

House of Assembly—No 173

As laid on the table and read a first time, 11 September 2013

South Australia

**Statutes Amendment (Transport Portfolio)
Bill 2013**

A BILL FOR

An Act to amend 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) Act 2013*.

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 *Motor Vehicles Act 1959*

10 4—Amendment of section 24—Duty to grant registration

- (1) Section 24(2)(b)—delete paragraph (b) and substitute:
 - (b) to ascertain whether—

- (i) the vehicle complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
- (ii) the vehicle would, if driven on a road, put the safety of persons using the road at risk; or
- (iii) the vehicle or part of the vehicle is or may be stolen.

5 (2) Section 24(3)(c)—after "vehicle" insert:
or part of the vehicle

5—Amendment of section 58—Transfer of registration

(1) Section 58(3)(b)—delete paragraph (b) and substitute:

- 10 (b) to ascertain whether—
- (i) the vehicle complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) the vehicle would, if driven on a road, put the safety of persons using the road at risk; or
 - (iii) the vehicle or part of the vehicle is or may be stolen.

15 (2) Section 58(4)(c)—after "vehicle" insert:
or part of the vehicle

6—Amendment of section 81AB—Probationary licences

(1) Section 81AB(1)(c)—delete paragraph (c)

20 (2) Section 81AB(3b)(a)—delete paragraph (a) and substitute:

- (a) a period of 12 months or double the period for which the licence would have been required to be subject to the alcohol interlock scheme conditions had a licence subject to such conditions been issued (whichever is the longer period); or

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

25 Section 81B(1)(c)—delete paragraph (c) and substitute:

- (c) demerit points are incurred by a person and, in consequence—
 - (i) the total number of demerit points recorded against the person in respect of offences committed or allegedly committed while the holder of a learner's permit or provisional licence equals or exceeds 4; or
 - (ii) the total number of demerit points recorded against the person in respect of offences committed or allegedly committed while the holder of a probationary licence equals or exceeds 2,

8—Amendment of section 81BA—Safer Driver Agreements

- (1) Section 81BA(1)—delete "who holds a provisional licence is given a notice of disqualification under section 81B" and substitute:

5 has been or is liable to be given a notice of disqualification under section 81B as a consequence of an offence committed or allegedly committed while the holder of a provisional licence

- (2) Section 81BA(2)—delete subsection (2) and substitute:

(2) A Safer Driver Agreement may be entered into by a person as follows:

10 (a) the person must give notice to the Registrar, in accordance with the regulations, of his or her intention to enter into the Safer Driver Agreement—

(i) within 21 days of the day specified in the notice of disqualification; or

15 (ii) with the permission of the Registrar, within 28 days of the day specified in the notice of disqualification;

(b) if the person has given notice in accordance with paragraph (a), the Safer Driver Agreement will be taken to have been entered into by the person—

20 (i) 28 days after—

(A) if the notice of disqualification was served personally on the person—the day on which the person was so served; or

25 (B) in any other case—the day specified in the notice of disqualification; or

(ii) if, on the day referred to in subparagraph (i), the person is already disqualified from holding or obtaining a licence or permit—on the termination of that prior disqualification.

30 9—Amendment of section 81BB—Appeals to Magistrate Court

- (1) Section 81BB(2)(a)—delete paragraph (a) and substitute:

(a) the person is, or was, entitled to elect to enter into a Safer Driver Agreement in accordance with section 81BA in lieu of suffering the disqualification; or

35 (ab) the person has, within the preceding period of 5 years, been disqualified from holding or obtaining a permit or licence in accordance with section 81BA(4); or

- (2) Section 81BB(8)(c)—delete "or probationary licence"

- (3) Section 81BB(8)—after paragraph (c) insert:

40 or

- (ca) a person incurs demerit points in respect of an offence committed or allegedly committed while the holder of a probationary licence issued on an application referred to in subsection (7)(c) and, in consequence, the total number of demerit points recorded against the person in respect of offences committed or allegedly committed while the holder of that licence equals or exceeds 2,

