

THE OFFICIAL GAZETTE 11TH JULY, 2008

LEGAL SUPPLEMENT – C

BILL No. 10 of 2008

Friday 11th July, 2008

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

11th July, 2008.

The following Bill which will be introduced in the National Assembly is published for general information.

S. E. Isaacs,
Clerk of the National Assembly.



GUYANA

BILL No. 10 OF 2008

MOTOR VEHICLES AND ROAD TRAFFIC (AMENDMENT) BILL 2008

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 2 of the Principal Act.
3. Insertion of new section 2A in the Principal Act.
4. Amendment of section 11 of the Principal Act.

5. **Amendment of section 13 of the Principal Act.**
6. **Insertion of new section 37A in the Principal Act.**
7. **Insertion of new section 55A in the Principal Act.**
8. **Amendment of section 106 of the Principal Act.**
9. **Insertion of new section 106A in the Principal Act.**

**A BILL
Intituled**

AN ACT to amend the Motor Vehicles and Road Traffic Act.

A.D. 2008.

Enacted by the Parliament of Guyana:-

**Short title.
Cap. 51:02.**

1. This Act, which amends the Motor Vehicles and Road Traffic Act, may be cited as the Motor Vehicles and Road Traffic (Amendment) Act 2008.

**Amendment of
section 2 of the
Principal Act.
Cap. 51:02.**

2. Section 2 of the Principal Act is amended by inserting, immediately before the definition of "division", the words-

"all terrain vehicle" or "ATV" means a motor vehicle -

- (a) specially designed, constructed and adapted for the movement of people or goods on public roads, unprepared surfaces or off highway trails;
- (b) with three or more wheels with low pressure tyres;
- (c) that does not exceed seventy inches in width and one thousand pounds when unladen.

Insertion of new section 2A in the Principal Act. Cap. 51:02.

3. The Principal Act is amended by the insertion immediately after section 2 of a new section 2A as follows-

“ATV to be treated as a motor vehicle.

2 A. For the avoidance of doubt, an ATV shall accordingly be treated as a motor vehicle in its weight category for the purposes of being registered and licensed under this Act and for the purposes of being insured under the Motor Vehicles Insurance (Third Party Risks) Act.”

Cap. 51:03.

Amendment of section 11 of the Principal Act. Cap. 51:02.

4. Section 11 of the Principal Act is amended by the substitution for the words “shall be guilty of an offence” the words “commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for three months”.

Amendment of section 13 of the Principal Act. Cap. 51:02.

5. Section 13 of the Principal Act is amended by the substitution for the words “shall be guilty of an offence” the words “commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and to imprisonment for three months”.

Insertion of new section 37 A in the Principal Act. Cap. 51:02.

6. The Principal Act is amended by the insertion immediately after section 37 of a new section 37A as follows-

“Restrictions on the use of hand-held mobile telephones while driving.

37 A. (1) Subject to subsection (3), a person shall not drive a motor vehicle on any road while he is using –

- (a) a hand-held mobile telephone; or
- (b) a similar hand-held device.

(2) A person shall not use a hand-held mobile telephone or a similar hand-held device while supervising the driving of the holder of a provisional licence.

(3) Subsections (1) and (2) shall not apply to-

- (a) any person using a hands-free mobile telephone or one so equipped as to allow the use of either hand;
- (b) any person using a hand-held mobile telephone or other similar hand-held device for the sole purpose of communicating an emergency situation to the disciplined forces, ambulance service or a registered medical practitioner; or
- (c) any person who is the operator of an authorised emergency vehicle in the performance of his official duties.

(4) A person who drives a motor vehicle on any road in contravention of subsection (1) or (2) commits an offence and is liable on summary conviction -

- (a) in the case of a first offence, to a fine of not less than five thousand dollars nor more than ten thousand dollars;

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- (b) in the case of a second or subsequent offence, to a fine of not less than ten thousand dollars nor more than fifteen thousand dollars.

(5) For the purposes of this section-

- (a) a mobile telephone or other device is to be treated as hand-held if it is required to be held at some point during the course of making or receiving a call or performing any other interactive communication function;
- (b) "similar hand-held device" means a device other than a two-way radio which performs an interactive communication function by transmitting data; and
- (c) "interactive communication function" includes the following-
 - (i) sending or receiving oral or written messages;
 - (ii) sending or receiving facsimile documents;
 - (iii) sending or receiving still or moving images; or
 - (iv) providing access to the internet."

Insertion of new section 55-A in the Principal Act. Cap. 51:02.

