

TASMANIA

TRAFFIC AMENDMENT BILL 2009

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TRAFFIC AMENDMENT BILL 2009

*(Brought in by the Minister for Infrastructure, the Honourable
Graeme Lindsay Sturges)*

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 2009*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

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

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “reliability trial” the following definition:

“Road Rules” means the rules made under section 31A;

5. Section 31A amended (Nationally uniform road traffic laws)

Section 31A of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “regulations” and substituting “rules”;
- (b) by omitting from subsection (1)(a) “rules on road traffic matters” and substituting “road traffic laws”;
- (c) by omitting from subsection (1)(b) “rules” and substituting “road traffic laws”;
- (d) by omitting from subsection (2) “regulations” first occurring and substituting “rules”;
- (e) by omitting from subsection (3) “regulations” twice occurring and substituting “rules”;
- (f) by omitting subsection (4) and substituting the following subsection:

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- (4) The rules may provide that any guide, diagram, example, note or other explanatory or illustrative item set out in those rules is, or is not, a part of the rules.
- (g) by omitting from subsection (5) “regulations” first occurring and substituting “rules”;
- (h) by omitting from subsection (5)(b) “regulations” and substituting “rules”;
- (i) by omitting from subsection (5)(e) “regulations” and substituting “rules”;
- (j) by omitting from subsection (5)(f) “matters; and” and substituting “matters.”;
- (k) by omitting paragraph (g) from subsection (5);
- (l) by omitting from subsection (6) “regulations” first occurring and substituting “rules”;
- (m) by omitting from subsection (6)(a) “, or a failure to comply with,”;
- (n) by omitting from subsection (6)(a) “regulations” and substituting “rules”.

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6. Section 41B amended (Power of police officer to temporarily confiscate wheeled recreational devices and toys)

Section 41B(1) of the Principal Act is amended by omitting the definition of “*Road Rules*”.

7. Section 41C amended (Road authorities not liable if roads, &c., unsuitable for wheeled recreational devices and toys)

Section 41C(1) of the Principal Act is amended by omitting the definition of “*Road Rules*”.

8. Sections 41D, 41E, 41F, 41G, 41H, 41I, 41J and 42 inserted

After section 41C of the Principal Act, the following sections are inserted in Part IV:

41D. Seizure of detection devices

- (1) A police officer or authorised officer who has reasonable grounds for believing that a motor vehicle is equipped with a detection device may –
 - (a) enter and search the motor vehicle; and
 - (b) doing as little damage as possible in the circumstances, seize any device that appears to the police

officer or authorised officer to be a detection device; and

(c) cause any device so seized to be tested; and

(d) cause any device so seized to be produced in court as evidence in any proceedings under the *Road Rules*.

(2) If a person is convicted of an offence under the *Road Rules* relating to the possession or use of a detection device, the detection device to which the offence relates is forfeited to the Crown.

(3) In this section –

“detection device” means –

(a) a device for preventing the effective use of a speed-measuring device; or

(b) a device for detecting the use of a speed-measuring device.

41E. Seizure of vehicles

(1) A police officer may seize a vehicle and remove it to a place of safe storage if –

(a) it is obstructing access to or from adjacent land; or

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- (b) the officer reasonably believes that it has been abandoned; or
- (c) the officer reasonably believes that it has been left in a dangerous position; or
- (d) it has been involved in an accident and the officer reasonably considers that it may need to be examined, or used as evidence, in any proceedings under this Act.

(2) In this section –

“adjacent land” means adjacent land within the meaning of the *Road Rules*.

41F. Disposal of seized vehicles

- (1) This section applies to a vehicle that has been seized under section 41E.
- (2) The registered operator of the vehicle is liable to pay the reasonable expenses of removing and storing the vehicle.
- (3) The Commissioner of Police must, as soon as practicable after the seizure, cause reasonable steps to be taken to inform the registered operator of the seizure, and the provisions of this section.

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- (4) If the registered operator is informed of the seizure and does not claim the vehicle and pay the expenses within one month after the date of being so informed, the Commissioner of Police may cause the vehicle to be –
 - (a) sold privately or by auction or public tender and use any money received from the sale to defray the expenses; or
 - (b) disposed of in such manner as the Commissioner of Police thinks fit if he or she reasonably considers that the vehicle could not be sold for an amount greater than the amount of the expenses.
- (5) If reasonable steps to locate the registered operator have been unsuccessful, the Commissioner of Police may act under subsection (4)(a) or (b) after the expiration of the period of one month from the date of seizure.
- (6) If the proceeds of a sale under this section exceed the amount of the expenses, the Commissioner of Police is to hold the balance for a period of 3 months from the date of sale and, if the balance is not claimed by the registered operator during that period, pay the balance into the Consolidated Fund.