10—Amendment of section 82—Vehicle offences and unsuitability to be granted or hold licence or permit

Section 82—after its present contents (now to be designated as subsection (1)) insert:

- (2) If the Registrar has refused to issue a licence or permit to a person, or to renew a person's licence or permit, or has cancelled a person's licence or permit, in accordance with this section, the Registrar may refuse to consider further applications by the person for the issue or renewal of a licence or permit if—
- (a) it appears to the Registrar that the person is acting in a frivolous or vexatious manner in making the applications; or
 - (b) the person has failed to provide evidence that satisfies the Registrar that it no longer appears that the person should not hold a licence or permit in order to prevent accident or injury or a repetition of the offence or offences by the person.

11—Amendment of section 98ZA—Appeal to District Court

Section 98ZA(2)—delete subsection (2) and substitute:

- (2) If the Registrar or review committee does not give reasons in writing for a decision on a review when the decision is made, the Registrar or committee must do so within 1 month of the making of a request by a person affected by the decision (provided that the request is made within 1 month of the making of the decision).

12—Amendment of section 139—Inspection of motor vehicles

(1) Section 139(1)(ab)—delete paragraph (ab) and substitute:

- (ab) where an application to register, or transfer the registration of, a motor vehicle has been made, examine the motor vehicle for the purpose of ascertaining whether—
- (i) the vehicle complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or
 - (ii) the vehicle would, if driven on a road, put the safety of persons using the road at risk; or
 - (iii) the vehicle or part of the vehicle is or may be stolen;

(2) Section 139(1)(ac)(ii)—delete subparagraph (ii) and substitute:

- (ii) ascertaining whether—
- (A) the vehicle complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or

(B) the vehicle would, if driven on a road, put the safety of persons using the road at risk; or

(C) the vehicle or part of the vehicle is or may be stolen;

13—Amendment of section 139AA—Where vehicle suspected of being stolen

5 Section 139AA—after "vehicle" second occurring insert:

or part of the vehicle

14—Transitional provisions

10 (1) The amendment to section 81AB of the principal Act effected by section 6(1) of this Act applies in relation to a probationary licence in force on or after the commencement of section 6(1).

(2) The amendment to section 81AB of the principal Act effected by section 6(2) of this Act applies in relation to a licence issued following a disqualification ordered by a court after the commencement of section 6(2).

15 (3) The amendment to section 81B of the principal Act effected by section 7 of this Act applies in relation to demerit points incurred before or after the commencement of section 7.

(4) The amendments to sections 81BA of the principal Act effected by section 8 of this Act apply in relation to a notice of disqualification issued after the commencement of section 8.

20 (5) The amendments to sections 81BB of the principal Act effected by section 9 of this Act apply in relation to a notice of disqualification issued after the commencement of section 9.

(6) In this section—

principal Act means the *Motor Vehicles Act 1959*.

25 Part 3—Amendment of *Road Traffic Act 1961*

15—Amendment of section 5—Interpretation

Section 5(1), definition of *bicycle*, (a) and (b)—delete paragraphs (a) and (b) and substitute:

30 (a) includes a pedicab, penny-farthing, scooter, tricycle and unicycle; and

(b) includes a power assisted pedal cycle (within the meaning of vehicle standards determined under the *Motor Vehicle Standards Act 1989* of the Commonwealth); but

35 (c) does not include a wheelchair, wheeled recreational device, wheeled toy, or any vehicle (other than a vehicle referred to in paragraph (b)) with an auxiliary motor capable of generating a power output over 200 watts (whether or not the motor is operating);

16—Insertion of section 79BA

After section 79B insert:

79BA—Installation etc of photographic detection devices

- 5
- (1) The Commissioner of Highways may, with the approval of the Minister, install, maintain, alter or remove or cause to be installed, maintained, altered or removed, a photographic detection device on, above or near a road.
- 10
- (2) In proceedings for an offence against this or any other Act, a photographic detection device proved to have been on, above or near a road will be conclusively presumed to have been lawfully installed there under this Act.