

Following are the suggestions in respect of VERSION-IV of ROAD TRANSPORT AND SAFETY BILL

Section under Version IV	Reasons for suggesting amendments	Suggestions
<p>47. 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 (42) or section (43), or section (44), or section (45) 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:</p> <p>(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:</p> <p>(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 fitted</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 42& 43, and with the certificate of conformity issued by the manufacturer under section 45 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. 47 (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. 47 (1), excludes other persons mentioned in the definition of "dealer".</p> <p>In the light of the above, Sec. 47 (1) requires amendment.</p>	<p>Section 47 (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 (42) or section (43), or section (44), or section (45) 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>to a vehicle used on a road in India or would not be so used or fitted until it had been certified under section (42) or section (43), or section (44), or section (45) 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>		
<p>51. 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. 51 (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>
<p>53 - 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 financiers for the full value of the motor vehicle subject to such hire purchase, lease and hypothecation agreement. The financiers shall pay the surplus amount, if any, after appropriating the amount due to them as on date of receipt of the compensation.</p>
<p>The National Authority is required to have interactions with the stake holders for making regulations u/s. 15 and also for developing unified vehicle registration system u/s.84.</p>	<p>The term stakeholders are 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. 15 (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</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>companies and their associations/Federations or any other Apex body representing banks and Non-banking finance companies.</p> <p>Sec. 84 (2) (f) - 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>
<p>87 (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</p>	<p>This sub section comes under Sec. 87 which spells out necessity for registration. As such this sub section does not spell out clearly as to whether non-possession of the certificate of registration at the time of driving the vehicle or driving the vehicle without getting it validly registered invites consequences.</p> <p>If it applies to the former situation, the confiscation or impounding the vehicle is too harsh. Only fine can be imposed. However if it relates to the latter situation, the vehicle shall be impounded and the case may be referred to the Registering Authority concerned for conducting enquiry and to pass suitable orders including confiscation of the vehicle. Sec.102 of the bill</p>	<p>87 (6) - Subject to the provisions of Sec. 87 (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 impounded. The fact of such impoundment of the vehicles shall be communicated to the competent registering authority for appropriate action. The competent</p>

<p>authority for appropriate action.</p>	<p>deals with cancellation of registration which provides the opportunity of being heard to the registered owners before cancelling the registration certificate. Accordingly the said principle of natural justice should also be given to the registered owners before cancelling the registration certificate and confiscating the vehicle.</p> <p>In the light of the above, the sub-section needs amendment.</p> <p>Sec. 87 (2) provides exemption to the application of Sec. 87 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>registering authority shall be entitled to pass necessary orders as may be specified by the National Authority. No order shall be made without providing an opportunity of being heard to the owner.</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 valid certificate of registration 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>Sec.98 (1) (c) a "financier" is a person registered under the Banking Regulation Act, 1911 or registered as a Non-Banking Finance Company with the Reserve Bank of India or a title holder – cum – dealer or a person, with whom the registered owner of a motor vehicle or trailer, semi-trailer or mobile machinery has entered into an agreement and includes a successor person or</p>	<p>Clarification to be sought regarding the mode of registration of financier with the prescribed authority.</p>	

<p>company.</p> <p>Provided that such person shall be registered with the prescribed authority under this Act and shall be subject to this Act and the rules and regulations made thereunder.</p>		
<p>Sec.98 (2) An application for registration of a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement 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>This section merely provides the procedural aspect of filing an application for registration of a motor vehicle and others, held under an agreement with the financiers, through the unified vehicle registration system, as per the guidelines indicated in the regulations specified by the National Authority. This section does not cast any duty on the Registering Authority to make an entry in the certificate of registration regarding the existence of the agreement with the financiers.</p>	<p>The National Authority should specify in its regulations that the Registering Authority with whom the applications for registration of a motor vehicle etc. filed through the unified vehicle registration system by the persons who entered into an agreement with the financiers, shall make an entry in the certificate of Registration regarding the existence of the agreement with the financiers.</p>
<p><i>Sec.98 (3) An application for registration of a motor vehicle or trailer or semi-trailer or mobile machinery upon the transfer of ownership of such motor vehicle or trailer or semi-trailer or mobile machinery pursuant to agreement where such motor vehicle or trailer or semi-trailer or mobile machinery has been previously registered under this chapter shall be made through the Unified Vehicle Registration System to the competent registering authority in such form and manner, and with such</i></p>	<p><i>This section does not prescribe any duty on the Registering Authority to make an entry in the certificate of Registration regarding the existence of the agreement entered into with the financiers by the transferee of the vehicle. It is also added that upon the transfer of the registered vehicle, the transferee shall apply to the Registering Authority for making of an entry of transfer in the registering certificate in the name of transferee. There is no need for another registration of the vehicle in the name of the transferee. Accordingly, section 98(3) needs amendment.</i></p>	<p><i>An application for making an entry in the registration certificate of a motor vehicle or trailer or semi-trailer or mobile machinery upon the transfer of ownership of such motor vehicle or trailer or semi-trailer or mobile machinery and the transferee enters into an agreement where such motor vehicle or trailer or semi-trailer or mobile machinery has been previously registered under this chapter, shall be made through the Unified Vehicle Registration System to the competent registering</i></p>

