

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5157 GIBRALTAR Thursday 27th June 2024

B. 19/24

BILL

FOR

AN ACT to amend the Traffic Act 2005.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Traffic (Amendment) Act 2024.

Commencement.

2. This Act comes into force on the day of publication.

Amendment of the Traffic Act 2005.

3.(1) The Traffic Act 2005 is amended in accordance with this section.

(2) In section 39, after subsection (2) insert-

“(3) This section does not apply where a person is convicted of an offence by virtue of section 75.”.

(3) In section 62 –

(a) in subsection (1), for “on a public place” substitute “on a road or other public place”;

(b) in subsection (2) for “which is on a public place” substitute “which is on a road or other public place,”.

(4) In section 63 –

(a) in subsection (1)(a) for “on a public place” substitute “on a road or other public place”;

(b) in subsection (1)(b) for “on a public place” substitute “on a road or other public place”.

(5) In section 63B(8) for “section 63B” substitute “section 63C or 63D”.

(6) In section 65 –

(a) in subsection (1) before “62, 63 or 63A” insert “45B,”;

(b) in subsection (2)(c) before “62 or 63A” insert “45B,”.

(7) In section 71, after subsection (3) insert-

“(4) This section does not apply where a person is convicted of an offence contrary to sections 62, 63, 63A, 63B or 65(5) by virtue of section 75.”.

(8) For section 75 substitute –

“75.(1) The sections of Parts III and IV listed in column 1 of the Table shall, subject to the provisions of this section and to the additional modifications contained in column 2 of the Table, apply to persons riding bicycles and operating personal light electric transporters, and to drivers of horse-drawn vehicles as they apply to drivers of motor vehicles, and references in those sections to motor vehicle drivers and driving shall be construed accordingly.

COLUMN 1	COLUMN 2
Section 45 (causing death by reckless or dangerous driving)	
Section 45A (causing death by careless, or inconsiderate, driving)	
Section 45B (causing death by careless driving when under the influence of drink or drugs)	
Section 46(1) (careless driving)	
Section 47(1) (reckless or dangerous driving)	
Section 48 (power to convict of reckless or dangerous driving on trial for manslaughter)	
Section 49 (power to proceed on charge of careless driving on hearing of charge for reckless driving)	
Section 52 (restriction on prosecutions under the preceding sections)	In so far as it relates to offences under sections 46 and 47 but with the omission of the reference to registered owners
Section 53 (duty to give name and address and to stop: power to arrest)	To be read as if the reference to producing a driving licence in subsection (2) were omitted
Section 54 (accidents)	

Section 62 (Driving, or being in charge, when under the influence of drink or drugs)	
Section 63 (Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit)	
Section 63A (Driving or being in charge of a motor vehicle with concentration of specified controlled drug above specified limit)	
Section 63B (Power to administer preliminary tests)	
Section 63C (Preliminary breath test)	
Section 63D (Preliminary drug test)	
Section 63E (Arrest)	
Section 63F (Power of entry)	
Section 64 (Arrests on suspicion of having alcohol in the body)	
Section 65 (Provision of specimens for analysis following arrest)	
Section 66 (Specimens of breath)	
Section 67 (Protection for hospital patients)	
Section 68 (Detention of persons affected by alcohol or a drug)	
Section 69 (Use of specimens in proceedings for an offence under sections 62, 63 or 63A)	
Section 70 (Documentary evidence as to specimens in such proceedings)	
Section 72 (Protection of officers in relation to arrest of persons suspected of being over the prescribed limit)	To be read as if the reference to “an offence under this Part” included an offence by virtue of section 75

- (2) A person guilty of an offence under section 45 by virtue of this section shall be liable on conviction on indictment to imprisonment for 14 years.
- (3) A person guilty of an offence under section 45A or 45B by virtue of this section shall be liable -
 - (a) on summary conviction to a fine at level 5 on the standard scale or to imprisonment for 12 months or to both;
 - (b) on conviction on indictment to imprisonment for five years and to a fine.

- (4) A person guilty of an offence by virtue of this section shall be liable on summary conviction to the following penalties-
 - (a) in the case of a conviction under section 46(1) to a fine at half the amount at level 3 on the standard scale and in the case of a second or subsequent conviction to a fine at level 3 on the standard scale;
 - (b) in the case of a conviction under section 47(1) to a fine at level 3 on the standard scale and in the case of a second or subsequent conviction to a fine at twice the amount at level 3 on the standard scale or imprisonment for six months;
 - (c) in the case of a conviction under section 62, 63, 63A, 63B or 65 to a fine at level 4 on the standard scale or imprisonment for 6 months or to both.
- (5) In determining whether a conviction under section 46(1) or 47(1) is a second or subsequent conviction -
 - (a) where it is a conviction in connection with the driving of a motor vehicle any previous conviction by virtue of this section shall be disregarded;
 - (b) where it is a conviction by virtue of this section any previous conviction in connection with the driving of a motor vehicle shall be disregarded.
- (6) For the avoidance of doubt, the provisions of section 73 (Interpretation) apply to the interpretation of the provisions of Part IV as extended to personal light electric transporters and bicycles by virtue of section 75.”.

EXPLANATORY MEMORANDUM

This Bill makes amendments to the Traffic Act 2005.

The Bill replaces section 75 to confirm that certain traffic offences can be committed by cyclists and operators of personal light electric transporters, as well as by drivers of motor vehicles.

This amendment confirms that section 75 of the Traffic Act extends certain provisions of Part IV of the Traffic Act to bicycles and personal light electric transporters to make it clear that drink driving is a criminal offence, whether using a motor vehicle, bicycle or personal light electric transporter. Sections 45, 45A and 45B which relate to causing death by driving offences are now similarly extended to personal light electric transporters and bicycles. The penalties for drink driving offences are increased to reflect their seriousness.

The Bill makes amendments to disapply section 39 and 71 on disqualification when an offence is committed on a personal light electric transporter or bicycle.

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