



ROAD TRAFFIC (BREATH ANALYSIS) AMENDMENT ACT 1993

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ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1993

No. 86 of 1993

An Act to amend the Road Traffic Act 1961.

[Assented to 27 October 1993]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Road Traffic (Breath Analysis) Amendment Act 1993*.

(2) The *Road Traffic Act 1961* is referred to in this Act as “the principal Act”.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 47e—Police may require alcotest or breath analysis

3. Section 47e of the principal Act is amended by inserting after subsection (5) the following subsection:

(5a) A person may not raise a defence that the person had good cause for a refusal or failure to comply with a requirement or direction under this section by reason of some physical or medical condition of the person unless—

- (a) a sample of the person’s blood was taken in accordance with section 47f;
- (b) the person made a request as referred to in section 47f(2), but—
 - (i) a member of the police force failed to facilitate the taking of a sample of the person’s blood as required by that section;

or

(ii) a medical practitioner was not reasonably available for the purpose of taking such a sample;

or

(c) the taking of a sample of the person's blood in accordance with section 47f was not possible or reasonably advisable or practicable in the circumstances by reason of some physical or medical condition of the person.

Amendment of s. 47f—Police to facilitate blood test at request of incapacitated person, etc.

4. Section 47f of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out from subsection (2) "Where a request is made by a person under subsection (1)" and substituting "Where a person of whom a requirement is made or to whom a direction is given under section 47e refuses or fails to comply with the requirement or direction by reason of some physical or medical condition of the person and forthwith requests a member of the police force that a sample of his or her blood be taken by a medical practitioner";

(c) by striking out paragraph (b) of subsection (2a) and substituting the following paragraph:

(b) must be at the expense of the Crown;;

(d) by striking out subsections (3) and (4) and substituting the following subsection:

(3) The provisions of subsections (7) to (13c) (inclusive) of section 47i apply in relation to a sample of blood taken under this section in the same way as to a sample of blood taken under section 47i.

Insertion of ss. 47fa and 47fb

5. The following sections are inserted after section 47f of the principal Act:

Police to provide transport assistance for blood tests in certain circumstances outside Metropolitan Adelaide

47fa. (1) Where—

(a) a person submits to a breath analysis conducted under this Act at a place outside Metropolitan Adelaide;

(b) the person requests a blood test kit as referred to in section 47g(2a);

(c) it appears to a member of the police force that the person has failed or will fail, despite reasonable endeavours, to make safe and appropriate transport arrangements within the period of two hours after the conduct of the breath analysis to attend at a place at which a sample of the person's blood may be taken and dealt with in accordance with the procedures prescribed by regulation for the purposes of section 47g(1a);

and

- (d) the person requests of a member of the police force that a member of the police force transport the person, or arrange for the transport of the person, to such a place,

a member of the police force must transport, or arrange for the transport of, the person to such a place.

- (2) In subsection (1)—

“Metropolitan Adelaide” has the same meaning as in the *Development Act 1993*.

Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

47fb. (1) Where a person submits to a breath analysis conducted under this Act at a place outside Metropolitan Adelaide—

- (a) a sample of the person’s blood may be taken by a registered nurse instead of a medical practitioner for the purposes of section 47f or the procedures prescribed by regulation for the purposes of section 47g(1a);

and

- (b) the provisions of this Act and the regulations under this Act apply in relation to the taking of the sample of the person’s blood and the subsequent dealing with the sample as if a reference in those provisions to a medical practitioner included a reference to a registered nurse.

- (2) In subsection (1)—

“Metropolitan Adelaide” has the same meaning as in the *Development Act 1993*;

“registered nurse” means a person registered on the nurses register under the *Nurses Act 1984*.

Amendment of s. 47g—Evidence, etc.

6. Section 47g of the principal Act is amended—

- (a) by striking out from subsection (1a) “47f or 47i” and substituting “47i or in accordance with the procedures prescribed by regulation”;

- (b) by striking out paragraphs (a) and (b) of subsection (2a) and substituting the following paragraphs:

- (a) give the person the prescribed oral advice and deliver to the person the prescribed written notice as to the operation of this Act in relation to the results of the breath analysis and as to the procedures prescribed for the taking and analysis of a sample of the person’s blood;

and

- (b) at the request of the person made in accordance with the regulations, deliver to the person a blood test kit in a form approved by the Minister for facilitation of the taking and analysis of a sample of the person’s blood.;

(c) by striking out paragraph (d) of subsection (5) and substituting the following paragraph:

(d) the requirements of subsection (2a) were complied with in relation to the person named in the certificate.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor