

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Rugendyke)

**Motor Traffic (Amendment) Bill (No. 4)
1998**

A BILL

FOR

An Act to amend the *Motor Traffic Act 1936*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Motor Traffic (Amendment) Act (No. 4)*
5 1998.

2. Commencement

This Act commences on the day on which it is notified in the *Gazette*.

3. Principal Act

In this Act, "Principal Act" means the *Motor Traffic Act 1936*.¹

10 **4. Interpretation**

Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

Job No. 1998/153

“ ‘burnout’, in relation to a motor vehicle, means operate the vehicle in such a manner as to cause the vehicle to undergo sustained loss of traction by the driving wheel of the vehicle,”

5. Substitution

5 Section 119 of the Principal Act is repealed and the following sections are substituted

“119. Motorists not to race, attempt speed records etc.

The driver of a motor vehicle upon a public street shall not—

- (a) race with another vehicle,
- 10 (b) attempt to break any motor vehicle speed record;
- (c) trial the speed of a motor vehicle; or
- (d) compete in a trial designed to test the skill of a driver or the reliability or mechanical condition of a vehicle,

15 unless he or she is the holder of a permit granted under subsection 139H (1).

Penalty: 10 penalty units.

“119AA. Burnouts of motor vehicles

“(1) A person shall not knowingly burnout a motor vehicle on a public street.

20 Penalty: 10 penalty units.

“(2) A person shall not knowingly burnout a motor vehicle on a public street where any petrol, oil, diesel fuel or other inflammable liquid has been placed on the street surface beneath, or near, a tyre of the vehicle

Penalty. 15 penalty units.

25 “(3) This section does not apply where a person has obtained a permit granted under subsection 139H (1)”

6. Insertion

After Part VIII of the Principal Act the following Part is inserted.

“PART VIIIA—REGULATED ROAD EVENTS

30 **“Division 1—Preliminary**

“139A Interpretation

In this Part—

'approval' means an approval granted under subsection 139D (1);

'event', in relation to an approval or permit, means an event to which the approval or permit relates;

5 'impounded motor vehicle' means a motor vehicle impounded under this Part;

'permit' means a permit granted under subsection 139H (1).

"Division 2—Approved events

"139B. Conduct of races, attempts on speed records etc.

10 A person shall not upon a public street conduct an event consisting of—

- (a) a race between motor vehicles;
- (b) an attempt to break any motor vehicle speed record;
- (c) a trial of the speed of a motor vehicle;
- (d) a burnout of a motor vehicle, or
- 15 (e) a competitive trial designed to test the skill of any driver or the reliability or mechanical condition of any motor vehicle;

unless he or she has obtained the approval in writing of the chief police officer.

Penalty:

- 20 (a) if the offender is a natural person—50 penalty units,
- (b) if the offender is a body corporate—250 penalty units.

"139C. Approval—application

25 "(1) A person proposing to apply for an approval under section 139B shall give notice of his or her application by advertisement in a newspaper published and circulating in the Territory.

"(2) An application for approval under section 139B shall—

- (a) be in a form approved by the chief police officer;
- (b) be accompanied by the determined fee;
- (c) be accompanied by evidence of compliance with subsection (1);
- 30 and
- (d) be lodged with the chief police officer.

"(3) The chief police officer may, by writing, require the applicant to provide further information about the application.

"139D Approval—grant or refusal

"(1) The chief police officer shall grant an approval where he or she is satisfied—

- 5 (a) that the application has been made in accordance with section 139C, and
(b) that the approval may be granted without danger to the public

"(2) Where the chief police officer is not satisfied in accordance with subsection (1), he or she shall refuse the application.

"(3) An approval shall—

- 10 (a) be in writing; and
(b) specify the time and place at which the event is to be conducted

"(4) An approval may be expressed to be subject to any conditions specified in the approval.

15 "(5) Subject to any direction of the Minister, an approval may be expressed to exempt the event from a provision of this Act specified in the approval relating to—

- (a) the affixing of silencers to the exhaust pipes of motor vehicles;
(b) rules of the road, or
(c) speed limits

20 "(6) The chief police officer shall give the Environment Management Authority notice in writing of an approval

"139E. Approval—compliance

A person shall comply with an approval and any conditions specified in the approval.

25 **Penalty.**

- (a) if the offender is a natural person—50 penalty units;
(b) if the offender is a body corporate—250 penalty units.

