

Road Safety (Miscellaneous Amendments) Bill

No.

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By Authority L. V. North, Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 10 May 1995

(Brought in by Mr Brown and Mr McGrath (Wimmera))

A BILL

to amend the **Road Safety Act 1986**, the **Transport Act 1983** and the **Marine Act 1988** and for other purposes.

Road Safety (Miscellaneous Amendments) Act 1995

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

5 The purposes of this Act are to make various amendments to the **Road Safety Act 1986**, the **Transport Act 1983** and the **Marine Act 1988**.

2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

- (2) Sections 14 and 28 are deemed to have come into operation on 1 August 1994.
- (3) Section 20 is deemed to have come into operation on 1 January 1995.
- (4) Subject to sub-section (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed. 5
- (5) If a provision referred to in sub-section (4) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 10

PART 2—AMENDMENTS TO THE ROAD SAFETY ACT

N . 127/1986.
 R print d to
 N .120/1993.
 Sub qu ntly
 am nd d by
 No 17/1994,
 23/1994,
 33/1994,
 60/1994,
 78/1994,
 84/1994,
 101/1994 and
 7/1995.

3. Principal Act

In this Part the **Road Safety Act 1986** is called the Principal Act. 15

4. Definitions

In section 3 (1) of the Principal Act **insert—**
 “**“taxi-cab”** has the same meaning as in Part VI of the **Transport Act 1983;**”. 20

5. Inspection powers—Transport officers

- (1) In section 13 of the Principal Act, in sub-sections (1) and (2), for “An officer of the Corporation who is authorised in writing by the Corporation for the purposes of this section” **substitute** “An authorised officer for the purposes of this section”. 25

(2) At the end of section 13 of the Principal Act **insert—**

‘(6) In this section “**authorised officer for the purposes of this section**” means—

(a) an officer of the Corporation authorised in writing by the Corporation for the purposes of this section; or

(b) an officer of the Department of Transport authorised in writing by the Secretary to the Department of Transport for the purposes of this section.’.

6. Power to prohibit use—Transport officers

In section 14 of the Principal Act, after “The Corporation” **insert** “, an officer of the Department of Transport authorised in writing by the Secretary to the Department of Transport for the purposes of this section”.

7. Power to seize number plates—Transport officers

(1) In section 16 (1) of the Principal Act, for “An authorised officer” **substitute** “An authorised officer for the purposes of this section”.

(2) In section 16 of the Principal Act, for sub-section (2) **substitute—**

‘(2) In this section “**authorised officer for the purposes of this section**” means—

(a) an officer of the Corporation or an officer or agent of the Transport Accident Commission authorised in writing by the Corporation for the purposes of this section; or

(b) an officer of the Department of Transport authorised in writing by the Secretary to the Department of Transport for the purposes of this section.’.

8. Holder of interstate or overseas licence to comply with conditions

In section 18 (1) of the Principal Act—

- (a) **omit** “(unless exempted under the regulations)”;
- (b) in paragraph (a), after “vehicle” **insert** “(unless exempted under the regulations)”;
- (c) after paragraph (b) **insert**—
 - “; or
 - (c) being a person who is exempted under the regulations from the requirements of paragraph (a) because he or she holds an appropriate licence or permit issued in another State, Territory or country, or has an appropriate International Driving Permit, in breach of any condition of that licence or permit—”.

9. Immediate suspension for impaired drivers

In section 24 of the Principal Act, after sub-section (2) **insert**—

- “(3) In suspending, in accordance with the regulations, a driver licence or permit on the ground that it would be dangerous for the person to drive a motor vehicle because of illness or bodily infirmity, defect or incapacity or because of the effects of treatment for any of those things, the Corporation may do so on the basis of a report given by a registered medical practitioner and without conducting any other hearing or investigation into the matter before the suspension is imposed.”.

10. Recording of demerit points

In section 25 (2) of the Principal Act—

- (a) **omit** “and”;
- (b) after “points incurred” **insert** “the determination of the date on which points are to be recorded as

incurred and the circumstances in which, if points are incurred before a conviction or finding of guilt is recorded or made, the points may be cancelled.”.

5 **11. Insertion of new section 26A**

After section 26 of the Principal Act, **insert**—

“26A. Appeal to Magistrates’ Court against police decision

- 10 (1) If a member of the police force decides to forbid a person to drive a motor vehicle under section 62 or take any other action under that section, the person in respect of whom the action has been taken may, in accordance with the regulations, appeal against that decision to the Magistrates’ Court.
- 15
- (2) On an appeal under sub-section (1) the court must—
- (a) re-determine the matter of the action taken; and
- 20 (b) hear any relevant evidence tendered by the appellant or the member of the police force; and
- (c) without limiting its discretion, take into consideration anything that the member ought to have considered.”.
- 25

12. Assessment reports

In section 50 (4B) (a) of the Principal Act, after “of alcohol” **insert** “or drugs, as the case requires”.

30 **13. Zero blood alcohol—taxi-cabs**

In section 52 of the Principal Act, after sub-section (1B) **insert**—

“(1c) This section also applies to a person who is the holder of a full driver licence, while that person is driving or in charge of a taxi-cab.”.

