



ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

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No. 5 of 1987

An Act to amend the Road Traffic Act, 1961.

[Assented to 12 March 1987]

The Parliament of South Australia enacts as follows:

Short title. 1. (1) This Act may be cited as the "Road Traffic Act Amendment Act, 1987".

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

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

Insertion of new heading and ss. 79a and 79b. 3. The following heading and sections are inserted after section 79 of the principal Act:

Photographic Detection Devices

Approval of apparatus as photographic detection devices. 79a. The Governor may, by regulation, approve apparatus of a specified kind as photographic detection devices.

Provisions applying where certain offences are detected by photographic detection devices. 79b. (1) In this section— "photographic detection device" means an apparatus of a kind approved by the Governor as a photographic detection device:

"prescribed offence" means an offence against any of the following provisions:

- (a) section 20 (4);
(b) section 46 (1);
(c) section 48;
(d) section 49 (1) (a);
(e) section 49 (1) (d);
(f) section 50 (1);

(g) section 53 (1);

or

(h) section 75 (1):

“registered owner” of a vehicle means—

(a) a person registered or recorded as the owner or an owner of the vehicle under the Motor Vehicles Act, 1959, or a similar law of the Commonwealth or another State or Territory of the Commonwealth;

or

(b) a person to whom a trader’s plate, a permit or other authority has been issued under the Motor Vehicles Act, 1959, or a similar law of another State or Territory of the Commonwealth, by virtue of which the vehicle is permitted to be driven on roads.

(2) Where a vehicle appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a prescribed offence, the registered owner of the vehicle is guilty of an offence against this section unless it is proved—

(a) that although the vehicle appears to have been involved in the commission of a prescribed offence, no such offence was in fact committed;

or

(b) (i) where the registered owner is a natural person—that the registered owner was not driving the vehicle at the time;

or

(ii) where the registered owner is a body corporate—

(A) that no officer or employee of the registered owner was driving the vehicle at the time;

or

(B) although an officer or employee of the registered owner was, according to information in the possession of the registered owner, driving at the time—that the registered owner has furnished to the Commissioner of Police, by statutory declaration made by an officer of the registered owner, the name of the officer or employee.

(3) Where there are two or more registered owners of the same vehicle—

(a) a prosecution for an offence against subsection (2) may be brought against one of the registered owners or against some or all of the registered owners jointly as co-defendants;

and

(b) if the case for the prosecution is proved and a defence is not established under subsection (2) (a), the defendant or each of the defendants who does not establish a defence under subsection (2) (b) is liable to be found guilty of an offence against subsection (2).

(4) A prosecution must not be commenced for an offence against this section unless the registered owner 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.

(5) Where an offence against this section is alleged, a traffic infringement notice or summons in respect of that offence must be accompanied by a notice in the prescribed form containing—

(a) a statement that a copy of the photographic evidence on which the allegation is based may be viewed on application to the Commissioner of Police;

(b) a statement that the Commissioner of Police will, in relation to the question of withdrawal of the traffic infringement notice or complaint, give due consideration to any exculpatory evidence that is verified by statutory declaration and furnished to the Commissioner within a period specified in the notice;

and

(c) such other information or instructions as is prescribed.

(6) Where a prescribed offence is alleged and the allegation is based on photographic evidence obtained through the operation of a photographic detection device, a traffic infringement notice or summons in respect of the offence must be accompanied by a notice in the prescribed form stating that a copy of the photographic evidence may be viewed on application to the Commissioner of Police.

(7) Where a person is found guilty of, or expiates, a prescribed offence or an offence against this section, neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against this section or a prescribed offence in relation to the same incident.

(8) A person convicted of an offence against this section is not, by reason of that conviction, liable to be disqualified from holding or obtaining a driver's licence.

(9) In proceedings for an offence against this section, a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or any commissioned officer of police, and purporting to certify that the defendant had, before the prosecution was commenced, 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, shall be accepted as proof, in the absence of proof to the contrary, of the facts so certified.

(10) In proceedings for an offence against this section or proceedings for a prescribed offence—

(a) a photograph or series of photographs produced by the prosecution shall be admitted in evidence if—

- (i) the photograph or each of the photographs was produced from an exposure taken by a photographic detection device;
  - and
  - (ii) the requirements of the regulations as to the operation and testing of photographic detection devices were complied with in connection with that use of the device,
- and a denotation as to date, time and location that appears as part of such a photograph shall be accepted as proof, in the absence of proof to the contrary, of the date, time and location at which the exposure was taken;
- (b) a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or any commissioned officer of police, and purporting to certify—
- (i) that a specified device used at a specified location during a specified period was a photographic detection device;
  - and
  - (ii) that the requirements of the regulations as to the operation and testing of photographic detection devices were complied with in connection with the use of that device during that period,
- shall be accepted as proof, in the absence of proof to the contrary, of the facts so certified;
- and
- (c) where it is also certified in a document of a kind referred to in paragraph (b) that the device was designed and set to operate according to a specified system during that period, it shall be presumed, in the absence of proof to the contrary, that the device was designed and set to operate according to that system during that period and did, in fact, so operate.

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

D. B. DUNSTAN, Governor