

~~19/08/2018~~ (b2)

ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL, 2018

Arrangement of Sections

Section

1.	Short title and commencement.....	2
2.	Amendment of section 21 of the principal Act.	2
3.	Amendment of section 34 of the principal Act.	3
4.	Amendment of section 36 of the principal Act.....	3
5.	Insertion of new section 46A into the principal Act.	3
6.	Repeal and replacement of section 59 of the principal Act.	5
7.	Repeal and replacement of section 60 of the principal Act.	5



ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL, 2018

A BILL FOR AN ACT TO AMEND THE ROAD TRAFFIC ACT TO REQUIRE THE PAYMENT OF OUTSTANDING FINES IN RESPECT OF TRAFFIC OFFENCES BEFORE THE GRANT OF A DRIVING LICENCE; TO REQUIRE THE IMMEDIATE PRODUCTION OF A CERTIFICATE OF INSURANCE, DRIVING LICENCE UPON THE REQUEST OF A POLICE OFFICER; AND TO PROHIBIT THE USE OF ELECTRONIC COMMUNICATION DEVICES WHILE DRIVING

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the Road Traffic (Amendment) (No. 2) Act, 2018.
- (2) This Act shall come into force on such date to be appointed by the Minister by notice to be published in the *Gazette*.

2. Amendment of section 21 of the principal Act.

Subsection (1) of section 21 of the principal Act is deleted and the substituted as follows —

- “(1) Any person driving a motor vehicle on a road shall, on being so required by a police officer, give his name and address and the name and address of the owner of the motor vehicle and produce the certificate of insurance immediately, and if he fails so to do he shall be guilty of an offence and shall be liable on summary conviction to a fine of two hundred dollars or to imprisonment for a term of three months or to both such fine and imprisonment.”.

3. Amendment of section 34 of the principal Act.

Subsection (6) of section 34 of the principal Act is deleted and the substituted as follows —

“(6) Every applicant for a licence to drive a motor vehicle shall, before being granted a licence, pay —

- (a) all outstanding fines in respect of an offence under this Act; and
- (b) the appropriate fee specified in the *Schedule* to this Act:

Provided that no fee specified in the *Schedule* shall be required to be paid —

- (a) by the Governor-General; or
- (b) by —
 - (i) the head of, or any member of the diplomatic, administrative, or technical staff of a diplomatic mission;
 - (ii) any consular officer or consular employee;
 - (iii) any member of an International Organisation approved for the purposes of this Act by the Minister responsible for External Affairs, Bahamas at the date of the commencement of his employment; or
- (c) by any member of the family forming part of the household of any of the persons referred to in paragraph (b)(i), (ii) and (iii) of this proviso who is not a citizen of The Bahamas.”

4. Amendment of section 36 of the principal Act.

Section 36 of the principal Act is amended in subsection (6) by the insertion immediately after the words “Act” the words “and after all outstanding fines have been paid”. —

5. Insertion of new section 46A into the principal Act.

The principal Act is amended by the insertion immediately after section 46 of the following new sections —

“46A. Use of electronic communication devices while driving.

- (1) Subject to subsection (3), a person shall not drive or operate a vehicle on a road while using an electronic communication device, whether by holding in one hand or both hands or with any other part of the body or otherwise, unless the electronic communication device —
 - (a) is attached to the motor vehicle, or is a part of a fixture in the vehicle and remains affixed while being used or operated; or

- (b) is specially adapted or designed to be affixed to the person of the driver or operator as a hands free device and is used, to enable the driver or operator to use or operate the electronic communication device without so holding it.
- (2) A person who is in or on a vehicle in the capacity as an instructor shall not hold or use an electronic communication device in the manner referred to in subsection (1), while he is instructing or accompanying the holder of a learner's permit.
- (3) Subsection (1) shall not apply to a person —
 - (a) driving or operating a motor vehicle while the vehicle is being used as an emergency vehicle; or
 - (b) operating a motor vehicle that is lawfully parked and is not impeding traffic.
- (4) A person who contravenes subsection (1) or (2) commits an offence and is liable upon summary conviction to a fine not exceeding one thousand dollars.
- (5) In this section —
 - “electronic communication device”** means —
 - (a) a mobile telephone or other hand-held device that includes a telephone or other telecommunication function;
 - (b) a hand-held electronic device that is capable of transmitting or receiving electronic mail or other text based messages; or
 - (c) a prescribed class or type of electronic communication device;
 - “use”** means in relation to an electronic communication device includes one or more of the following actions —
 - (a) holding the device in a position in which it may be used;
 - (b) operating one or more of the device's functions;
 - (c) communicating orally by means of the device with another person or another device;

- (d) taking a prescribed action in relation to an electronic communication device.

46B. Driving with open alcoholic beverage, etc.

A person commits an offence if the person has an open alcoholic beverage or any open container of an alcoholic beverage while driving or attempting to drive or while in charge of a motor vehicle on a road and is liable on summary conviction (TBD).”

6. Repeal and replacement of section 59 of the principal Act.

Section 59 of the principal Act is repealed and replaced as follows —

“59. Duty to produce driver’s license.

A police officer in uniform may require any driver of a motor vehicle to produce their driver’s licence or public service vehicle driver’s licence, and if that driver does not produce such licence to that officer at the time the request is made, he shall be guilty of an offence and shall be liable on summary conviction to a fine of forty dollars.”

7. Repeal and replacement of section 60 of the principal Act.

Section 60 of the principal Act is repealed and replaced as follows —

“60. Power of police officer to arrest in certain cases.

- (1) A police officer in uniform may arrest without warrant the driver of a motor vehicle whom he has reason to suspect of having committed an offence against this Act, if the driver, on being requested to do so by the police officer —
 - (a) refuses either to give his name, home address and work address or gives either that is reasonably believed to be false;
 - (b) fails to produce his valid driver's licence or public service driver's licence; or
 - (c) fails to produce a valid certificate of insurance; andthe police officer reasonably suspects that any failure or refusal is with the intention to deceive or enable the avoidance of any penalty.
- (2) Where the driver violates paragraphs (b) or (c), but without the intention to deceive or avoid any penalty and upon supplying his name, home address and work address, he may be given twenty-four hours to produce his driver's licence or certificate of insurance,
- (3) A person who fails to produce his driver's licence or certificate of insurance within twenty-four hours commits an offence and is liable on summary conviction to a fine not exceeding

OBJECTS AND REASONS

This Bill seeks to amend section 21 of the Road Traffic Act (*Ch. 220*) to make the failure of a driver to produce his name and address, the name and address of the owner of the motor vehicle or certificate of motor insurance in respect of that motor vehicle, a criminal offence.

Clauses 3 and 4 of the Bill seeks to amend 34 and 36 of the Road Traffic Act (*Ch. 220*) to provide that payment for outstanding fines in respect of an offence under the Act is required for the granting a drivers licence or public service driver's licence under the Act.

Clause 5 of the Bill seeks to insert new sections 46A and 46B into the Act to criminalize the use of an electronic communication device while driving, and driving with an open alcoholic beverage or any open container of an alcoholic beverage.

Clause 6 of the Bill seeks to amend section 59 of the principal Act to make a driver's failure to produce a driver's licence on request of a uniformed police officer an offence.

Clause 7 of the Bill seeks to amend section 60 of the principal Act to provide that a uniformed police officer may arrest a driver on suspicion of committing an offence against the Act where that driver, *inter alia*, fails to produce his valid driver's licence or a valid certificate of insurance for examination.