

Road Safety (Miscellaneous Amendments) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the Act to come into operation on a day or days to be proclaimed, other than clause 17 (6) which must be taken to have come into operation on 1 May 1988 as it extends a period which expired on that date.

Clause 3 refers to the *Road Safety Act 1986* as the Principal Act.

Clause 4 defines the terms “drink-driving infringement” and “excessive speed infringement” and includes such infringements in the definition of “traffic infringement” in section 3 of the Principal Act.

Clause 5 amends section 28 of the Principal Act to require the courts to impose a minimum of 1 month’s suspension of all driver licences and permits if the licence holder is found guilty of an offence of driving a motor vehicle at a speed of 130 km/h or more. This is in addition to the existing requirement which applies to speeds of 30 km/h or more in excess of the permitted speed. The minimum licence suspension periods are increased in accordance with Schedule 5 in the case of speeds which are 40 km/h or more in excess of the limit.

Clause 6 amends sections 48 and 49 of the Principal Act to ensure that a person who has a blood alcohol reading solely as a result of drinking after driving is able to lead evidence of that fact when charged with failing a breath or blood test within 3 hours after an accident.

Clause 7

Sub-clause (1) restructures the existing section 50 (1) of the Principal Act into three new sub-sections (1), (1A) and (1B). Substantive changes affect drivers who are subject to zero BAC and do not exceed 0.05 BAC. For first offences committed by such drivers licence disqualification on conviction is discretionary up to a maximum of 6 months. For subsequent offences licence disqualification on conviction is mandatory for at least 6 months.

Sub-clause (2) amends section 50 (3) of the Principal Act to take account of the restructuring and to insert a reference to the new section 89B.

Clause 8 inserts new sub-sections (10A) and (10B) in section 51 of the Principal Act to ensure that, where a person with a BAC reading of 0.15 or above appeals against immediate licence suspension, notice of the appeal is given to the Chief Commissioner of Police, that the notice specifies the exceptional circumstances alleged and that the court must hear relevant evidence.

Clause 9 amends section 56 of the Principal Act to ensure that a hospital blood sample is validly taken and can be used in evidence notwithstanding that the person has only been brought to the hospital and has not been admitted into it.

Clause 10 amends section 57 of the Principal Act to enable blood samples to be tested for other drugs as well as alcohol and to enable evidence of the analysis to be given in various legal proceedings including those conducted by a Coroner.

Clause 11 amends section 59 of the Principal Act by omitting from sub-section (6) provisions which protect the Crown and other persons against liability for moving overloaded vehicles and re-enacting them in a new sub-section (10) so that they apply to any action taken under the section.

Clause 12 inserts a new section 60A into the Principal Act. This section requires trailer owners to give information to the Police similar to the information required to be given by a motor vehicle owner under section 60.

Clause 13 amends section 71 of the Principal Act to make it an offence to obtain a log book, licence, permit or registration by false statements, misrepresentation or other dishonest means.

Clause 14 amends section 88 of the Principal Act to provide for drink-driving infringements and excessive speed infringements to be dealt with as kinds of traffic infringements. The clause makes it clear that drink-driving infringement notices can only be issued by members of the police force and must contain particulars of the alleged concentration of alcohol in the blood of the person to whom the notice is issued. An excessive speed infringement notice must contain particulars of the alleged speed and the permitted speed.

Clause 15 inserts new sections 89A, 89B, 89C and 89D into the Principal Act.

Under section 89A a drink-driving infringement notice or excessive speed infringement notice operates as a conviction 28 days after the service of the notice unless an objection notice is lodged within that period.

Section 89B sets out the licence cancellation or suspension consequences of a drink-driving infringement notice.

Section 89C sets out the licence suspension consequences of an excessive speed infringement notice.

Section 89D modifies provisions of the *Magistrates (Summary Proceedings) Act 1975* with regard to the recovery of penalties for these infringements.

Clause 16 inserts a new Schedule 5 into the Principal Act. The Schedule specifies minimum periods for which licences must be suspended by the courts in excessive speeding cases under section 28. These periods are also fixed as actual periods of suspension under the new section 89C where the offence is dealt with by infringement notice.

Clause 17 makes a number of miscellaneous amendments to various sections of the Principal Act.

Sub-clause (1) amends section 52 (2) of the Principal Act in consequence of a change to section 52 (1) which took effect in December 1987.

Sub-clause (2) amends section 55 of the Principal Act to take account of the fact that breathalysers are not used solely in police stations or the grounds or precincts of a police station.

Sub-clause (3) makes it clear that compulsory blood samples are required to be taken of motor accident victims in Victorian hospitals even if the accident occurred outside Victoria.

Sub-clause (4) clarifies a reference to the commencement of a provision of the *Road Safety (Amendment) Act 1987* by substituting the actual date of commencement namely 9 December 1987.

Sub-clause (5) amends section 59 of the Principal Act to allow an impounded vehicle to be taken to a place other than a police station.

Sub-clause (6) amends section 103 (2) of the Principal Act by extending to three years the period during which a person holding an unendorsed car licence issued under the *Motor Car Act 1958* may drive trucks that do not exceed 3 tonnes tare but are more than 4.5 tonnes GVM.

Sub-clause (7) amends two items in Schedule 4 to the Principal Act. The amendment to item 28.16 (c) omits section 213 (5) of the *Transport Act 1983* which has become redundant. The amendment to item 29.21 brings up to date the list of offences for which one third of the penalties must be paid to the Transport Accident Commission by adding the relevant Road Safety Act references in Schedule 1 to the *Transport Accident Act 1986*.

Clause 18

Sub-clause (1) amends the definition of “infringement notice” in section 89A of the *Magistrates (Summary Proceedings) Act 1975* as a result of the commencement of the Principal Act.

Sub-clause (2) amends section 94 of the *Conservation, Forests and Lands Act 1987* in consequence of the commencement of the Principal Act.

