

CAYMAN ISLANDS



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THE TRAFFIC (AMENDMENT) LAW, 2006

(LAW 6 OF 2006)

THE TRAFFIC (AMENDMENT) LAW, 2006

ARRANGEMENT OF SECTIONS

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CAYMAN ISLANDS

Law 6 of 2006.

I Assent

Stuart Jack

Governor.

19 April, 2006

A LAW TO AMEND THE TRAFFIC LAW (2003 REVISION) TO MAKE CERTAIN PROVISIONS RELATING TO THE REGISTRATON AND LICENSING OF MOTOR VEHICLES; TO MAKE CERTAIN PROVISION RELATING TO DISABLED PERSONS; TO MAKE PROVISION FOR COMMERCIAL ENTITIES TO ENFORCE TRAFFIC SIGNS; TO MAKE BREATH TESTS AND DRUG TESTS MANDATORY IN CERTAIN CASES; TO VALIDATE CERTAIN ACTIONS TAKEN PURPORTEDLY UNDER THE TRAFFIC LAW AND REGULATIONS MADE THEREUNDER; AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Traffic (Amendment) Law, 2006.

Short title and commencement

(2) This Law shall come into operation on such date as the Governor in Cabinet may by Order specify and the Governor in Cabinet may appoint different dates for the coming into operation of different portions of this Law.

2. The Traffic Law (2003 Revision), in this Law referred to as “the principal Law”, is amended in section 2 by deleting the definition of “public place” and substituting the following definition -

Amendment of section 2 of the Traffic Law (2003 Revision) - definitions

‘ “public place” means any place to which the public has access as of right or upon payment or upon invitation express or implied and includes commercial property to which persons attending for commercial purposes are allowed access by the owner of those premises whether upon the payment of a fee or not;’.

Amendment of section 5
- the register

3. The principal Law is amended in section 5 (1) by deleting the words “with serial registration numbers under the prescribed registration categories” and substituting the words “with such serial registration numbers, design and dimensions as the Director may determine.”.

Amendment of section 8
- registration plates

4. The principal Law is amended in section 8 -

- (a) in subsection (2) by deleting the words “lost or destroyed” and substituting the words “lost, destroyed or rendered illegible”; and
- (b) by inserting after subsection (3) the following subsection -

“(4) Where the Director is unable to issue permanent licence plates, he may issue temporary licence plates of such design and dimensions as he may determine but such plates shall not be issued for a period exceeding three months.”.

Amendment of section 10 - termination of vehicle registration

5. The principal Law is amended in section 10 (1) (b) by deleting the words “Department of Public Health” and substituting the words “Department of Environmental Health”.

Amendment of section 14 - commencement and duration of licences; rate of duty

6. The principal Law is amended in section 14 -

- (a) in subsection (1) by deleting the words “A vehicle licence” and substituting the words “Except as provided in subsection (2A), a vehicle licence”;
- (b) by inserting after subsection (2) the following subsection -

“(2A) Where -

- (a) the motor vehicle is new and being registered for the first time in the Islands, not having been registered elsewhere before, a licence may, upon initial registration, be issued for three years and after the expiry of the initial period a licence may be issued for a period not exceeding two years.;
- (b) less than three years have passed since the date of manufacture of the motor vehicle (whether or not the motor vehicle was registered in the Islands or elsewhere before, or registered in the Islands and

elsewhere before), a licence may be issued for a period not exceeding two years.”;

- (c) in subsection (3) by deleting the words “The duty payable” and substituting the words “Except as provided in subsection (3A), the duty payable”; and
- (d) by inserting after subsection (3) the following subsection -

“(3A) A disabled person is entitled to register one motor vehicle free of duty and no duty shall be payable in respect of a vehicle registered in the name of an institution one of whose principal aims is to render assistance to disabled persons.”.

7. The principal Law is amended in section 15 (3) by deleting the words “the vehicle licence” where they first occur and substituting the words “the vehicle licence and licence plates”.

Amendment of section
15 - continuous liability
for suspension of
vehicle licence

8. The principal Law is amended in section 38 -

- (a) by deleting the full-stop and substituting a colon;
- (b) by inserting the following proviso:

Amendment of section
38 - duration of licences

“Provided that -

- (i) the Director may, in his discretion, issue a licence for a period exceeding three years but not exceeding five years;
- (ii) where an applicant has reached or passed his seventieth birthday, the Director may, subject to section 29, issue a licence to such person but the licence shall be for a period not exceeding one year.”.

9. The principal Law is amended in section 52 -

- (a) by numbering the existing section as subsection (1); and
- (b) by inserting after subsection (1) the following subsection -

Amendment of section
52 - appointment of
vehicle inspectors

“(2) Neither the government nor any inspector appointed under subsection (1) shall be liable in damages for anything done or omitted in the discharge of the functions under this Law unless it is shown that the act or omission was in bad faith, but the government shall not be liable for anything done in bad faith by an inspector who is not a civil servant.”.

10. The principal Law is amended in section 55 -

Amendment of section
55 - annual inspection of
vehicles

- (a) by deleting the marginal note and substituting it with the words “Inspection of vehicles”; and
- (b) in subsection (1), by deleting the words “within twelve months from the last inspection of that vehicle under this Part” and substituting the words “before the due date of renewal of the licence”; and

Amendment of section 70 - person charged with certain offences may be convicted of a lesser offence

11. The principal Law is amended in section 70 (b) by deleting the words “under section 68” and substituting the words “under section 68 or 69”.

Amendment of section 71- driving under the influence of drugs or alcohol

12. The principal Law is amended in section 71 -

- (a) by repealing subsection (2) and substituting the following -
“(2) Whoever is guilty of an offence under subsection (1) is liable on summary conviction -

- (a) on a first offence, to a fine of one thousand dollars and to imprisonment for six months;
- (b) on a second or subsequent offence, to a fine of two thousand dollars and to imprisonment for twelve months,

and a person convicted of an offence against this section shall, unless the court for special reasons thinks fit to order a longer period of disqualification, be disqualified for a period of twelve months from the date of conviction or the expiry of any sentence of imprisonment, as the court may order, from holding or obtaining a driver’s licence or driving any vehicle. ”; and

- (b) by inserting after subsection (2) the following subsections -
“(2A) Where under subsection (2) a disqualification is ordered to begin upon the expiry of the sentence of imprisonment, the order shall be deemed to include a disqualification from driving any vehicle during any period when the person convicted is released temporarily before the expiry of his sentence under any Law or is for any other reason not in prison, and the court making the order shall, at the time of sentencing, bring the provisions of this subsection to the attention of the person convicted.

(2B) For purposes of clarification it is declared that no order made under subsection (2) shall be held to be invalid or incomplete on the

grounds that the court did not bring the provisions of subsection (2A) to the attention of the person convicted.”.

13. The principal Law is amended in section 72 (3) by deleting the word “may” and substituting the word “shall”. Amendment of section 72 - driving or being in charge of a motor vehicle while under the influence of alcohol or drugs and causing death

14. Section 73 of the principal Law is amended - Amendment of section 73 - breath tests

(a) by inserting at the end of subsection (2) the words “but shall do so where, in the opinion of the constable, death, or injury requiring medical attention has resulted”; and

(b) by inserting after subsection (7) the following subsection -

“(8) In this section “learner driver” includes a person who holds a restricted driving licence.”.

15. The principal Law is amended by inserting after section 73 the following section - Insertion of section 73A - drug tests

“Drug tests

73A. (1) Where a constable in uniform has reasonable cause to suspect-

- (a) that a person who is supervising a learner driver of a motor vehicle on a road has taken drugs and the learner driver, while under that person’s supervision, has committed a traffic offence while the vehicle was in motion;
- (b) that a person driving or attempting to drive or who is in charge of a motor vehicle on a road has taken drugs and has committed a traffic offence while the vehicle was in motion;
- (c) that a person has been driving or attempting to drive or has been in charge of a motor vehicle on a road or has been supervising a learner driver of a vehicle on a road after taking drugs;
- (d) that a person has been driving or attempting to drive or has been in charge of a motor vehicle on a road and has committed a traffic offence while the vehicle was in motion; or
- (e) that a person is supervising a learner driver of a motor vehicle on a road and that the learner driver, while under that person’s supervision,

has committed a traffic offence while the vehicle was in motion,

that constable may, subject to section 75, require that person to provide a specimen of blood or urine under section 74.

(2) Where an accident occurs owing to the presence of a motor vehicle on a road, a constable may, subject to section 75, require any person whom he has reasonable cause to believe was driving, was in charge of the vehicle or was supervising a learner driver of the vehicle at the time of the accident, to provide a specimen of blood or urine under section 74 but shall do so when there is -

- (a) death; or
- (b) injury requiring medical attention.

(3) For the purposes of clarification, it is declared that specimens of blood or urine shall be given only in accordance with section 74.”.

Amendment of section 74 - provision of specimens for analysis

16. The principal Law is amended in section 74 (1) by deleting the words “has been arrested under section 71, 72 or 73” and substituting the words “has been arrested under section 71, 72, 73 or 73A or is being investigated by a constable with a view to determining whether he should be charged under any of those sections”.

Amendment of section 83 - ticket procedure

17. Section 83 (1) is amended by deleting “or 82” and substituting “, 82, 98 or 108”.

Insertion of section 104A - Traffic wardens

18. The principal Law is amended by inserting the following section -

“Traffic wardens 104A. (1) The Commissioner may, subject to such terms and conditions as the Governor in Cabinet may by regulation prescribe, appoint traffic wardens for the purposes of this Law and, without limiting the generality of this power, may appoint as traffic wardens persons employed by, or otherwise acting on behalf of, private commercial entities to be traffic wardens for purposes only of performing duties on the premises of the commercial entities concerned.

(2) Without limiting the generality of the power conferred by subsection (1), traffic wardens may immobilize or remove vehicles parked contrary to this Law.

(3) The regulations prescribed under subsection (1) may authorise traffic wardens to levy fees commensurate with the cost of immobilizing or removing vehicles, which fees shall be retained by way of reimbursement.”.

19. Section 108 of the principal Law is amended by inserting after subsection (4) the following subsection - Amendment of section 108 - disabled person's badge

“(4A) The Director may issue temporary badges.”.

20. The principal Law is amended in section 110 (2) by inserting at the end of that subsection the words “, but before the date of expiry of a licence, any person responsible for the issue of a driving licence may renew such licence or certificate, in which case the restriction contained in this section shall not apply.”. Amendment of section 110 - offences and penalties relating to documents

21. The Traffic (Amendment) Law, 2005 is amended by repealing section 12. Repeal of section 12 of the Traffic (Amendment) Law, 2005 - repeal and substitution of section 38 - duration of licences
Law 7 of 2005

22. (1) Vehicle licences and licence plates that were issued purportedly under the Traffic Law (2003 Revision) or any regulations made thereunder, before the commencement of this Law are validated and are to be taken to have been validly issued. Validation and saving of certain licences and licence plates

(2) After the expiry of the vehicle licences and licence plates referred to in subsection (1), the Director shall continue to renew them and otherwise treat them (as far as practicable) as if they had been issued under all relevant powers under the Traffic Law or any regulations made thereunder.

23. The charging and collection of licence fees purportedly under the Traffic Law (2003 Revision) or any regulations made thereunder, other than fees already validated under section 16 (5) of the Traffic (Amendment) Law, 2005 (in respect of driving licences), is validated and is to be taken to have been lawfully charged and collected. Validation of collection of certain licence fees

24. (1) This Law does not affect any order or determination made by a court before the coming into force of this Law. Previous and pending proceedings

(2) If any proceeding for an offence committed before the coming into force of this Law was commenced, but not finally determined, before that time, or is commenced on or after that time, the proceeding is to be dealt with and determined as if this Law had not been enacted.

Passed by the Legislative Assembly the 23rd day of March, 2006.

EDNA MOYLE

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.