

Removing Outdated Legislation

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Executive Summary

Royal Automobile Association of South Australia (RAA) represents the interests of more than 660,000 South Australians in both the metropolitan and regional areas. Our members look to RAA to represent their interests on a broad range of motoring and mobility related issues.

RAA welcomes the opportunity to respond to the State Government's initiative in removing outdated and unnecessary legislation, rules and processes.

This submission aims to highlight the views of RAA and our members on a range of issues related to outdated or cumbersome government activity, legislation and practice.

Key considerations identified by RAA members include:

- Plastic boat licences
- Different types of licences to be included on a single physical licence
- Harmonisation of L and P plate driving restrictions
- Removal of the Victims of Crime Levy from traffic infringements, particularly those related to fixed safety cameras
- Harmonisation of traffic fines and penalties
- Safety cameras and the perception of their lack of value in assisting with crash reductions
- Reduction in paper based vehicle ownership transfers and harmonisation of the process
- Greater transparency in State budget papers and budget spend
- Reintroduction of registration stickers
- Removal of the reference to the E46 Standard in Regulation 50 of the Road Traffic (Miscellaneous) Regulations

RAA is currently reviewing the Motor Vehicle Act, Road Traffic Act and Passenger Vehicle Act and will provide a separate report by the end of August on where we consider improvements can be made.

RAA appreciates there will be further opportunity to engage in this process.

Discussion

RAA values the State Government's initiative to review outdated legislation and appreciates that outdated and unnecessary rules and processes can be costly, time consuming and frustrating. RAA has identified a number of areas of potential improvement to legislation and processes. Our Member Panel was asked a number of questions in order to identify key areas of concern to our members.

Member Engagement

Driving and owning a motor vehicle in South Australia is regulated through various existing pieces of legislation related to driving, licencing, infringement and road rules. However, the legislative differences between Australian jurisdictions can often make it difficult for motorists to understand the rules applicable to a particular jurisdiction. As such, these variations may cause confusion for motorists and result in unintentional breach of law.

As part of this review, RAA engaged our Member Panel with a series of questions, seeking feedback on what changes should be implemented to improve access and mobility, reduce confusion for the motoring community and achieve greater transparency.

Overall, RAA Member Panel respondents believe there is potential to improve jurisdictional harmonisation in the motoring space.

Licencing

Boat licences

South Australian drivers' licences contain photographic identification and are made of plastic material, whereas South Australian boat licences contain no photographic identification and are made of paper. As boat licences are issued once and are valid for life, the operator of a vessel must be careful to protect the licence from damage and able to produce it to authorities upon request.

While members were supportive of the current lifetime boat licence, over 90 per cent of the Member Panel responses who currently hold a boat licence believe they should be plastic and contain information in line with other South Australian licences.

One licence for all

Approximately 8 in 10 members support all licences being coordinated onto one physical licence, reducing the need to carry and keep track of multiple licences.

Electronic or digital licences

New South Wales is currently planning the introduction of digital or electronic licences, which can be stored on smart phones or other electronic devices. This system will ultimately allow up to all of the 123 licence types in New South Wales to be stored on electronic devices, eliminating the current need to issue more than 2.8 million plastic cards each year. Approximately 55 per cent of Member Panel respondents were in support of introducing this kind of a system in South Australia. The results also shows a high percentage of respondents were not sure about this, indicating that more information is required on how such a system would work before there is greater community support for such a move.

Members were concerned that the initial introduction of electronic or digital licences could cause issues when traveling or in situations where a driver's licence is currently required for proof of identification.

L and P platers

Learning to drive is an important and potentially stressful experience for novice drivers. The numerous variations of restrictions on novice drivers between Australian jurisdictions may at times result in unintentional breach of law.

National harmonisation of driving restrictions for novice drivers would likely eliminate the confusion and frequency of novice drivers breaking the relevant state laws and facing possible loss of licence.

The results showed that 97 per cent of the RAA Member Panel agree that driving restrictions for learner and provisional drivers should be consistent for all Australian jurisdictions.

Infringement and Enforcement

When compared to other jurisdictions, South Australia is consistently within the top three most expensive jurisdictions. Demerit points issued for speeding offences are also the highest in the country for all but one speed zone. In addition, the inclusions of the Victims of Crime Levy means that a speeding offence at 20 km/h is up to \$648 more expensive in South Australia than Tasmania which has the lowest fines.

