

Legislative Council—No 82

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South Australia

**Summary Offences (Prescribed Motor Vehicles)
Amendment Bill 2010**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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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 *Summary Offences (Prescribed Motor Vehicles) Amendment Act 2010*.

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 *Summary Offences Act 1953*

4—Amendment of section 4—Interpretation

Section 4—after subsection (1) insert:

- (1a) A reference in this Act to drivers or the driving of vehicles includes a reference to riders or the riding of vehicles unless it is otherwise expressly stated.

15 5—Insertion of section 55

After section 54 insert:

55—Driving etc certain motor vehicles prohibited

- (1) A person must not drive a prescribed motor vehicle, or cause a prescribed motor vehicle to stand, on a road.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If a prescribed motor vehicle is driven or found standing on a road, the owner of the vehicle is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- 5 (3) It is a defence to a charge of an offence against subsection (1) or (2) to prove that the motor vehicle was driven or left standing on a road in circumstances in which the *Motor Vehicles Act 1959* permits an unregistered motor vehicle to be driven or left standing on a road.

- 10 (4) It is a defence to a charge of an offence against subsection (2) to prove that, in consequence of some unlawful act, the vehicle was not in the possession or control of the defendant at the time it was driven or left standing on the road.

- (5) If a person—

15 (a) is to be, or has been, reported for; or

(b) has been charged with, or arrested in relation to; or

(c) has been given an expiation notice in relation to; or

(d) is to be the subject of action under Part 2 of the *Young Offenders Act 1993* in relation to,

20 an offence against this section in respect of a motor vehicle, a police officer may seize and retain the motor vehicle until proceedings relating to the offence are finalised.

- (6) If a person—

(a) is convicted or found guilty of; or

(b) expiates; or

25 (c) in a case where action is taken under Part 2 of the *Young Offenders Act 1993*—admits the commission of,

30 an offence against this section, the motor vehicle the subject of the offence is forfeited to the Crown and may be dealt with in accordance with section 20 of the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* as if it had been forfeited by order of a court under that Act.

- 35 (7) Subsections (5) and (6) do not apply in relation to an offence against subsection (1) where, in consequence of some unlawful act, the motor vehicle was not in the possession or control of the owner of the vehicle at the time of the offence.

- (8) For the purposes of this section, proceedings relating to an offence are *finalised* if—

40 (a) the charge of the offence is withdrawn or proceedings for the offence are otherwise discontinued; or

(b) the offence is expiated; or

(c) if the offence is to be dealt with under Part 2 of the *Young Offenders Act 1993*—the alleged offender admits the commission of the offence; or

(d) a court has determined the charge.

5 (9) In this section—

owner has the same meaning as in the *Motor Vehicles Act 1959*;

prescribed motor vehicle means a motor vehicle of a class prescribed by regulation for the purposes of this section, being a class of motor vehicles that are not able to be registered, or conditionally registered, under the *Motor Vehicles Act 1959*;

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road has the same meaning as in the *Motor Vehicles Act 1959* (and a reference to a road includes a reference to a road related area within the meaning of that Act).