

A BILL

entitled

MOTOR CAR AMENDMENT (NO. 2) (TOUR QUADRICYCLES) ACT 2018

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WHEREAS it is expedient to amend the Motor Car Act 1951 to include provisions for a quadricycle tour livery scheme including the types of quadricycles that are available for use on guided tours, the specifications of and licence duty for those quadricycles, the licence fee applicable for the operation of a quadricycle tour livery, to modify the description of a motorcycle to include three wheels, and for connected purposes.

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 (No.2) (Tour Quadricycles) Act 2018.

Amends section 24

2 Section 24 of the principal Act is amended in subsection (5) by inserting "or three" after "two" where it first appears.

Inserts Part VIB

3 The principal Act is amended by inserting the following after Part VIA (section 101D)—

“PART VIB
TOUR QUADRICYCLE

Interpretation of Part VIB

101E In this Part of the Act—

“guided tour” means a tour on a tour quadricycle given by a tour guide in places of interest in Bermuda authorized in writing by the Minister, in consultation with the Minister responsible for public works;

“tour quadricycle” means a four-wheeled vehicle with a bicycle seat for the driver or rider and steered by handlebars which is propelled by mechanical or electrical power;

“tour guide” means an employee of a tour quadricycle livery who takes people on a guided tour;

“tour quadricycle livery” means a person or body of persons by whom quadricycles are hire for use by persons on a guided tour.

Prohibition on operation of tour quadricycle liveries

101F (1) No person shall operate a tour quadricycle livery unless that person has applied for and has been granted a licence by the Minister.

(2) Any person who operates or attempts to operate a tour quadricycle livery without a licence is liable on summary conviction to a fine of \$5000 or to imprisonment for a term not exceeding three months or to both.

Application to operate a tour quadricycle livery

101G (1) The Minister may, on written application made to him, grant a licence to operate a tour quadricycle livery.

(2) An application under subsection (1) shall be in a form determined by the Minister and shall be accompanied by the relevant fee set out in the Government Fees Regulations 1976.

(3) The Minister may grant or refuse a licence to operate a tour quadricycle livery, or may grant a licence to operate a tour quadricycle livery subject to any terms and conditions the Minister finds appropriate, and the Minister may at any time vary the conditions attached to a licence.

(4) In considering an application under subsection (1), the Minister shall, in particular, without prejudice to his power to grant or refuse a licence, have regard to the suitability of the premises from which it is intended to operate the tour quadricycle livery, the suitability of the equipment in such premises and the qualifications of the staff which it is proposed to employ in the operation of the livery.

(5) The Minister shall have the power to revoke a licence granted under this section if it appears to him—

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- (a) that there has been a material change in the suitability of the premises, equipment or staff connected with the tour quadricycle livery since the licence was granted; or
- (b) that the licensee has not complied with any of the terms or conditions attached to his licence.

(6) Any officer of the Department or any person duly authorized by the Minister may at any time enter the premises which are being used for the operation of a tour quadricycle livery for the purpose of inspecting and examining the premises, equipment and staff connected with the livery.

(7) No tour quadricycle livery shall hire or have available for hire any tour quadricycle other than a quadricycle of such class, make or model as the Minister may approve by notice published in the Gazette.

(8) No tour quadricycle livery shall hire a tour quadricycle to a person—

- (a) under the age of eighteen years; or
- (b) who does not hold a valid driver's licence.

(9) A valid driver's licence for the purpose of subsection (7)(b) is a driver's licence issued under section 76(1) or such driver's licence as prescribed by regulations made under this Act.

(10) A licence issued for the purposes of this section shall expire one calendar year after the date of issue.

(11) A person who contravenes any provision of this section commits an offence and is liable on summary conviction to a fine of \$4,200 or to imprisonment for three months or to both, and in the case of a continuing offence a fine of \$500 for each day on which the offence continues.

(12) Notices made under this section are subject to the negative resolution procedure.