"Division 3—Permits to engage in approved events

"139F Participation in races, attempts on speed records etc.

30 A person shall not upon a public street drive or operate a motor vehicle in an event approved under subsection 139B (1) unless he or she is the holder of a permit.

Penalty: 10 penalty units

“139G. Permit—application

“(1) An application for a permit under section 139F shall—

- (a) be in a form approved by the chief police officer;
- (b) be accompanied by the determined fee; and
- 5 (c) be lodged with the chief police officer.

“(2) The chief police officer may, by writing, require the applicant to provide further information about the application.

“139H. Permit—grant or refusal

10 “(1) The chief police officer shall grant a permit where he or she is satisfied—

- (a) that the application has been made in accordance with section 139G; and
- (b) that the permit may be granted without danger to the public.

15 “(2) Where the chief police officer is not satisfied in accordance with subsection (1), the chief police officer shall refuse the application.

“(3) A permit shall—

- (a) be in writing; and
- (b) specify the event to which the permit relates.

20 “(4) A permit may be expressed to be subject to any conditions specified in the permit.

“(5) Subject to any direction of the Minister, a permit may be expressed to exempt the event from a provision of this Act specified in the permit relating to—

- (a) the affixing of silencers to the exhaust pipes of motor vehicles;
- 25 (b) rules of the road; or
- (c) speed limits.

“139I. Permit—compliance

A person shall comply with a permit granted and any conditions specified in the permit.

30 Penalty: 10 penalty units.

“Division 4—Enforcement

“139J. Disqualification of licence

“(1) Where the Court convicts a person of an offence against section 119, 119AA, 139F or 139I—

- (a) any driving licence held by the person is cancelled; and
- (b) the person is disqualified from holding a driving licence, other than a special licence, for—
 - (i) a period not exceeding 12 months;
 - 5 (ii) if the Court specifies a longer period of disqualification—the longer period; or
 - (iii) if the person is already disqualified—a further period specified by the Court

10 “(2) A disqualification under this section is in addition to any penalty imposed for the offence.

“139K. Seizure by police

“ (1) A police officer may seize a motor vehicle if the officer suspects on reasonable grounds that the vehicle has been driven or operated on a public street in contravention of section 119, 119AA, 139F or 139I.

15 “(2) For the purposes of subsection (1)—

- (a) a police officer, or a person at the direction of a police officer, may remove, dismantle or neutralise any locking device or other feature of the motor vehicle concerned and may, if the driver or any other person will not surrender the keys to the vehicle, start the vehicle by other means; and
- 20 (b) the vehicle may be driven, towed, pushed or moved in any other manner by a police officer or, at the direction of a police officer, by a person engaged by the chief police officer to a place determined by the chief police officer.

25 **“139L. Powers of Court to impound or forfeit vehicles**

“ (1) Where the Court convicts a person of an offence against section 119, 119AA, 139F or 139I, a motor vehicle used in connection with the offence shall, subject to subsection (2)—

- 30 (a) in the case of a first offence by the offender—be impounded for a period of 3 months; or
- (b) in the case of a second or subsequent offence by the offender—be forfeited to the Territory.

35 “(2) The Court may specify a shorter period of impounding, dispense with the period of impounding or commute a forfeiture to a period of impounding to avoid undue hardship to any person or other injustice perceived by the Court.

“(3) Where a motor vehicle used in the commission of an offence is not already impounded, the Court may order that the vehicle be delivered to the chief police officer within a time and in a manner specified by the Court.

5 “(4) Where at the time an order to impound a motor vehicle is made under subsection (1), the vehicle has been seized under subsection 139K (1), the period for which the vehicle may be impounded under subsection (1) shall be reduced by a period corresponding to the period for which the vehicle has been seized under subsection 139K (1).

10 “(5) Without affecting any other right of appeal, an impounding or forfeiture under this section is appellable in the same manner as if it were, or were part of, a sentence imposed in respect of the offence.

“139M. Impounding of motor vehicles

15 “(1) Where a motor vehicle is seized under subsection 139K (1) or an order is made under subsection 139L (1), the chief police officer shall impound the vehicle until, in accordance with this Part, it is returned to its owner or forfeited to the Territory.

“(2) The chief police officer shall take all reasonable steps to secure an impounded motor vehicle against theft or damage.

