

2006-05-22

## OBJECTS AND REASONS

This Bill would amend the *Road Traffic Act, Cap. 295* to make provision for

- (a) the revision of definitions;
- (b) the revision of the fixed penalty and demerit point system;
- (c) the mandatory presentation on request of drivers licences and certificates of insurance; and
- (d) related matters.

### *Arrangement of Sections*

#### *Section*

1. Short title.
2. Amendment of section 2 of Cap. 295.
3. Amendment of section 10 of Cap. 295.
4. Amendment of section 28 of Cap. 295.
5. Amendment of section 42 of Cap. 295.
6. Amendment of section 61 of Cap. 295.
7. Amendment of section 68 of Cap. 295.
8. Amendment of section 74 of Cap. 295.
9. Amendment of section 79 of Cap. 295.
10. Amendment of section 108 of Cap. 295.
11. Amendment of Cap. 295.

*Section*

12. Amendment of Cap. 295.
13. Amendment of section 124 of Cap. 295.
14. Amendment of *Fourth Schedule*.
15. Commencement.

BADOS

A Bill entitled

An Act to amend the *Road Traffic Act*.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Road Traffic (Amendment) Act*, Short title.  
~~B006R~~ -

Amendment  
of section 2  
of Cap. 295.

2. Section 2 of the *Road Traffic (Amendment) Act*, in this Act referred to as the principal Act, is amended

- (a) by deleting the definitions of "driver", "examiner", "hired car", "hackney carriage", "limousine", "maximum gross weight", "maxi-taxi", "minibus", "parking place", "private motor car", "route-taxi", "tour coach", "tractor", "trailer", "vehicle"; and
- (b) by substituting and inserting the following definitions in their respective alphabetical order:

"all terrain vehicle" means a motorized vehicle

- (a) that is used for hire as a tour vehicle; and
- (b) is primarily designed to travel over unimproved terrain, but is capable of travelling on a public road;

"articulated vehicle" means a motor vehicle drawing a trailer that is so attached to the motor vehicle by partial superimposition thereon that a substantial part of the weight of the trailer is borne by the motor vehicle;

"coach" means a motor vehicle adapted or constructed to carry not less than 11 passengers and is used for the purpose of conveying passengers, on a contractual basis but at the time of conveying does not operate as a motor omnibus, minibus or maxi-taxi;

"driver" means a person driving a motor vehicle, and includes

- (a) a person in charge of a motor vehicle for the purpose of driving, where that vehicle is stationary on a road; and
- (b) a person who steers a motor vehicle at the relevant time;

"examiner" means

- (a) in relation to a motor vehicle, a person authorised by the Licensing Authority to be a vehicle examiner under section 3;
- (b) in relation to driving test, a person authorised by the Licensing Authority to be a examiner under section 65;
- (c) a person authorised by the Licensing Authority to conduct test and examine applications for driving licenses;
- (d) a person appointed for the purpose of weighing vehicles;

"hired car" means a self-driven motor vehicle that is kept for hire or reward under a contract where payment for the use of that motor vehicle is at or for a fixed rate or amount, but does not include a motor omnibus, minibus or route-taxi;

"hired vehicle" means an all terrain vehicle, hired car, taxi, maxi-taxi, coach, limousine, or other vehicle kept for hire, but does not include a motor omnibus, minibus or route-taxi;

"limousine" means a motor vehicle

- (a) that is constructed so that;
  - (i) the wheel base is not less than 156.5 inches or 397.51 centimetres;
  - (ii) the overall length is not less than 248.0 inches or 629.92 centimetres;
  - (iii) the overall width is not less than 76.5 inches or 194.31 centimetres;

- (b) the weight of which when unladen is not less than 2350 pounds or 1150 kilograms;
- (c) the capacity of the engine of which is not less than 1900 cubic centimetres;
- (d) constructed or adapted to carry not less than 4 and not more than 12 passengers;
- (e) kept at an establishment for hire or reward; and
- (f) when driven for hire or reward, is driven by a chauffeur in uniform for the exclusive use of the hirer;

