

Road Safety (Miscellaneous Amendments) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1 20 April 1988

(Brought in by Mr Mathews and Mr Roper)

A BILL

to make miscellaneous amendments to the *Road Safety Act* 1986 and for other purposes.

Road Safety (Miscellaneous Amendments) Act 1988

The Parliament of Victoria enacts as follows:

Purposes.

1. The purposes of this Act are—

- 5 (a) to amend the *Road Safety Act* 1986 with respect to drink-driving offences; and
(b) to make various other amendments to that Act; and
(c) to make consequential amendments to other Acts.

Commencement.

10 2. (1) This Act, other than section 11 (5), comes into operation on a day or days to be proclaimed.

(2) Section 11 (5) must be taken to have come into operation on 1 May 1988.

Principal Act.

3. In this Act, the *Road Safety Act* 1986 is called the Principal Act.

No 127/1986
Amended by
Nos. 54/1987,
65/1987
and 78/1987.

Definitions.

4. In section 3 (1) of the Principal Act—

(a) after the definition of “Corresponding law” insert—

“**Drink-driving infringement**” means an offence under section 49 (1) (b), (f) or (g) in circumstances where— 5

(a) the concentration of alcohol in the blood of the person is less than 0.15 grams per 100 millilitres of blood; and

(b) the offence is a first offence; and

(c) section 48 (2) is not relevant.”; and 10

(b) after paragraph (c) of the definition of “Traffic infringement” insert—

“; or

(d) a drink-driving infringement.”.

Power of court to cancel, suspend or vary licences and permits. 15

5. In section 28 (1) of the Principal Act, for paragraph (a) substitute—

“(a) in the case of an offence of driving a motor vehicle at a speed—

(i) of 130 kilometres per hour or more; or 20

(ii) of 30 kilometres per hour or more in excess of that permitted, whether generally or in relation to the particular vehicle or circumstances—

must suspend for a period of not less than one month all driver licences and permits held by that person; and” 25

Provisions about cancellation and disqualification.

6. (1) In section 50 (1) of the Principal Act, for paragraph (a) substitute—

“(a) may, in the case of a person to whom section 52 applies where— 30

(i) the offence is under section 49 (1) (b), (f) or (g); and

(ii) the concentration of alcohol in the blood of that person was 0.05 grams per 100 millilitres of blood or less; and

(iii) the offence is a first offence; and

(iv) section 48 (2) is not relevant; and” 35

(2) In section 50 (3) of the Principal Act, after “sub-section (1)” insert “or section 89B”.

Obtaining log book by false statements.

7. In section 71 of the Principal Act, after “permit” (where first, thirdly and fourthly occurring) insert “, log book”. 40

Proceedings for certain offences not to be adjourned.

8. (1) In section 78 of the Principal Act, for the expression beginning “paragraph (a), (b), (f) or (g)” and ending at the end of the section substitute “section 49 (1).”.

- 5 (2) Section 78 of the Principal Act as amended by sub-section (1) does not apply to or in relation to any proceedings relating to an offence that is alleged to have been committed before the commencement of this section.

Drink-driving infringements.

- 10 9. In section 88 of the Principal Act—

(a) in sub-section (1), for “serve” substitute “issue and cause to be served”; and

(b) after sub-section (1) insert—

- 15 “(1A) Despite sub-section (1), a traffic infringement notice in respect of a drink-driving infringement may only be issued by a member of the police force.”; and

(c) in sub-section (2), after “particulars” insert “, including, in the case of a traffic infringement notice in respect of a drink-driving infringement, the concentration of alcohol alleged to have been present in the person’s blood”.

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New sections 89A and 89B inserted.

10. After section 89 of the Principal Act, insert—

Effect of drink-driving infringements.

“89A. (1) Section 89 does not apply to drink-driving infringements.

- 25 (2) A traffic infringement notice that is issued in respect of a drink-driving infringement takes effect, 28 days after service of the notice, as a conviction for the offence specified in the notice, unless the person to whom the notice was issued objects, within that time and in accordance with this section, to the infringement notice.

- 30 (3) A person may object to the infringement notice by giving notice in writing of the objection to the person in charge of the office specified in the infringement notice as the place for payment of the penalty.

(4) A notice of objection must state—

- 35 (a) that the person to whom the infringement notice was issued refuses to pay the penalty; and

(b) that the person requests that the matter be dealt with by a court; and

(c) that the person intends to defend any charge arising out of the facts specified in the infringement notice.

