



ANNO QUADRAGESIMO

ELIZABETHAE II REGINAE

A.D. 1991

No. 12 of 1991

An Act to amend the Road Traffic Act 1961 and to make consequential amendments to the Motor Vehicles Act 1959.

[Assented to 28 March 1991]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Road Traffic (Alcohol, Speed and Helmets) Amendment Act 1991*.

(2) The *Road Traffic Act 1961* is referred to in this Act as “the principal Act”.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Driving under influence

3. Section 47 of the principal Act is amended by striking out from subsection (4) “or against section 47b (1),” and substituting “against section 47b (1) (being a category 2 offence or category 3 offence) or against section”.

Interpretation

4. Section 47a of the principal Act is amended—

(a) by inserting after the definition of “breath analysis” the following definitions:

“category 1 offence” means an offence against section 47b (1), where the concentration of alcohol in the blood of the convicted person was less than .08 grams in 100 millilitres of blood:

“category 2 offence” means an offence against section 47b (1), where the concentration of alcohol in the blood of the convicted person was less than .15 grams, but not less than .08 grams, in 100 millilitres of blood:

“category 3 offence” means an offence against section 47b (1), where the concentration of alcohol in the blood of the convicted person was .15 grams or more in 100 millilitres of blood;

and

(b) by striking out the definition of “prescribed concentration of alcohol” and substituting the following definition:

“prescribed concentration of alcohol” means—

- (a) in relation to a person who is not authorized under the *Motor Vehicles Act 1959* to drive the vehicle—any concentration of alcohol in the blood;
- (b) in relation to any other person—a concentration of .05 grams or more of alcohol in 100 millilitres of blood.

Driving whilst having prescribed concentration of alcohol in blood

5. Section 47b of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Penalty: For a first offence—

- (a) being a category 1 offence—\$700;
- (b) being a category 2 offence—a fine of not less than \$500 and not more than \$900;
- (c) being a category 3 offence—a fine of not less than \$700 and not more than \$1 200.

For a second offence—

- (a) being a category 1 offence—\$700;
- (b) being a category 2 offence—a fine of not less than \$700 and not more than \$1 200;
- (c) being a category 3 offence—a fine of not less than \$1 200 and not more than \$2 000.

For a subsequent offence—

- (a) being a category 1 offence—\$700;
- (b) being a category 2 offence—a fine of not less than \$1 100 and not more than \$1 800;
- (c) being a category 3 offence—a fine of not less than \$1 500 and not more than \$2 500.;

(b) by striking out from subsection (3) “an offence against subsection (1)” and substituting “a category 2 offence or category 3 offence”;

(c) by striking out from subsection (3) “lesser offence” wherever it occurs and substituting, in each case, “category 2 offence”;

(d) by striking out from subsection (3) “greater offence” wherever it occurs and substituting, in each case, “category 3 offence”;

(e) by striking out from subsection (4) “subsection (1),” and substituting “subsection (1) (being a category 2 offence or category 3 offence)”;

and

(f) by striking out subsection (5) and substituting the following subsection:

(5) A prosecution must not be commenced for a category 1 offence unless the defendant has first been given a traffic infringement notice in respect of the offence and allowed the opportunity to expiate the offence in accordance with the *Summary Offences Act 1953*.

Relation of conviction under s. 47b to contracts of insurance, etc.

6. Section 47c of the principal Act is amended—

- (a) by striking out from subsection (1) “A person who is convicted of an offence under section 47b (1) is not, by reason only of the conviction and any consequent penalty,” and substituting “A person is not, by reason only of having been convicted or found guilty of an offence against section 47b (1) or having expiated such an offence,”;
- (b) by inserting in subsection (1) “or alleged offence” after “offence” second occurring; and
- (c) by striking out from subsection (3) “being convicted of an offence under section 47b” and substituting “being convicted or found guilty of, or expiating, an offence against section 47b (1)”.

Police may require alcotest or breath analysis

7. Section 47e of the principal Act is amended by striking out from subsection (7) “or against section 47 (1), 47b (1)” and substituting “against section 47b (1) (being a category 2 offence or category 3 offence) or against section 47 (1)”.

