

Transport and Other Legislation Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 89

made under the

Adult Proof of Age Card Act 2008

State Penalties Enforcement Act 1999

Transport Operations (Road Use Management) Act 1995

General Outline

Short title

Transport and Other Legislation Amendment Regulation (No. 1) 2015

Authorising laws

Section 49 of the *Adult Proof of Age Card Act 2008*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 171 of the *Transport Operations (Road Use Management) Act 1995*

Policy objectives and the reasons for them

The primary policy objective of the *Transport and Other Legislation Amendment Regulation (No. 1) 2015* (the amendment regulation) is to enhance road safety by discouraging repeat mobile phone use by drivers. Driver distraction has been identified as one of the major causes of road crashes. Using a mobile phone while driving is distracting and has been shown to increase crash risk by four times. Text messaging by drivers is especially dangerous, with potentially four times as much time spent looking away from the road than when not texting. The amendment regulation will introduce double demerit points for repeat mobile phone offences committed by a driver within a one year period.

The amendment regulation will also allow an adult proof of age card to be issued free of charge to a person who surrenders their driver licence or whose licence is cancelled on medical grounds. This is intended to provide an alternative identity document free of charge to ensure that the cost of the card is not a disincentive to a person surrendering their licence where it may no longer be safe for them to drive.

The amendment regulation also contains a number of minor enhancements to transport regulations.

Achievement of policy objectives

Repeat mobile phone offences

Amendments to the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2010* (the Driver Licensing Regulation) will apply double demerit points to the traffic history of drivers who commit multiple mobile phone offences within a one year period.

This will apply in relation to:

- the offence for any driver who uses a hand-held mobile phone while driving (see section 300 of the Queensland Road Rules); and
- the offence for certain young drivers who use a mobile phone in any mode (for example, on speaker or via Bluetooth) while driving (see section 68 of the Driver Licensing Regulation).

These are currently three demerit point offences that will, under the changes, attract an additional three demerit points for a second or subsequent offence within one year. The person will not need to commit the same offence the second or subsequent time for double demerit points to apply. For example, the person could commit a first offence by using a mobile phone on loudspeaker while a relevant young driver and commit a second offence by engaging in a phone call holding the phone in their hand.

Under existing provisions within the Driver Licensing Regulation, double demerit points are already applied for repeat driver seatbelt offences, motorcycle helmet offences and offences of speeding more than 20 kilometres per hour over the speed limit where the subsequent offence is committed within one year of an earlier offence. The amendments will apply this same approach to repeat mobile phone offences to assist in addressing the issue of driver distraction and to discourage repeat mobile phone use while driving.

To ensure drivers are aware of the effect of the amendments, a courtesy notice will be issued when a mobile phone offence is recorded on a driver's traffic history, advising them that if they commit a second or subsequent mobile phone offence within a one year period, double demerit points will apply.

Adult proof of age cards

An adult proof of age card is available for a fee as an alternative form of photo identification for a person who does not hold a driver licence. Amendments will be made to the *Adult Proof of Age Card Regulation 2010* to allow the issue of an adult proof of age card free of charge to a person who surrenders their driver licence or whose licence is cancelled on medical grounds. This is intended to ensure the cost of an adult proof of age card is not a disincentive to a person surrendering their licence where it may no longer be safe for them to drive. The free card will be available once only.

Minor amendments

The amendment regulation will also make a number of minor amendments to enhance transport regulations including amendments to:

- remove the requirement to destroy a superseded driver licence;
- allow guidelines for the safe movement of vehicles to be published on the department's website, rather than published in the Government Gazette;
- update references and remove redundant provisions, such as removing references to laminate driver licences which have been replaced with smartcard driver licences; and
- update the *State Penalties Enforcement Regulation 2014* as a result of the changes outlined above.

Consistency with policy objectives of authorising law

The amendments are consistent with the policy objectives in section 3 of the *Transport Operations (Road Use Management) Act 1995* including, in particular, the objective of improving road safety.

The amendments are also consistent with the policy objectives in section 3 of the *Adult Proof of Age Card Act 2008* which include allowing the chief executive to issue a card that may be used by a person as evidence of the person's age.

Inconsistency with policy objectives of other legislation

The amendments are not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

Any costs associated with the application of double demerit points to mobile phone offences, or the issue of adult proof of age cards without charge to persons who surrender their driver licence or have it cancelled on medical grounds, will be met from within existing budget allocations.

The remaining amendments are minor in nature and will not have a significant cost impact on government or other stakeholders. Allowing guidelines for the safe movement of vehicles to be published on the Department of Transport and Main Roads' website will result in some efficiencies and a minor reduction of costs for the department.

Consistency with fundamental legislative principles

The amendments to apply double demerit points to the traffic history of drivers who commit multiple mobile phone offences within a one year period may raise issues relating to the fundamental legislative principles. There is the potential, through the accumulation of demerit points, for a person's driver licence to be suspended for a period. This may result in a restriction on that person's mobility.

It is important to note, however, that the demerit point changes in the amendment regulation will only impact on those drivers who commit multiple mobile phone offences within a one year period. The amendments will not impact on those drivers who comply with the laws governing mobile phone use while driving or on those who commit a single mobile phone offence within a one year period. In this way, the impact of these amendments is entirely avoidable.

Driver distraction, including distraction caused by mobile phone use, has been identified as a contributing factor in a significant number of road crashes. The Queensland Police Service now lists driver distraction and inattention as one of its *Fatal Five* contributing factors. In 2014, more than 25,000 penalty infringement notices were issued for mobile phone offences committed by drivers. The application of double demerit points to a second or subsequent offence committed within one year reflects the serious road safety risk presented by repeated contraventions of the laws governing mobile phone use while driving.

To ensure drivers are fully aware of the demerit point changes in this amendment regulation, when a mobile phone offence is recorded on a person's traffic history, a courtesy notice will be issued to them advising them that if they commit a second or subsequent mobile phone offence within the following one year period, double demerit points will be applied in relation to that offence.

Consultation

The amendments to apply double demerit points for mobile phone offences arose out of the *Safer Roads, Safer Queensland* forum held on 10 April 2015 and attended by key stakeholders, including the Royal Automobile Club of Queensland, the Centre for Accident Research and Road Safety – Queensland, Bicycle Queensland, the Motorcycle Riders' Association Queensland and the Queensland Trucking Association.

Due to the minor nature of the other amendments, no public consultation was undertaken.