(5) The giving of notice of objection to the infringement notice has the effect that—

- (a) the infringement notice is cancelled; and
- (b) the person to whom the infringement notice was issued may only be proceeded against by summons.”

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Cancellation of licence or permit for drink-driving infringements.

“89B. (1) Any driver licence or permit held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is cancelled, and the person is disqualified from obtaining one, for a period ascertained in accordance with Column 2 of Schedule 1 by reference to the blood alcohol concentration specified in the notice if—

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- (a) the blood alcohol concentration specified in the notice is more than 0.05 grams per 100 millilitres of blood; and
- (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.

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(2) A probationary driver licence held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is suspended for 1 month, and the period of probation is extended by 7 months, if—

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- (a) the blood alcohol concentration specified in the notice is 0.05 grams or less per 100 millilitres of blood; and
- (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.

(3) A permit held by a person to whom a traffic infringement notice has been issued in respect of a drink-driving infringement is suspended for 1 month if—

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- (a) the blood alcohol concentration specified in the notice is 0.05 grams or less per 100 millilitres of blood; and
- (b) no notice of objection to the infringement notice has been given and the 28 day period has expired.

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(4) Any cancellation and disqualification under sub-section (1), suspension and extension of probation under sub-section (2) or suspension under sub-section (3) takes effect on the expiry of the 28 day period.

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(5) When any cancellation has taken effect, the Authority may, by notice in writing served on the person whose licence or permit is cancelled, require that person to surrender any licence or permit document to the Authority.

(6) A person on whom a notice is served under sub-section (5) must comply with the notice within the time specified in it.

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Penalty: 5 penalty units.

(7) Payment of a penalty in respect of a drink-driving offence may be made in accordance with the regulations.

- 5 (8) A person who pays a penalty in respect of a drink-driving infringement must, on or before the expiry of the 28 day period, surrender his or her licence or permit document in accordance with the regulations, if the concentration of alcohol specified in the notice to have been present in the person's blood is more than 0.05 grams per 100 millilitres of blood."

Miscellaneous amendments to Principal Act.

- 10 11. (1) In section 52 (2) (b) of the Principal Act, for "described in sub-section (1) (c)," substitute "who at the time of the offence was not the holder of a licence or permit to drive a motor vehicle, and who".

- 15 (2) In section 55 (1) and (2) of the Principal Act, for "the grounds or precincts of a police station" substitute "other place where the sample of breath is to be furnished and analysed".

(3) In section 56 (2) of the Principal Act, after "accident" insert ", whether within Victoria or not,".

- 20 (4) In section 56 (9) of the Principal Act, for "the commencement of section 11 (9) of the *Road Safety (Amendment) Act 1987*" substitute "9 December 1987".

(5) In section 103 (2) of the Principal Act, for "12 months" (wherever occurring) substitute "3 years".

(6) In Schedule 4 to the Principal Act—

- 25 (a) for item 28.16 (c) substitute—
 "(c) omit sub-section (5)."; and
 (b) in item 29.21, for all words and expression before "Section 42" substitute—

'29.21. In Schedule 1, insert at the end of the Schedule—

" <i>Road Safety Act 1986</i>	Section 13 (5)
	Section 18
	Section 30 (1)
	Section 40 (5)"

30 Consequential amendments to other Acts.

12. (1) In the definition of "Infringement notice" in section 89A of the *Magistrates (Summary Proceedings) Act 1975*—

- 35 (a) in paragraph (a), omit "a parking infringement notice, a traffic infringement notice or"; and
 (b) after paragraph (f) (where first occurring) insert—
 "(g) a parking infringement notice or a traffic infringement notice under Part 7 of the *Road Safety Act 1986*; or";
 and

(c) in paragraph (f) (where secondly occurring), for “(f)” substitute “(h)”.

(2) In section 94 of the *Conservation, Forests and Lands Act 1987*, for “Division 2 of Part VI. of the *Transport Act 1983* and the regulations made under that Division” substitute “Sections 59, 64, 65, 76, 77, 85–90, 99 and 100 of the *Road Safety Act 1986*, Parts 7 and 8 of and Schedules 5 and 6 to the Road Safety (Procedures) Regulations 1988 and the Road Safety (Traffic) Regulations 1988”.

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