

House of Assembly—No 67

As laid on the table and read a first time, 23 September 2015

South Australia

Motor Vehicles (Trials of Automotive Technologies) Amendment Bill 2015

A BILL FOR

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

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Motor Vehicles (Trials of Automotive Technologies) Amendment Act 2015*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

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 116—Claim against nominal defendant where vehicle uninsured

Section 116(1), definition of *uninsured motor vehicle*—delete the definition and substitute:

uninsured motor vehicle means a motor vehicle in relation to which no policy of insurance as required by this Part is in force, but does not include—

- (a) a prescribed agricultural machine (within the meaning of section 12) in relation to which there is in force a policy of public liability insurance referred to in section 12(2b); or
- (b) a motor vehicle in relation to which there is in force a policy of public liability insurance referred to in section 12B(2); or
- (c) a motor vehicle of a kind exempted by the regulations from insurance under this Part in relation to which there is in force a policy of insurance as required by the regulations; or
- (d) a motor vehicle in relation to which there is in force a policy of public liability insurance referred to in section 134H(a); or
- (e) a motor vehicle in relation to which there is in force a policy of insurance—
 - (i) that complies with the law of some other State or Territory of the Commonwealth; and
 - (ii) under which the owner and driver of the motor vehicle are insured against liability that might be incurred by either or both of them in respect of the death of, or bodily injury to, any person caused by, or arising out of the use of, the motor vehicle in this State.

5—Insertion of Part 4A

After section 134A insert:

Part 4A—Trials of automotive technologies

134B—Interpretation

- (1) In this Part—

authorisation notice, in respect of a trial of automotive technology, means a notice authorising the trial under section 134D(1);

authorised trial means a trial the subject of an authorisation notice;

authorised trial period means the period specified in an authorisation notice during which an authorised trial may be undertaken;

exemption means an exemption under section 134E, as in force from time to time.

(2) For the purposes of this Part, a particular technology will be taken to be *automotive technology* if the technology—

(a) is related to the design, construction or use of wholly or partly autonomous motor vehicles; or

Note—

These vehicles are commonly referred to as driverless cars or driverless vehicles.

(b) otherwise relates to advances in the design or construction of motor vehicles.

134C—Minister may publish or adopt guidelines

(1) The Minister may, by notice in the Gazette, publish or adopt guidelines in connection with the operation of this Part.

(2) The Minister may, by subsequent notice in the Gazette, vary, substitute or revoke guidelines published or adopted under this section.

(3) A copy of any guidelines published or adopted under this section must—

(a) be published on a website determined by the Minister; and

(b) be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified by the Minister.

134D—Minister may authorise trials of automotive technologies

(1) The Minister may, by notice in the Gazette (an *authorisation notice*), authorise a specified person to undertake a trial of automotive technology in accordance with this Part.

(2) Before authorising a trial under this Part, the Minister must—

(a) be satisfied that the person has in place, or will have in place before the trial commences, arrangements for public liability insurance that comply with any requirements under section 134H; and

(b) comply with any other requirements set out in the regulations for the purposes of this subsection,

however a failure to comply with this subsection will not, of itself, invalidate the authorisation of a trial.

(3) Subject to section 134L, an authorisation notice—

(a) must specify—

(i) the area or areas of the State in which the trial may be undertaken; and

(ii) the authorised trial period in respect of the trial; and

(iii) the scope and nature of the trial; and

- (iv) the name of the person authorised to undertake the trial; and
- (b) must contain any other information required by the regulations in respect of the trial; and
- 5 (c) may include such other information as the Minister thinks appropriate.
- (4) An authorisation may be conditional or unconditional (including, to avoid doubt, a condition requiring compliance with guidelines prepared or adopted by the Minister under section 134C).
- 10 (5) The Minister must, not later than 1 month before the commencement of an authorised trial, cause details of the authorised trial to be published on a website determined by the Minister (however a failure to comply with this subsection will not, of itself, invalidate the authorisation of a trial).
- 15 (6) The Minister may vary or revoke an authorisation, or vary, revoke or add a condition of an authorisation, for any reason the Minister thinks fit.

134E—Exemptions from this and other Acts

- 20 (1) Subject to this section, the Minister may, for a purpose related to an authorised trial, exempt a person or class of persons, or a vehicle or class of vehicles, from the operation of a provision or provisions of this or any other Act, law or standard.
- 25 (2) An exemption may be granted on the Minister's own initiative or on an application made in a manner and form determined by the Minister.
- (3) In the case of an exemption from a provision or provisions of an Act for which the Minister is not responsible, the Minister must consult with the Minister responsible for the administration of that Act before granting the exemption.
- 30 (4) An exemption—
- (a) must be by notice in the Gazette (whether as part of an authorisation notice or otherwise); and
- (b) may be conditional or unconditional; and
- 35 (c) remains in force (subject to any suspension under section 134F) until—
- (i) the day on which the authorised trial period ends; or
- (ii) the end of the period specified in the exemption; or
- (iii) the exemption is revoked,
- whichever occurs first.
- 40 (5) The Minister may vary an exemption, or vary, revoke or add a condition of an exemption, for any reason the Minister thinks fit.

