



ANNO TRICESIMO

ELIZABETHAE II REGINAE

A.D. 1981

No. 46 of 1981

An Act to amend the Road Traffic Act, 1961-1981.

[Assented to 18th June, 1981]

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

1. (1) This Act may be cited as the "Road Traffic Act Amendment Act (No. 3), 1981". Short titles.

(2) The Road Traffic Act, 1961-1981, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Road Traffic Act, 1961-1981".

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-
ment.

3. The following section is inserted after section 5 of the principal Act: Insertion of
new s. 5a.

5a. (1) This Act, as in force before the commencement of the Road Traffic Act Amendment Act (No. 3), 1981, applies in relation to offences against this Act committed before the commencement of that Act. Application of
Road Traffic
Act
Amendment
Act (No. 3),
1981.

(2) This Act, as amended by the Road Traffic Act Amendment Act (No. 3), 1981, applies in relation to offences against this Act committed after the commencement of that Act.

4. Section 46 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (1) and substituting the following provision: Amendment of
s. 46—
Reckless and
dangerous
driving.

Penalty—

For a first offence—a fine of not less than three hundred dollars and not more than six hundred dollars:

For a subsequent offence—

(a) a fine of not less than three hundred dollars and not more than six hundred dollars;

or

(b) imprisonment for not more than three months.;

and

(b) by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where a court convicts a person of an offence against subsection (1), the following provisions shall apply:

(a) the court shall order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—for such period, being not less than six months, as the court thinks fit;

or

(ii) in the case of a subsequent offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) shall not be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied by evidence given on oath that the offence is trifling, in which case, it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

(c) the order of disqualification shall, for the purposes of the Offenders Probation Act, 1913-1971, be deemed not to constitute a sentence or the imposition of a penalty.

(4) In determining whether an offence is a first or subsequent offence for the purposes of this section, only a previous offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act (No. 3), 1981) against subsection (1) for which the defendant has been convicted that was committed within the period of five years immediately preceding the commission of the offence under consideration shall be taken into account.

Amendment of
s. 47—
Driving under
influence of
intoxicating
liquor or drug.

5. Section 47 of the principal Act is amended—

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

Penalty—

If the vehicle concerned was a motor vehicle—

(a) for a first offence—

(i) a fine of not less than four hundred dollars and not more than seven hundred dollars;

or

- (ii) imprisonment for not more than three months;

and

- (b) for a subsequent offence—

- (i) a fine of not less than six hundred dollars and not more than one thousand dollars;

or

- (ii) imprisonment for not more than six months.

If the vehicle concerned was not a motor vehicle—

Three hundred dollars.;

and

- (b) by striking out subsections (3) and (4) and substituting the following subsections:

(3) Where a court convicts a person of an offence against subsection (1) in which the vehicle concerned was a motor vehicle, the following provisions shall apply:

- (a) the court shall order that the person be disqualified from holding or obtaining a driver's licence—

- (i) in the case of a first offence—for such period, being not less than six months, as the court thinks fit;

or

- (ii) in the case of a subsequent offence—for such period, being not less than three years, as the court thinks fit;

- (b) the disqualification prescribed by paragraph (a) shall not be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied by evidence given on oath that the offence is trifling, in which case, it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

- (c) the order of disqualification shall, for the purposes of the Offenders Probation Act, 1913-1971, be deemed not to constitute a sentence or the imposition of a penalty.

(4) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act (No. 3), 1981) against subsection (1) or against section 47b (1), section 47e (3) or section 47i (14) for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

Amendment of
s. 47a—
Interpretation.

6. Section 47a of the principal Act is amended by inserting after the definition of "breath analysis" the following definition:

"breath test" means an alcotest or a breath analysis:.

Amendment of
s. 47b—
Driving whilst
having
prescribed
concentration
of alcohol in
blood.

7. 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 provision:

Penalty—

For a first offence—

(a) being a lesser offence—a fine of not less than three hundred dollars and not more than six hundred dollars;

or

(b) being a greater offence—a fine of not less than four hundred dollars and not more than seven hundred dollars.

For a second offence—

(a) being a lesser offence—a fine of not less than five hundred dollars and not more than eight hundred dollars;

or

(b) being a greater offence—a fine of not less than six hundred dollars and not more than one thousand dollars.