14. *Breath samples*

In section 55 (2A) of the Principal Act— 5

(a) for “a further sample” **substitute** “one or more further samples”; and

(b) after “in the sample” **insert** “, or each of the samples, previously furnished”.

15. *Drivers who have licence restored required to carry licence* 10

In section 59 (3) of the Principal Act, after “section 19 (5) applies” **insert** “or who has been issued with a driver licence under an order of the Magistrates’ Court made on an application under section 50 (4)”. 15

16. *Offence to attempt to obtain information*

In section 71 of the Principal Act in paragraph (a), after “this Act” **insert** “or any information to which section 92 applies”.

17. *Issue of collector’s plates* 20

In Schedule 2 to the Principal Act, after item 16 **insert**—

“16A. The issue of number plates for the purposes of collection, the circumstances in which they may be issued, the manner in which they may be used and any conditions as to their use.”. 25

18. *Hazardous areas*

After item 61 in Schedule 2 to the Principal Act **insert**—

“*Hazardous areas* 30

62. The declaration of areas as hazardous areas.

- 63. The approval of persons to drive vehicles seating more than 12 people (driver included) in hazardous areas.
- 64. The approval of vehicles seating more than 12 people (driver included) for use in hazardous areas.
- 65. Otherwise prohibiting or regulating the use of vehicles seating more than 12 people (driver included) in hazardous areas.”.

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PART 3—AMENDMENTS TO THE TRANSPORT ACT

19. Definitions

N . 9921.
R print d to
No.121/1994.

10 In section 86 (1) of the Transport Act 1983 **insert**—

“**hire car**” means a commercial passenger vehicle classified as a hire car by the licensing authority under section 145;

15 “**special purpose vehicle**” means a commercial passenger vehicle classified as a special purpose vehicle by the licensing authority under section 145;’.

20. Breath samples

20 In section 96 (2) of the **Transport Act 1983**—

(a) for “a further sample” **substitute** “one or more further samples”; and

(b) after “in the sample” **insert** “, or each of the samples, previously furnished”.

21. Functions of Taxi Directorate

25 In section 131 of the **Transport Act 1983**, after “taxi-cabs” **insert** “, restricted hire vehicles, hire cars and special purpose vehicles”.

22. Definition of “licensing authority”

30 In section 138A (a) of the **Transport Act 1983**, after “taxi-cab” **insert** “, restricted hire vehicle, hire car or special purpose vehicle”.

23. Restricted hire vehicles

In section 141B (2) of the **Transport Act 1983**, for “Roads Corporation” substitute “licensing authority”.

24. Hearing of applications

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(1) In section 142 of the **Transport Act 1983**, for “Roads Corporation” (wherever occurring) substitute “licensing authority”.

(2) In section 142 (5) of the **Transport Act 1983**, for “the Chief Executive of” substitute “a person nominated by”.

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25. Cancellation or alteration of licences

In section 146 (6) of the **Transport Act 1983**, for “the Chief Executive of the Roads Corporation” substitute “a person nominated by the licensing authority”.

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26. Repeal of regulation-making power

In section 162 (1) of the **Transport Act 1983**, paragraph (ga) is repealed.

27. Transitional provisions

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(1) Any application to or proceeding before the Roads Corporation in respect of a vehicle which is, or is to operate as, a hire car or a special purpose vehicle or in respect of the owner or driver of such a vehicle or in respect of the holder of a hire car or special purpose vehicle licence that had not been finally determined by the Roads Corporation before the commencement of section 23 shall be determined by

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the Secretary to the Department of Transport in accordance with the **Transport Act 1983** as amended by this Part.

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- (2) If under sub-section (1) the Secretary determines an application or proceeding, any thing done or any requirement complied with in relation to the application or proceeding before the commencement of section 23 must, so far as consistent with the provisions of the **Transport Act 1983** as amended by this Part, be taken to have been done or complied with for the purposes of the determination by the Secretary and the Secretary may have regard to any record of the Roads Corporation in relation to the application or proceeding.
- 10
- (3) The **Transport Act 1983** as amended by this Part applies to—
- 15
- (a) any application for or in relation to a commercial passenger vehicle licence in respect of a vehicle which is, or is to operate as, a hire car or special purpose vehicle made but not finally determined before the commencement of section 23;
- 20
- (b) any commercial passenger vehicle licence in force immediately before that commencement in respect of a vehicle which is, or is to operate as, a hire car or special purpose vehicle and any such licence may be suspended, cancelled, revoked or transferred or have any condition of or attached to it altered in accordance with the provisions of the **Transport Act 1983** as amended by this Part or have the route or area in respect of which it was granted altered in accordance with those provisions.
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- 30
- (4) The provisions of this section are additional to, and do not limit, the provisions of the **Interpretation of Legislation Act 1984**.
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PART 4—AMENDMENT TO THE MARINE ACT

N . 52/1988.
R print d t
N . 31/1994.
Subsequently
amended by
N . 7/1995.

28. *Breath samples*

In section 31 (2A) of the **Marine Act 1988**—

- (a) for “a further sample” **substitute** “one or more further samples”; and
- (b) after “in the sample” **insert** “, or each of the samples, previously furnished”.

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