134F—Revocation and suspension of exemption

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- (1) The Minister must revoke an exemption if authorisation of the authorised trial to which the exemption relates is revoked.
- (2) The Minister may revoke an exemption if—
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- (a) the Minister is of the opinion that it is no longer in the public interest for the authorised trial to which the exemption relates to continue; or
- (b) the person authorised to undertake the trial—
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- (i) has not complied with a requirement under section 134H; or
- (ii) has contravened or failed to comply with a condition of the exemption.
- (3) The Minister may suspend the operation of the whole or part of an exemption if the Minister is of the opinion that it is appropriate to do so.
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- (4) A revocation or suspension—
- (a) must be by notice in writing served personally on the person authorised to undertake the trial, or a person nominated by him or her; and
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- (b) must be published on a website determined by the Minister (however a failure to comply with this paragraph will not, of itself, invalidate the revocation or suspension); and
- (c) has effect from the day or time specified in the notice and, in the case of a suspension, remains in force for the period specified in the notice.
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- (5) If the Minister suspends the operation of an exemption, the Minister may, by notice in the Gazette, vary the authorisation notice in respect of the trial as the Minister thinks fit (including, to avoid doubt, by extending the authorised trial period).

134G—Offence to contravene etc condition of exemption

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- (1) A person who contravenes or fails to comply with a condition of an exemption is guilty of an offence
Maximum penalty: \$2 500.
- (2) If a person contravenes or fails to comply with a condition of an exemption, the exemption does not, while the contravention or non-compliance continues, operate in that person's favour.
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- (3) If, by virtue of subsection (2), a person is guilty of an offence against the provision of this or any other Act, law or standard from which the person was exempted by an exemption, the person may be proceeded against either for that offence or for an offence against subsection (1).
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134H—Requirement for insurance

A person authorised to undertake an authorised trial must ensure that there is in force at all times during the authorised trial period—

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- (a) a policy of public liability insurance indemnifying the owner and any authorised driver or operator of the vehicle in an amount not less than the amount specified by the Minister in relation to the trial in relation to death or bodily injury caused by, or arising out of, the use of the vehicle on a road; and
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- (b) a policy of public liability insurance indemnifying the owner and any authorised driver or operator of the vehicle in an amount not less than the amount specified by the Minister in relation to the trial in relation to damage to property caused by, or arising out of, the use of the vehicle on a road; and
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- (c) any other policy of insurance that the Minister may reasonably require in relation to the trial.

134I—Offence to hinder authorised trial or interfere with equipment

(1) A person who, without reasonable excuse—

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- (a) hinders or obstructs the undertaking of an authorised trial; or
- (b) interferes with any equipment or device relating to an authorised trial,

is guilty of an offence.

Maximum penalty: \$10 000.

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(2) In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, that the activity allegedly constituting the offence would, in fact, hinder or obstruct the undertaking of an authorised trial, or constitute interference with

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equipment or a device (as the case requires).

(3) Without limiting the ways in which a person can interfere with equipment or a device, a person will be taken to interfere with equipment or a device if the person interferes with an electronic signal being sent to, or from, the equipment or device.

134J—Immunity relating to official powers or functions

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- (1) This section applies to the same persons as section 74 of the *Public Sector Act 2009*.
- (2) Subject to this Act, no civil liability attaches to a person to whom this section applies for an act or omission done in good faith and
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- without negligence in relation to an authorised trial.

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- (3) An action that would, but for subsection (2), lie against a person lies instead against the Crown, except in the case of a member of a body corporate or the governing body of a body corporate or a person employed or appointed by, or a delegate of, a body corporate, in which case it lies instead against the body corporate.
- (4) This section does not prejudice rights of action of the Crown or a public sector agency in respect of an act or omission of a person not in good faith.

134K—Commencement of prosecutions

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- (1) A prosecution for an offence against this or any other Act that relates to an authorised trial must not be commenced without the consent of—
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- (a) in the case of an offence against this Act or any other Act for which the Minister is responsible—the Minister; or
- (b) in the case of an offence against an Act for which another Minister is responsible—that Minister.
- (2) In proceedings for an offence against this or any other Act, a document apparently signed by a Minister stating that the Minister consents to a particular prosecution will be accepted, in the absence of proof to the contrary, as proof of that consent.
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134L—Confidentiality

Without limiting section 134D, the Minister must (unless he or she considers it inappropriate to do so) take reasonable steps to prevent information—

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- (a) that is commercially sensitive in nature; and
- (b) that is the subject of a request to the Minister by a person connected with an authorised trial or a proposed trial for the information to be kept confidential,

from being published or otherwise made public under this Part.

134M—Report to Parliament

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- (1) The Minister must, within 6 months after the completion of an authorised trial, prepare a report in relation to the authorised trial.
- (2) A report must contain the information required by the regulations in relation to the authorised trial to which the report relates.
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- (3) The Minister must cause a copy of a report under this section to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report.