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South Australia

Rail Safety National Law (South Australia) (Miscellaneous) Amendment Bill 2019

A BILL FOR

An Act to amend the *Rail Safety National Law (South Australia) Act 2012*.

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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 *Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2019*.

2—Commencement

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

3—Amendment provisions

In this Act, a provision in Part 2 amends the *Rail Safety National Law* set out in the Schedule to the *Rail Safety National Law (South Australia) Act 2012*.

Part 2—Amendment of *Rail Safety National Law*

4—Amendment of section 4—Interpretation

(1) Section 4(1), definition of ***level crossing***—delete the definition and substitute:

level crossing includes each of the following areas:

(a) an area where a road and a railway (other than a tramway) meet at substantially the same level, whether or not there is a level crossing sign on the road at all or any of the entrances to the area;

(b) an area where a road and a tramway meet at substantially the same level and that has a level crossing sign on the road at each entrance to the area;

(c) a pedestrian crossing—

(i) being an area where a footpath or shared path crosses a railway (other than a tramway) at substantially the same level, whether or not there is a level crossing sign on the path at all or any of the entrances to the area; or

(ii) being an area where a footpath or shared path crosses a tramway at substantially the same level and that has a level crossing sign on the path at each entrance to the area;

(2) Section 4(1), definition of ***rail or road crossing***—delete the definition and substitute:

rail or road crossing includes each of the following:

(a) a level crossing;

(b) an area where a road and a tramway meet at substantially the same level, where there is no level crossing sign on the road at all or any of the entrances to the area;

(c) an area where a footpath or shared path crosses a tramway at substantially the same level, where there is no level crossing sign on the path at all or any of the entrances to the area;

(d) a bridge carrying a road over a railway;

(e) a bridge carrying a railway over a road;

(f) a lane of a road on which rolling stock moves alongside road vehicles on the road;

(3) Section 4(1), definition of ***railway crossing***—delete the definition

5—Amendment of section 43—Annual report

(1) Section 43(2)(g)—delete "public sector"

(2) Section 43(3)—delete subsection (3) and substitute:

(3) The national regulations may make provision in relation to the preparation and auditing of financial statements.

6—Amendment of section 107—Interface coordination—rail infrastructure and public roads

Section 107(2)—at the foot of subsection (2) insert:

Maximum penalty:

(a) in the case of an individual—$50 000;

(b) in the case of a body corporate—$500 000.

7—Insertion of section 122A

Before section 123 insert:

122A—Interpretation

In this Division—

urine test includes—

(a) the screening of a sample of a person's urine; and

(b) the analysis of a sample of a person's urine,

for the presence of drugs in the sample.

8—Amendment of section 127—Authorised person may require drug screening test, oral fluid analysis, urine test and blood test

Section 127—after "oral fluid analysis" wherever occurring insert:

, urine test

9—Insertion of section 127A

After section 127 insert:

127A—Facilitation of testing

(1) The person with control or management of railway premises must do all that is reasonably necessary to facilitate an authorised person to exercise powers under this Division in relation to requiring a rail safety worker to undertake a test for the presence of a drug or alcohol, including (for example)—

(a) allowing the authorised person entry to the railway premises; and

(b) making the rail safety worker available for such testing; and

(c) making any other person at the premises available for the purpose of giving the authorised person reasonable help to exercise the authorised person's powers under this Division.

(2) A person required to facilitate or give reasonable help under this section must not, without reasonable excuse, fail to comply with the requirement.

Maximum penalty: $10 000.

(3) Subsection (2) places an evidential burden on the accused to show a reasonable excuse.

(4) An authorised person may be accompanied by a rail safety officer to assist the authorised person under this Division if the authorised person considers the assistance necessary.

10—Insertion of sections 128A to 128C

After section 128 insert:

128A—Offence to hinder or obstruct authorised person

A person must not intentionally hinder or obstruct an authorised person in exercising powers under this Division, or induce or attempt to induce any other person to do so.

Maximum penalty: $10 000.

128B—Offence to assault, threaten or intimidate authorised person

A person must not directly or indirectly assault, threaten or intimidate, or attempt to assault, threaten or intimidate, an authorised person or a person assisting an authorised person.

Maximum penalty: $50 000 or imprisonment for 2 years, or both.

128C—Interfering or tampering with, or destroying, samples

A person must not interfere or tamper with, or destroy, a sample of a person's oral fluid, urine or blood provided or taken for the purposes of this Division unless the action occurs—

(a) by or at the direction of a person authorised to analyse the sample (whether under the Law or the application Act) in the course of or on completion of the analysis; or

(b) in accordance with the requirements under the Law or the application Act.

Maximum penalty: $10 000.

11—Amendment of section 129—Oral fluid, urine sample or blood sample or results of analysis etc not to be used for other purposes

(1) Section 129—delete "or blood" first occurring and substitute:

, urine or blood

(2) Section 129—delete "or blood test" and substitute:

, urine test or blood test

12—Amendment of section 200—Temporary closing of level crossings, bridges etc

Section 200—delete "railway crossing" wherever occurring and substitute in each case:

level crossing

13—Amendment of section 244—Confidentiality of information

(1) Section 244(3)—after paragraph (d) insert:

(da) that is made or given in accordance with the *Freedom of Information Act 1991* of South Australia as applied by this Law (including any provisions of the national regulations made under section 263); or

(2) Section 244(3)(e)—delete "a law" and substitute:

any other law