

Legislative Council—No 91

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South Australia

**Statutes Amendment (Transport Portfolio—
Penalties) Bill 2011**

A BILL FOR

An Act to amend the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959*, and the *Road Traffic Act 1961*.

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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 *Statutes Amendment (Transport Portfolio—Penalties) Act 2011*.

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 *Harbors and Navigation Act 1993*

4—Amendment of section 70—Alcohol and other drugs

- (1) Section 70(1), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—

- 15 (i) a fine of not less than \$1 100 and not more than \$1 600; or
 (ii) imprisonment for not more than 3 months;

- (b) for a subsequent offence—

- (i) a fine of not less than \$1 900 and not more than \$2 900; or
 (ii) imprisonment for not more than 6 months.

- 20 (2) Section 70(2), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—

- (i) if the offence is a category 1 offence—\$1 100;

(ii) if the offence is a category 2 offence—a fine of not less than \$900 and not more than \$1 300;

(iii) if the offence is a category 3 offence—a fine of not less than \$1 100 and not more than \$1 600;

5 (b) for a second offence—

(i) if the offence is a category 1 offence—\$1 100;

(ii) if the offence is a category 2 offence—a fine of not less than \$1 100 and not more than \$1 600;

10 (iii) if the offence is a category 3 offence—a fine of not less than \$1 600 and not more than \$2 400;

(c) for a subsequent offence—

(i) if the offence is a category 1 offence—\$1 100;

(ii) if the offence is a category 2 offence—a fine of not less than \$1 500 and not more than \$2 200;

15 (iii) if the offence is a category 3 offence—a fine of not less than \$1 900 and not more than \$2 900.

(3) Section 70(3), penalty provision—delete the penalty provision and substitute:

Penalty:

20 (a) for a first offence—a fine of not less than \$900 and not more than \$1 300;

(b) for a second offence—a fine of not less than \$1 100 and not more than \$1 600;

(c) for a third or subsequent offence—a fine of not less than \$1 500 and not more than \$2 200.

25 **5—Amendment of section 71—Authorised person may require alcoltest or breath analysis**

(1) Section 71(3), penalty provision—delete "\$2 500" and substitute:

\$2 900

(2) Section 71(8), penalty provision—delete the penalty provision and substitute:

30 Penalty:

(a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;

(b) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

35 **6—Amendment of section 72—Authorised person may require drug screening test, oral fluid analysis and blood test**

(1) Section 72(5), penalty provision—delete "\$2 500" and substitute:

\$2 900

(2) Section 72(10), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$900 and not more than \$1 300;
- (b) for a subsequent offence—a fine of not less than \$1 500 and not more than \$2 200.

7—Amendment of section 74—Compulsory blood tests of injured persons including water skiers

Section 74(18), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
- (b) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

Part 3—Amendment of *Motor Vehicles Act 1959*

8—Amendment of section 12—Exemption for certain trailers, agricultural implements and agricultural machines

Section 12(2c), penalty provision—delete "\$250" and substitute:

\$750

9—Amendment of section 12B—Exemption of certain vehicles from requirements of registration and insurance

Section 12B(3), penalty provision—delete "\$250" and substitute:

\$750

10—Amendment of section 16—Permits to drive vehicles without registration

(1) Section 16(9), penalty provision—delete "\$125" and substitute:

\$750

(2) Section 16(11), penalty provision—delete "\$250" and substitute:

\$750

11—Amendment of section 43A—Temporary configuration certificate for heavy vehicle

Section 43A(7), penalty provision—Delete "\$125" and substitute:

\$250

12—Amendment of section 48—Certificate of registration and registration label

(1) Section 48(1b), penalty provision—delete "\$125" and substitute:

\$250

5 (2) Section 48(3), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$750.

(3) Section 48(3a), penalty provision—delete "\$250" and substitute:

\$750

13—Amendment of section 52—Return or destruction of registration labels

10 Section 52(3), penalty provision—delete "\$250" and substitute:

\$750

14—Amendment of section 53—Offences in connection with registration labels and permits

15 Section 53(1) and (1a), penalty provisions—delete "\$250" wherever occurring and substitute in each case:

\$750

15—Amendment of section 70—Return of trade plates and refunds

Section 70(2), penalty provision—delete "\$250" and substitute:

\$750

20 **16—Amendment of section 71—Transfer of trade plates**

Section 71(1), penalty provision—delete "\$250" and substitute:

\$750

17—Amendment of section 71B—Replacement of plates, certificates or labels

Section 71B(2), penalty provision—delete "\$250" and substitute:

25 \$750

18—Amendment of section 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

Section 81B(3), penalty provision—delete "\$125" and substitute:

\$750

30 **19—Amendment of section 96—Duty to produce licence or permit**

Section 96(3), penalty provision—delete "\$250" and substitute:

\$750

20—Amendment of section 98A—Instructors' licences

Section 98A(1), penalty provision—delete "\$250" and substitute:
\$750

21—Amendment of section 98V—Cancellation of permit

5 Section 98V(3), penalty provision—delete "\$250" and substitute:
\$750

22—Amendment of section 99A—Insurance premium to be paid on applications for registration

10 Section 99A(7), penalty provision—delete "\$250" and substitute:
\$750

23—Amendment of section 110—Liability of insurer to pay for emergency treatment

Section 110(8), penalty provision—delete "\$125" and substitute:
\$250

15 **24—Amendment of section 124—Duty to cooperate with insurer**

Section 124(3a), (4) and (5), penalty provisions—delete "\$250" wherever occurring and substitute in each case:
\$750

