South Australia

Motor Vehicles (Motor Bike Licensing) Amendment Bill 2020

A BILL FOR
An Act to amend the Motor Vehicles Act 1959.
The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the Motor Vehicles (Motor Bike Licensing) Amendment Act 2020.

2—Commencement

This Act comes into operation 12 months after assent.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of Motor Vehicles Act 1959

4—Amendment of section 5—Interpretation

(1) Section 5(1)—after the definition of mandatory alcohol interlock scheme conditions insert:

mobile phone does not include a CB radio or any other two-way radio;
(2) Section 5(1)—after the definition of unconditional licence insert:

use, in relation to a mobile phone, includes any of the following actions by a driver:

(a) holding the body of the phone in the driver's hand (whether or not engaged in a phone call);

(b) entering or placing, other than by the use of voice, anything into the phone, or sending or looking at anything that is in the phone;

(c) turning the phone on or off;

(d) operating any other function of the phone;

5—Amendment of section 72—Classification of licences

Section 72(10)—delete "Where" and substitute:

Subject to this Act, if

6—Amendment of section 72A—Qualified supervising drivers

Section 72A(1)(a)—delete paragraph (a) and substitute:

(a) when the holder of the permit or licence drives a motor vehicle, or attempts to put a motor vehicle in motion, on a road—

(i) the person—

(A) in the case of a vehicle that is a motor bike—accompanies the holder of the permit or licence by driving a motor bike behind the holder of the permit or licence; or

(B) in any other case—occupies a seat in the vehicle next to the holder of the permit or licence; and

(ii) the person takes all reasonable steps to supervise and instruct the holder of the licence or permit in the safe and efficient driving of the vehicle; and

7—Amendment of section 75—Issue and renewal of licences

(1) Section 75(1)(aa)—delete "is of or above the age of 17 years and"

(2) Section 75—after subsection (1) insert:

(1a) The Registrar must not issue a licence to, or renew the licence of, a person unless—

(a) in the case of a licence authorising the holder of the licence to drive a motor bike—

(i) the person is at least 18 years of age; and

(ii) in the case of a person who has not previously held a licence authorising the driving of a motor bike—the person has held a learner's permit authorising the driving of a motor bike for a continuous period of at least 12 months; or
(b) in any other case—the person is at least 17 years of age.

8—Amendment of section 75A—Learner's permit

(1) Section 75A(1)—before the definition of \textit{prescribed concentration of alcohol} insert:

\textit{approved high visibility vest or jacket} means a high visibility vest or jacket of a kind approved by the Registrar for the purposes of this section;

(2) Section 75A(1), definition of \textit{prescribed learner's permit holder}—delete the definition

(3) Section 75A(2)(a)(i)—delete subparagraph (i) and substitute:

(i) is—

(A) in the case of an applicant for a learner's permit authorising the driving of a motor bike—at least 17 years of age; or

(B) in any other case—at least 16 years of age; and

(4) Section 75A(10)(c) and (d)—delete paragraphs (c) and (d) and substitute:

(e) a condition that the holder of the permit must not drive a motor vehicle (other than a motor bike) on a road unless the holder of the permit is accompanied by a person acting as a qualified supervising driver for the holder of the permit;

(d) a condition that the holder of the permit must not, while driving a motor bike on a road, carry any person on the motor bike (whether as a passenger on the motor bike or in a sidecar attached to the motor bike);

(e) a condition that the holder of the permit must not, while driving a motor bike on a road, tow any vehicle by use of the motor bike;

(f) a condition that the holder of the permit must not, while driving a motor bike on a road, use a mobile phone (whether the motor bike is moving, stationary or parked on a road);

(g) a condition that the holder of the permit must, while driving a motor bike on a road, wear an approved high visibility vest or jacket that is visible and is securely fitted and fastened;

(h) any other condition—

(i) limiting the kind of motor vehicle that may be driven pursuant to the permit; or

(ii) limiting the hours during which or the locality within which a motor vehicle may be driven pursuant to the permit; or

(iii) imposing any other restriction,

that the Registrar thinks necessary.

(5) Section 75A(11)—delete "subsection (10)(d) and substitute:

subsection (10)(h)
(6) Section 75A(20)—delete subsection (20) and substitute:

(20) The holder of a learner's permit authorising the driving of a motor bike must not drive a motor bike on a road between the hours of midnight and 5.00 am.

Maximum penalty: $1 250.

9—Amendment of section 79—Examination of applicant for licence or learner's permit

Section 79—delete subsection (3) and substitute:

(3) The Registrar must not issue a learner's permit authorising the driving of a motor bike unless the applicant has produced to the Registrar a certificate signed by a tester certifying that the applicant has, in the manner required by the Registrar, passed a motor bike hazard perception test conducted by the tester.

(4) In this section—

motor bike hazard perception test means a test approved by the Registrar as a motor bike hazard perception test for the purposes of subsection (3);

tester means—

(a) a police officer; or

(b) in relation to a theoretical examination prescribed by the regulations for the purposes of subsection (1)(a)—a person appointed by the Registrar as a tester for the purpose of conducting such an examination; or

(c) in relation to a motor bike hazard perception test—a person appointed by the Registrar as a tester for the purpose of conducting such a test.

10—Insertion of section 81AC

After section 81AB insert:

81AC—Special provisions applying to certain motor bike licences

(1) In this section—

prescribed concentration of alcohol means any concentration of alcohol in the blood;

prescribed motor bike licence means a licence that authorises the driving of a motor bike that—

(a) has an engine capacity not exceeding 660 millilitres and a power to weight ratio not exceeding 150 kilowatts per tonne; and

(b) is of a kind approved from time to time by the Registrar by notice in the Gazette.
(2) A prescribed motor bike licence is subject to the following conditions:

(a) a condition that the holder of the licence must not drive a motor bike, or attempt to put a motor bike in motion, on a road while the prescribed concentration of alcohol is present in the holder's blood, or a prescribed drug is present in the holder's oral fluid or blood;

(b) a condition that the holder of the licence must not, while driving the motor bike on a road, carry any person on the motor bike (whether as a passenger on the motor bike or in a sidecar attached to the motor bike);

(c) a condition that the holder of the licence must not, while driving a motor bike on a road, tow any vehicle by use of the motor bike;

(d) a condition that the holder of the licence must not, while driving a motor bike on a road, use a mobile phone (whether the motor bike is moving, stationary or parked on a road).

(3) The holder of a prescribed motor bike licence must not contravene a condition of the licence.

Maximum penalty: $1 250.

(4) A licence must not be endorsed with a classification required under this Act to authorise the holder of the licence to drive a motor bike with an engine capacity exceeding 660 millilitres or a power to weight ratio exceeding 150 kilowatts per tonne unless the holder of the licence has held a prescribed motor bike licence for a period of at least 3 years.

Maximum penalty: $1 250.

(5) Sections 47C, 47D, 47E, 47EAA, 47GA, 47GB and 47K and Schedule 1 of the Road Traffic Act 1961 apply in relation to an offence against subsection (3) of contravening the condition referred to in subsection (2)(a) as if—

(a) a reference in any of those sections to an offence against that Act was a reference to an offence against subsection (3); and

(b) a reference in any of those sections to the prescribed concentration of alcohol as defined in section 47A of that Act was a reference to the prescribed concentration of alcohol as defined in this section.

(6) The holder of a prescribed motor bike licence must not drive a motor bike on a road between the hours of midnight and 5.00 am if the holder of the licence is under the age of 25 years.

Maximum penalty: $1 250.
(7) It is a defence to a charge of an offence against subsection (6) if the defendant establishes that the defendant was driving the motor bike in the circumstances prescribed—

(a) in Schedule 2; or

(b) by the regulations; or

(c) by notice in the Gazette under subsection (8).

(8) The Registrar may, by notice in the Gazette, prescribe circumstances that will constitute a defence for the purposes of subsection (6) and may, by further notice in the Gazette, vary or revoke such a notice.

(9) A notice prescribing circumstances that will constitute a defence for the purposes of subsection (6) has effect for the period specified in the notice (which must be not longer than 6 months).

(10) This section applies in relation to a prescribed motor bike licence whether or not the licence is a provisional licence.

11—Amendment of section 96—Duty to produce licence or permit

Section 96(4), definition of driver, (b)—delete the definition and substitute:

driver includes a person who is acting as a qualified supervising driver for the holder of a learner's permit and is accompanying the holder of the permit (whether in a motor vehicle seated next to the holder or on a motor bike being driven by the person);

12—Amendment of 98AA—Duty to carry licence when teaching holder of learner's permit to drive

Section 98AA(b)—delete paragraph (b) and substitute:

(b) when driving a motor bike accompanying the holder of a learner's permit who is driving a motor bike.

13—Amendment of Schedule 2—Prescribed circumstances (section 75A(21), 81A(17), 81A(19) and 81AC(7))

(1) Schedule 2, clause 2—delete "and 81A(19)" and substitute:

, 81A(19) and 81AC(7)

(2) Schedule 2, clause 3—delete "and 81A(17)" and substitute:

, 81A(17) and 81AC(7)

(3) Schedule 2, clause 4—delete "and 81A(17)" and substitute:

, 81A(17) and 81AC(7)

(4) Schedule 2, clause 5—delete "and 81A(17)" and substitute:

, 81A(17) and 81AC(7)
Part 3—Transitional provisions

14—Transitional provision

The amendments made to the Motor Vehicles Act 1959 by Part 2 of this Act do not apply in relation to a learner's permit or licence issued or renewed before the commencement of that Part.