



ANNO DECIMO QUINTO

**ELIZABETHAE II REGINAE**

A.D. 1966

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**No. 76 of 1966**

An Act to amend the Motor Vehicles Act, 1959-1964.

[Assented to 1st December, 1966.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short titles  
and commence-  
ment.

1. (1) This Act may be cited as the "Motor Vehicles Act Amendment Act (No. 2), 1966", and shall come into operation on a day to be fixed by proclamation.

(2) The Motor Vehicles Act, 1959-1964, as amended by this Act, may be cited as the "Motor Vehicles Act, 1959-1966".

(3) The Motor Vehicles Act, 1959-1964, is hereinafter referred to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act.

Amendment of  
principal Act,  
s. 5—  
Interpretation.

3. Section 5 of the principal Act is amended by inserting after the definition of "stamp duty" therein the following definition :—

"tow-truck" means a motor vehicle designed or intended to be used for the lifting, carrying or towing of motor vehicles damaged in an accident and includes any motor vehicle to which is attached, whether temporarily or otherwise, a device or trailer designed or intended to be used for the lifting, carrying or towing of motor vehicles damaged in an accident : .

4. The following section is enacted and inserted in the principal Act after section 69 thereof :—

Enactment of  
s. 69a of  
principal Act—

69a. Notwithstanding anything contained in this or any other Act, but except as provided by subsection (1) of section 68 of this Act (excepting paragraph (j) thereof), a person shall not drive or operate on a road within the area a tow-truck bearing trader's plates issued under section 62 of this Act.

Prohibition  
against driving  
or operating a  
tow-truck  
bearing  
trader's plates.

Penalty : One hundred dollars.

5. Section 72 of the principal Act is amended—

Amendment of  
principal Act,  
s. 72—

(a) by inserting at the end of subsection (2) thereof the passage "other than a tow-truck";

Classes of  
driver's  
licences.

and

(b) by inserting after the word "kind" in subsection (3) thereof the passage ", other than a tow-truck,".

6. The following sections are enacted and inserted in the principal Act after section 74 thereof :—

Enactment of  
ss. 74a, 74b,  
74c and 74d of  
principal Act—

74a. (1) In this section and sections 69a, 74b, 83a, 83b, 83c and 83d of this Act "the area" means the area that lies within a radius of twenty miles from the General Post Office at Adelaide.

Prohibition  
against driving  
or operating a  
tow-truck  
without  
authority  
issued by  
Registrar and  
powers of  
Registrar in  
connection  
with such  
authority.

(2) A person shall not drive or operate a tow-truck on a road within the area unless he is in possession of a valid certificate in the prescribed form issued by the Registrar authorizing him to drive and operate a tow-truck.

Penalty : One hundred dollars.

(3) Subject to this section the Registrar may upon written application in the prescribed form by the holder of a valid driver's licence, and upon payment of such fee as may be prescribed, issue a certificate authorizing such holder to drive and operate a tow-truck within the area if the Registrar is satisfied that such holder—

(a) is over twenty-one years of age at the date of his application ;

(b) is of good character ;

(c) is proficient in driving and operating a tow-truck ;

and

(d) has not been convicted of an offence that would in the Registrar's opinion render him unfit to be issued with a certificate.

(4) The Registrar may in order to test the proficiency of an applicant under subsection (3) of this section to drive

and operate a tow-truck, require that applicant to undergo such tests or furnish such other evidence of his ability to drive and operate a tow-truck as the Registrar directs.

(5) The Registrar may at any time cancel a certificate authorizing a person to drive and operate a tow-truck if he is satisfied that such person has been convicted of an offence or is guilty of such conduct that in the Registrar's opinion would render him unfit to hold a certificate to drive and operate a tow-truck.

(6) A certificate ceases to be valid upon the cancellation thereof.

Persons driving or operating tow-trucks to carry authority to drive and operate same at all times and to produce authority when requested by police officer.

74b. (1) Notwithstanding anything contained in this Act a person while driving or operating a tow-truck on a road within the area shall at all times carry with him a valid certificate referred to in subsection (3) of section 74a of this Act and, upon being requested by a member of the police force to produce his certificate, he shall forthwith produce that certificate to the member of the police force who made the request.

(2) If the person referred to in subsection (1) of this section fails to comply with such request by a member of the police force he shall be guilty of an offence and punishable by a fine not exceeding one hundred dollars.

Contravention of *Wireless Telegraphy Act* of the Commonwealth by certificate holder to constitute ground for cancellation.

74c. Without in any way limiting the generality of subsection (5) of section 74a of this Act, where any person who is the holder of a valid certificate referred to in subsection (3) of that section is convicted of any offence under the provisions of the *Wireless Telegraphy Act 1905-1950*, as amended, of the Commonwealth, or any regulations made thereunder, the Registrar may forthwith cancel the certificate of such person.

Certificate to be cancelled or suspended if driver's licence cancelled or suspended.

