

Legislative Council—No 120

As received from the House of Assembly and read a first time, 29 April 2008

South Australia

**Statutes Amendment (Transport Portfolio)
Bill 2008**

A BILL FOR

An Act to amend the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959*, the *Passenger Transport Act 1994* 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) Act 2008*.

2—Commencement

5 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.

Part 2—Amendment of *Harbors and Navigation Act 1993*

10 **4—Amendment of section 65A—Requirement to have emergency position indicating radio beacon**

Section 65A(1)—delete "that is in good working order" and substitute:
that complies with the requirements specified by the regulations

Part 3—Amendment of *Motor Vehicles Act 1959*

15 **5—Amendment of section 9—Duty to register**

- (1) Section 9(1), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$2 500.
- (2) Section 9(3), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$2 500.

20 **6—Amendment of section 38A—Reduced fees for certain concession card holders**

Section 38A(1)(a)(i)—delete "Department of Human Services" and substitute:
Department for Families and Communities

25 **7—Amendment of section 38AB—Registration fees for trailers owned by certain concession card holders**

Section 38AB(1)(a)(i)—delete "Department of Human Services" and substitute:
Department for Families and Communities

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

Section 43A(3), penalty provision—delete "\$750" and substitute:
\$2 500

5 **9—Amendment of section 47—Duty to carry number plates**

(1) Section 47(1), penalty provision—delete "\$250" and substitute:
\$5 000

(2) Section 47(1a), penalty provision—delete "\$250" and substitute:
\$5 000

10 **10—Amendment of section 47A—Classes of number plates and agreements for allotment of numbers**

Section 47A(7), penalty provision—delete "\$250" and substitute:
\$5 000

11—Amendment of section 47B—Issue of number plates

15 Section 47B(2), penalty provision—delete "\$250" and substitute:
\$5 000

12—Amendment of section 47C—Return or recovery of number plates

(1) Section 47C(2)—delete "The" and substitute:
Subject to the regulations, the

20 (2) Section 47C(3), penalty provision—delete "\$250" and substitute:
\$5 000

(3) Section 47C(4)—delete "If" and substitute:
Subject to the regulations, if

13—Amendment of section 47D—Offences in connection with number plates

25 (1) Section 47D(1), penalty provision—delete "\$250" and substitute:
\$5 000

(2) Section 47D(2), penalty provision—delete "\$250" and substitute:
\$5 000

30 **14—Amendment of section 55C—Action following disqualification or suspension outside State**

Section 55C(2)—delete "person is the registered operator of the motor vehicle" and substitute:

motor vehicle is registered

15—Substitution of section 56

Section 56—delete the section and substitute:

56—Duty of transferor on transfer of vehicle

5 If the ownership of a motor vehicle is transferred (whether on a sale or other transaction) at any time during the currency of its registration, the transferor must either—

(a) make application for cancellation of the registration within 7 days after the transfer; or

(b) do the following:

10 (i) within 7 days after the transfer—

(A) give to the transferee the current certificate of registration or a current duplicate certificate of registration issued to the transferor in respect of the vehicle; and

15 (B) sign an application, in a form determined by the Minister, to transfer the registration of the vehicle; and

20 (C) sign or cause to be signed by a person acting on behalf of the transferor, in the presence of the transferee or a person acting on behalf of the transferee, a notice, in a form determined by the Minister, of the transfer of ownership of the vehicle;

25 (ii) within 14 days after the transfer, lodge with the Registrar the notice referred to in subparagraph (i)(C).

Maximum penalty: \$1 250.

16—Amendment of section 57—Duty of transferee on transfer of vehicle

(1) Section 57(1)—delete "section 56(b)(iii)" and substitute:

30 section 56(b)(i)(C)

(2) Section 57(1), penalty provision—delete "\$250" and substitute:

\$1 250

(3) Section 57(2)—delete "deliver to" and substitute:

lodge with

35 (4) Section 57(2), penalty provision—delete "\$250" and substitute:

\$1 250

(5) Section 57—after subsection (2) insert:

- (2a) If the transferee fails to lodge an application required under subsection (2) within 14 days after the transfer of the vehicle, the Registrar may refuse to enter into any transaction with the transferee until such an application is lodged.

17—Substitution of section 57A

Section 57A—delete the section and substitute:

57A—Power of Registrar to record change of ownership of motor vehicle

If application to transfer the registration of a motor vehicle has not been made but—

- (a) a notice under section 56(b)(i)(C) has been lodged with the Registrar in relation to the vehicle; or
- (b) the Registrar is satisfied on the basis of other evidence that the ownership of the vehicle has been transferred to a particular person,

the Registrar may, without registering the vehicle in the name of the transferee, record on the register the transferee as the owner of the vehicle.

18—Amendment of section 102—Duty to insure against third party risks

(1) Section 102(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$5 000.

(2) Section 102(2), penalty provision—delete "\$2 500" and substitute:

\$5 000

19—Amendment of section 136—Duty to notify change of name, address etc

Section 136—delete "\$250" wherever occurring and substitute in each case:

\$1 250

20—Amendment of section 139D—Confidentiality

Section 139D(1)(f)—delete "approved by the Minister" and substitute:

prescribed by the regulations

21—Amendment of section 142A—Evidence of ownership of motor vehicle

Section 142A—delete "section 56(b)(iii)" and substitute:

section 56(b)(i)(C)

Part 4—Amendment of *Passenger Transport Act 1994*

22—Amendment of section 28—Accreditation of drivers

Section 28(1)—after the penalty provision insert:

Expiation fee: \$315.

5 23—Amendment of section 31—Conditions

Section 31(7)—after the penalty provision insert:

Expiation fee: In the case of an accreditation under Division 2—\$210.