"maximum gross weight" means

- (a) in relation to a goods vehicle, the weight of that vehicle and the weight of its load;
- (b) in relation to a trailer, the weight of that vehicle and the weight of the load in respect of that vehicle as specified in the Certificate of Weight granted under the *Third Schedule*;
- (c) in relation to a motor omnibus, minibus, route-taxi, hired car or hired vehicle, the weight unladen of the motor vehicle together with the weight of the persons to be carried, the weight of each person to be carried being taken as 70 kilograms;

Third  
Schedule.

"minibus" means a motor vehicle adapted or constructed to carry not less than 15 and not more than 24 sitting passengers and 10 standing passengers and is used for hire or reward to transport passengers on a specific route;

"parking place" means a place

- (a) designated as such by the Minister by Order; and

(b) where vehicles of any particular class or description may wait;

"private motor car" means a motor vehicle other than a heavy motor cycle, light motor cycle, minibus, maxi-taxi, route-taxi, or motor omnibus constructed or adapted solely for the conveyance of not more than 10 passengers and their effects and used exclusively for private purposes and not used for hire or reward;

"route-taxi" means a motor vehicle that is constructed or adapted to carry not less than 10 passengers and not more than 15 passengers and is used for hire or reward to transport passengers on a specific route;

"sidewalk" means a pedestrian pathway or pavement at the side of a road or highway over which the public have a right to travel on foot;

"taxi" means a motor vehicle constructed or adapted to carry not more than 7 passengers for hire or reward;

"tractor" means a motor vehicle, not used for carrying passengers, that is designed and used for work in connection with

- (a) agriculture;
- (b) forestry;
- (c) land levelling;
- (d) landscaping;
- (e) dredging;
- (f) mining;
- (g) road works, including the cleaning and upkeep of highways and pavements;

- (h) warehousing activities and other related activities;
- (i) fishery; or
- (j) any other activity designated by the Minister by Order."

Amendment  
of section  
10 of Cap.  
295.

3. Section 10 of the principal Act is amended

- (a) by inserting immediately after subsection (4) the following:

"(4A) The registration number plates referred to in subsection (4) shall be manufactured by a company authorised by the Licensing Authority, and shall comply with the requirements specified by the Licensing Authority.";

- (b) in subsection (5)

- (i) by deleting the word "and" appearing at the end of paragraph (a);
- (ii) by inserting the words "; and" at the end of paragraph (b); and
- (iii) by inserting immediately after paragraph (b) the following:

"(c) in the case of a duty free agricultural vehicle, the use for which that vehicle is kept as specified in column 1 of Part IV of the *Fourth Schedule*;"

Fourth  
Schedule.



4. Section 28 of the principal Act is amended in subsection (2) by deleting the words "\$5 000 or imprisonment for 12 months" and substituting the words "\$10 000 or imprisonment for 2 years".

Amendment  
of section 28  
of Cap. 295.

5. Section 42 of the principal Act is amended by deleting subsections (2), (3) and (4) and substituting the following:

Amendment  
of section 42  
of Cap. 295.

"(2) A driver of a motor vehicle shall while driving the motor vehicle have with him a certificate of insurance in respect of the motor vehicle, and shall produce it to a member of the Police Force or Transport Inspector at the time he is required to do so.

(3) Where, owing to the presence of a motor vehicle on a public road, an accident occurs involving personal injury to another person, the driver of the motor vehicle shall produce his certificate of insurance to a member of the Police Force, to a Transport Inspector or to a person who, having reasonable grounds for so doing, has required its production, and in any case within 24 hours of the occurrence of the accident, the driver shall report the accident at a police station or to a member of the Police Force, and thereupon produce his certificate of insurance.