<p><i>accompanying documents as the National Authority may specify by regulations.</i></p>		<p><i>authority in such form and manner, and with such accompanying documents as the National Authority may specify by regulations.</i></p> <p><i>The National Authority shall provide suitable provisions in the regulations for incorporation of RC endorsement in favour of the financiers as mandatory.</i></p>
<p><i>Sec.98 (4) Where there is an amalgamation or absorption or reconstruction of companies, an application to substitute the name of the transferee company i.e. amalgamated or absorbed or reconstructed company in the certificate of registration relating to the vehicle 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-</i></p>	<p><i>The substitution shall be made without disturbing the endorsement in favour of the financiers already made in the registration certificate.</i></p>	<p><i>The National Authority shall specify in its regulations to effect the substitution without disturbing the entry made under sections 2 or 3.</i></p>
<p><i>Sec.98 (5) (a) An application for cancelling the entry made under sub-section (3) or sub-section (4) in the certificate of registration on termination of the said agreement shall be made by the registered owner 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.</i></p> <p><i>(b) The procedure to be</i></p>	<p><i>The sub-sections 3 or 4 are wrongly mentioned instead of 2 or 3. Therefore the same has to be corrected.</i></p> <p><i>For cancelling the endorsements in favour of the financiers in the registration certificates, the financiers' "No Objection" is necessary. However, 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,</i></p>	<p><i>The sub-sections 3 or 4 are mentioned instead of 2 or 3. The same has to be corrected.</i></p> <p><i>The National Authority in its regulations should specify the following:</i></p> <ol style="list-style-type: none"> <i>1. On receipt of the application under section 98 (5) (a), the competent registering authority shall seek confirmation regarding the cancellation of entry</i>

<p><i>followed by the competent registering authority on receipt of the application made under clause (a) shall be as specified by regulations made by the National Authority.</i></p>	<p><i>suitable amendments are suggested</i></p>	<p><i>made under sub-section (2) or sub-section (3) in the certificate of registration from the financier.</i></p> <p><i>2. The financier shall confirm or deny the termination in writing within 7 days from the date of receipt of communication from the competent registering authority, failing which it shall be construed that the financier has no objection for cancellation of entry made under sub-section (2) or sub-section (3);</i></p> <p><i>3. The competent registering authority shall cancel the entry made under sub-section (2) or sub-section (3) or reject the application for cancellation of the entry on the basis of the communication received from the financier.</i></p> <p><i>4. An intimation in this behalf shall be sent to the financiers.</i></p>
<p><i>Sec.98 (6). Where the financier is a company which is amalgamated or absorbed or reconstructed, the entry made under sub-section (3) or sub-section (4) may be cancelled upon</i></p>	<p><i>The sub-sections 3 or 4 are mentioned instead of 2 or 3. The same has to be corrected.</i></p>	<p><i>Sub-sections 3 or 4 shall be changed as sub-sections 2 or 3.</i></p> <p><i>National Authority in its regulations should specify the manner of getting confirmation from the</i></p>

