

ROAD TRAFFIC (AMENDMENT) ACT, 1983

No. 18



of 1983

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 44 of Cap. 69:01
3. Amendment of section 45 of principal Act
4. Amendment of section 47 of principal Act
5. Amendment of section 49 of principal Act
6. Amendment of section 51 of principal Act
7. Amendment of section 98 of principal Act
8. Amendment of section 99 of principal Act
9. Insertion of new section 99A in principal Act
10. Amendment of section 100 of principal Act
11. Amendment of section 101 of principal Act
12. Substitution of new section 104 of principal Act

An Act to Amend the Road Traffic Act

Date of Assent: 30.8.83

Date of Commencement: 9.9.83

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Road Traffic (Amendment) Act, 1983. Short title
2. Section 44 (3) of the Road Traffic Act (hereinafter referred to as "the principal Act") is amended by substituting for the words "50 kilometres per hour", wherever they appear therein, the words "60 kilometres per hour". Amendment
of section
44 of
Cap. 69:01
3. Section 45 of the principal Act is amended by renumbering the section as subsection (1) thereof and adding thereto, immediately after subsection (1), the following new subsection —
“(2) In any proceedings in respect of an offence under this section, a certificate purporting to be signed by a police officer of or above the rank of Sergeant to the effect that a Amendment
of section
45 of
principal
Act

device manufactured for the purpose of measuring the speeds at which vehicles are driven measured the speed at which any vehicle sufficiently identified in the certificate was being driven, on the day and road specified in the certificate, as the speed specified in the certificate shall, on being placed before the court by public prosecutor, be admissible in evidence without further proof thereof and the court shall presume that the vehicle so identified was, on that day and road, being driven at that speed, unless the contrary is proved.”.

Amendment
of section
47 of
principal
Act

4. Section 47 of the principal Act is amended —

- (a) in subsection (1) thereof, by substituting for the words “contained in the blood or present in the body of the accused, as ascertained by analysis of a specimen of blood taken from him by medical practitioner or of urine provided by him”, which appear therein, the words “contained in the blood of the accused, as ascertained by analysis of a specimen of blood taken from him by a qualified person”;
- (b) in subsection (3) thereof, by deleting the words “or to provide a specimen of urine”, which appear therein, and by substituting for the words “medical practitioner”, which also appear therein, the words “qualified person”;
- (c) in subsections (4) and (5) thereof, by substituting for the words “medical practitioner”, wherever they appear therein, the words “qualified person”;
- (d) in subsection (6) thereof, by inserting therein, immediately after the word “specimen”, which appears therein, the words “of blood”;
- (e) in subsection (7) thereof, by deleting the words “or a specimen of urine was provided by him”, which appear therein, and the words “or provided”, where they twice appear in paragraph (a) thereof;
- (f) in subsection (8) thereof, by deleting the words “or to provide a specimen of the urine”, which appear therein, and the words “of blood”, where they secondly appear therein;
- (g) in subsection (11) thereof, by substituting for the words “a specimen of blood or urine taken from or provided by an accused”, which appear therein, the words “a specimen of blood taken from an accused” and for the words “any specimen taken from or provided by an accused”, which also appear therein, the words “any specimen of blood taken from an accused”; and
- (h) by adding thereto, immediately after subsection (11) thereof, the following new subsection —

“(12) In this section, “qualified person” means a medical practitioner, intern or houseman, laboratory

assistant or registered nurse of or above the rank of Staff Nurse.”.

5. Section 49 of the principal Act is amended by adding thereto the following proviso —

Amendment of section 49 of principal Act

“Provided that, in the case of a person who causes the death of another person by the driving of a motor vehicle whilst he is unfit to drive through drink or drugs, he shall be liable to a fine of P5 000 and to imprisonment for 10 years.”.

6. Section 51 (2) of the principal Act is amended by substituting for the words “an offence under section 49”, which appear therein, the words “an offence under section 46 in connexion with the driving of a motor vehicle or under section 49”.

Amendment of section 51 of principal Act

7. Section 98 of the principal Act is amended by adding thereto, immediately after subsection (6) thereof, the following new subsection —

Amendment of section 98 of principal Act

“(7) Any person who contravenes or fails to comply with any of the provisions of this section shall be liable to a fine of P100.”.

8. Section 99 (2) of the principal Act is amended by substituting a comma for the full stop at the end thereof and adding thereto, immediately after paragraph (b) thereof, the words “and any person who contravenes any of the provisions of this subsection shall be liable to a fine of P200.”

Amendment of section 99 of principal Act

9. The principal Act is amended by inserting therein, immediately after section 99 thereof, the following new section —

Insertion of new section 99A in principal Act

“Offences in connexion with gates by which cattle might gain access to certain roads

99A. (1) No person shall —

- (a) open or unfasten a gate which gives access, either directly or indirectly, to a road habitually used by motor vehicles and by which cattle might gain access to the road, except for the purpose of then and there passing through the gate, with or without any vehicle or animals in his care, or of enabling some other person so to pass; or
- (b) having passed through a gate such as is referred to in paragraph (a) or enabled some other person so to pass, fail immediately to close and securely fasten the gate or ensure that it is closed and securely fastened.

(2) Where, in any proceedings in respect of a contravention of any of the provisions of this section, it is alleged in the charge that a gate gave access to a road habitually used by motor vehicles and by which cattle might have gained access to the road, the court shall presume that the allegation is true unless the contrary is proved.

(3) Any person who contravenes any of the provisions of this section shall be liable to a fine of P200.”.

Amendment
of section
100 of
principal
Act

10. Section 100 (1) of the principal Act is amended by —
- (a) substituting for paragraph (b) thereof the following new paragraph —
- “(b) leaves on a road any timber, stones or other material so as to obstruct or endanger persons using the road or wilfully or negligently deposits or causes or permits to be deposited upon a road or any land reserved therefor at the side or sides thereof any petrol or other liquid fuel or any oil, grease or other inflammable or offensive matter or any ashes, bottle, can, tin, carton, food remnants or other refuse or litter whatsoever;” and
- (b) inserting therein, immediately after the words “shall be guilty of an offence”, which appear therein, the words “and liable to a fine of P100”.

Amendment
of section
101 of
principal
Act

11. Section 101 of the principal Act is amended by adding thereto, immediately after subsection (3) thereof, the following new subsection —

“(4) Any person who contravenes any of the provisions of this section shall be liable to a fine of P200.”.

Substitution
of new
section 104
of principal
Act

12. The principal Act is amended by substituting for section 104 thereof the following new section —

“Penalties 104. Any person who contravenes or fails to comply with any of the provisions of this Part shall be guilty of an offence and liable, unless some other penalty is provided therefor, to a fine of P50.”.

PASSED by the National Assembly this 1st day of August, 1983.

B.K. TEMANE,
Clerk of the National Assembly.