

Serial 38
Traffic Amendment Bill 2009
Mr Giles

A Bill for an Act to amend the *Traffic Act* and related legislation

NORTHERN TERRITORY OF AUSTRALIA

TRAFFIC AMENDMENT ACT 2009

Act No. [] of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the *Traffic Act* and related legislation

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Traffic Amendment Act 2009*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Traffic Act

3 Act amended

This Part amends the *Traffic Act*.

4 Repeal and substitution of Part VA heading

Part VA, heading

*repeal, substitute***Part VA Vehicle impounding and forfeiture****5 Amendment of section 29AA (Object of Part)**

Section 29AA

omit

all words after "is to"

substitute

provide for impounding and forfeiture of vehicles in relation to certain offences under this Act

6 Amendment of section 29AB (Definitions)**(1) Section 29AB***insert (in alphabetical order)****Class A prescribed driving offence***, see definition ***prescribed driving offence*** in this section.***Class B prescribed driving offence*** means:

- (a) a Class B1 prescribed driving offence; or
- (b) a Class B2 prescribed driving offence.

Class B1 prescribed driving offence, see definition ***prescribed driving offence*** in this section.***Class B2 prescribed driving offence***, see definition ***prescribed driving offence*** in this section.***subsequent offence*** means:

- (a) a Class A subsequent offence mentioned in section 29AG(1)(b); or
- (b) a Class B subsequent offence mentioned in section 29AG(2)(a).

- (2) Section 29AB, definition ***prescribed driving offence***

omit, substitute

prescribed driving offence means an offence by the driver of a motor vehicle against a provision of this Act prescribed by the Regulations as any of the following:

- (a) a Class A prescribed driving offence;
- (b) a Class B1 prescribed driving offence;
- (c) a Class B2 prescribed driving offence.

7 Amendment of section 29AD (Power of police officer to impound vehicle)

- (1) Section 29AD(1)

omit

prescribed driving offence

substitute

Class A prescribed driving offence

- (2) Section 29AD(4)(d)

omit

prescribed driving offences

substitute

Class A prescribed driving offences

8 Repeal and substitution of section 29AG

Section 29AG

repeal, substitute

29AG Application of Division

- (1) This Division applies if, within 2 years after a person (the ***offender***) being found guilty of a Class A prescribed driving offence (the ***first Class A offence***):

- (a) the offender is found guilty of another Class A prescribed driving offence (the ***second Class A offence***); or

- (b) the offender is found guilty of one or more further Class A prescribed driving offences (each of which is a **Class A subsequent offence**) after being found guilty of the second Class A offence.

(2) This Division also applies if a person (the **offender**):

- (a) is found guilty of a Class B prescribed driving offence (a **Class B subsequent offence**) within 5 years after being found guilty of a Class B prescribed driving offence; and
- (b) has, at any time, been found guilty of 3 or more Class B prescribed driving offences, of which at least one was a Class B1 prescribed driving offence.

9 Amendment of section 29AH (Sentencing for second offence)

(1) Section 29AH, heading

omit

second offence

substitute

second Class A offence

(2) Section 29AH(1) to (3), (5)(a) and (b) and (8)

omit (all references)

second offence

substitute

second Class A offence

10 Amendment of section 29AT (Impounding determination, impounding order and forfeiture order)

(1) Section 29AT(1)(a), (2)(a) and (b) and (4)(a) and (b)

omit (all references)

prescribed

substitute

Class A prescribed

(2) After section 29AT(4)

insert

(4A) A person must not enter into a transaction relating to a motor vehicle, or unlawfully remove anything fitted or attached to the vehicle, if:

- (a) a driver of the vehicle is charged with, or issued with a summons for, a Class B prescribed driving offence (the **relevant offence**); and
- (b) the driver was found guilty of one or more Class B prescribed driving offences during the 5 years immediately before being charged with the relevant offence and had at any time been found guilty of another Class B prescribed driving offence; and
- (c) at least one of the Class B prescribed driving offences mentioned in paragraph (a) or (b) was a Class B1 prescribed driving offence; and
- (d) the person knows about the matters mentioned in paragraphs (a), (b) and (c); and
- (e) the person has been notified under section 29AJ(2) of the intention of the Commissioner of Police to apply for a forfeiture order for the relevant offence.

Maximum penalty: 400 penalty units or imprisonment not exceeding 2 years.

11 Amendment of section 51 (Regulatory offences)

Section 51

omit

29AT(1), (2), (4) and (5)

substitute

29AT(1), (2), (4), (4A) and (5)

12 Amendment of section 56 (Transitional matters for *Transport Legislation (Hoon Behaviour) Amendment Act 2009*)

(1) Section 56(4)

omit

all words after "29AD(4)(d),"

substitute

29AG(1) and (2) and 29AT(1), (2), (4) and (4A)

(2) Section 56(4), example

omit, substitute

Example

A person was found guilty of a Class A prescribed driving offence 10 months before the commencement. The person is again found guilty of a Class A prescribed driving offence 2 months after the commencement. The Commissioner of Police may therefore apply for an impounding order in relation to the vehicle used in committing the second Class A offence.

Part 3 Amendment of Traffic Regulations

13 Regulations amended

This Part amends the *Traffic Regulations*.

14 Repeal and substitution of regulation 91A

Regulation 91A

repeal, substitute

91A Certain driving offences prescribed for section 29AB of Act

For the definition of ***prescribed driving offence*** in section 29AB of the Act:

(a) an offence against any of the following provisions is a ***Class A prescribed driving offence***:

- (i) regulation 37(1A);
- (ii) regulation 37A(1);
- (iii) regulation 37B(1); and

(b) an offence against any of the following provisions is a ***Class B1 prescribed driving offence***:

- (i) section 21 of the Act;
- (ii) section 29AAA of the Act;
- (iii) section 29AAE of the Act; and

(c) an offence against any of the following provisions is a ***Class B2 prescribed driving offence***:

- (i) section 22 of the Act;
- (ii) section 23 of the Act;
- (iii) section 24 of the Act;
- (iv) section 25 of the Act;
- (v) section 26 of the Act.