

LEGISLATIVE ASSEMBLY

Read 1° 16 November 1989

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Road Safety Act 1986*, the *Penalties and Sentences Act 1985*, the *Marine Act 1988* and the *Local Government Act 1958* and for other purposes.

Road Safety (Amendment) Act 1989

The Parliament of Victoria enacts as follows:

Purposes

1. The purposes of this Act are—

- 5 (a) to make amendments to the *Road Safety Act 1986* about the assessment, education and relicensing of convicted drink drivers; and
- (b) to make various other amendments to that Act about—
- 10 (i) the learner permit age; and
- (ii) the production of driver licences and permits on request; and
- (iii) owner onus offences; and
- (iv) tailgating infringements; and
- (v) probationary driver infringements; and
- (vi) tampering with specified equipment; and
- 15 (c) to make various amendments to the *Penalties and Sentences Act 1985*, the *Marine Act 1988* and the *Local Government Act 1958*; and

(d) to make consequential amendments to the *Magistrates (Summary Proceedings) Act 1975* and the *Magistrates' Court Act 1989*.

Commencement

2. This Act comes into operation on a day or days to be proclaimed. 5

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,
78/1987,
58/1988,
12/1989,
44/1989,
53/1989 and
57/1989

Definitions

- 4. In section 3 (1) of the Principal Act—
 - (a) before the definition of “**Authorised officer**” insert— 10
 - ‘ “**Accredited agency**” means a person or body approved for the purposes of sections 50 and 50A by the Chief General Manager.
 - “**Accredited drink-driving education program**” means a program that is run by an accredited agency and that is approved for the purposes of section 50A by the Chief General Manager.’; and 15
 - (b) after the definition of “**Breath analysing instrument**” insert—
 - ‘ “**Chief General Manager**” has the same meaning as in the *Health Act 1958*.’; and 20
 - (c) after the definition of “**Interstate learner permit**” insert—
 - ‘ “**Licence restoration report**” means a report from an accredited agency on an applicant for an order under section 50 (4).’; and 25
 - (d) in the definition of “**Prescribed concentration of alcohol**”, in paragraph (a) for “a concentration of alcohol present in the blood of that person of 0.00 grams per 100 millilitres of blood” substitute “the concentration of alcohol specified in that section”; and 30
 - (e) after the definition of “**Prescribed concentration of alcohol**” insert—
 - ‘ “**Probationary driver infringement**” means a prescribed offence within the meaning of section 21 (3).’; and
 - (f) after the definition of “**Serious injury**” insert— 35
 - ‘ “**Tailgating infringement**” means an offence under section 87A.’; and

- (g) in the definition of “Traffic infringement”, after paragraph (e) insert “; or
- (f) a tailgating infringement; or
- (g) a probationary driver infringement.”.

5 Probationary driver licences

5. (1) For section 21 (1) of the Principal Act substitute—

“(1) If a driver licence is granted to a person—

- (a) who has not previously held one; or
- (b) to whom section 50 (4A) or (4C) applies after the making of a licence restoration order in respect of that person—

that licence must, unless the regulations otherwise provide, be granted on probation for a term specified in the licence.

(1A) A person who holds a probationary driver licence must have the licence in his or her possession at all times while driving or in charge of a motor vehicle.

Penalty: 5 penalty units.”.

(2) In section 21 (4) of the Principal Act, after “an offence” insert “under sub-section (1A) or an offence”.

Learner permits

6. In section 22 (2) (b) of the Principal Act, for “17” substitute “16”.

Licence restoration reports

7. (1) In section 50 (4) of the Principal Act, before “Magistrates’ Court” insert “venue of the”.

(2) After section 50 (4) of the Principal Act insert—

“(4A) If a person applies under sub-section (4) for an order and the offence in respect of which the person was disqualified was—

- (a) an offence under section 49 (1) (b), (f), or (g) which was—
 - (i) a first offence and the level of concentration of alcohol in that person’s blood was 0.15 grams or more per 100 millilitres of blood; or
 - (ii) a subsequent offence; or
- (b) an offence under section 49 (1) (a), (c), (d) or (e) which was a first offence—

the court must have regard to the reports referred to in sub-section (4B).

(4B) A person who applies for an order under sub-section (4) and to whom sub-section (4A) (a) or (4A) (b) applies must obtain from an accredited agency—

- (a) at least 12 months before applying for the order, an assessment report about the person's usage of alcohol; and
- (b) within 28 days before applying for the order, a licence restoration report. 5
- (4C) If a person applies under sub-section (4) for an order and neither paragraph (a) nor (b) of sub-section (4A) applies, the court may request a licence restoration report from an accredited agency."
- (3) After section 50 (5) (b) (iii) of the Principal Act insert “; and 10
- (iv) any licence restoration report obtained under sub-section (4B) (b) or (4C) and any report obtained under sub-section (4B) (a).”.

New section 50A inserted

8. After section 50 of the Principal Act insert— 15

Drink-driving education programs

“50A. (1) The Corporation must not issue a driver licence or permit to a person whose driver licence or permit is cancelled on conviction of an offence under section 49 (1) (b), (f) or (g) and who, at the time of the offence, was under 25 years old unless it is satisfied that the person has, if the offence is a first offence and the level of concentration of alcohol in that person's blood was less than 0.15 grams per 100 millilitres of blood, completed an accredited drink-driving education program. 20

(2) The Corporation must cancel the driver licence or permit of a person to whom section 52 applies who was convicted of an offence under section 49 (1) (b),(f) or (g) and whose driver licence or permit was not cancelled on conviction, unless it is satisfied that the person has completed an accredited drink-driving education program within 3 months after being required by the Corporation by notice in writing to do so. 25 30

(3) If a person to whom section 52 applies is charged with an offence under section 49 (1), and on the hearing the court grants an adjournment under section 83 of the *Penalties and Sentences Act* 1985, the court must make it a condition of the bond to be entered into under that section that the person completes an accredited drink-driving education program. 35

(4) The Corporation may in its discretion exempt any person from the requirement to complete an accredited drink-driving education program.”. 40

Zero blood alcohol

9. In section 52 of the Principal Act—

(a) for sub-section (2) substitute—

5 “(2) The prescribed concentration of alcohol in the case of a person to whom this section applies is a concentration of alcohol present in the blood of that person of 0.00 grams per 100 millilitres of blood.”; and

(b) sub-sections (3) to (7) are repealed.

Failure to produce licence, etc.

10 10. (1) In section 59 (2) of the Principal Act—

(a) in paragraph (a), after “force” insert “or failing to produce for inspection his or her driver licence document or permit document”; and

15 (b) in paragraph (b), omit “his or her driver licence document or permit document or”.

(2) In section 59 (3) of the Principal Act, after “person” (where first occurring) insert “, other than a person who holds a probationary driver licence,”.

Infringements

20 11. (1) In section 66 (1) of the Principal Act, omit “photographic”.

(2) In section 66 (2) of the Principal Act—

(a) for “section 67 or” (wherever occurring) substitute “Part 7 or”; and

25 (b) for “section 67 (6)” (wherever occurring) substitute “section 88 (4)”.

(3) Section 66 (3) (c) of the Principal Act is repealed.

(4) The amendment made by sub-section (3) applies only in relation to offences committed after the commencement of sub-section (3).

(5) In section 66 (5) of the Principal Act, omit “and section 67”.

30 (6) Section 67 of the Principal Act is repealed.

(7) In section 88 (1A) of the Principal Act, before “may” insert “, or of an infringement detected by a detection device prescribed for the purposes of section 66,”.

(8) After section 88 (3) of the Principal Act insert—

35 “(3A) Despite sub-section (3), a withdrawal notice in relation to a traffic infringement notice of a kind referred to in sub-section (1A) must be signed by a member of the police force.”.

Tampering or interfering with motor vehicle or specified equipment

12. After section 70 (1) of the Principal Act insert—

‘(1A) A person must not, without just cause or excuse, tamper or interfere with specified equipment fitted or attached to a motor vehicle.

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Penalty: 25 penalty units.

(1B) In sub-section (1A), “**specified equipment**” means equipment of a type specified for the purposes of this section by the Minister in a notice published in the *Government Gazette*.

(1C) If a person is convicted of an offence against sub-section (1A), the Corporation must cancel for 4 years any driver licence or permit held by the person, and disqualify him or her for 4 years from holding or obtaining a driver licence or permit.’

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Owner onus provisions

13. (1) In section 80 of the Principal Act, for “prescribed photographic detection device” (wherever occurring) substitute “detection device prescribed for the purposes of section 66”.

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(2) In section 81 of the Principal Act—

(a) for “prescribed photographic detection device” (wherever occurring) substitute “detection device prescribed for the purposes of section 66”; and

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(b) for “a photograph printed from reversal or negative film” substitute “an image or message”.

(3) In section 84 (7) of the Principal Act—

(a) for “a photograph printed from reversal or negative film” (wherever occurring) substitute “an image or message”; and

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(b) for “prescribed photographic detection device” (wherever occurring) substitute “detection device prescribed for the purposes of section 66”.

New section 87A inserted

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14. After section 87 of the Principal Act insert—

Tailgating infringements

‘87A. (1) The driver of a motor vehicle must keep the motor vehicle at a safe distance from the rear of the preceding motor vehicle or trailer.

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Penalty: 5 penalty units.

(2) Except when in the process of overtaking, the driver of a long vehicle must, if the conditions permit, keep the long vehicle at least 100 metres from the rear of the preceding long vehicle.

Penalty: 5 penalty units.

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(3) Sub-section (2) does not apply in a prescribed area.

(4) If a person is convicted of an offence against sub-section (1) or (2), the Corporation must suspend for 3 months any driver licence or permit held by the person.

5 (5) In this section, “**long vehicle**” means a motor vehicle, or a combination of vehicles, which together with any load or projection exceeds 7.5 metres in length.’

Licence loss infringements

15. (1) After section 89 of the Principal Act insert—

10 **Licence loss infringements**

‘89AA. In sections 89A, 89B and 89E, “**licence loss infringement**” means—

- (a) a drink-driving infringement; or
- (b) an excessive speed infringement; or
- 15 (c) a tailgating infringement; or
- (d) a probationary driver infringement.’

(2) In section 89A (1) of the Principal Act, for “drink-driving infringements or excessive speed infringements” substitute “licence loss infringements”.

20 (3) In section 89A (2) of the Principal Act, for “a drink-driving infringement or excessive speed infringement” substitute “a licence loss infringement”.

(4) In section 89A (4) of the Principal Act, for “in charge of the Fixed Penalties Payment Office at the address specified” substitute
25 “specified for that purpose.”.

(5) In section 89B (1) of the Principal Act, for “a drink-driving infringement or an excessive speed infringement” substitute “a licence loss infringement”.

30 (6) In section 89E of the Principal Act, for “a drink-driving infringement or an excessive speed infringement” (wherever occurring) substitute “a licence loss infringement”.

New sections 89DA and 89DB inserted

16. After section 89D of the Principal Act insert—

Suspension of licence for tailgating infringements

35 “89DA. (1) Any driver licence or permit held by a person to whom a traffic infringement notice has been issued in respect of a tailgating infringement is suspended for 3 months if no notice of objection to the infringement notice has been given and the 28 day period has expired.

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(2) If a probationary driver licence held by a person to whom a traffic infringement notice has been issued in respect of a tailgating infringement is suspended, the period of probation is extended by 9 months.

(3) Any suspension or extension of probation under this section takes effect on the expiry of the 28 day period. 5

(4) When any suspension has taken effect, the Corporation may, by notice in writing served on the person whose licence or permit is suspended, require that person to surrender any licence or permit document to the Corporation. 10

(5) A person on whom a notice is served under sub-section (4) must comply with the notice within the time specified in it.

Penalty: 5 penalty units.

(6) Payment of a penalty in respect of a tailgating infringement may be made in accordance with the regulations. 15

(7) A person who pays a penalty in respect of a tailgating 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.”

Suspension of licence for probationary driver infringements 20

“89DB. (1) The probationary driver licence held by a person to whom a traffic infringement notice has been issued in respect of a probationary driver infringement is suspended for one month, and the period of probation is extended by 7 months, if no notice of objection to the infringement notice has been given and the 28 day period has expired. 25

(2) Any suspension and extension of probation under this section take effect on the expiry of the 28 day period.

(3) When any suspension has taken effect, the Corporation may, by notice in writing served on the person whose probationary driver licence is suspended, require that person to surrender the licence document to the Corporation. 30

(4) A person on whom a notice is served under sub-section (3) must comply with the notice within the time specified in it.

Penalty: 5 penalty units. 35

(5) Payment of a penalty in respect of a probationary driver infringement may be made in accordance with the regulations.

(6) A person who pays a penalty in respect of a probationary driver infringement must, on or before the expiry of the 28 day period, surrender his or her licence document in accordance with the regulations.” 40

Convictions and community-based orders

17. (1) In section 39 (1) of the *Penalties and Sentences Act* 1985—

(a) in paragraph (b), for “(3)” substitute “(5)”; and

(b) in paragraph (c), omit “subject to sub-section (2),”.

5 (2) Sections 39 (2) and 39 (5) of the *Penalties and Sentences Act* 1985 are repealed.

Amendment of Marine Act

18. In Schedule 5 to the *Marine Act* 1988, after item 62 insert—

ALCOHOL

10 “ 62A. Devices for the purposes of section 29; the handling, storage, use and maintenance of those devices; the precautions to be taken and the procedures and methods to be employed in the use of those devices for ensuring that they give accurate and reliable results.

15 62B. The handling, storage, use and maintenance of breath analysing instruments used for the purposes of section 31 and the procedures and methods to be employed in the use of those instruments for ensuring that they give accurate and reliable results.

20 62C. The methods and conditions to be observed by legally qualified medical practitioners in collecting blood samples.

62D. The methods to be used by analysts in determining the concentration of alcohol in a blood sample.

25 62E. The procedures to be adopted in transmitting samples of blood to an analyst for analysis.

62F. The regulation and control of people concerned in the taking, delivering and analysis of blood samples.”.

Amendment of Local Government Act

30 19. In section 555A of the *Local Government Act* 1958, sub-sections (7A) and (7B) are repealed.

Consequential amendments

35 20. (1) In section 89A of the *Magistrates (Summary Proceedings) Act* 1975, in paragraph (f) of the definition of “**Infringement notice**”, for “under section 67 of the *Road Safety Act* 1986” substitute “issued in respect of an offence to which section 66 of the *Road Safety Act* 1986 applies”.

40 (2) In section 89E (1) (i) (i) of the *Magistrates (Summary Proceedings) Act* 1975, for “served under section 67 of the *Road Safety Act* 1986” substitute “issued in respect of an offence to which section 66 of the *Road Safety Act* 1986 applies”.

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(3) In section 89R (2) (c) of the *Magistrates (Summary Proceedings) Act 1975*, for “served under section 67 of the *Road Safety Act 1986*” substitute “issued in respect of an offence to which section 66 of the *Road Safety Act 1986* applies”.

(4) In Schedule 7 to the *Magistrates' Court Act 1989*— 5

(a) in clause 4 (2) (i), for “served under section 67 of the *Road Safety Act 1986*” substitute “issued in respect of an offence to which section 66 of the *Road Safety Act 1986* applies”; and

(b) in clause 14 (2) (c), for “served under section 67 of the *Road Safety Act 1986*” substitute “issued in respect of an offence to which section 66 of the *Road Safety Act 1986* applies”. 10

