

# TASMANIA

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## TRAFFIC AMENDMENT BILL 2007

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# **TRAFFIC AMENDMENT BILL 2007**

*(Brought in by the Minister for Infrastructure, the Honourable  
James Glennister Cox)*

## **A BILL FOR**

### **An Act to amend the *Traffic Act 1925***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **1. Short title**

This Act may be cited as the *Traffic Amendment Act 2007*.

#### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

#### **3. Principal Act**

In this Act, the *Traffic Act 1925*\* is referred to as the Principal Act.

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\*No. 38 of 1925

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**4. Part VIII inserted**

After section 75 of the Principal Act, the following Part is inserted:

**PART VIII – ELECTRONIC BILLBOARDS**

**76. Interpretation of Part**

In this Part –

**“associated vehicle”**, in relation to an electronic billboard, means a vehicle –

- (a) to which the electronic billboard is affixed; or
- (b) on which the electronic billboard is mounted; or
- (c) of which the electronic billboard is an integral part;

**“condition”**, of an electronic billboard approval, means a condition imposed on the approval under section 79(4);

**“electronic billboard”** – see section 77;

**“electronic billboard approval”** – see section 78(2)(a)(iii) and section 79;

**“officer”** means a police officer or authorised officer;

**“road authority”** means –

- (a) a body or person having statutory authority or responsibility for the design, construction, demolition, maintenance or management of any road; or
- (b) a person that is designing, constructing, demolishing, maintaining or managing a road for a road authority of the kind referred to in paragraph (a).

**77. What is an electronic billboard?**

- (1) For this Part, an electronic billboard is a device that is displaying, either constantly or intermittently and with or without variation, illuminated words or images.
- (2) However, neither of the following is taken to be an electronic billboard for this Part:

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- (a) a traffic sign that is made, supplied and placed in accordance with section 59;
- (b) a prescribed device.

**78. Restrictions on use of electronic billboards in traffic settings**

- (1) A person must not –
  - (a) place or leave an electronic billboard on a public street; or
  - (b) place or leave an electronic billboard in a public place if any occupant of any motor vehicle on any public street can, with the naked eye, read any words or make out any images being displayed by the electronic billboard.

Penalty: Fine not exceeding 20 penalty units.

- (2) However –
  - (a) subsection (1)(a) does not apply to an electronic billboard that is –
    - (i) used for traffic management or road safety purposes by a road authority; or

- (ii) used for the purposes of a civil or other emergency by a statutory service within the meaning of the *Emergency Management Act 2006*; or
  - (iii) placed or left on a public street with and in accordance with the written approval of the Commission (in this Part referred to as an “electronic billboard approval”); and
- (b) subsection (1)(b) does not apply to an electronic billboard that is placed or left in a public place by, or with the approval of, the owner or occupier of that public place.

**79. Electronic billboard approvals**

- (1) An electronic billboard approval is to –
- (a) be in a form determined by the Commission; and
  - (b) identify the electronic billboard for which it is given; and
  - (c) specify –
    - (i) the name of the person to whom it is given; and

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- (ii) the date or dates, or the period, for which it is given; and
  - (iii) the precise location or locations where the relevant electronic billboard may be placed or left; and
  - (iv) any other matter the Commission thinks fit.
- (2) An electronic billboard approval is to be given only for one electronic billboard, and only for –
  - (a) a number of specific dates not exceeding, in total, 21; or
  - (b) one specific continuous period not exceeding 21 days.
- (3) The Commission is not to give an electronic billboard approval unless it is satisfied that –
  - (a) the relevant electronic billboard is to be used only for legitimate traffic management or road safety purposes; or
  - (b) exceptional circumstances apply.
- (4) An electronic billboard approval may be made subject to such conditions as the Commission thinks fit having regard to



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road safety and the convenience of the public.

