be and are distracted through the use of hand-held communication devices or hand-held entertainment devices while on the highway.

We believe that with the goal of the safety of vulnerable road users the TSA should also prohibit cyclists and pedestrians to use a hand-held communication device, a hand-held entertainment device or any other prescribed electronic device while crossing a highway.

Safety requires all users of the roadway to avoid being distracted, including cyclists and pedestrians.

As we recommended in June 2018 we continue to recommend:

#### **Recommendation:**

**In the same manner it is an offence for a driver to use a hand-held communication device, a hand-held entertainment device or any other prescribed electronic device while driving a vehicle or any other conveyance of a highway (TSA Section 183) we recommend it be an offence for a cyclist or pedestrian, except if exempted due to being blind, to use a hand-held communication device, a hand-held entertainment device or any other prescribed electronic device while on a highway.**

With respect to the Draft Regulations we offer the following concerns and consequent recommendations.

#### **4. Crosswalk markings**

While regulations with respect to the marking of crosswalks may be included in other Regulations, being unable to find any reference we wish to comment.

Where the Federal Highway Administration Research and Technology Crosswalk Marking Field Visibility Study (<https://www.fhwa.dot.gov/publications/research/safety/pedbike/10068/10068.pdf>) demonstrated Continental and Bar Pair markings are more effective than Transverse markings we recommend use of markings other than Transverse be standard for the Province and Municipalities at all marked crosswalks, including signalized intersections.

Each of Continental, Bar Pair, Zebra, Ladder and Transverse will need to be defined.

#### **Recommendation:**

**Where a crosswalk across a roadway is delineated by a marked lane the markings of the lane shall be either Continental, Bar Pair, Zebra or Ladder, rather than Transverse.**

#### **5. Yielding to a pedestrian (Section 20(1))**

There are differing opinions / interpretations as to whether a driver

1. must continue to yield until a pedestrian has completely crossed the roadway, or reached a median where one exists, i.e. cleared the crosswalk, or
2. only until the pedestrian has advanced past the vehicle, i.e. once the pedestrian has passed the driver has granted the pedestrian use of the highway and no longer is required to yield (until the pedestrian completes the crossing).

Halifax Regional Police (HRP) has expressed the opinion the pedestrian must complete their crossing before a vehicle can proceed, i.e. the first interpretation.

Section 20(1)(b) is essentially the same as Section 125(1) of the current Motor Vehicle Act (MVA) in stating,

*20(1) A driver must yield to a pedestrian who is*

- (a) stopped at the edge of the roadway facing a crosswalk and lawfully permitted to cross; or*
- (b) lawfully in a crosswalk.*

In the TSA the term 'yield' is defined as

*"yield" means to grant the immediate use of a highway to other users of the highway*

We then asked the question of Access Nova Scotia in the context of whether an individual being tested for a driver's licence would fail their road test if they proceeded after the pedestrian had passed, but before the pedestrian had completely crossed the roadway, or reached a median if one exists (the second interpretation). The response we received was

*"The answer to question 1 & 2 as you have asked them would be "no", an applicant would not fail a road test after having yielded to a pedestrian. Once the driver has yielded, in other words, let the pedestrian go first, they are not required to wait for the pedestrian to reach the opposite curb or median, but must remain vigilant should the pedestrian decide to change directions in the crosswalk."*

The fact is there is confusion – HRP, and many individuals have one interpretation while Access Nova Scotia, and a number of other individuals have another.

We believe clarity is needed. With the focus on safety we recommend the driver be required to continue to yield until the pedestrian has exited the roadway. Otherwise a vehicle approaching from the opposite direction, in seeing the movement of the yielding vehicle may not appreciate a pedestrian continues to be in the crosswalk. We believe, in the interest of safety, a driver should be required to continue to yield until the pedestrian has completed their crossing to the far curb, or median if one exists.

We believe the TSA / Regulations need to be clear. As we recommended in June 2018 we continue to recommend:

### **Recommendation:**

**20(1) Vehicles must yield the right of way to a pedestrian lawfully within a crosswalk or stopped at the edge of a roadway facing a crosswalk and lawfully permitted to cross and continue to yield until the pedestrian has exited the crosswalk, i.e. reached the opposite curb, or where the traffic on a highway is divided into separate roadways by a median until the pedestrian has reached that median.**

## 6. Parking distance in advance of a crosswalk (Section 135)

Section 135 proposes a vehicle must not be stopped or parked on a highway

- (c) on or within 5 m of a crosswalk ...
- (f) within 10 m in the approach to a flashing beacon that is an official traffic signal, a stop sign, a yield sign or a traffic signal light

Assuming the reasoning for any distance is sight lines we do not believe there is any rationale for a difference. We have no basis for knowing whether the appropriate distance should be 5 m, 7.5 m or 10 m but believe it should be the same for subsections (c) and (f). In the interests of safety we support a longer, rather than shorter distance.

Furthermore, we believe there will be less confusion if the rules for parking are consistent for all traffic controls, including crosswalks.