RAA continues to advocate for the review of the application of the Victims of Crime Levy on all fines. RAA strongly believes that the Victims of Crime levy should not apply to all traffic infringements due to the lack of actual victims in majority of situations. This is the view of 75 per cent of the respondents from the RAA Member Panel.

More than 80 per cent of RAA Member Panel respondents were in support of harmonising fines and penalties nationally due to the excessive South Australian fines and penalties when compared to other jurisdictions

RAA's extensive Advocacy Survey conducted in March 2016 asked a series of infringement questions and the results are comparable to the recent Member Panel survey, indicating that harmonisation is clearly a preferred option. (See Appendix 1.1)

Operationally, approximately 25 per cent of Member Panel respondents indicated that the process of nominating an alternative driver for a traffic infringement was also complex and difficult.

Demerit Points

Section 98B (1) of the Motor Vehicles Act states:

“Where a person is convicted of, or expiates an offence of a kind prescribed by the regulations, the number of demerit points prescribed by the regulations in relation to that offence is, subject to this section, incurred by that person.”

The Act does not have a definition of convictions. It has recently come to our attention that drivers, who attend court, plead guilty but for various reasons request and receive an order from the court and a conviction is not recorded are still receiving demerit points for the alleged offence.

The Courts Authority are advising motorists that the points are allocated because of the guilty plea, however this is not what Section 98B (1) says – it specifically states:

“Where a person is convicted of -----.”

It is therefore requested that either the section be changed to mirror what is actually happening or the administration process be changed to mirror the section. A definition of “convicted” should be included in the Act to clarify the situation.

Driving While Disqualified

Section 91(5) of the Motor Vehicle Act states:

“A person must not drive a motor vehicle on a road while his or her licence or learner's permit is suspended or while disqualified in this State or another State or Territory of the Commonwealth from holding or obtaining a licence or learner's permit. Maximum penalty: For a first offence - imprisonment for 6 months for a subsequent offence – imprisonment for 2 years”

The legislative penalty provisions indicate that breaches under Section 91(5) constitute a serious offence. It is understood that Section 139BD – Service and commencement of Notices of Disqualifications was enacted because the courts were uncomfortable with drivers appearing before them for breaches of Section 91(5) when those drivers were consistently indicating that they were not aware of the disqualification of their licence.

RAA is concerned that licence holders could face the prospect of imprisonment for driving while disqualified without the knowledge of that disqualification. We continue to receive reports of this happening. It is understood that those drivers have had their licences suspended under Section 70M of the Criminal Law (Sentencing) Act for unpaid fines. Given the prospect of imprisonment under Section 91(5) and the other serious implication of driving a vehicle while a licence is suspended or disqualified (such as invalidating insurance policies) it is recommended that any licence holder who is subject to suspension or disqualification must be made aware of that suspension or disqualification either by:

1. being handed a notice by a police officer under Section 47 of the Road Traffic Act

2. being present at court where a magistrate informs the persons about the said suspensions or disqualification
3. the notice of suspension or disqualification being served under Section 139BD of the Motor Vehicles Act

Therefore, changes to Section 139BD of the Motor Vehicles Act and Section 70M of the Criminal Laws (Sentencing) Act should be made to ensure motorists facing suspension or disqualification are aware of this.

Safety Cameras

South Australia accounts for approximately 7.3 per cent of population in the six Australian States and Territories. South Australia has 17.8 per cent of the fixed safety cameras operating across the country.

This is high in comparison with New South Wales, Victoria and Queensland, which have a similar population to safety camera ratio. (See Appendix 1.2)

Only 36 per cent of RAA Member Panel respondents agreed that safety cameras assist in reducing crashes on our roads. This highlights that the role of such installations is not well understood and that more should be done to provide confidence in the camera system. For this reason, RAA has previously called for the establishment of a Safety Camera Commissioner (similar to the role currently operating in Victoria) to oversee the placement and operation of the camera system coupled with the responsibility for annually reviewing and reporting on their operation.

Clearways

94 per cent of Member Panel respondents agree that Clearways play an important role in assisting traffic flow during peak periods on major routes. They also strongly support increasing the hours of operation of Clearways on congested roads to improve capacity, although the actual hours of operation were not specified.

