

House of Assembly—No 79

As laid on the table and read a first time, 1 May 2019

South Australia

**Motor Vehicles (Motor Bike Licensing)
Amendment Bill 2019**

A BILL FOR

An Act to amend the *Motor Vehicles Act 1959*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Motor Vehicles Act 1959*

- 4 Amendment of section 5—Interpretation
- 5 Amendment of section 72—Classification of licences
- 6 Amendment of section 72A—Qualified supervising drivers
- 7 Amendment of section 75—Issue and renewal of licences
- 8 Amendment of section 75A—Learner's permit
- 9 Amendment of section 79—Examination of applicant for licence or learner's permit
- 10 Insertion of section 81AC
 - 81AC Special provisions applying to certain motor bike licences
- 11 Amendment of section 96—Duty to produce licence or permit
- 12 Amendment of 98AA—Duty to carry licence when teaching holder of learner's permit to drive
- 13 Amendment of Schedule 2—Prescribed circumstances (section 75A(21), 81A(17), 81A(19) and 81AC(7))

Part 3—Transitional provisions

- 14 Transitional provision
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Motor Vehicles (Motor Bike Licensing) Amendment Act 2019*.

2—Commencement

This Act will come into operation 12 months after assent.

3—Amendment provisions

- 10 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

- 15 (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 *prescribed concentration of alcohol* insert:

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 *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:

(c) 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—

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

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

(c) 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.

5