“139N. Notice of impounding or forfeiture

20 “(1) Where a motor vehicle is impounded or forfeited the chief police officer shall, within 14 days, give notice in writing of the impounding or forfeiture of the vehicle to—

- (a) the registered owner of the vehicle; and
- (b) the holder of any registered interest in the vehicle.

25 “(2) The notice—

- (a) may be given personally or by post; and
- (b) shall state the offence in respect of which the vehicle has been impounded or forfeited.

30 “(3) Where a motor vehicle is impounded under subsection 139K (2) the chief police officer shall retain the vehicle until—

- (a) proceedings in relation to an offence against section 139F or 139I with which the vehicle is connected have been instituted and—
 - (i) the vehicle is impounded or forfeited under section 139L; or
 - (ii) no offence has been found proved in relation to the vehicle;or
- (b) proceedings have not been instituted within 28 days of the vehicle being seized under subsection 139K (1).

“(4) Where a motor vehicle is impounded under paragraph 139L (1) (a), the chief police officer shall retain the vehicle until the vehicle is released under section 139O or 139P.

5 “(5) Where a motor vehicle is forfeited to the Territory under paragraph 139L (1) (b), it may be sold or disposed of in such a manner as the Minister directs at the expiration of 14 days after notification under subsection (1)

“(6) In this section—

10 ‘registered interest’, in relation to a motor vehicle, means an interest in the vehicle that is registered under the Register of Interests in Goods maintained under section 4 of the *Registration of Interests in Goods Act 1986* of the State of New South Wales;

‘registered owner’—

15 (a) in relation to a registered motor vehicle—means the person whose name is specified in the certificate of registration as the owner of the vehicle or appears in the record of registration kept under subsection 194 (1) as the owner of the vehicle; or

20 (b) in relation to a visiting motor vehicle—means the person whose name is specified in the certificate of registration as the owner of the vehicle under the law of a State or the Northern Territory or whose name is notified to the chief police officer by the registration authority of that State or Territory.

“139P. Release of vehicles—chief police officer

25 “(1) A person may apply to the chief police officer for the release of an impounded motor vehicle

“(2) The chief police officer shall release an impounded motor vehicle to the applicant as soon as practicable if satisfied that the applicant is entitled to possession of the vehicle and—

30 (a) a prosecution for an offence against this Part has not been instituted within 28 days of the seizure,

(b) in proceedings for an offence against this Part the Court does not find the offence proved; or

(c) where the vehicle has been impounded for the prescribed time.

35 “(3) Where a motor vehicle is impounded under paragraph 139L (1) (a), it will not be released until the determined fee is paid in respect of the impounding and any seizure of the vehicle.

“(4) Where an impounded motor vehicle is released under this section, the applicant must acknowledge in writing receipt of the vehicle from the custody of the chief police officer.

“139Q. Release of vehicles—Court

5 “(1) A person may apply to the Court for the release of an impounded motor vehicle whether or not an application has been made under subsection 139P (1).

“(2) The Court may affirm, quash or vary a decision made by the chief police officer under section 139P.

10 “(3) The Court may release an impounded motor vehicle to the applicant if satisfied that—

(a) the applicant is entitled to possession of the vehicle;

(b) the release of the vehicle would not be against the public interest; and

15 (c) either—

(i) the offence was not committed with the consent of the applicant and that the applicant did not know, and could not reasonably have been expected to know, that the vehicle would be used for the commission of an offence; or

20 (ii) retaining the vehicle would cause undue hardship or other injustice to a person.

“(4) Where an impounded motor vehicle is released under this section, the applicant must acknowledge in writing receipt of the vehicle from the custody of the chief police officer.

25 “(5) The Court may determine whether or not the whole or any part of the determined fee is payable by the applicant to the chief police officer.

“Division 5—Miscellaneous

“139R. Legal immunity

30 A police officer, or a person engaged by the chief police officer acting at the direction of a police officer, who has seized or impounded a motor vehicle under this Part is not liable, while the vehicle is in his or her charge, for—

(a) any damage caused to the vehicle unless the damage is caused by his or her negligence or deliberate action; or

35 (b) the loss of the vehicle due to its theft by another person unless he or she has assisted in the commission of the theft.”.

- 7. Repeal**
Section 217 of the Principal Act is repealed
- 8. Schedule 7**
Schedule 7 to the Principal Act is amended by omitting item 62.

NOTES

Principal Act

1 Reprinted as at 2 March 1998 See also Acts Nos 26, # and #, 1998

Penalty units

See section 33AA of the *Interpretation Act 1967*.

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