As we recommended in June 2018 we continue to recommend:

### **Recommendation:**

**The minimum distance a vehicle may stop or park on a highway from a crosswalk (Section 135(c)) and from an approach to a flashing beacon that is an official traffic signal, a stop sign, a yield sign or a traffic signal (Section 135(f)) be the same distance.**

**We recommend that distance be 10 m.**



## 7. Pedestrian-activated beacons

The current MVA Section 125(4) states

- (4) *Where a pedestrian is crossing a roadway at a crosswalk that has a pedestrian-activated beacon, the pedestrian shall not leave a curb or other place of safety unless the pedestrian-activated beacon has been activated.*

We are unable to find a similar requirement in the draft Regulations. We believe if a traffic pedestrian-activated beacon is present a driver will expect it to be used. As such it will be unsafe if a pedestrian has an option to activate or not activate the pedestrian-activated beacon. We therefore believe it should be a requirement that a pedestrian activate a pedestrian-activated beacon as is required in the existing MVA.

We question whether this is an oversight, or whether the removal of this requirement was a conscious decision. If so we would appreciate an explanation as to the reasons for this change.

There are inevitably issues with respect to functionality of and access to, e.g. snow, the pedestrian-activated beacon requiring consideration of situations where it is impossible or not practicable to activate the beacon.

In the absence of a reason we believe the requirement is appropriate for safety and recommend

### **Recommendation:**

**The requirement included in the MVA Section 125(4) be retained in the TSA within Section 20, i.e. *“Where a pedestrian is crossing a roadway at a crosswalk that has a pedestrian-activated beacon, the pedestrian shall, where practicable, not leave a curb or other place of safety unless the functionally operating pedestrian-activated beacon has been activated.”***

## 8. Stopping in advance of a stop sign (Section 35)

Section 35(2) proposes

- (2) *A driver approaching and facing a stop sign must stop in 1 of the following places*
- (a) *if there is a marked stop line, a place from which the driver can see approaching traffic and that is at or just before the stop line;*
  - (b) *if there is a marked crosswalk, at a place from which the driver can see approaching traffic and that is before the marked crosswalk;*
  - (c) *If there is no stop line or marked crosswalk, before entering the intersecting highway, at a place from which the driver can see approaching traffic and that is no further than 1.5 m back from the highway being entered.*

We interpret these regulations to require the driver to stop

- (a) **in** the (unmarked) crosswalk
- (b) in **advance** of the (marked) crosswalk, and
- (c) **in** the (unmarked) crosswalk

We fail to understand why there should be a difference between marked and unmarked crosswalks. Although proponents of crosswalk safety we are also concerned with road safety.

We also believe the closer a vehicle is allowed to stop to the intersecting highway the better will be driver's sight lines, both left and right, and consequently the safer the driver's turn on to or crossing of the highway.

We believe that in the interest of safety where there is a marked crosswalk 35(2)(b) a driver should be allowed to stop in the marked crosswalk.

As well the Regulations appear to be silent as to whether a driver, who has stopped in a crosswalk (35(2)(a) and 35(2)(c), and as we propose 35(2)(b)) prior to a pedestrian reaching the crosswalk must back out of the crosswalk should a pedestrian subsequently present themselves at the crosswalk. We believe this should not be required.

We therefore believe that if a pedestrian is present, either lawfully in a crosswalk or stopped on the edge of the roadway at the time a driver approaches a stop sign the driver should be required to yield per Section 20(1). However should a driver stop per Section 35(2) prior to a pedestrian being present and a pedestrian subsequently arrive at the crosswalk the driver should not be required to vacate the crosswalk. We believe in these situations the pedestrian should not have the right of way, but rather should be required to wait until the vehicle has vacated the crosswalk.

## Recommendations:

Proposed Section 35(2)(b) be changed to read *“if there is a marked crosswalk, at a place from which the driver can see approaching traffic and that is no closer to the intersecting highway than the edge of the marked crosswalk closest to the intersecting highway.”*

We recommend Section 35(3)(c) be amended to read

**35(3)(c)**      *any pedestrian who stopped at the edge of the roadway facing a crosswalk or is lawfully in a crosswalk at the time the driver arrived at the crosswalk*

Section 20(1) to be amended to add after (b) *Lawfully in a crosswalk ...*

*“except where a pedestrian arrives at a crosswalk after a driver has stopped their vehicle per Section 35(3)(c). For clarity where a pedestrian arrives at a crosswalk after a driver has stopped their vehicle the pedestrian must yield the right of way to the vehicle.*

## **9. Movement of pedestrians**

Sections 127(2) and 127(3) of the current MVA state:

- (2) *Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent highway*
- (3) *Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.*

We are unable to find similar requirements in the draft Regulations. We question whether this is an oversight, or whether the removal of this requirement was a conscious decision. If so we would appreciate an explanation as to the reasons for this change.

These strike us as sensible regulations that serve the interests of safety.

In the absence of a reason we believe the requirement is appropriate for safety and recommend

## Recommendation:

The requirement included in the MVA Sections 127(2) and 127(3) be retained in the TSA i.e.

- (2) *Where sidewalks are provided, unless not practicable to do so it shall be unlawful for any pedestrian to walk along and upon an adjacent highway*
- (3) *Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.*

## 10. Pedestrian leaving a curb or other place of safety and walking or running into the path of an approaching vehicle (Sections 20(1)(a) and 20(4))

While we have no issue with this Regulation we do not believe it is an either / or, i.e. an infraction of Section 20(4) does not necessarily preclude an infraction of Section 20(1)(a).

Should a pedestrian be stopped at the edge of the roadway facing a crosswalk and lawfully permitted to cross but then 'darts' into the roadway we agree a 20(4) infraction has occurred. However we do not believe that a Section 20(1)(a) infraction has not occurred.

### **Recommendation:**

**Section 20(1)(c) be added as follows:**

**Section 20(1)(c) for clarity a pedestrian infraction under Section 20(4) does not necessarily alleviate a driver's obligation to yield to that pedestrian under Section 20(1).**

## 11. Speed limit in school areas (Section 61)

We believe a driver needing to interpret "...when a child is present in the school area" (Section 61(3)) creates confusion. Interpreting how far "... within 30 m of the centre line of the highway in the school area" (Section 61(4)(b)) is problematic.

Judgement leads to confusion. In the interest of safety we recommend speed limits in a school area be reduced at all times during which children may reasonably be expected to be present – not only during school hours but at other times as after-school activities take place, playgrounds are used etc. Doing so will remove all judgement.

We are suggesting speed reductions from the hours of 6:00 am through 10:00 pm but are open to some other time period.

### **Recommendation**

**Amend Section 61(3) as follows:**

**61(3) The speed limit in a school area applies from 6:00 am through 10:00 pm every day of the year, whether or not the school is open.**

**and Section 61(4) be deleted.**

## 12. Entering intersection (Section 22)

Perhaps there is some rationale, but if so it is not apparent to us, as to why an exception is proposed for making a left or right turn. Regardless of whether a turn is being made the restrictions on entering an intersection should apply.

### Recommendation:

**Amend Section 22 as follows:**

#### **22 Entering intersection**

~~Except when making a left or right turn, a~~ **A driver must not drive into an intersection or onto a marked crosswalk unless ...**

## 13. Traffic signals

Many jurisdictions restrict turns with a red arrow signals, such as this example in Panama City



In light of the most common location of collisions being intersections the opportunity for Traffic Authorities to use restrictive turn signals such as this example needs to be allowed in the Regulations

### Recommendation:

**Traffic Signals Regulations include a steady red arrow traffic signal in order to limit turns in an intersection.**

## 14. Right turns on red (RTOR)

The current MVA Section 93(2)(e)(ii) allows a traffic authority to prohibit a right turn on a red light

*93(2)(e)(ii) if a stop is first made and the movement can be made in safety and **is not prohibited by sign**, proceed to make a right turn, (iii) if a stop is first made* (emphasis added)

The proposed current Section 45(4) does not consider that prohibition of right turn on red by sign

*45(4) A driver facing a steady red ball traffic signal may, after complying with subsection (5), enter the intersection and proceed to make a turn as follows:*

*(a) at any intersection, a right turn;*

*(b) at an intersection of a one-way street with another one-way street, a left turn.*

We believe traffic authorities should be authorized to limit turns otherwise allowed by Section 45(4) during some, or all times of the day

If this omission is intentional we ask for an explanation; otherwise we recommend Section 45(4) be amended as follows.

### **Recommendation:**

***45(4) A driver facing a steady red ball traffic signal may, unless otherwise prohibited by sign, after complying with subsection (5), enter the intersection and proceed to make a turn as follows:***

***(a) at any intersection, a right turn;***

***(b) at an intersection of a one-way street with another one-way street, a left turn.***

## 15. Bicycle crossing highway (Section 116(1))

We fully support the proposed requirement that a cyclist must dismount and walk the bicycle in the crosswalk (Section 116(1)).

While we recognize it is a convenience to cyclists to dismount we believe it is not safe to do so. Issues already exist with some pedestrians approaching and immediately, without sufficient scanning for vehicles, entering the crosswalk. We expect some cyclists, if not required to dismount would do the same but approaching the crosswalk at an even greater speed, resulting in an unsafe action. In the same way we recommend the convenience of drivers be of less importance than the safety of pedestrians and cyclists but prohibiting right turns on red, we equally believe the convenience of cyclists should be of less importance than their safety. As such we welcome the clarification provided by the draft Section 116(1).

However we believe an exemption should be made for those who use bicycles as a mobility aid, and therefore recommend a modification to 116(1) as follows:

### **Recommendation**

**116(1) In order to cross a highway in a crosswalk, a cyclist, other than a cyclist using a mobility aid, must dismount and walk the bicycle in the crosswalk.**

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Thank you for your consideration of our Society's input and recommendations.

Should you have any questions or wish to discuss any of these issues we would be happy to meet.

Should you not agree with any of our recommendations we ask that you provide explanations for the rationale of the disagreement by contacting us at

### **The Crosswalk Safety Society of Nova Scotia**

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