41G. Hazardous lights and reflectors

- (1) A person must not, without lawful excuse, display on or near a road a light or reflector that does, or is likely to do, any of the following:
- (a) be reasonably mistaken by a driver for the flashing light of an emergency vehicle;
 - (b) dazzle or distract a driver;
 - (c) mislead or confuse a driver;
 - (d) interfere with the operation or effectiveness of any traffic lights, traffic arrows or overhead lane control signals.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person must not display a light or reflector on or near a road if the person has been given written notice by the Commission that the light or reflector constitutes a traffic hazard.

Penalty: Fine not exceeding 20 penalty units.

- (3) A police officer or authorised officer who reasonably considers that a person is committing an offence under subsection (1) or (2) may direct that person or any employee or agent of that

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person to adjust, disconnect, move or cover the light or reflector so that it no longer constitutes a traffic hazard.

- (4) A person must obey a direction given to the person under subsection (3).

Penalty: Fine not exceeding 20 penalty units.

- (5) If a person disobeys a direction given to the person under subsection (3), the police officer or authorised officer who gave the direction may, doing as little damage as possible in the circumstances, take such action as the police officer or authorised officer reasonably considers necessary in the circumstances to eliminate the traffic hazard posed by the light or reflector and may, for that purpose, enter the premises.

- (6) In this section –

“emergency vehicle” means an emergency vehicle within the meaning of the *Road Rules*;

“overhead lane control signals” means overhead lane control signals within the meaning of the *Road Rules*;

“traffic arrows” means traffic arrows within the meaning of the *Road Rules*;

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“traffic lights” means traffic lights within the meaning of the *Road Rules*.

41H. Obscuring traffic control devices

(1) A person must not, without lawful excuse, place or display anything on or near a road that –

- (a) obscures a traffic control device; or
- (b) interferes with the operation or effectiveness of a traffic control device; or
- (c) prevents, or is likely to prevent, a driver approaching or at a traffic control device from clearly seeing that traffic control device.

Penalty: Fine not exceeding 20 penalty units.

(2) In this section –

“traffic control device” means a traffic control device within the meaning of the *Road Rules*.

41I. Tampering with traffic control devices

(1) A person must not, without lawful excuse –

- (a) alter, deface or obscure a traffic control device; or

(b) damage, dismantle or destroy a traffic control device; or

(c) remove a traffic control device from the place where it has been lawfully placed or erected.

Penalty: Fine not exceeding 40 penalty units.

(2) In this section –

“traffic control device” has the same meaning as in section 41H.

41J. Unlawful road markings

(1) A person must not, without lawful excuse, mark or otherwise place on a road anything that purports to be a road marking.

Penalty: Fine not exceeding 20 penalty units.

(2) In this section –

“mark” means mark by the use of paint, tape or other means;

“paint” includes wash and chalk;

“road marking” means a road marking within the meaning of the *Road Rules*.

42. Use of loudspeakers on or from vehicles

- (1) A person must not use a loudspeaker on or from a vehicle unless –
- (a) the person has a permit to do so; or
 - (b) the person is a police officer, emergency worker or transport inspector acting in the course of his or her duty as a police officer, emergency worker or transport inspector.

Penalty: Fine not exceeding 10 penalty units.

- (2) Permits for this section are issued by senior police officers and any person may apply in writing for such a permit.
- (3) In determining whether or not to grant an application for a permit, a senior police officer –
- (a) must consider the safety and convenience of the public and, if applicable, the arrangements made for the safety and convenience of participants in the relevant activity; and
 - (b) must, if the relevant activity is of a political character, have regard to the principle that people should

be free to engage in lawful political activities; and

- (c) may have regard to such other considerations as appear relevant in the circumstances.

(4) A permit –

- (a) is to be in such form as the senior police officer issuing it considers appropriate in the circumstances; and
- (b) may be issued only for a specific date or dates, or for a specific period not exceeding 10 days; and
- (c) may be made subject to such reasonable conditions as the issuing officer considers necessary or expedient in the interests of public safety; and
- (d) must specify the name of the permit holder and the name, or a description, of the relevant activity; and
- (e) must also specify the location or, if applicable, route of the relevant activity and the date, dates or period when it will be held.

(5) A permit –

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- (a) may be surrendered but is not capable of being amended, renewed or transferred; and
 - (b) is not a defence to an action or indictment for nuisance.
- (6) The holder of a permit must not contravene a condition of the permit.

Penalty: Fine not exceeding 10 penalty units.

- (7) The holder of a permit must immediately produce it to a police officer on demand.

Penalty: Fine not exceeding 10 penalty units.

- (8) In this section –

“emergency worker” means an emergency worker within the meaning of the *Road Rules*;

“relevant activity” means the fundraising, political or other activity for which a person proposes to use a loudspeaker on or from a vehicle;

“transport inspector” means an authorised officer who has been identified as a transport inspector by the Commission.