74d. Where the driver's licence of any person to whom a certificate has been issued by the Registrar under subsection (3) of section 74a of this Act is cancelled or suspended under or by virtue of any Act or such person for any other reason ceases to hold a driver's licence the certificate shall thereupon automatically be cancelled.

Amendment of principal Act, s. 83—  
Appeal on refusal to issue or renew licence or learner's permit or refusal to issue or cancellation of authority to drive and operate a tow-truck.

7. Section 83 of the principal Act is amended by inserting after the passage "section 98a" in subsection (1) thereof the passage "or whose application for a certificate authorizing him to drive and operate a tow-truck has been refused or whose certificate authorizing him to drive and operate a tow-truck has been cancelled".

8. The following sections are enacted and inserted in the principal Act after section 83 thereof:—

Enactment of  
ss. 83a, 83b,  
83c and 83d of  
principal Act—

83a. (1) Subject to section 74a of this Act and subsection (4) of this section, a driver of a tow-truck shall not by means of that tow-truck lift, carry or tow any motor vehicle damaged in an accident from the scene of the accident within the area (hereinafter called "the damaged vehicle" in this section and sections 83b, 83c and 83d of this Act) unless he is in possession of an authority in the prescribed form signed by the owner, driver or person claiming to be in charge of that motor vehicle together with a statement of the capacity in which that person signs that authority authorizing the lifting, carrying or towing of that damaged vehicle and has handed a duplicate of that authority to the signatory thereof.

Prohibition  
against towing  
of any vehicle  
unless driver  
of tow-truck  
has authority  
to tow the  
same signed  
by the owner  
or driver etc.,  
of the vehicle.

Penalty: One hundred dollars.

(2) Every authority referred to in subsection (1) of this section shall contain the following particulars which shall be entered by the driver of the tow-truck on that authority before the lifting, carrying or towing of any motor vehicle commences—

- (a) the name and address of the owner of the tow-truck;
  - (b) the name of the driver of the tow-truck and the number on the certificate authorizing him to drive and operate a tow-truck;
  - (c) the registered number of the tow-truck;
  - (d) the name and address of the owner of the motor vehicle to be lifted, carried or towed and the make and registered number of that vehicle;
- and
- (e) the date and time at which the authority to lift, carry or tow is signed and the place from and a description of the premises to which the driver intends to lift, carry or tow that motor vehicle for purposes of storage, repair or safe custody,

and if any driver of a tow-truck fails or omits correctly to enter all or any of the above-mentioned particulars on such authority he shall be guilty of an offence and liable to a penalty not exceeding fifty dollars.

(3) Notwithstanding the signing of such an authority by the owner, driver or person claiming to be in charge of a motor vehicle any member of the police force present at the scene of any accident in which the motor vehicle is involved may direct that that motor vehicle shall not be lifted, carried or towed if he is satisfied that all the particulars referred to in subsection (2) of this section have

not been correctly entered on such authority or have been obtained in contravention of any of the provisions of this Act and any person who in disobedience of the directions of the police officer in this regard lifts, carries or tows any vehicle shall be guilty of an offence and liable to a penalty not exceeding one hundred dollars.

(4) Where, owing to the absence or incapacity of the owner, driver or person claiming to be in charge of a motor vehicle damaged in an accident, authority to lift, carry or tow that vehicle cannot be obtained pursuant to subsection (1) of this section a member of the police force present at the scene of the accident in which such vehicle is involved may, for the purposes only,

(a) of removing such vehicle to any place for safe-keeping or for preservation as an exhibit for future court proceedings ;

or

(b) of removing such vehicle to the nearest place of safety at or near the scene of an accident ;

or

(c) of removing such vehicle if it constitutes an obstruction or its removal is necessary to ensure road safety,

in lieu of that owner, driver or person himself sign the authority for that vehicle to be lifted, carried or towed for and on behalf of the owner, driver or person claiming to be in charge of the motor vehicle and receive the duplicate of such authority and deliver the same as soon as practicable to the person on whose behalf he has signed the authority and upon so signing the authority shall for the purposes of subsection (1) of this section be deemed to have been signed by the owner of the vehicle, but no liability whatsoever in respect of the signing thereof shall attach to the police officer concerned or the Police Department employing such police officer.

(5) Every driver of a tow-truck shall, when requested by a member of the police force forthwith produce his authority referred to in subsection (1) of this section to lift, carry or tow any motor vehicle to the member of the police force who made the request.

Penalty : Fifty dollars.

