

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

MOTOR CAR AMENDMENT ACT 2014

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WHEREAS it is necessary to amend the Motor Car Act 1951 to update the provisions for the impoundment of vehicles, to increase the types of offences for which a vehicle may be impounded, and to include a permit fee for the operation of a place as an impound lot;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Motor Car Act 1951 ("the principal Act"), may be cited as the Motor Car Amendment Act 2014.

Repeals section 123B

2 Section 123B of the principal Act is repealed and replaced with—

"Seizure, towing and impoundment of motor vehicles

123B (1) A police officer may seize a motor vehicle and drive it to or have it towed to, and impounded at, a pound in circumstances where he on reasonable grounds believes that the driver of the motor vehicle is driving—

- (a) with a blood alcohol concentration that exceeds the prescribed limit, contrary to section 35A of the Road Traffic Act 1947;
- (b) when his ability to drive is impaired by alcohol or a drug, contrary to section 35AA of the Road Traffic Act 1947;

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- (c) under the influence of a dangerous drug, contrary to section 35B of the Road Traffic Act 1947;
- (d) while disqualified, contrary to section 43(1) of the Road Traffic Act 1947 or section 123 of the Motor Car Act 1951;
- (e) without holding a valid driving licence, contrary to section 9(1) of the Auxiliary Bicycles Act 1954 or section 74 of the Motor Car Act 1951;
- (f) an unlicensed vehicle, contrary to section 17 of the Auxiliary Bicycles Act 1954 or section 52(2) of the Motor Car Act 1951;
- (g) an unregistered motor vehicle, contrary to section 23 of the Auxiliary Bicycles Act 1954 or the section 65 of the Motor Car Act 1951;
- (h) or causing or permitting any other person to drive without a policy of insurance, contrary to section 3(2) of the Motor Car Insurance (Third-Party Risks) Act 1943.

(2) A police officer may seize a motor vehicle and drive it to or have it towed to, and impounded at, a pound in circumstances where the driver of the motor vehicle, when demanded by a police officer, fails or refuses to provide a sample of breath, blood, urine or other bodily substance, contrary to section 35C of the Road Traffic Act 1947.

(3) A police officer may seize a motor vehicle and drive it to or have it towed to, and impounded at, a pound in circumstances where the driver of a motor vehicle, when required by a police officer—

- (a) fails or refuses to give his name and address, contrary to section 38(1) of the Auxiliary Bicycles Act 1954;
- (b) fails or refuses to give his name and address, contrary to section 112(1) of the Motor Car Act 1951.

(4) A police officer may seize a motor vehicle and drive it to or have it towed to, and impounded at, a pound in circumstances where the motor vehicle is being driven—

- (a) in such a condition that it is unsafe to ride or is likely to cause injury or damage to persons or property, contrary to section 12 of the Auxiliary Bicycles Act 1954;
- (b) in such a condition that it causes undue or unnecessary noise, contrary to section 13(1) or 13(2) of the Auxiliary Bicycles Act 1954;
- (c) in such a condition that it is likely to cause injury or damage to persons or property, or to cause unnecessary noise, vibration, smoke or smell, contrary to section 41 of the Road Traffic Act 1947;

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(d) with unauthorized tinted film, sunshading material or other coloured material affixed to windscreen or window, contrary to regulation 20 of the Motor Car (Construction, Equipment and Use) Regulations 1952.

(5) A police officer may seize a motor vehicle and drive it to or have it towed to, and impounded at, a pound in circumstances where the driver of the motor vehicle is arrested under section 33 of the Road Traffic Act 1947, section 115 of the Motor Car Act 1951 or section 41 of the Auxiliary Bicycles Act 1954.

(6) A police officer may, for the purposes of seizing a motor vehicle, enter any building or place (other than a private dwelling house) where he has reason to believe the motor vehicle to be. A private dwelling house does not include any garage or land appurtenant to the dwelling house.

(7) Personal property present in or on a motor vehicle that has been seized, other than personal property attached to or used in connection with the operation of the motor vehicle, shall be returned to the owner of the property upon request and proof of ownership.”.

