

South Australia

Road Traffic (Heavy Vehicle Speeding Compliance) Variation Regulations 2011

under the *Road Traffic Act 1961*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Road Traffic (Heavy Vehicle Speeding Compliance) Variation Regulations 2011*.

2—Commencement

These regulations will come into operation on 1 August 2011.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Road Traffic (Heavy Vehicle Speeding Compliance) Regulations 2009*

4—Insertion of Part 3A

After regulation 11 insert:

Part 3A—Speed limiters

11A—Application of Part

This Part applies to a heavy vehicle that is required under the *Road Traffic (Vehicle Standards) Rules 1999* to comply with third edition ADR 65.

11B—Interpretation

- (1) In this Part—
speed limiter means a device of a kind contemplated by third edition ADR 65 for the restriction of the maximum speed of a heavy vehicle to which this Part applies.
- (2) For the purposes of this Part, a reference to *third edition ADR 65* is to be interpreted as if it were a reference in the *Road Traffic (Vehicle Standards) Rules 1999*.

11C—Offence to tamper with speed limiter

- (1) A person must not tamper with a speed limiter fitted to a heavy vehicle to which this Part applies in a way that—
 - (a) interferes, or may interfere, with the proper functioning of the speed limiter (including by allowing the heavy vehicle to be driven at a speed exceeding the maximum road speed capability to which the vehicle is required to be restricted);
or
 - (b) alters, or may alter, any information recorded by the speed limiter; or
 - (c) results, or may result, in the speed limiter recording inaccurate information.
- (2) Subregulation (1) does not apply to—
 - (a) a person genuinely repairing or maintaining the speed limiter; or
 - (b) an authorised officer or police officer.
- (3) An offence against subregulation (1) is a critical risk offence.

- (4) It is a defence to proceedings for an offence against subregulation (1) for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, that the activity allegedly constituting the tampering would, in fact, have an effect of a kind contemplated by that subregulation.
- (5) For the purposes of this regulation, a person will be taken to tamper with a speed limiter if the person tampers or otherwise interferes with an electronic signal being sent to, or from, the speed limiter.

11D—Person must not possess certain devices

- (1) A person must not, without reasonable excuse, have in his or her possession a device that is designed, or is adapted, to enable tampering with a speed limiter in a way contemplated by regulation 11C(1).
- (2) An offence against subregulation (1) is a severe risk offence.
- (3) An authorised officer or police officer may seize, retain and test any device that he or she has reasonable cause to suspect is a device referred to in subregulation (1).
- (4) A court that has convicted a person of an offence against subregulation (1) may order that the device in relation to which the offence was committed be forfeited to the Crown.
- (5) In proceedings for an offence against subregulation (1), an allegation in the complaint that a specified device is designed, or is adapted, to tamper with a speed limiter in a way contemplated by regulation 11C(1) is, in the absence of proof to the contrary, proof of the matter so alleged.
- (6) For the purposes of this regulation, a reference to a device includes a reference to a computer or other electronic device on which a software program that is intended, or able, to be used to interfere with the proper functioning of a speed limiter is installed or stored.

11E—Operator must not permit heavy vehicle to be driven if speed limiter tampered with

- (1) The operator of a heavy vehicle to which this Part applies must not permit the vehicle to be driven on a road if the operator knows, or ought reasonably to have known, that a speed limiter fitted to the vehicle has been tampered with in a way contemplated by regulation 11C(1).
- (2) An offence against subregulation (1) is a critical risk offence.
- (3) In proceedings for an offence against subregulation (1), it is not necessary to prove that a person has been found guilty of an offence against regulation 11C(1) in relation to the tampering.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 14 July 2011

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