

South Australia

**Pitjantjatjara Land Rights (Regulated Substances)
Amendment Bill 2004**

A BILL FOR

An Act to amend the *Pitjantjatjara Land Rights Act 1981*.

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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 *Pitjantjatjara Land Rights (Regulated Substances) Amendment Act 2004*.

5 2—Commencement

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

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 *Pitjantjatjara Land Rights Act 1981*

4—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *Mintabie resident* insert:

motor vehicle means a vehicle built to be propelled by a motor that forms part of the vehicle;

- 15 (2) Section 4—after the definition of *Pitjantjatjara* insert:

regulated substance means petrol and any other substance declared by regulation to be a regulated substance for the purposes of this Act;

5—Repeal of section 38

Section 38—delete the section

6—Insertion of section 42C

After section 42b insert:

42C—Offences relating to the supply of regulated substances

(1) A person must not, on the lands—

- (a) sell or supply a regulated substance to another person; or
- (b) take part in the sale or supply of a regulated substance to another person; or
- (c) have a regulated substance in his or her possession for the purpose of the sale or supply of the regulated substance to another person,

knowing, or having reason to suspect, the regulated substance will be inhaled or consumed by any person.

Maximum penalty: \$50 000 or imprisonment for 10 years.

(2) A police officer may seize and retain any motor vehicle that the police officer suspects on reasonable grounds—

- (a) is being, or has been or is intended to be used for, or in connection with, an offence against this section; or
- (b) affords evidence of an offence against this section.

(3) If a motor vehicle is seized under this section, the following provisions apply:

- (a) the motor vehicle is to be held by the Crown pending proceedings against a person for an offence against this section, unless the Minister, on application, authorises its release to the person from whom it was seized or any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit;
- (b) if the person is convicted of the offence, the motor vehicle is, by force of this section, forfeited to the Crown—
 - (i) if an appeal has not been lodged within the period provided for lodging an appeal against the conviction—at the end of the period; or
 - (ii) if an appeal has been lodged within the period provided for lodging an appeal against the conviction—when the appeal lapses or is finally determined;
- (c) where the motor vehicle is forfeited to the Crown under this section, it may be disposed of by way of sale, destruction or otherwise as the Minister directs;
- (d) the proceeds of any sale under paragraph (c) (less any costs associated with towing, storage or sale of the motor vehicle) must be paid to Anangu Pitjantjatjara.

- (4) For the purposes of this section, a reference to a police officer includes a reference to a special constable authorised by a member of the police force to seize a motor vehicle under this section.

7—Amendment of section 43—Regulations

5 (1) Section 43(3)(b)—delete ", sale or supply"

(2) Section 43(7), (8) and (9)—delete subsections (7), (8) and (9) and substitute:

(7) A police officer may seize and retain any motor vehicle that the police officer suspects on reasonable grounds—

10 (a) is being, or has been or is intended to be used for, or in connection with the sale or supply of alcohol liquor in contravention of a by-law; or

(b) affords evidence of such a contravention.

(8) If a motor vehicle is seized under subsection (7), the following provisions apply:

15 (a) the motor vehicle is to be held by the Crown pending proceedings against a person for the contravention in respect of which the motor vehicle was seized, unless the Minister, on application, authorises its release to the person from whom it was seized or any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit;

(b) if the person is convicted of the contravention, the motor vehicle is, by force of this section, forfeited to the Crown—

25 (i) if an appeal has not been lodged within the period provided for lodging an appeal against the conviction—at the end of the period; or

(ii) if an appeal has been lodged within the period provided for lodging an appeal against the conviction—when the appeal lapses or is finally determined;

(c) where the motor vehicle is forfeited to the Crown under this section, it may be disposed of by way of sale, destruction or otherwise as the Minister directs;

35 (d) the proceeds of any sale under paragraph (c) (less any costs associated with towing, storage or sale of the motor vehicle) must be paid to Anangu Pitjantjatjara.

(3) Section 43(12) and (13)—delete subsections (12) and (13) and substitute:

40 (12) A person who contravenes a by-law regulating, restricting or prohibiting the sale or supply of alcohol liquor is guilty of an offence.

Maximum penalty: \$2 000 or imprisonment for 2 years.

- (13) For the purposes of this section, a reference to a police officer includes a reference to a special constable authorised by a member of the police force to seize a motor vehicle under this section.