Compulsory blood tests

8. Section 47i of the principal Act is amended by striking out from subsection (14b) “or against section 47 (1), 47b (1)” and substituting “against section 47b (1) (being a category 2 offence or category 3 offence) or against section 47 (1)”.

Certain offenders to attend lectures

9. Section 47ia of the principal Act is amended by inserting after the last word in subsection (3) “, but does not include an offence against section 47b (1) that is a category 1 offence”.

Recurrent offenders

10. Section 47j of the principal Act is amended by striking out from subsection (12) the definition of “prescribed offence” and substituting the following definition:

“prescribed offence” means an offence against section 47 (1), 47b (1), 47e (3) or 47i (14), but does not include an offence against section 47b (1) that is a category 1 offence.

Substitution of s. 48

11. Section 48 of the principal Act is repealed and the following section is substituted:

General speed limit

48. (1) A person must not drive a vehicle at a greater speed than 100 kilometres an hour.

(2) The speed limit fixed by subsection (1) does not apply within a speed zone.

Special speed limits

12. Section 49 of the principal Act is amended by inserting after subsection (2) the following subsection:

- (3) The speed limit fixed by section 49 (1) (a) does not apply within a speed zone.

Speed limits in zones

13. Section 50 of the principal Act is amended by striking out subsection (2).

Insertion of heading and s. 144

14. The following heading and section are inserted after section 143 of the principal Act:

Speed Limiting Provisions

Speed limiting

144. (1) A person must not drive a vehicle of a kind referred to in section 53 if the vehicle does not comply with any requirement of the regulations for limiting the speed at which vehicles are capable of being driven that applies to that vehicle.

(2) Where a person is found guilty of an offence, or expiates an offence, constituted of driving a vehicle of a kind referred to in section 53 at a speed in excess of 115 kilometres an hour, the Registrar must, if the vehicle is not of a kind required to comply with the regulations referred to in subsection (1), require the owner of the vehicle to modify the vehicle so that it complies with those regulations.

(3) A requirement under subsection (2) must be made by notice in writing and the notice must specify a period within which the modifications must be carried out.

(4) Where a notice is issued under this section—

(a) the vehicle to which it relates must be modified so that it complies with the requirements of the regulations referred to in subsection (1) on or before the expiry of the period specified in the notice;

and

(b) the vehicle must not be driven after the expiry of that period if it does not comply with those requirements.

(5) If a vehicle is driven in contravention of this section, the owner and driver of the vehicle are each guilty of an offence.

(6) In proceedings for an offence against this section, proof that a vehicle to which regulations referred to in subsection (1) apply, or in respect of which a notice has been issued under this section, was driven at a speed in excess of 115 kilometres an hour constitutes proof that the vehicle was driven in contravention of this section in the absence of proof to the contrary.

Safety helmets

15. Section 162c of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) A person must not ride, or ride on, a cycle unless the person is wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened.

(2) A person must not ride a cycle on which a child under the age of 16 years is carried unless the child is wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened.

(2a) A parent or other person having the custody or care of a child under the age of 16 years must not cause or permit the child to ride or be carried on a cycle unless the child is wearing a safety helmet that complies with the regulations and is properly adjusted and securely fastened.

(2b) For the purposes of this section, a person will be taken to ride on or be carried on a cycle if the person rides or is carried in a sidecar or other vehicle attached to the cycle.

(2c) It is a defence to a charge under this section for the defendant to prove that there were in the circumstances of the case special reasons justifying non-compliance with the requirements of this section.;

and

(b) by striking out from paragraph (a) of subsection (3) "driving or riding on motor cycles" and substituting "riding or being carried on cycles".

SCHEDULE

Consequential Amendments

The *Motor Vehicles Act 1959* is amended by striking out from the third schedule the items relating to section 47b (1) and substituting the following items:

Section 47b (1)	Driving, or attempting to put a vehicle in motion, with a concentration of alcohol in blood of—	
	— less than .08 grams, but not less than .05 grams, in 100 millilitres of blood	3
	— .08 grams or more in 100 millilitres of blood	5

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor