

TASMANIA

VEHICLE AND TRAFFIC AMENDMENT (OFFENSIVE ADVERTISING) BILL 2017

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VEHICLE AND TRAFFIC AMENDMENT (OFFENSIVE ADVERTISING) BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
15 March 2017

*(Brought in by the Minister for Infrastructure, the Honourable
Marinus Theodoor Hidding)*

A BILL FOR

An Act to amend the *Vehicle and Traffic Act 1999*, the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010* and the *Vehicle and Traffic (Review of Decisions) Regulations 2010* to provide for the prevention of the display of offensive advertising on certain registered vehicles, and for related purposes

Be it enacted by Her 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Vehicle and Traffic Amendment (Offensive Advertising) Act 2017*.

2. Commencement

This Act commences on a day to be proclaimed.

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Part 2 – Vehicle and Traffic Act 1999 Amended

PART 2 – VEHICLE AND TRAFFIC ACT 1999
AMENDED

3. Principal Act

In this Part, the *Vehicle and Traffic Act 1999** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *heavy vehicle*:

hire and drive vehicle means a motor vehicle that is used to operate a hire and drive passenger service, within the meaning of the *Passenger Transport Services Act 2011*;

- (b) by inserting the following definition after the definition of *novice rider*:

offensive advertising notice, in relation to a vehicle, means a notice, served under section 33(2) on the registered operator of the vehicle, that has not been revoked under section 33(4);

*No. 70 of 1999

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Part 2 – Vehicle and Traffic Act 1999 Amended

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5. Section 33 inserted

After section 32A of the Principal Act, the following section is inserted in Part 4:

33. Offensive advertising on vehicles

(1) In this section –

advertising means images or words in relation to which the Advertising Standards Bureau may issue a notice that a breach of the advertising code has occurred;

advertising code means –

- (a) the document, called the AANA Code of Ethics, published by the Australian Association of National Advertisers ACN 003 179 673, as in force from time to time; or
- (b) another document that –
 - (i) states a code of ethics, or sets standards, for advertising; and
 - (ii) is prescribed by regulation to be an advertising code

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Part 2 – Vehicle and Traffic Act 1999 Amended

for the purposes of
this section;

Advertising Standards Board means
the board, appointed by the
Advertising Standards Bureau,
that has the function of
considering complaints about
advertising, made by members of
the public, to determine whether
the advertising breaches the
advertising code;

Advertising Standards Bureau means
the Advertising Standards Bureau
ACN 084 452 666.

- (2) The Registrar must serve on the registered operator of a hire and drive vehicle a notice (an ***offensive advertising notice***) if –
- (a) the Advertising Standards Board, or an entity that has conducted a review of a determination of the Advertising Standards Board, has made a determination that advertising on the vehicle breaches the advertising code; and
 - (b) the Advertising Standards Bureau has issued to the Registrar a notice (an ***advertising code breach notice***) stating –

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- (i) the details of the determination; and
 - (ii) that the determination is final; and
 - (c) the Advertising Standards Bureau has not withdrawn the advertising code breach notice.
 - (3) An offensive advertising notice served on the registered operator of a vehicle must include –
 - (a) the name of the registered operator; and
 - (b) details of the vehicle; and
 - (c) a statement that the Registrar must cancel the registration of the vehicle at the end of the period of 14 days after the notice is served on the registered operator, unless the Advertising Standards Bureau withdraws its advertising code breach notice.
 - (4) The Registrar must, by notice served on the registered operator of a vehicle, revoke an offensive advertising notice in relation to the vehicle, if the Advertising Standards Bureau has withdrawn an advertising code breach notice in relation to the vehicle.

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Part 2 – Vehicle and Traffic Act 1999 Amended

- (5) An advertising code breach notice may state that the determination referred to in the notice is final if the period for requesting a review of the determination has ended and –
- (a) any of the following applies to each request for a review of the determination:
- (i) the request was not accepted because it did not meet the grounds on which a determination may be reviewed;
 - (ii) the determination was confirmed;
 - (iii) the review resulted in a determination that advertising on the vehicle breaches the advertising code; or
- (b) no request for a review of the determination was made.