For a subsequent offence—

(a) being a lesser offence—a fine of not less than six hundred dollars and not more than one thousand dollars;

or

(b) being a greater offence—a fine of not less than six hundred dollars and not more than one thousand dollars;.

and

(b) by striking out subsections (2a) and (3) and substituting the following subsections:

(3) Where a court convicts a person of an offence against subsection (1), the following provisions shall apply:

(a) the court shall order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—

A. being a lesser offence—for such period, being not less than three months, as the court thinks fit;

B. being a greater offence—for such period, being not less than six months, as the court thinks fit;

(ii) in the case of a second offence—

A. being a lesser offence—for such period, being not less than twelve months, as the court thinks fit;

B. being a greater offence—for such period, being not less than three years, as the court thinks fit;

(iii) in the case of a subsequent offence—

A. being a lesser offence—for such period, being not less than two years, as the court thinks fit;

B. being a greater offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) shall not be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied by evidence given on oath that the offence is trifling, in which case, it may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

(c) the order of disqualification shall, for the purposes of the Offenders Probation Act, 1913-1971, be deemed not to constitute a sentence or the imposition of a penalty.

(4) For the purposes of determining whether an offence is a first, second or subsequent offence for the purposes of this section, any previous offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act (No. 3), 1981) against subsection (1) or against section 47 (1), section 47e (3), or section 47i (14) for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

(5) In this section—

“lesser offence” means an offence against subsection (1) where the concentration of alcohol in the blood of the convicted person was less than .15 grams in 100 millilitres of blood:

“greater offence” means an offence against subsection (1) where the concentration of alcohol in the blood of the convicted person was .15 grams or more in 100 millilitres of blood.

Insertion of
new s. 47da.

Commissioner
of Police may
authorize
breath tests.

8. The following section is inserted after section 47d of the principal Act:

47da. (1) The Commissioner of Police may authorize members of the police force—

(a) to conduct breath tests in relation to persons driving motor vehicles on a part of a road and during a day specified by the Commissioner;

and

(b) to establish for that purpose a breath testing station on or in the vicinity of the part of a road specified by the Commissioner.

(2) A breath testing station shall be established in such a way and consist of such facilities and warning and other devices as the Commissioner of Police considers necessary in order to enable vehicles to be stopped in a safe and orderly manner and the breath tests to be made in quick succession.

(3) Any member of the police force carrying out duties in connection with the conduct of breath tests pursuant to this section shall be in uniform.

(4) The breath tests shall be so conducted as to avoid undue delay or inconvenience to those affected.

(5) The Commissioner of Police shall, as soon as practicable after the first, second and third anniversaries of the date of commencement of this section, submit to the Minister a report upon the operation and administration of this section during the preceding period of twelve months including a report of—

(a) the places and times at which breath tests were conducted pursuant to this section;

and

(b) the numbers of drivers required to submit to alcotests and analyses, respectively, conducted pursuant to this section and the results of those tests.

(6) The Minister shall cause the report of the Commissioner of Police to be laid before each House of Parliament as soon as practicable after his receipt of the report.

(7) The provisions of this section, other than subsections (5) and (6), shall expire on the expiration of the period of three years from the date of commencement of this section.

Amendment of
s. 47e—

Police may
require
alcotest or
breath analysis.

9. Section 47e of the principal Act is amended—

(a) by inserting after paragraph (aa) of subsection (1) the following paragraph:

(aaa) has committed an offence against section 20, section 111 or section 122;;

(b) by inserting after subsection (2) the following subsections:

(2a) A member of the police force may require any person driving a motor vehicle on a day and on a part of a road specified in an authorization under section 47da to submit to an alcotest.

(2b) Where an alcotest conducted under subsection (2a) indicates that the prescribed concentration of alcohol may be present in the blood of any person, a member of the police force may require that person to submit to a breath analysis;

- (c) by striking out the penalty provision at the foot of subsection (3) and substituting the following provision:

Penalty—

For a first offence—a fine of not less than four hundred dollars and not more than seven hundred dollars.

