

House of Assembly—No 10

As laid on the table and read a first time, 1 March 2012

South Australia

**Expiation of Offences (Speeding Offences)
Amendment Bill 2012**

A BILL FOR

An Act to amend the *Expiation of Offences Act 1996*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Expiation of Offences (Speeding Offences) Amendment Act 2012*.

5 2—Commencement

This Act will come into operation 3 months after the date of its 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.

10 Part 2—Amendment of *Expiation of Offences Act 1996*

4—Amendment of section 4—Interpretation

Section 4—after subsection (2) insert:

- (3) In this Act, *speeding offence* and *traffic speed analyser* have the same respective meanings as in the *Road Traffic Act 1961*.

5—Amendment of section 6—Expiation notices

(1) Section 6(1)(a)—before "may" insert:

subject to subsection (1a),

(2) Section 6(1)(b)—delete paragraph (b) and substitute:

(b) must—

(i) if it relates to an alleged speeding offence detected by a police officer operating a traffic speed analyser—comply with the requirements set out in Schedule 1; or

(ii) in any other case—be in the prescribed form; and

(3) Section 6—after subsection (1) insert:

(1a) An expiation notice relating to an alleged speeding offence detected by a police officer operating a traffic speed analyser cannot relate to any other offence.

6—Amendment of section 16—Withdrawal of expiation notices

(1) Section 16—after subsection (1) insert:

(1a) An expiation notice relating to an alleged speeding offence detected by a police officer operating a traffic speed analyser must be withdrawn if it fails to comply with the requirements set out in Schedule 1.

(2) Section 16(2)—after "subsection (1)" insert:

or (1a)

(3) Section 16(5)—after "subsection (1)" insert:

or (1a)

7—Insertion of Schedule 1

After section 20 insert:

Schedule 1—Form of expiation notice for certain speeding offences

1—Heading

The notice must include a heading identifying it as an expiation notice under the *Expiation of Offences Act 1996*.

2—Expiation notice number, date and time of issue and issuing officer

The notice must specify the following:

- the expiation notice number;
- the date and time of the issue of the expiation notice;
- the name of the issuing police officer.

3—Allegation of offence

The notice must contain an allegation that a person committed an offence and identify the offence (by reference to the relevant statutory provision and a description of the offence).

4—Particulars relating to alleged offender

The notice must specify the following:

- the alleged offender's full name;
- the alleged offender's residential address;
- the alleged offender's driver's licence (or learner's permit) number and licence class.

5—Particulars relating to vehicle involved in alleged offence

The notice must specify the following:

- the registration number of the vehicle involved in the alleged offence;
- the make, model and colour of the vehicle involved in the alleged offence.

6—Particulars relating to alleged offence

The notice must specify the following particulars relating to the alleged offence:

- the place at which the alleged offence was committed, being the street address or, if there is no street address, the exact location indicated by distance and direction from the nearest landmark, road or road side marker. The nature of a landmark must be specified. The road must be named and the distance from the landmark, road or road side marker to the position where the police officer operated the traffic speed analyser must be specified;
- the speed in kilometres per hour at which the alleged offender was driving as recorded by the traffic speed analyser;
- the speed limit applicable to the alleged offender's vehicle on the length of road where the alleged offence was detected;
- the direction in which the alleged offender was driving;
- the tracking history in seconds;
- the range in metres (being the distance recorded by the distance measurement function of the traffic speed analyser);
- the traffic conditions (NONE (if no traffic) LIGHT, MEDIUM or HEAVY (as the case may be));

- the road conditions (DRY or WET (as the case may be));
- the road construction (BITUMEN or DIRT (as the case may be));
- the number of lanes on the road and whether traffic flows in 1 or 2 directions;
- the weather conditions (FINE, OVERCAST, RAINING, WINDY or LIGHTNING (as the case may be)).

7—Declaration by issuing police officer

The notice must include a declaration by the issuing police officer—

- (a) that the alleged offender was shown the speed displayed on the speed traffic analyser; or
- (b) that the alleged offender was not shown the speed displayed on the speed traffic analyser for the reasons stated in the notice.

8—Particulars relating to the traffic speed analyser used to detect the alleged offence

(1) The notice must include the following particulars relating to the traffic speed analyser used to detect the alleged offence:

- the serial number of the traffic speed analyser;
- the date on which the traffic speed analyser was last calibrated, the place at which the calibration took place and the name of the person who conducted the calibration;
- the date and time when the range test of the traffic speed analyser was last conducted.

(2) The notice must identify the Australian Standards (if any) in accordance with which the traffic speed analyser was calibrated.

9—How to expiate the offence

The notice must inform the person that the alleged offence may be expiated and specify the following:

- the amount of the expiation fee;
- if a levy is payable, the amount of the levy;
- the total amount payable;
- to whom the amount must be paid;
- the date by which the amount must be made.

10—Statement of choices

- (1) The notice must include the following statement of the choices available to the alleged offender:

**YOUR
CHOICES**

You may on or before the due date for payment—

- dispute the allegation that you committed the offence and elect to be prosecuted for the offence.

If you elect to be prosecuted, you may get a summons. The summons will set out when and where to attend court.

- pay the total amount due for the offence (including levies).
- apply to the court to pay the amount of the expiation fee in instalments or for an extension of time in which to pay it.

You may make an application only if you owe \$50 or more in expiation fees (including fees under other notices). Obtain an application form from the Registrar of the Magistrates Court or Youth Court. The Registrar must be satisfied that payment of the fee(s) would cause you or your dependants hardship.

- if you think the offence was trifling—apply to the Commissioner of Police for a review of the expiation notice (for special meaning of trifling see section 4(2) *Expiation of Offences Act 1996*).

**IF NO CHOICE
IS MADE**

If no choice is made for the offence, a reminder notice will be sent (a reminder fee will apply). After that, you may (without a court hearing) be convicted of the offence and the unpaid fee will be your fine. Court costs will be added.

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- (2) The notice may include payment details, a payment slip for use if the alleged offender wishes to expiate the alleged offence, instructions for completion and contact details for the obtaining of further information.