

COMMITTEE STAGE NOTES

COVER PAGE

ROAD TRAFFIC AMENDMENT BILL 1998

MINISTER FOR TRANSPORT

CLAUSE 1

Short title

1. This Act may be cited as the *Road Traffic Amendment Act 1998*.
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EXPLANATION

This is the formal clause titling the Bill.

CLAUSE 2

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.
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EXPLANATION

Section 20 of the *Interpretation Act* provides that unless otherwise provided an Act comes into operation 28 days after it receives the Royal Assent.

In view of the need to introduce these initiatives as early as possible, this provision provides that the Bill comes into effect on the date of Assent.

CLAUSE 3

The Act amended

3. The amendment in this Act are to the *Road Traffic Act 1974*.

EXPLANATION

The *Road Traffic Act* is the principal Act referred to in this Bill and in particular reference is made to the copy as printed at 25 March 1997, including subsequent amendments, *see 1997 Index to Legislation of Western Australia, Table 1, p. 203*.

This Bill will not effect the title of the principal Act.

CLAUSE 4

Section 24A inserted

4. After section 24 the following section is inserted-

24A Requirement to make declaration on applying for grant or transfer of vehicle licence

- (1) Regulations may require an applicant for the grant or transfer of a licence in respect of a vehicle to declare in writing that the vehicle meets any prescribed standard or requirement relating to the security of vehicles that applies to that vehicle.
- (2) If the applicant does not comply with a requirement of regulations made for the purpose of subsection (1), it may be taken for the purposes of section 23(a) that the vehicle concerned does not meet the prescribed standard or requirement.

EXPLANATION

This clause will provide for the making of regulations to enable the Director General to require the completion of a declaration certifying that an operational immobiliser is fitted to a motor vehicle when an application is made for the grant or transfer of a vehicle licence.

Sections 23A and 24(5) of the *Road Traffic Act* empowers the Director General to refuse the issue, transfer or cancel a vehicle licence where the vehicle does not meet the prescribed standards and requirements. This clause will provide that where a vehicle has not been fitted with an approved immobiliser the Director General may to refuse the issue, transfer or cancel the vehicle licence as the vehicle does not meet the prescribed standards.

CLAUSE 5

5. Section 111 amended

Section 111(2)(d) is amended after “fitted to, vehicles” by inserting-

“for the purposes of road safety, the security of vehicles or any other matter relating to road traffic”.

EXPLANATION

This clause provides for the making of regulations requiring:

- all passenger cars and motor wagons registered or transferred after the date on which the Bill comes into operation to be fitted with a vehicle immobiliser which complies with the relevant standard.
 - the applicant for the issue or transfer of a vehicle in the target group will be required to sign a declaration on their application that the vehicle is fitted with the required immobiliser which is operational. Where a person fails to sign the declaration, the Director General will be empowered to refuse the application.
 - where a person makes a false declaration on their application, they will commit an offence under section 97 of the *Road Traffic Act* which carries a penalty of \$1,000.
 - the regulations will exempt vintage, post vintage and similar vehicles from the requirement to fit immobilisers.
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PRESENT LEGISLATION

111 Regulations, etc.

(1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

(2) Without limiting the generality of subsection (1), the Governor may make regulations —

(a) empowering an authority therein named to —

- (i) prohibit, and to authorise and regulate, processions;
- (ii) restrict or prohibit the use of such roads, for such periods, as it may specify;
- (iii) erect traffic signs and traffic control signals and similar devices;
- (iiia) authorise any person or body or class of person or body to erect traffic signs and traffic control signals and similar devices, or any class or type thereof, in accordance with the instrument of authorisation;
- (iv) seize, remove and detain obstructing or abandoned vehicles;
- (aa) regulating or prohibiting stock on roads;

(b) relating to the duties, obligations, conduct and behaviour of owners, persons in charge, drivers and passengers of vehicles or of any class of vehicle;

(c) requiring the drivers and passengers of —

- (i) motor vehicles;
- (ii) 2-wheeled or 3-wheeled vehicles that are designed to be propelled through a mechanism operated solely by human power; and
- (iii) 2-wheeled or 3-wheeled vehicles that are power assisted pedal cycles,
to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles;

(d) prescribing the standards of, and equipment to be fitted to, vehicles and requiring vehicles or equipment to be maintained in the prescribed manner;

(da) providing for the examination and testing of vehicles and without restricting the generality of the foregoing —

- (i) empowering the Director General to authorise persons to examine and test vehicles and to cancel any such authorisation;
- (ii) requiring the payment of fees for the examination and testing of vehicles pursuant to any regulation;
- (iii) empowering any person who is authorised to examine and test vehicles to issue or to refuse to issue a certificate of inspection in relation to the inspection of a vehicle;
- (iv) empowering persons to control, prohibit or restrict the use of a vehicle that does not conform to any regulation or does not fit the purpose for which the vehicle is desired to be licensed;