Transfer of Ownership

Cars are consistently identified as the most important form of personal mobility for South Australian motorists. While 72 per cent of Member Panel respondents identified the process for vehicle ownership transfers as user friendly, 82 per cent of this group agreed that the current paper-based process could be easier and more secure. The majority of the respondents were aware of the requirement to use the most current registration papers for the transfer. However, feedback indicates that issues may arise if the car is registered just prior to sale and the confirmation papers have not been received.

Transfer of ownership is another area where RAA Member Panel respondents have identified an opportunity to simplify the system across jurisdictions through a harmonised process. Currently, each jurisdiction has a different process for vehicle transfers, without any clear reasoning for such. A simplified harmonised process that does not compromise vehicle safety standards and protection from rebirthing should therefore be applied in all jurisdictions.

Child Restraints

RAA has previously written to the State Government supporting the removal of the reference to the E46 Standard in Regulation 50 of the Road Traffic (Miscellaneous) Regulations, as these devices would be extremely old and therefore, may compromise the safety of a child in a crash.

RAA not only supports the removal of this section but also recommends that further changes be made to update the regulation and align it with the intent of other states. RAA is not aware of any action taken by the State Government to address this situation.

Security Monitoring Licensing

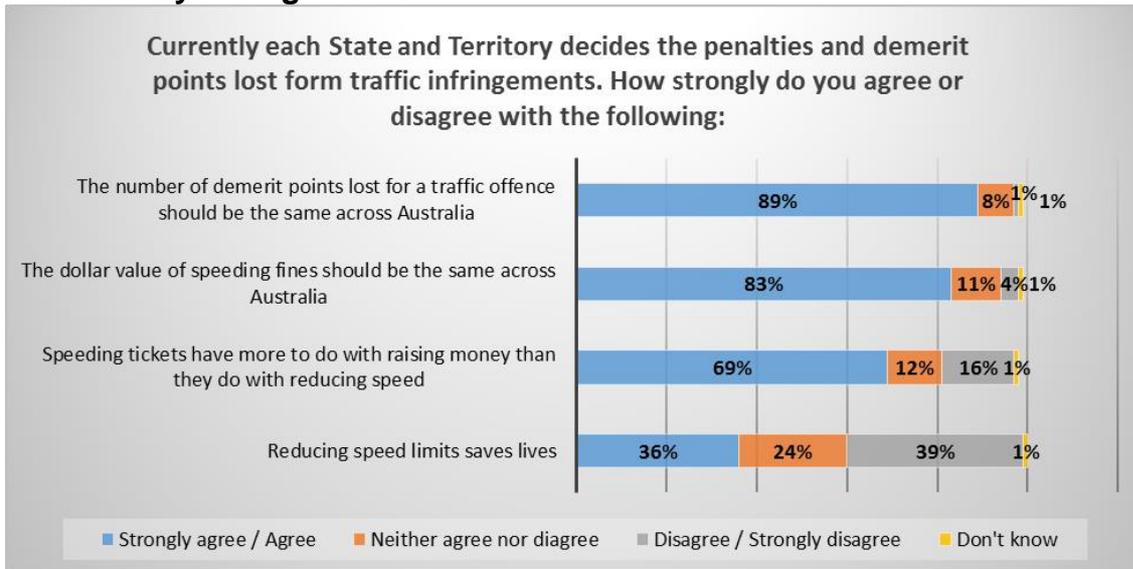
RAA has ongoing issues with the time it currently takes for new staff to obtain a Security Monitoring Licence. Currently, once a person has been engaged as a monitoring consultant, an application for a licence is made to the Office of Consumer and Business Services.

This process usually takes more than 3 months, from the time the application is lodged. As a result, the person is unable to commence work in the position that they were employed during this period. While it is understood that the system is designed to prevent sole traders who may have a criminal history from providing security services, this is restrictive for large, reputable corporate organisations, such as RAA, and affects our ability to effectively respond to growth in the area of security monitoring.

Conclusion

RAA is pleased to provide to the State Government our feedback regarding the outdated legislation and processes. RAA recognises that there will be further opportunity to comment on these issues and looks forward to working with the State Government in updating and improving the relevant legislation and processes.

1.1 Advocacy Infringements



1.2 Fixed Safety Cameras