Inserts section 123J

3 The principal Act is amended by inserting the following after section 123I—

“Operating a place as a pound

123J An applicant for a permit to operate a place as a pound shall, on approval of the application in respect of that place, pay the fee set forth in Schedule 1D.”.

Inserts Schedule 1D

4 The principal Act is amended by inserting the following after Schedule 1C—

“SCHEDULE 1D

(Section 123J)

PERMIT FEE TO OPERATE A POUND

Initial Permit Fee (valid for 3 years)	\$5,000
Renewal Permit Fee (valid for an additional 3 years)	\$10,000

Related amendments

5 (1) The Traffic Offences (Penalties) Act 1976 is amended—

(a) in section 1 in the definition of “driver’s licence” by deleting “73” and substituting “74”, and by deleting “76” and substituting “79”;

(b) in Schedule 1 in the first item on the Motor Car (Construction, Equipment and Use) Regulations 1952—

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- (i) in “Head 2” by deleting “20A” and substituting “20”,
- (ii) by deleting “Head 3” and substituting—

“ Head 3: Defective safety glass; unauthorized tinted film, sunshading material or other coloured material affixed to windscreen or window ”.

- (2) The Motor Vehicle Impounding Regulations 2010 are amended—
 - (a) by inserting the following after regulation 6—

“Appeal

6A (1) An applicant for a permit aggrieved by a decision of the Minister to refuse to grant a permit may appeal to the Supreme Court within one month of being notified of the decision.

(2) The practice and procedure on an appeal under this regulation shall be governed by the rules of the Supreme Court.”;

- (b) by inserting the following after regulation 7—

“Permit fee

7A If the Minister grants a permit under regulation 6, the applicant shall pay the fee set forth in Schedule 1D to the Motor Car Act 1951.”;

- (c) in regulation 9 by deleting paragraphs (a) and (b) and substituting—

“(a) the requirements of regulation 4 continue to be met at the time of the application;

(b) the operator is not in breach of the conditions set out in regulation 7; and

(c) the operator pays the renewal fee set forth in Schedule 1D to the Motor Car Act 1951.”.

Commencement

6 This Act shall come into operation on such date as the Minister may appoint by notice in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Motor Car Act 1951 (“the principal Act”) to update the provisions for the impoundment of vehicles, to increase the offences for which a vehicle may be impounded and to include a permit fee for the operation of an impound lot.

Clause 1 provides the title of the Bill.

Clause 2 repeals section 123B of the principal Act and replaces it by increasing the offences for which the police may impound a vehicle. These offences include:

- a) driving with a blood alcohol concentration over the prescribed limit;
- b) driving under the influence of alcohol, drugs or a dangerous drug;
- c) driving while disqualified and without possessing a valid driving licence;
- d) failing or refusing to provide a sample of breath, blood, urine or bodily substance when demanded by a police officer;
- e) driving an unlicensed, unregistered or uninsured vehicle;
- f) failing or refusing to give name and address;
- g) driving a vehicle with unauthorized tinted film;
- h) driving a vehicle that is in a defective condition likely to cause injury or damage, or that causes unnecessary noise, smoke or smell.

Clause 3 provides that Schedule 1D to the principal Act lists the fee for a permit to operate an impound lot.

Clause 4 inserts Schedule 1D to the principal Act providing both an initial permit fee and a renewal permit fee to operate a pound.

Clause 5 provides related amendments to—

- a) the Traffic Offences (Penalties) Act 1976 to provide (i) the correct section references in the definition of “driver’s licence” and (ii) the correct references in the item on tinted film in the Motor Car (Construction, Equipment and Use) Regulations 1952;
- b) the Motor Vehicle Impounding Regulations 2010 to provide that: (i) an applicant may appeal to the Supreme Court should the Minister refuse to grant his application to operate a place as a pound and (ii) the permit fee payable by an applicant is the fee provided in Schedule 1D to the principal Act.

Clause 6 provides the commencement of the Bill.