- (5) An electronic billboard approval –
- (a) is not capable of being amended, renewed or transferred; and
  - (b) is not a defence to an action or indictment for nuisance; and
  - (c) may, by written notice to the person to whom it is given, be suspended or revoked by the Commission if it is satisfied on reasonable grounds that –
    - (i) the person has contravened section 78(1)(a) in respect of any electronic billboard; or
    - (ii) the conditions of the approval have been contravened in a way that compromises road safety or in another serious respect; or
    - (iii) by reason of altered traffic conditions or other considerations, the circumstances that justified the giving of the approval no longer apply; or

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(iv) the approval is no longer required.

(6) An electronic billboard approval has no force or effect while it is suspended.

(7) The Commission, by notice, may revoke the suspension of an electronic billboard approval at any time if it is satisfied that the suspension is no longer merited.

(8) A person must not contravene a condition of an electronic billboard approval.

Penalty: Fine not exceeding 20 penalty units.

(9) A person who is given an electronic billboard approval must immediately produce it to an officer who demands to see it.

Penalty: Fine not exceeding 20 penalty units.

**80. Directions to move unsafe or unauthorised electronic billboards, &c.**

(1) This section applies if an officer reasonably suspects that a person has –

(a) contravened section 78(1); or

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- (b) contravened section 79(8) in a way that compromises road safety or in another serious respect; or
  - (c) contravened section 79(9).
- (2) The officer may direct the person to move the relevant electronic billboard, including any associated vehicle, within a specified time and, by the same direction, may –
- (a) require that the electronic billboard be switched off, either immediately or within a specified time; and
  - (b) give instructions as to how the electronic billboard should be moved and where it may or may not be moved to.
- (3) If the officer gives the person a direction under subsection (2), the person must comply with that direction.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 15 penalty units; or
- (b) a subsequent offence, a fine not exceeding 30 penalty units.

**81. Seizure and removal of unsafe or unauthorised electronic billboards, &c.**

- (1) This section applies if, in respect of an electronic billboard, an officer reasonably believes that –
  - (a) there is a real and immediate road safety hazard; or
  - (b) section 78(1) has been contravened and reasonable efforts to identify or locate the person apparently responsible for the contravention have been unsuccessful; or
  - (c) section 79(8) has been contravened in a way that compromises road safety or in another serious respect and reasonable efforts to locate the person with the relevant electronic billboard approval have been unsuccessful; or
  - (d) section 80(3) has been contravened.
- (2) The officer may seize the electronic billboard, including, if necessary, any associated vehicle, and remove it to a place of safekeeping.
- (3) In seizing or removing the electronic billboard, the officer may –

- (a) use reasonable force and assistance; and
  - (b) switch off or cover the electronic billboard; and
  - (c) enter and remain on, regardless of who the owner or occupier may be, any public place.
- (4) Subsection (2) has effect –
- (a) for subsection (1)(a), regardless of the existence, terms or conditions of, or degree of compliance with, any electronic billboard approval; and
  - (b) for subsection (1)(a), (b) or (c), regardless of whether a direction has been given under section 80(2).

**82. Return or disposal of seized electronic billboards**

- (1) This section applies if an electronic billboard has been seized and removed to a place of safekeeping under section 81.
- (2) The electronic billboard may be released to its owner, or to any person who establishes that he or she is entitled to take possession of it, on payment to the Commission of the reasonable costs

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- incurred in respect of its removal and safekeeping.
- (3) If the electronic billboard is not released within 2 months of the date of seizure, the Commission may sell or dispose of it in such manner as the Commission thinks fit.
- (4) However, the Commission is to –
- (a) advertise the proposed sale or disposal in a newspaper circulating in the locality where the electronic billboard was seized; and
  - (b) if there is an associated vehicle, give written notice of the proposed sale or disposal to its registered operator.
- (5) Neither the Crown nor the Commission nor any officer is liable for any damage that may be caused to an electronic billboard as a result of an act or omission of an officer exercising power under this Part in good faith.
- (6) In exercising power under this section, the Commission may deal with an electronic billboard separately from its associated vehicle if circumstances require.
- (7) In this section –

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**“electronic billboard”** includes its  
associated vehicle, if any.