25—Amendment of section 137—Duty to answer certain questions

20 Section 137, penalty provision—delete "\$250" and substitute:
\$750

26—Amendment of section 137A—Obligation to provide evidence of design etc of motor vehicle

25 Section 137A, penalty provision—delete "\$250" and substitute:
\$750

27—Amendment of section 138—Obligation to provide information

Section 138(4), penalty provision—delete "\$250" and substitute:
\$750

28—Amendment of section 138B—Effect of dishonoured cheques etc on transactions under the Act

30 Section 138B(5), penalty provision—delete "\$250" and substitute:
\$750

29—Amendment of section 145—Regulations

(1) Section 145(1)(m)—delete "\$1 250" and substitute:

\$5 000

(2) Section 145(1)(n)—delete "\$750" and substitute:

\$1 250

(3) Section 145(1a)(a)—delete "\$2 500" and substitute:

\$5 000

(4) Section 145(1a)(b)—delete "\$210" and substitute:

\$1 250

Part 4—Amendment of *Road Traffic Act 1961*

30—Amendment of section 45A—Excessive speed

Section 45A(1), penalty provision—delete the penalty provision and substitute:

Penalty:

(a) for a first offence—a fine of not less than \$1 100 and not more than \$1 500;

(b) for a subsequent offence—a fine of not less than \$1 200 and not more than \$1 700.

31—Amendment of section 47—Driving under the influence

Section 47(1), penalty provision—delete the penalty provision and substitute:

Penalty:

(a) if the vehicle concerned was a motor vehicle—

(i) for a first offence—

(A) a fine of not less than \$1 100 and not more than \$1 600; or

(B) imprisonment for not more than 3 months; and

(ii) for a subsequent offence—

(A) a fine of not less than \$1 900 and not more than \$2 900; or

(B) imprisonment for not more than 6 months.

(b) if the vehicle concerned was not a motor vehicle—\$500.

32—Amendment of section 47B—Driving while having prescribed concentration of alcohol in blood

Section 47B(1), penalty provision—delete the penalty provision and substitute:

Penalty:

(a) for a first offence—

- (i) being a category 1 offence—\$1 100;
- (ii) being a category 2 offence—a fine of not less than \$900 and not more than \$1 300;
- (iii) being a category 3 offence—a fine of not less than \$1 100 and not more than \$1 600.

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(b) for a second offence—

- (i) being a category 1 offence—\$1 100;
- (ii) being a category 2 offence—a fine of not less than \$1 100 and not more than \$1 600;
- (iii) being a category 3 offence—a fine of not less than \$1 600 and not more than \$2 400.

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(c) for a third or subsequent offence—

- (i) being a category 1 offence—\$1 100;
- (ii) being a category 2 offence—a fine of not less than \$1 500 and not more than \$2 200;
- (iii) being a category 3 offence—a fine of not less than \$1 900 and not more than \$2 900.

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33—Amendment of section 47BA—Driving with prescribed drug in oral fluid or blood

Section 47BA(1), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$900 and not more than \$1 300;
- (b) for a second offence—a fine of not less than \$1 100 and not more than \$1 600;
- (c) for a third or subsequent offence—a fine of not less than \$1 500 and not more than \$2 200.

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34—Amendment of section 47E—Police may require alcoltest or breath analysis

(1) Section 47E(2a)—at the foot of subsection (2a) insert:

Maximum penalty: \$2 900.

(2) Section 47E(3), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
- (b) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.

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35—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test

(1) Section 47EAA(4)—at the foot of subsection (4) insert:

Maximum penalty: \$2 900.

(2) Section 47EAA(9), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) for a first offence—a fine of not less than \$900 and not more than \$1 300;
- (b) for a subsequent offence—a fine of not less than \$1 500 and not more than \$2 200.

36—Amendment of section 47I—Compulsory blood tests

Section 47I(14), penalty provision—delete the penalty provision and substitute:

Penalty:

- (a) where the convicted person was the driver of a motor vehicle involved in the accident—
 - (i) for a first offence—a fine of not less than \$1 100 and not more than \$1 600;
 - (ii) for a subsequent offence—a fine of not less than \$1 900 and not more than \$2 900.
- (b) in any other case—\$500.

37—Amendment of section 47IA—Certain offenders to attend lectures

Section 47IA(2), penalty provision—delete "\$100" and substitute:

\$250.

38—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

Section 79B(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) if the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident—
 - (i) where the owner is a body corporate—\$5 000;
 - (ii) where the owner is a natural person—\$4 000.
- (b) in any other case—
 - (i) where the owner is a body corporate—\$4 000;
 - (ii) where the owner is a natural person—\$3 000.

39—Amendment of section 110AA—Fatigue

Section 110AA(3)(f)—delete "\$750" and substitute:

\$1 250

40—Amendment of section 110AB—Speed

Section 110AB(3)(c)—delete "\$750" and substitute:
\$1 250

41—Amendment of section 110AC—Intelligent Access Program

5 Section 110AC(3)(d)—delete "\$750" and substitute:
\$1 250

42—Amendment of section 176—Regulations and rules

- (1) Section 176(1a)(i)—delete "\$2 500" and substitute:
\$5 000
- 10 (2) Section 176(1a)(j) and (2a)(b)—delete "\$750" wherever occurring and substitute in
each case:
\$1 250