

Regulatory Update: Transport Canada Proposes Administrative Monetary Penalties under Motor Vehicle Safety Act

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Financial penalties for regulatory violations could be on the horizon for automotive manufacturers. On October 21, 2020, Transport Canada [launched an informal consultation](#) seeking public feedback on the creation of a new safety regulation *under the Motor Vehicle Safety Act* (the Act) for administrative monetary penalties (AMPs). If implemented, the proposed *Motor Vehicle Safety Administrative Monetary Penalties Regulation* (the Proposed Regulation) will enforce updates to the Act in 2018 which gave Transport Canada the ability to issue financial penalties for violations of requirements or orders made under the Act and the following regulations made under the Act:

- *Motor Vehicle Safety Regulations*;
- *Motor Vehicle Tire Safety Regulations*; and
- *Motor Vehicle Restraint Systems and Booster Seat Safety Regulations*.

AMPs are a compliance tool used by regulators as a “middle ground” in the enforcement regime, striking a balance between stringent penalties that may be imposed for non-compliance (e.g., prosecution) and lesser penalties such as requiring the business to commit to an undertaking or educational briefing.

Transport Canada provides the following objectives of the Proposed Regulation:

- Identifying the violations for enforcing penalties;
- For each violation, specifying the maximum penalty amount (not exceeding \$4,000 per individual and \$200,000 per company or corporation); and
- Defining related series or classes of violations (where multiple violations would lead to one maximum penalty amount and prescribing the maximum amounts for each class).

As part of the consultation, Transport Canada is seeking feedback on whether certain violations should have a maximum penalty lower than \$4,000 per individual, and \$200,000 per company or corporation; whether and why violations should be defined by class or series; and whether Transport Canada should host a meeting to discuss the AMPs proposed regulations.

The consultation closed on November 27, 2020, and we expect a regulatory proposal will be published soon. A formal comment period will follow seeking feedback before the publication of the final version of the

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regulation.

The author acknowledges the contributions of Articling Student Kayla Smith in preparing this article.

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