83b. (1) Any contract or authority for the repair of a vehicle, damaged in an accident within the area which is entered into before, or within twenty-four hours after, the carrying or towing of that vehicle commences, by the owner of that vehicle or the driver or person claiming to be in charge

Contract or  
authority to  
repair damaged  
vehicle  
unenforceable  
unless certain  
conditions  
complied with.

of that vehicle, acting on behalf of the owner, with any person who agrees or is authorized to repair that vehicle or any person acting on behalf of such person, shall be unenforceable against the owner of that damaged vehicle unless—

- (a) such contract or authority is in writing and has been signed by the owner, driver or person claiming to be in charge of the damaged motor vehicle, as the case may be, and the person who is to repair that vehicle or any person acting on behalf of such person ;
- (b) there is printed conspicuously on that contract or authority in capital letters in bold, black type so as to be clearly seen the words "This contract or authority is unenforceable against the owner of any damaged vehicle (the registration number of which is described in this contract or authority) unless and until the owner notifies the person who agrees or is authorized to repair that vehicle not less than six hours nor more than fourteen days after the signing thereof that he confirms that contract or authority.";
- (c) the person who agrees or is authorized to repair that damaged vehicle or any person acting on behalf of such person under such contract or authority has at the time of signing thereof delivered to the owner, driver or person claiming to be in charge of that vehicle a duplicate of the said contract or authority and has obtained from any such person an acknowledgement in writing of receipt of such duplicate ;

and

- (d) the owner of the damaged vehicle not less than six hours nor more than fourteen days after the date of signing the contract or authority has notified the person in writing who is to repair that damaged vehicle that the owner confirms such contract or authority.

(2) If the owner of a damaged vehicle decides not to confirm the contract or authority within fourteen days after the signing of the contract or authority by himself or the driver or person in charge of the damaged vehicle acting on his behalf, the person to whose place the damaged vehicle was taken for repair shall, forthwith, upon the request of the owner, deliver up the damaged vehicle

and all articles of value in that vehicle to the owner thereof upon payment by the owner of such scale of charges, as are laid down from time to time by the S.A. Automobile Chamber of Commerce Incorporated, as are incurred in the carrying, towing and storage of that vehicle.

(3) Any person to whose place a damaged vehicle has been taken for repair who refuses or neglects to deliver up that vehicle or any articles of value in that vehicle when requested by the owner thereof shall if the charges referred to in subsection (2) of this section in respect of the carrying, towing and storage of that vehicle have been tendered by the owner to such person shall be guilty of an offence and, upon conviction, liable to a penalty not exceeding one hundred dollars.

General  
penalty  
provisions.

83c. Any person who, within the area,

(a) causes or attempts to cause or induces or attempts to induce by any trick, pretence, force, threat or persistent soliciting, or unfair means, any person to sign an authority to lift, carry or tow any damaged vehicle ;

or

(b) intimidates or attempts to intimidate by threat or force the driver of any tow-truck from lifting carrying or towing any damaged vehicle if that driver is acting in accordance with the provisions of this Act ;

or

(c) not being the holder of a certificate issued by the Registrar under section 74a of this Act, who solicits or attempts to solicit an owner, driver or person claiming to be in charge of a damaged vehicle for the purpose of obtaining an authority to lift, carry or tow that vehicle from the scene of an accident by means of any tow-truck,

shall be guilty of an offence and, upon conviction, shall be liable to a penalty not exceeding one hundred dollars.

Savings as  
regard towing  
of vehicles  
by means of a  
vehicle driven  
by certain  
persons.

83d. Nothing in this Act shall be construed—

(a) as preventing any person, who is not a driver of a tow-truck working for hire or reward, from towing any vehicle by means of his vehicle ;

- 
- (b) as preventing a member of the police force acting in the ordinary course of his duties from lifting, carrying or towing by means of a tow-truck any damaged vehicle :
- (c) as preventing an employee of any Government authority acting on the instructions of a responsible officer of any such authority from lifting, carrying or towing by means of a tow-truck any damaged vehicle that is owned by or under the control of that or any other Government authority ;
- (d) as preventing an employee of any local government authority acting on the instructions of a responsible officer of any such authority by means of a tow-truck from lifting, carrying or towing any damaged vehicle owned by or under the control of that or any other local government authority ;
- (e) as preventing an employee of any body corporate acting on the authority of any such body by means of a tow-truck from lifting, carrying or towing any damaged vehicle owned by or under the control of such body ;
- (f) as preventing a driver of a tow-truck by means of such tow-truck from lifting, carrying or towing any damaged vehicle owned by or under the control of the owner of that tow-truck ;
- (g) as preventing the driver of a tow-truck by means of such tow-truck from lifting, carrying or towing any vehicle damaged in an accident occurring outside the area for the purpose of carrying or towing that damaged vehicle to a place within the area for repair, storage or safe custody ;
- and
- (h) as preventing a driver of a tow-truck employed by a towing service whose place of business is outside the area from driving a tow-truck to any place within the area for any purpose so long as such purpose is not connected with the lifting, carrying or towing in the area of a damaged vehicle,



notwithstanding that such person, police officer or member of such Government authority, local government authority, body corporate, employee or driver, as the case may be, is not the holder of a valid certificate issued by the Registrar under section 74a of this Act or the holder of an authority signed by the owner, driver or person claiming to be in charge of the damaged vehicle as is referred to in section 83a of this Act.

Amendment of  
principal Act,  
s. 141—  
Evidence by  
certificate of  
Registrar.

9. Section 141 of the principal Act is amended by inserting at the end of paragraph (a) thereof the passage "or a certificate authorizing him to drive or operate a tow-truck".

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

EDRIC BASTYAN, Governor.