



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

No. 13 of 1975

An Act to amend the Traffic Act 1949–1974 in certain particulars

[ASSENTED TO 15TH MAY, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Traffic Act Amendment Act 1975*.

(2) The *Traffic Act 1949–1974* is in this Act referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Traffic Act 1949–1975*.

2. Amendment of s. 9 (1). Subsection (1) of section 9 of the Principal Act is amended by, in the meaning of the term "Loading zone", omitting the word "longer" where it occurs in paragraph (c) and in paragraph (d) and substituting in each case the word "other".

3. Amendment of s. 15. (1) Section 15 of the Principal Act is amended by omitting subsections (4), (5) and (6) and substituting the following subsections:—

"(4) A person who is guilty of an offence against subsection (1) and who at the time of the commission of such offence is disqualified—

(a) by this Act; or

(b) by an order made under this or any other Act,

from holding or obtaining a driver's license is liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

(5) In determining the punishment to be imposed on a person who is guilty of an offence against subsection (1) in respect of which, at the time of its commission, he was disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver's license, the justices shall have regard to—

(a) the whole of the circumstances of the case, including circumstances of aggravation or mitigation;

(b) the interest of the public;

(c) the criminal and traffic history of the offender;

(d) any matters before them in relation to the medical history of the offender or his physical or mental capacity that are considered by them to be relevant in the circumstances;

(e) whether the driving of the motor vehicle by the offender was associated with the commission or the attempted commission of some other offence and, if so, the nature of that offence; and

(f) such other matters that are considered by them to be relevant in the circumstances.

(6) Notwithstanding that, at the time of the commission of an offence against subsection (1), the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver's license, the justices before whom he is convicted of the offence, in addition to any punishment they may impose upon him on his conviction, shall order that he shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a driver's license, and he shall thereupon be so disqualified under and in accordance with that order."

(2) Subsections (4), (5) and (6) of section 15 of the Principal Act, as substituted by subsection (1) of this section, shall have application with respect to all proceedings under the said section 15 to which they relate that are before a court at any time after the commencement of this Act whether in each case the offence was committed before or after such commencement.

4. Amendment of s. 16A. Section 16A of the Principal Act is amended by inserting after subsection (25) the following subsection:—

“(26) If a defendant proposes to lead evidence to prove in any proceeding—

- (a) pursuant to subsection (15) (e) (ii), that at the time of the operation of a breath analysing instrument it was defective or was not properly operated;
- (b) pursuant to subsection (16) (e) (ii), that the result of a laboratory test of a specimen of blood referred to in subsection (16) (e) (i) was not a correct result; or
- (c) pursuant to subsection (18), that the signature referred to therein is not the signature of the medical practitioner by whom the certificate referred to therein purports to be signed or that any matter contained in the said certificate is not correct,

he shall give notice thereof to the complainant or arresting member of the Police Force (which notice shall not be effective unless it is in writing and signed by the defendant or by his solicitor) not less than three clear days before the return date of the summons or the appointed date for the hearing of the charge.”.

5. Amendment of s. 49 (1). Subsection (1) of section 49 of the Principal Act is amended by—

(a) in paragraph (p)—

(i) omitting the words “ on any ” and substituting the words “ at a time and on a ”;

(ii) inserting after the words “ was correct ” the words “ at that time and thereafter for the balance of the day of that date and ”;

(b) in paragraph (p1)—

(i) inserting after the words “ found to be producing accurate results ” the words “ at a time and ”;

(ii) inserting after the words “ was producing accurate results ” the words “ at the time specified and thereafter for the balance of the day of the date specified as respectively the time at which and the date on which the indicator was tested and ”.

6. Amendment of s. 55. (1) Section 55 of the Principal Act is amended by, in subsection (6), omitting the last two subparagraphs of paragraph (a), being all those words commencing with the words “ Where the license applied for ” and concluding with the words “ in contravention of this paragraph.”, and substituting the following subparagraphs:—

“ Where the license applied for or obtained in contravention of this paragraph is a driver’s license, the offender shall be liable to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding eighteen months or to both such penalty and imprisonment.

In determining the punishment to be imposed on a person who is guilty of an offence under this paragraph where the license applied for or obtained in contravention hereof is a driver’s license, the justices shall have regard to—

- (i) the whole of the circumstances of the case, including circumstances of aggravation or mitigation;
- (ii) the interest of the public;
- (iii) the criminal and traffic history of the offender;

- (iv) all matters before them in relation to the medical history of the offender or his physical or mental capacity that are considered by them to be relevant in the circumstances; and
- (v) such other matters that are considered by them to be relevant in the circumstances.

Notwithstanding that, at the time of the commission of an offence under this paragraph where the license applied for or obtained in contravention hereof is a driver's license, the person who committed the offence is disqualified by this Act or by an order made under this or any other Act from holding or obtaining a driver's license, the justices before whom he is convicted of the offence, in addition to any punishment they may impose upon him on his conviction, shall order that he shall, on and from the date of the conviction, be disqualified absolutely from holding or obtaining a driver's license, and he shall thereupon be so disqualified under and in accordance with that order."

(2) The subparagraphs of paragraph (a) of section 55 (6) of the Principal Act substituted by subsection (1) of this section shall have application to all proceedings under the said paragraph (a) to which they relate that are before a court at any time after the commencement of this Act whether in each case the offence was committed before or after such commencement.