(4) Notwithstanding subsection (3), a person is not to be convicted of an offence under this section by reason only of failure to produce his certificate of insurance if, within 24 hours after the occurrence of the accident, he produces it in person at a police station specified by him at the time the accident was reported.

Amendment  
of section  
61 of Cap.  
295.

6. Section 61 of the principal Act is amended in subsection (3) by deleting the words "1 000 or to imprisonment for a term of 12 months" and substituting the following "\$2 500 or imprisonment for a term of 24 months or both".

Amendment  
of section 68  
of Cap. 295.

7. Section 68 of the principal Act is amended in subsection (2)

(a) by deleting the words "land tractors and motor tractors; and" appearing in paragraph (e) and substituting the following:

(e) tractors; and"; and

(b) by inserting the following:

"(f) articulated vehicles; and

(g) other classes of vehicles determined by order made by the Minister."

Amendment  
of section 74  
of Cap. 295.

8. The principal Act is amended by deleting section 74 and substituting the following:

"(1) The driver of a motor vehicle on a road

(a) shall have his driving licence in his possession;  
and

(b) shall produce it for examination on being so  
requested by a member of the Police Force

so as to enable that member of the Police Force to ascertain the name and address of the holder of the driving licence.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$2 500 or to imprisonment for a term of 2 years or both.

(3) A person shall be convicted under this section if he fails to produce his driving licence at the time its production is required in accordance with subsection (1)."

9. Section 79 of the principal Act is amended by

Amendment  
of section 79  
of Cap. 295.

(a) deleting subsection (1) and substituting the following:

"(1) Where a person

S.I. 2006  
No.

(a) pays a fixed penalty in respect of an offence listed in the Schedule to the *Road Traffic (Fixed Penalty) Order, 2006*; ~

(b) is convicted under this Act or the regulations in respect of an offence set out in the Schedule to the *Road Traffic (Fixed Penalty) Order, 2006*

the Licensing Authority shall record in respect of that person the number of demerit points set out opposite that offence in Column III of that Order";

(b) deleting subsection (8) and substituting the following:

"(8) Where a person fails to comply with subsection (7), the Licensing Authority may

(a) after serving on that person 10 days' notice by registered mail of his failure to comply with that subsection; or

(b) publish the notice referred to in paragraph (a) in a daily newspaper in circulation in Barbados and after publication

suspend the driving licence of that person until the subsection has been complied with."; and

- (c) deleting subsections (10), (11) and (13) and substituting the following:

"(10) If within a period of 1 year from the date of the conviction of the first offence a total number of 14 or more demerit points have accumulated in the record of any person, the Licensing Authority shall suspend the driving licence of that person for a period of 6 months.

(11) Where, in a period exceeding 1 year from the date of the conviction of the first offence, a total number of 18 or more demerit points have accumulated in the record of a person, the Licensing Authority shall suspend the driving licence of that person for a period of 1 year.

(13) A person whose driving licence has been suspended by the Licensing Authority under this section may within 10 days of the decision of the Licensing Authority appeal to the High Court on the computation of the demerit points in respect of the suspension, and the decision of that court is final."

Amendment  
of section  
108 of Cap.  
295.

**10. Section 108 of the principal Act is amended by deleting the words "\$1 000 or to imprisonment for a term of 12 months, or to both" and substituting "\$5 000 or to imprisonment for a term of [3 years], or to both".**

Amendment  
of Cap. 295.

**11. The principal Act is amendment by deleting section 121 and substituting the following:**

"Special  
meanings.

**121. For the Purpose of sections 121A to 121K**

**"fixed penalty" means the penalty prescribed in accordance with section 121D;**

S.I. 1984  
No. 141.

"notice" means a fixed penalty notice and information in the form set out in the Eighth Schedule of the *Road Traffic Regulations, 1984* offering the opportunity for the discharge of any liability to conviction of the offence to which the notice relates by payment of a fixed penalty in accordance with sections 121A to 121K;

S.I. 2006  
No.

"offence" means an offence listed in the *Road Traffic (Fixed Penalty) Order, 2006*;

Member of  
Police Force  
or Traffic  
Warden  
may give or  
affix notice.

121A. (1) Where a member of the Police Force or a Traffic Warden has reason to believe that an offence has been or is being committed, it shall be lawful for him to give to the driver of the motor vehicle a notice charging him with the commission of the offence and requiring him either to pay the fixed penalty within the time specified in the notice, or to appear at the magistrate's court specified in Part III of the notice on the day and at the hour stated to answer the offence charged.

(2) Subject to this section, where a member of the Police Force or a Traffic Warden has reason to believe that an offence is being or has been committed in respect of a stationary motor vehicle, and there is no driver present in the motor vehicle, the member of the Police Force or Traffic Warden may affix a notice in respect of the offence to any part of the vehicle where the notice may easily be seen.

(3) A notice affixed pursuant to subsection (2) shall for the purpose of this Act be deemed to have been given to the person liable for the offence, and notwithstanding any law to the contrary, the owner of a motor vehicle, shall for the purpose of the proceedings instituted by the notice, be presumed to be the person liable for the offence.

(4) Where a member of the Police Force or a Traffic Warden intends to proceed under subsection (1) or (2) the notice shall be given or affixed on the occasion when he had reason to believe that the offence was committed and the member of the Police Force or Traffic Warden shall forthwith send by registered mail a copy of the notice to the owner of the vehicle.

(5) The member of the Police Force or the Traffic Warden shall send to the Clerk of the Magistrate's Court in the district in which the offence is alleged to have been committed, a duplicate of the notice.

(6) At the time of

- (a) giving a notice to the driver of a motor vehicle pursuant to subsection (1); or
- (b) affixing a notice to a stationary motor car pursuant to subsection (2)

the Police Officer or Traffic Warden shall sign and date the summons appearing in Part III of the Schedule and insert the date in which the accused must appear at the Magistrate's Court.

Particulars  
to be  
specified in  
notice.

**121B.** A notice referred to in section 121A shall be signed by the member of the Police Force or Traffic Warden and shall

- (a) state the date, time and place of the giving or affixing of the notice;
- (b) contain a statement of the offence alleged;
- (c) contain such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (d) specify the period during which, by virtue of section 121C(2), proceeding may not be taken for the offence;
- (e) contain the amount of the fixed penalty;
- (f) specify Magistrate's Court or Post Office to the Clerk of which the fixed penalty is to be paid; and
- (g) specify the address of the Magistrate's Court at which the person is required to appear in the event of his failure to pay the fixed penalty within the specified time, and the date and time of appearance.

Payment of  
fixed  
penalty  
precludes  
prosecution.

**121C.** (1) Where a notice has been given under section 121A, the driver or the registered owner of the motor vehicle, may pay the fixed penalty in accordance with the notice.

(2) Payment of the fixed penalty under subsection (1) shall be made

- (a) to the Clerk of the Magistrate's Court having jurisdiction for the district in which the offence is alleged to have been committed; or
- (b) to the Clerk of the Post Office as stated in the notice given or affixed pursuant to section 121A.

(3) The time within which a fixed penalty is payable is 21 days from the date of the notice, and where payment reaches the Clerk of the Magistrate's Court or Clerk of the Post Office after that time, it shall be returned to the sender.

(4) Payment of the fixed penalty shall be accompanied by Part II of the notice which shall be completed by the driver or owner of the vehicle, in the manner prescribed.

(5) Where the fixed penalty is paid in accordance with the notice, no person shall then be liable to be convicted for the offence in respect of which the notice was given or affixed, and the proceedings instituted by the notice shall be deemed to have been dismissed.



Type and amount of fixed penalty.

**121D.** (1) A ticketing offence and the fixed penalty payable in respect of that offence shall be prescribed by the Minister by Order published in the *Official Gazette*.

(2) The Minister may amend an Order made pursuant to subsection (1) for the purpose of increasing or reducing the amount of a fixed penalty or increasing or reducing the categories of ticketing offences.

Payment of fixed penalty.

**121E.** (1) Payment of the fixed penalty shall be made to the Clerk of the Magistrate's Court or the Clerk of the Post Office as stated in the notice given or affixed pursuant to section 121A and shall be treated as if it were a fine imposed on summary conviction for an offence.

(2) Payment of the fixed penalty shall be accompanied by Part II of the notice which shall be completed by the driver of the motor vehicle or the registered owner of the motor vehicle in the manner specified.

Certificate of payment or non-payment of fixed penalty.

**121F.** In any proceedings, a certificate that payment of the fixed penalty was or was not made to the Clerk of the Magistrate's Court or the Post Office by the date specified in the certificate shall, if the certificate purports to be signed by either Clerk, be sufficient evidence of the fact stated, unless the contrary is proved.

Consequence of failure to pay or to appear.  
Cap. 116A.

**121G.** Where the fixed penalty is not paid within the time specified in the notice, Part I of the notice shall be deemed to be an information for purposes of the *Magistrate's Court Act*, and Part III of the notice shall be deemed to be a summons in accordance with the

Cap. 116A. *Magistrate's Court Act and Magistrate's Court*  
 S.I. 2001 *(Criminal Procedure) Rules, 2001*; and the Court  
 No. 98. shall treat the offence as a summary offence under  
 Cap. 295. the *Road Traffic Act*.

Notice not  
 to be  
 removed or  
 interfered  
 with. **121H. (1)** A notice affixed to a motor vehicle  
 under section 121A(2) shall not be removed or  
 interfered with except by or under the authority of

- (a) the driver or the person in charge of that  
 motor vehicle; or
- (b) the person liable for the offence in  
 question.

(2) Any person who, in contravention of  
 subsection (1), removes a notice from a motor  
 vehicle commits an offence and is liable on  
 summary conviction to a fine of \$500 or to  
 imprisonment for 6 months or to both."

Amendment  
 of Cap. 295. **12.** The principal Act is amended by deleting section 122 and  
 substituting the following:

"Special  
 regulations. **122.** The Minister may by regulations,  
 subject to affirmative resolution, make provision  
 respecting any matter incidental to the operation of  
 sections 121A and 121H and in particular for  
 prescribing

- (a) the form of notice given pursuant to  
 section 121A (4); and
- (b) the information to be supplied by the  
 person on whom the penalty is imposed  
 to the Clerk of the Magistrate's Court or  
 the Clerk of the Post Office."

13. Section 124 of the principal Act is amended in subsection (1) by deleting sub-paragraph (v) of paragraph (o) and substituting the following: Amendment of section 124 of Cap. 295.

"(v) the picking up and setting down of passengers by motor omnibuses, minibuses and route-taxis;"

14. The *Fourth Schedule* to the principal Act is amended Amendment of Fourth Schedule to Cap. 295.  
 (a) by deleting Part II thereof and substituting the following:

"Part II

Public Service Vehicles	
Column 1	Column 2
Use	Letter
All terrain vehicles	ATV
Minibus	B
Motor omnibus	BM
Coach	BT
Self driven or hired car	H
Limousine	HL
Taxi	Z
Maxi-taxi	ZM
Route-taxi	ZR.";

(b) by inserting immediately after Part III the following:

"Part IV

(section 10(c))

Duty Free Agricultural Vehicles	
Column 1	Column 2
Use  Vehicles owned by farmers and used in the business of farming.	Letter  FAR"."

Commence-  
ment.

15. The amendments directed to be made to the principal Act by sections 10, 11 and 12 of this Act shall come into operation on a date to be fixed by proclamation.