<p><i>termination of the said agreement on receipt of confirmation along with a suitable proof of such amalgamation or absorption or reconstruction from the successor company -</i></p>		<p><i>successor company as indicated on the line of suggested amendments made above against Sec.98 (5).</i></p>
<p><i>Sec.98 (7) (a) No entry regarding the transfer of ownership or change of address of the registered owner 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 consent of the financier who shall signify objection or no objection and in such form and manner, and with such accompanying documents as the National Authority may specify by regulations..</i></p> <p><i>(b) The National Authority shall make regulations specifying the manner in which an entry in the certificate of registration shall be made under clause (a)</i></p>	<p><i>There have been instances that the registered owners forged the consent of the financiers and get suitable entry made in RC regarding transfer of ownership or change of address. Accordingly, the National Authority shall specify suitable clauses in its regulations. The successor company shall also be included in the section.</i></p>	<p><i>Sec.98 (7) (a) No entry regarding the transfer of ownership or change of address of the registered owner 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 and in such form and manner, and with such accompanying documents as the National Authority may specify by regulations.</i></p> <p><i>The National Authority shall specify in its regulations the following:</i></p> <ol style="list-style-type: none"> <i>1. On receipt of the application for making any entry regarding transfer of ownership, or change of address in the RC, the registering authority shall seek "no objection" from the financiers or their successors.</i> <i>2. The financiers shall</i>

		<p><i>signify objections or no objections within 7 days from the date of receipt of the communication from the registering authority.</i></p> <p><i>3. In the event of the financiers signifying no objection, the Registering Authority shall make entry regarding transfer of ownership or change of address of the registered owner without disturbing the Hire purchase / Hypothecation/Lease endorsement and the Registering Authority shall intimate the transfer of ownership or change of address to the financiers.</i></p> <p><i>4. In the event of the financiers signifying the objections, the registering authority shall reject the application.</i></p>
<p><i>Sec.98 (8) (a) Where the financier has satisfied the competent registration authority that the financier has taken possession of the motor vehicle or trailer or semi-trailer or mobile machinery from the registered owner due to the</i></p>	<ol style="list-style-type: none"> <i>1. There are instances where the financiers take possession of the unregistered vehicles. Suitable clause shall be added in the section to deal with repossession of unregistered vehicles.</i> <i>2. Under the existing Motor Vehicles Act, 1988, section 51 (5) deals with the issue of fresh registration certificate in</i> 	<p><i>Sec.98 (8) (a) Where the financier has satisfied the competent registration authority that the financier has taken possession of the motor vehicle or trailer or semi-trailer or mobile machinery from the registered owner, or the hirer, hypothecator or the Lessee who fails to register the vehicle, due to the default of the registered owner or hirer, hypothecator</i></p>

<p>default of the registered owner under the provisions of the said agreement and such registered owner refuses to deliver the original certificate of registration or has absconded, the financier shall make an application for a fresh registration certificate in the name of the financier 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>(b) The National Authority shall make regulations specifying the manner in which a fresh certificate of registration shall be issued under clause (a).</p> <p>Provided that such fresh certificate of registration shall not be unless the financier pays the specified fee:</p> <p>Provided further that such fresh certificate of registration other than for a</p>	<p>the name of the financiers under which the registering authority may issue the fresh registration certificate in the name of the financiers after giving the registered owner an opportunity of being heard by sending to him a notice by registered post with acknowledgement due at the address entered in the certificate of the registration. But in actual practice, the registering authority has been sending more than one notice to the registered owner. There is also no time limit prescribed under the existing MV Act, 1988 and as a result, the issue of fresh RC is protracted for years together.</p> <p>The regulation of the national authority shall specify the issue of notice to the parties only once and fix the time limit for issuing fresh RC in the name of the financiers.</p> <p>In some cases, the issue of fresh registration certificate is protracted due to objections of the registered owner beyond the scope of the section. Therefore the National Authority in its regulations should specify that such objections shall be dismissed.</p>	<p>or the lessee under the provisions of the said agreement and such registered owner refuses to deliver the original certificate of registration or has absconded, the financier shall make an application for a fresh registration certificate in the name of the financier 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>The National Authority in its regulations shall specify the following:</p> <ol style="list-style-type: none"> 1. The application which the financiers should file with the registering authority for getting fresh registration certificate in their name both in respect of registered and unregistered vehicles 2. The Photostat copies of the agreements and statement of accounts as documents to be filed by the financiers along with the application. 3. On receipt of the application, such authority shall send a notice only once to the registered owner or hirer, hypothecator or Lessee to the address mentioned in the certificate of the registration or to the address mentioned by the financiers in the application, by registered post with acknowledgement due or by courier or by any other
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<p><i>transport vehicle shall be valid only for the remaining period for which the certificate cancelled under this section would have been in force.</i></p>		<p><i>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.</i></p> <p><i>4. 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 in respect of registered vehicles or has absconded, the registering authority shall cancel the original certificate of registration in the case of registered vehicles, and issue a fresh certificate of registration in the name of the financiers both in respect of registered or unregistered vehicles 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 and also notwithstanding that the certificate of registration is not produced before such authority.</i></p>
<p><i>98 (9). An application for modification of a permit for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section shall be made by the registered</i></p>	<p><i>The financiers' no objection is necessary for modification of permit. In order to avoid the forgery or fabrication of NOC of the financiers', the registering authority concerned should seek confirmation from the financiers' on receipt of the</i></p>	<p><i>The National Registering Authority shall make the following regulations:</i></p> <ol style="list-style-type: none"> <i>1) Immediately on receipt of the application from the registered owners,</i>

<p><i>owner 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.</i></p> <p><i>98(10). The competent registering authority, (a) making an entry in the certificate of registration of a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section regarding—</i></p>	<p><i>application from the registered owner. There should be time limit for the financiers' to give no objection.</i></p> <p><i>Suitable regulations shall be made by National Authority</i></p>	<p><i>the registering authority concerned should send a communication by way of register post with acknowledgement due or Email or Fax, seeking whether the financiers have any objection for modification of permit;</i></p> <ol style="list-style-type: none"> <i>2) The financiers should respond within 7 days from the date of receipt of communication from the registering authority whether they have objection or no objection.</i> <i>3) On receipt of such communication, the registering authority concerned may allow the application of the registered owner;</i> <i>4) The registering authority after allowing or disallowing the modification of permit, shall communicate the order to the financiers..</i> <p><i>The National Authority should make the following regulations</i></p> <ol style="list-style-type: none"> <i>1. The Registering Authority shall seek No Objection from the financiers by way of Registered Post with Ack.Due or courier or e mail or</i>
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<p>(i) hire-purchase, lease or hypothecation agreement;</p> <p>(ii) the cancellation under sub-section (5) of an entry;</p> <p>(iii) recording transfer of ownership;</p> <p>(iv) any alteration in such motor vehicle or trailer or semi-trailer or mobile machinery;</p> <p>(v) suspension or cancellation of registration;</p> <p>(vi) change of address;</p> <p>(b) issuing a duplicate certificate of registration for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(c) issuing a temporary certificate of registration for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(d) issuing or renewing a fitness certificate for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(e) substituting entries in the permit relating to a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or (f) any other application under this section shall do so in the manner specified by regulations made by the National Authority.</p>		<p>fax regarding the following:</p> <p>(a) any alteration in such motor vehicle or trailer or semi-trailer or mobile machinery;</p> <p>(b) suspension or cancellation of registration;</p> <p>(c) change of address;</p> <p>(d) issuing a duplicate certificate of registration for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(e) issuing a temporary certificate of registration for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(f) issuing or renewing a fitness certificate for a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section; or</p> <p>(g) substituting entries in the permit relating to a motor vehicle or trailer or semi-trailer or mobile machinery held under an agreement under this section;</p> <p>(h) assignment of a new Registration mark,</p> <p>(i) removal vehicle to another state,</p> <p>or</p> <p>(j) any other application under this section shall do so in the manner specified by regulations made by the National Authority.</p> <p>The financiers should respond within 7 days from the date of receipt of the communication from the</p>
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<p>99 (3) Subject to the provisions made under sub-section (1) of this section and sub-sections (1) , (2), (3), (5) and (6) of section (49), 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.</p>	<p>Even though the alteration of the vehicle is dealt with under Sec.98 (10), as there is a specific provision in the Bill, the same may be retained with an amendment to include hypothecation and lease agreements.</p>	<p>99 (3) Subject to the provisions made under sub-section (1) of this section and sub-sections (1) , (2), (3), (5) and (6) of section (49), no person holding a vehicle under a hire-purchase, hypothecation or lease agreement shall make any alteration to the vehicle except with the written consent of the financier.</p>
<p>(213) Now Sec.208 - Tampering with vehicles.</p> <p>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:</p> <p>(a) gets on to the vehicle; or</p> <p>(b) tampers with the brake or other part of its mechanism, without lawful</p>	<p>This section affects the right of repossession by the financiers. Therefore, suitable exception should be provided.</p>	<p>(208) Tampering with vehicles.</p> <p>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:</p> <p>(a) gets on to the vehicle; or</p> <p>(b) tampers with the brake or other part of its mechanism, without lawful</p>