6. Section 39 amended (Vehicle registration scheme)

Section 39 of the Principal Act is amended by inserting after subsection (3) the following subsection:

- (4) The vehicle registration scheme may provide for any or all of the following:

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Part 2 – Vehicle and Traffic Act 1999 Amended

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- (a) that the registration of a vehicle may, or must, be cancelled if there is an offensive advertising notice in relation to the vehicle;
- (b) that it is a requirement, for a vehicle to be eligible for registration, that there is no offensive advertising notice in relation to the vehicle.

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s. 7 Part 3 – Vehicle and Traffic (Driver Licensing and Vehicle Registration)
 Regulations 2010 Amended

**PART 3 – VEHICLE AND TRAFFIC (DRIVER
LICENSING AND VEHICLE REGISTRATION)
REGULATIONS 2010 AMENDED**

7. Principal Regulations

In this Part, the *Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010** are referred to as the Principal Regulations.

8. Regulation 52 amended (Eligibility for registration of motor vehicles or trailers)

Regulation 52(1) of the Principal Regulations is amended by inserting after paragraph (b) the following paragraph:

- (ba) there is no offensive advertising notice in relation to the vehicle; and

9. Regulation 57 amended (Registration of motor vehicles and trailers)

Regulation 57 of the Principal Regulations is amended by inserting after subregulation (4) the following subregulation:

- (5) The Registrar must refuse to register a vehicle if the Registrar is satisfied that there is an offensive advertising notice in relation to the vehicle.

*S.R. 2010, No. 37

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Regulations 2010 Amended

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10. Regulation 72 amended (Suspension or cancellation of registration)

Regulation 72 of the Principal Regulations is amended by inserting after subregulation (1) the following subregulation:

- (1A) The Registrar must, at the end of the period of 14 days after serving on the registered operator of a registered motor vehicle an offensive advertising notice under section 33 of the Act, cancel under subregulation (1) the registration of the vehicle, unless the Advertising Standards Bureau withdraws its advertising code breach notice.

11. Regulation 74 amended (Notice of cancellation)

Regulation 74 of the Principal Regulations is amended as follows:

- (a) by inserting in subregulation (2) “or is required under regulation 72(1A) to cancel the registration of a vehicle,” after “trailer,”;
- (b) by inserting the following subregulation after subregulation (2):
- (2A) Subregulation (1) and subregulation (2)(b) do not apply in relation to a cancellation of the registration of a vehicle if the Registrar is required under

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s. 11 Part 3 – Vehicle and Traffic (Driver Licensing and Vehicle Registration)
Regulations 2010 Amended

regulation 72(1A) to cancel the
registration of the vehicle.

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Part 4 – Vehicle and Traffic (Review of Decisions) Regulations 2010
Amended

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**PART 4 – VEHICLE AND TRAFFIC (REVIEW OF
DECISIONS) REGULATIONS 2010 AMENDED**

12. Principal Regulations

In this Part, the *Vehicle and Traffic (Review of Decisions) Regulations 2010** are referred to as the Principal Regulations.

13. Regulation 3A inserted

After regulation 3 of the Principal Regulations, the following regulation is inserted in Part 1:

3A. Certain decisions not to be taken to be administrative decisions

In this Act, a reference to an administrative decision does not include a reference to a decision –

- (a) to issue an offensive advertising notice in relation to a vehicle; or
- (b) to refuse to register a vehicle because there is an offensive advertising notice in relation to the vehicle; or
- (c) to cancel the registration of a vehicle because there is an offensive advertising notice in relation to the vehicle.

*S.R. 2010, No. 75

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Part 5 – Concluding Provision

PART 5 – CONCLUDING PROVISION

14. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.