For a subsequent offence—a fine of not less than six hundred dollars and not more than one thousand dollars.;

- (d) by striking out subsection (3a);

and

- (e) by striking out subsection (6) and substituting the following subsections:

(6) Where a court convicts a person of an offence against subsection (3), the following provisions shall apply:

- (a) the court shall order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—for such period, being not less than six months, as the court thinks fit;

or

(ii) in the case of a subsequent offence—for such period, being not less than three years, as the court thinks fit;

- (b) the disqualification prescribed by paragraph (a) shall not be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied by evidence given on oath that the offence is trifling, in which case, the court may order a period of disqualification that is less than the prescribed minimum period but not less than one month;

- (c) the order of disqualification shall, for the purposes of the Offenders Probation Act, 1913-1971, be deemed not to constitute a sentence or the imposition of a penalty.

(7) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act (No. 3), 1981) against subsection (3) or against section 47 (1), section 47b (1) or section 47i (14) for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

Amendment of
s. 47g—
Evidence, etc.

10. Section 47g of the principal Act is amended by inserting after subsection (3a) the following subsections:

(3b) A certificate purporting to be signed by a member of the police force and to certify that a person named in the certificate submitted to an alcotest on a specified day and at a specified time and that the alcotest indicated that the prescribed concentration of alcohol may then have been present in the blood of that person shall, in the absence of proof to the contrary, be proof of the matters so certified.

(3c) A certificate purporting to be signed by the Commissioner of Police and to certify that he authorized members of the police force to conduct breath tests in relation to persons driving motor vehicles during a day and on a part of a road stated in the certificate shall, in the absence of proof to the contrary, be proof of the matter so certified.

Amendment of
s. 47i—
Compulsory
blood tests.

11. Section 47i of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (14) and substituting the following provision:

Penalty—

Where the convicted person was the driver of a motor vehicle involved in the accident—

(a) for a first offence—a fine of not less than four hundred dollars and not more than seven hundred dollars;

and

(b) for a subsequent offence—a fine of not less than six hundred dollars and not more than one thousand dollars.

In any other case—Three hundred dollars.;

and

(b) by striking out subsections (14a) and (14b) and substituting the following subsections:

(14a) Where a court convicts a person of an offence against subsection (14) in which the person was the driver of a motor vehicle involved in the accident, the following provisions shall apply:

(a) the court shall order that the person be disqualified from holding or obtaining a driver's licence—

(i) in the case of a first offence—for such period, being not less than six months, as the court thinks fit;

or

(ii) in the case of a second offence—for such period, being not less than three years, as the court thinks fit;

(b) the disqualification prescribed by paragraph (a) shall not be reduced or mitigated in any way unless, in the case of a first offence, the court is satisfied by evidence given on oath that the offence is trifling, in which case, the court may

order a period of disqualification less than the prescribed minimum period but not less than one month;

- (c) the order of disqualification shall, for the purposes of the Offenders Probation Act, 1913-1971, be deemed not to constitute a sentence or the imposition of a penalty.

(14b) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence (whether committed before or after the commencement of the Road Traffic Act Amendment Act (No. 3), 1981) against subsection (14) or against section 47 (1), section 47b (1) or section 47e (3) for which the defendant has been convicted shall be taken into account but only if the offence was committed within the period of five years immediately preceding the commission of the offence under consideration.

12. The following section is inserted after section 47i of the principal Act:

Insertion of new s. 47ia.

47ia. (1) Where the court before which a person is charged with a prescribed first or second offence convicts the person of the offence or finds that the charge is proved but does not proceed to conviction, the court shall, unless proper cause for not doing so is shown, order the person to attend, within a period fixed by the court, being not more than six months from the making of the order, a lecture conducted pursuant to the regulations.

Certain offenders to attend lectures.

(2) A person shall not fail, without reasonable excuse, to comply with an order under subsection (1).

Penalty: One hundred dollars.

(3) In this section—

“prescribed first or second offence” means an offence against section 47 (1), section 47b (1), section 47e (3) or section 47i (14), being an offence that is, within the meaning of that section, a first or second offence against that section.

(4) A certificate purporting to be signed by the Commissioner of Police and to certify that a person named in the certificate failed to comply with an order under subsection (1) shall, in the absence of proof to the contrary, be proof of the matter so certified.

13. Section 111 of the principal Act is amended by inserting after the word “requirements” the passage “of sections 119, 120, 121 and 124 or”.

Amendment of s. 111—
Duty to comply with requirements as to lamps and reflectors.

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

K. D. SEAMAN, Governor