24—Amendment of section 54—Inspections

Section 54(18)—after the penalty provision insert:

10 Expiation fee: \$210.

25—Amendment of Schedule 1—Regulations

Schedule 1—after item 50 insert:

51 The fixing of expiation fees, not exceeding \$500, for alleged offences against the regulations.

15 Part 5—Amendment of *Road Traffic Act 1961*

26—Amendment of section 5—Interpretation

- (1) Section 5(1), definitions of *registered operator* and *registered owner*—delete the definitions and substitute:

registered operator of a vehicle means—

20 (a) in the case of a vehicle other than a combination but including a vehicle in a combination—the person registered or recorded as the operator of the vehicle by the Registrar of Motor Vehicles under the *Motor Vehicles Act 1959* or by another Australian Authority on a register maintained under an Australian road law; or

25 (b) in the case of a combination—the person registered or recorded as the operator of the towing vehicle in the combination by the Registrar of Motor Vehicles under the *Motor Vehicles Act 1959* or by another Australian Authority on a register maintained under an Australian road law;

30 *registered owner* of a vehicle means—

(a) in the case of a vehicle other than a combination but including a vehicle in a combination—a person registered or recorded as an owner of the vehicle by the Registrar of Motor Vehicles under the *Motor Vehicles Act 1959* or by another Australian Authority on a register maintained under an Australian road law; or

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- (b) in the case of a combination—a person registered or recorded as an owner of the towing vehicle in the combination by the Registrar of Motor Vehicles under the *Motor Vehicles Act 1959* or by another Australian Authority on a register maintained under an Australian road law;

(2) Section 5(1), definition of *road-related area*, (d)—delete "motor" wherever occurring

(3) Section 5(1), definition of *unladen mass*—delete ", prescribed accessories"

27—Amendment of section 45A—Excessive speed

Section 45A(1), expiation fee provision—delete the expiation fee provision

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

(1) Section 79B(1)—after the definition of *owner* insert:

owner registration offence means an offence against subsection (2) constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of a registration offence;

(2) Section 79B(1), definition of *prescribed offence*—delete the definition and substitute:

prescribed offence means—

- (a) an offence against section 45A; or
- (b) an offence against a prescribed provision of this Act; or
- (c) a registration offence; or
- (d) an offence against a prescribed provision of the *Motor Vehicles Act 1959*;

(3) Section 79B(1)—after the definition of *red light offence* insert:

registration of a motor vehicle means registration of the vehicle under the *Motor Vehicles Act 1959*;

registration offence means—

- (a) an offence against section 9(1) of the *Motor Vehicles Act 1959* constituted of driving an unregistered motor vehicle on a road; or
- (b) an offence against section 102(1) of the *Motor Vehicles Act 1959* constituted of driving an uninsured motor vehicle on a road;

(4) Section 79B(1)—after the definition of *speeding offence* insert:

uninsured motor vehicle means a motor vehicle in relation to which no policy of insurance as required by Part 4 of the *Motor Vehicles Act 1959* is in force;

unregistered motor vehicle means a motor vehicle without registration in force under the *Motor Vehicles Act 1959*.

(5) Section 79B—after subsection (2b) insert:

(2c) If—

- (a) the registration of a motor vehicle has expired; and
- (b) the owner of the vehicle is given an expiation notice for an owner registration offence involving the vehicle (the *first owner registration offence*); and
- (c) the vehicle was last registered in the name of that owner; and
- (d) since the vehicle was last registered, that owner has not been charged with, or been given an expiation notice for, a registration offence involving that vehicle,

the first owner registration offence subsumes all other owner registration offences involving that vehicle and committed by that owner within 7 days of the date of the commission of the first owner registration offence.

(2d) However, if within 7 days of the date of the commission of the first owner registration offence, the owner is charged with, or given an expiation notice for, a registration offence involving the same vehicle, any owner registration offences involving that vehicle and committed by that owner after the commission of the registration offence are not subsumed by the first owner registration offence.

(6) Section 79B(4)—delete "an offence" and substitute:

an expiable offence

(7) Section 79B—after subsection (4) insert:

(4a) Subsection (4) does not apply in relation to an owner registration offence if—

- (a) the owner of the vehicle involved in the offence has, within the immediately preceding period of 5 years, expiated or been found guilty of an owner registration offence; or
- (b) there is in operation an order under section 70F of the *Criminal Law (Sentencing) Act 1988* restricting the owner of the vehicle involved in the offence from transacting any business with the Registrar of Motor Vehicles.

29—Amendment of section 110AAB—Driving hours

Section 110AAB(2)(f)—delete "inspectors" and substitute:

authorised officers

30—Amendment of section 110C—Offences

- (1) Section 110C(2), expiation fee provision—delete the expiation fee provision
- (2) Section 110C(3), expiation fee provision—delete the expiation fee provision

31—Amendment of section 163L—Definition

Section 163L, definition of *approved officer*—delete the definition and substitute:

approved officer means—

- 5 (a) an authorised officer, or an authorised officer of a class, for the time being nominated by the Minister as an approved officer for the purposes of this Division; or
- (b) a police officer, or a police officer of a class, for the time being nominated by the Commissioner of Police as an approved officer for the purposes of this Division.

10 32—Amendment of section 175—Evidence

(1) Section 175(3)(a)—delete "a police officer or an inspector" and substitute:

an authorised officer or a police officer

(2) Section 175(3)(ab)—delete "this Act" and substitute:

the regulations

15 (3) Section 175(3)(ac)—delete "this Act" and substitute:

the regulations

33—Amendment of section 176—Regulations

Section 176(2)—delete subsection (2)