(e) prohibiting or regulating the manufacture, sale or supply of —

- (i) replicas or imitations of number plates; or
 - (ii) articles similar to number plates,
- and providing for the confiscation and disposal of such replicas, imitations or articles;
- (f) regulating, and prescribing the manner of determining, the mass of vehicles or any components thereof and their loads;
 - (g) enabling vehicles to be driven and tested;
 - (h) regulating or prohibiting the parking or standing of vehicles;
 - (i) prescribing a minimum age at which an individual may apply for the issue of a vehicle licence and providing for an applicant for a vehicle licence to provide proof of age and identity;
 - (j) prescribing matters for or in respect of which fees shall be charged or charges shall be made and prescribing the amounts of such fees or charges;
 - (k) imposing penalties not exceeding 24 PU for a first offence, and not exceeding 48 PU for any subsequent offence, against any regulation made under this section, not being an offence referred to in paragraph (l) or (m);
 - (l) imposing for offences against regulations made pursuant to paragraph (f) not being an offence referred to in paragraph (m) —
 - (i) minimum penalties not exceeding from 1 PU to 48 PU irreducible in mitigation notwithstanding the provisions of any other Act; and
 - (ii) maximum penalties not exceeding 120 PU, in accordance with a scale so prescribed according to the nature of the offences and the circumstances by which they are attended;
 - (m) requiring the driver or person in charge of a vehicle to comply with any reasonable direction given by a member of the Police Force —
 - (i) for the purpose of determining the mass of a vehicle and the load carried thereon and on any component thereof including a direction that the vehicle be taken to a police station or other suitable place specified by the member of the Police Force; and
 - (ii) to remove or adjust the load carried by a vehicle, on any component of a vehicle or both by the vehicle and on any component thereof so that the load carried thereon does not exceed the maximum mass that is permitted to be carried under the regulations by a vehicle of that kind and on any component thereof,
- and imposing with respect to any offence against any such regulations —
- (iii) penalties not exceeding 24 PU for a first offence; and
 - (iv) for any subsequent offence a minimum penalty irreducible in mitigation, notwithstanding the provisions of any other Act, of 48 PU and maximum penalties not exceeding 144 PU for any subsequent offence;

- (n) defining the previous offences that shall be taken into account in determining whether an offence is a first or subsequent offence for the purpose of the regulations.
- (2a) The circumstances referred to in subsection (2) (l) may include a reference to the amount, calculated as a percentage or otherwise, by which the mass of a vehicle and the load carried by a component thereof exceeds the maximum mass that is permitted to be carried by a vehicle of that kind or a component thereof or both under regulations made pursuant to subsection (2) (f).
- (2b) Regulations made pursuant to subsection (2) (f) may provide that where a person drives, stands or uses a vehicle or permits a vehicle to be driven, stood or used, in contravention of a provision of those regulations, the owner of that vehicle shall be deemed to have also contravened that provision.
- (3) The regulations may in respect of any fee or charge (whether prescribed by the Act or by the regulations) provide for —
- (a) exemptions from the requirement to pay the fee or charge;
 - (b) the fee or charge to be reduced or refunded (in whole or in part); or
 - (c) the payment of the fee or charge to be deferred.
- (4) The regulations may provide that the exemption, reduction, refund or deferral —
- (a) only applies in specified circumstances or in respect of specified classes of persons or vehicles;
 - (b) is at the discretion of the Director General or a specified person;
 - (c) applies subject to specified requirements being satisfied; or
 - (d) applies subject to conditions —
 - (i) specified in the regulations; or
 - (ii) imposed by the Director General or a specified person and specified in a licence or permit.
- (5) Without limiting subsection (4) (c), the regulations may require a matter to be verified by statutory declaration.

PROPOSED LEGISLATION

111 Regulations, etc.

(1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration

of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

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(b) relating to the duties, obligations, conduct and behaviour of owners, persons in charge, drivers and passengers of vehicles or of any class of vehicle;

(c) requiring the drivers and passengers of —

- (i) motor vehicles;
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to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles;

(d) prescribing the standards of, and equipment to be fitted to, vehicles *for the purposes of road safety, the security of vehicles or any other matter relating to road traffic* and requiring vehicles or equipment to be maintained in the prescribed manner;

(da) providing for the examination and testing of vehicles and without restricting the generality of the foregoing —

- (i) empowering the Director General to authorise persons to examine and test vehicles and to cancel any such authorisation;
- (ii) requiring the payment of fees for the examination and testing of vehicles pursuant to any regulation;
- (iii) empowering any person who is authorised to examine and test vehicles to issue or to refuse to issue a certificate of inspection in relation to the inspection of a vehicle;

- (iv) empowering persons to control, prohibit or restrict the use of a vehicle that does not conform to any regulation or does not fit the purpose for which the vehicle is desired to be licensed;
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- (m) requiring the driver or person in charge of a vehicle to comply with any reasonable direction given by a member of the Police Force —
 - (i) for the purpose of determining the mass of a vehicle and the load carried thereon and on any component thereof including a direction that the vehicle be taken to a police station or other suitable place specified by the member of the Police Force; and
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(5) Without limiting subsection (4) (c), the regulations may require a matter to be verified by statutory declaration.