7. The Principal Act is amended by the insertion immediately after section 55 of a new section 55A as follows-

"Restriction of all terrain vehicle carrying more passengers than constructed to carry.

55 A. (1) It shall not be lawful for more than one person other than the driver to be carried on an ATV unless it was originally constructed for the carriage of more than one person.

(2) If any person is carried on or in an ATV in contravention of subsection (1), each of the persons carried shall be liable-

(a) in the case of a first conviction, to a fine of not less than five thousand dollars nor more than ten thousand dollars; and

(b) in the case of a second or subsequent conviction to fine of not less than ten thousand dollars nor more than twenty thousand dollars."

Amendment of section 106 of the Principal Act. Cap. 51:02.

8. Section 106 of the Principal Act is amended by the deletion of the words "identification mark," and "certificate of registration".

Insertion of new section 106 A in the Principal Act. Cap. 51:02.

9. The Principal Act is amended by the insertion immediately after section 106 of a new section 106 A as follows-

"Fraudulent imitation, etc. of identification mark or certificate of registration.

106 A. Any person who fraudulently imitates, alters or uses, or fraudulently lends or allows to be used by any other person any identification mark or certificate of registration issued or deemed to have been issued on registration of a vehicle under this Act is liable to a fine of one million dollars together with imprisonment for two years."

Insertion of new section 55 A in the Principal Act. Cap. 51:02.

7. The Principal Act is amended by the insertion immediately after section 55 of a new section 55A as follows-

“Restriction of all terrain vehicle carrying more passengers than constructed to carry.

55 A. (1) It shall not be lawful for more than one person other than the driver to be carried on an ATV unless it was originally constructed for the carriage of more than one person.

(2) If any person is carried on or in an ATV in contravention of subsection (1), each of the persons carried shall be liable-

- (a) in the case of a first conviction, to a fine of not less than five thousand dollars nor more than ten thousand dollars; and
- (b) in the case of a second or subsequent conviction to fine of not less than ten thousand dollars nor more than twenty thousand dollars.”.

Amendment of section 106 of the Principal Act. Cap. 51:02.

8. Section 106 of the Principal Act is amended by the deletion of the words “identification mark,” and “certificate of registration”.

Insertion of new section 106 A in the Principal Act. Cap. 51:02.

9. The Principal Act is amended by the insertion immediately after section 106 of a new section 106 A as follows-

“Fraudulent imitation, etc. of identification mark or certificate of registration.

106 A. Any person who fraudulently imitates, alters or uses, or fraudulently lends or allows to be used by any other person any identification mark or certificate of registration issued or deemed to have been issued on registration of a vehicle under this Act is liable to a fine of one million dollars together with imprisonment for two years.”.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Motor Vehicles and Road Traffic Act, Cap. 52:01.

Clause 2 amends section 2 of the Act to insert a definition of ATV which provides for the use of all terrain vehicles (ATV) on public roads and off highway trails.

Clause 3 inserts a new section 2A to identify clearly that an ATV shall be treated as a motor vehicle in its weight category for the purposes of registration, licensing and insurance.

Clauses 4 and 5 amend the Act to increase the penalties for offences committed under sections 11 and 13 of the Act. The offences are –

- (a) driving an unregistered motor vehicle on the road; and
- (b) driving a motor vehicle without identification mark.

Clause 6 inserts a new section 37A which restricts the use of hand-held mobile telephones by persons driving motor vehicles.

The new section 37 A prohibits every person from driving a motor vehicle on any road if he is using a hand-held mobile telephone or similar hand-held device. Further, driving instructors are prohibited from using hand-held mobile telephones or similar hand-held devices while supervising a learner driver. Certain persons are however exempted under the new section 37 A. These persons include the persons using hands-free mobile

telephones, persons communicating with emergency personnel such as the police, fire service or a registered medical practitioner and persons operating an authorised emergency vehicle in the performance of their official duties.

Clause 7 inserts a new section 55A which restricts persons from using an ATV for carrying more passengers than what it is constructed to carry.

Clauses 8 and 9 remove the words "identification mark" and "certificate of registration" from section 106 and inserts a new section 106 A which provides harsher penalties for any person who fraudulently imitates, alters or uses, or fraudulently lends or allows to be used by any other person any identification mark or certificate of registration issued or deemed to have been issued on registration of a vehicle under the Act. These offences are more than often committed in support of some other criminal activity, for e.g., robberies, evasion from payment of the requisite taxes, etc.

The amendments under clauses 4, 5, 8 and 9 are intended to deter offenders from committing the said offences.



Minister of Home Affairs