<p>authority or reasonable cause; or</p> <p>(c) Tamperers with safety electronic device.</p>		<p>authority or reasonable cause; or</p> <p>(c) Tamperers with safety electronic device.</p> <p>(d) 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>
<p>(214) Now Sec.209 - 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>The same observation as stated above, even though the concepts "Lawful authority or reasonable cause" are used as an exception. As a matter of clarity it is prudent to have a separate clause protecting the seizure of the vehicles by the financiers as per RBI circular.</p>	<p>(209) 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 /</p>

		lease agreements in accordance with the circular dated 24/4/2009 (RBI /2008-09/454) issued by the Reserve Bank of India.
<p>(300) Now Sec.295 - Taking a vehicle without authority.</p> <ol style="list-style-type: none"> 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. 2. No person shall be convicted under this section, if the court is satisfied that such person acted in a bonafide belief that such person had lawful authority to take or drive the vehicle. 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. 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 	<p>Taking the vehicle without the consent of the owner or other lawful authority shall be punishable with the fine of Rs. 25,000/- and 3 months imprisonment. (Schedule III). Under the loan agreements, we have lawful authority to seize the vehicles in the event of default. Add to this, the RBI in its circular dated 24/4/2009 (RBI /2008-09/454) recognised the repossession of the vehicles by the financiers. Sub-section (2) also saves the financiers action from conviction. Thus the repossession of the vehicles by the financiers as per the guidelines of the RBI is not covered under the sub-section (1). However in the interest of greater clarity, suitable exemption shall be given to the financiers' repossession as per RBI circular.</p>	<p>(295) Taking a vehicle without authority.</p> <ol style="list-style-type: none"> 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. 2. No person shall be convicted under this section, if the Court is satisfied that such person acted in the bona fide belief that such person had lawful authority to take or drive the vehicle. 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. 4. Whoever attempts to commit any of the acts referred to in sub-section (1) or sub-section (3) 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 (3). 5. This section shall not apply to the repossession of the vehicles by the financiers in exercise of the rights provided under hire

<p>be, sub-section (2).</p>		<p>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>
<p>(301) Now Sec - 296 - 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>The saving concepts are "lawful authority or reasonable excuse". These are all the issues to be proved in the court of law and do not protect from the initial police action. Accordingly, in the interest of greater clarity we may seek for specific exemption against repossession of the vehicles by the financiers as per RBI circular.</p>	<p>(296) Unauthorised interference with vehicle.</p> <ol style="list-style-type: none"> 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. 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.

Sec.93 – Deals with temporary registration. There are circumstances under which, the owners of the vehicles, after getting temporary registrations, fail to register the vehicles. Temporary registration is required only in respect of transport vehicles i.e. stage carriage or vehicles carrying goods upon which body will be built later on. Therefore, this section requires amendment, applicable only to transport vehicle.

Trade certificate –Proviso to Sec.39 of the present MV Act, 1988 exempts the possession of the Motor Vehicle in the hands of the dealer from registration of the vehicles.

Rules no. 33 of the Central Motor Vehicles Rules, 1989 stipulates that the dealer should obtain a trade certificate from the registering authority for getting exemption from registering the vehicles.

Rules no. 34 & 35 of the Central Motor Vehicles Rules deal with the procedure of applying and granting the trade certificate.

Sec.87 (2) of the present bill exempts the possession of the vehicles by the dealer and others from registration of the vehicles, subject to the conditions as may be specified by the National authority.

In as much as 75% of the vehicles are under finance facility, the National authority should make suitable regulations on the lines of rules no. 33, 34 & 35 of the present Central Motor Vehicles Rules, 1989 in which it should be clearly indicated that the application for obtaining trade certificate shall be made through unified vehicle registration system and the trade certificate obtained by the dealer from a registering authority is valid all over India.