Guided tours

101H (1) No tour quadricycle livery operator shall use, or cause or allow any other person to use, a tour quadricycle other than for the sole purpose of a guided tour.

(2) A maximum of seven tour quadricycles, including the tour guide, shall be used in a guided tour.

(3) A tour quadricycle livery operator who contravenes with this section commits an offence and is liable on summary conviction to a fine of \$1,000 or to imprisonment for 3 months, or to both.

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Protective headgear shall be worn

101I (1) No tour quadricycle livery operator shall hire a tour quadricycle without protective headgear for use by a driver or rider and passenger on a tour quadricycle.

(2) Every person driving or riding on a tour quadricycle on any highway shall wear protective headgear.

(3) Any person who drives or rides on a tour quadricycle in contravention of subsection (2) or who drives a tour quadricycle on a highway when any passenger does not wear protective headgear commits an offence.

(4) In this section—

“highway” means any street, road or place over which the general public have a right of way;

“protective headgear” has the meaning provided in section 6(3) of the Motor-Cycles and Auxiliary Bicycles (Special Measures of Control) Act 1953.

(5) A tour quadricycle livery operator who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for 6 months, or to both.

Minister may by order regulate design or build

101J (1) The design or build of the body of a tour quadricycle shall be regulated and controlled by order of the Minister so as to preserve as far as possible the amenity of Bermuda.

(2) Where the design or build of the body of a tour quadricycle is in the opinion of the Minister unsuitable; having regard to subsection (1), the Minister may by order prohibit the use of such tour quadricycle on any road.

(3) Orders made under this section are subject to the negative resolution procedure.

Regulations under Part VIB

101K (1) The Minister may make regulations subject to the negative resolution procedure—

- (a) concerning a valid driver’s licence required for renting a tour quadricycle;
- (b) concerning the licensing and registration of tour quadricycles;
- (c) prescribing identification marks and plates and their position and dimensions, and prescribing the charges that may be made for the issue and replacement of plates;
- (d) generally for carrying out the purposes and provisions of this Part.

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(2) Regulations made under subsection (1) may create offences and provide that a person who commits an offence against the Regulations is liable on conviction to a fine not exceeding \$5,000.”.

Amends Schedule 1

4 Schedule 1 to the principal Act is amended by inserting the following after line item JA MINICARS—

“ JB TOUR QUADRICYCLES

| | | |
|---------------------------------------|-------------------------------------|----|
| 1 Engine Capacity | not exceeding 150 c.c.’s | |
| 2 Length overall | not exceeding 115 inches | |
| 3 Width overall | not exceeding 60 inches | |
| 4 Horsepower | not exceeding 20 hp or 15 kilowatts | |
| 5 Number of wheels on which supported | 4 | |
| 6 Number of seats | 1 or 2 | ”. |

Amends Schedule 2

5 Schedule 2 to the principal Act is amended by inserting the following after line item BA LIVERY MINICARS—

“ BB LIVERY TOUR QUADRICYCLES

| | | |
|----------------------|----------|----|
| Any tour quadricycle | \$167.90 | ”. |
|----------------------|----------|----|

Consequential and related amendments

6 (1) The Government Fees Regulations 1976 are amended in Head 47 by inserting the following after paragraph (21)—

“ (22) Issuing an annual licence to operate a quadricycle guided tour livery under section 101G (fee is per 10 tour quadricycles registered or part thereof) \$250 ”.

(2) The Motor-Cycles and Auxiliary Bicycles (Special Measures of Control) Act 1953 is amended—

(a) by inserting the following in its proper alphabetic place—

“tour quadricycle” has the meaning provided in section 101E of the Motor Car Act 1951;”;

(b) in section 5A(1) by inserting “, tour quadricycle” after “motor-cycle”;

(c) by inserting the following after 5A(2)(b)—

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“(c) a tour quadricycle to exceed 150 cubic centimetres or 20 horsepower (15 kilowatts), ”.

(3) The Public Holidays Act 1947 is amended in section 11(c) by inserting “a tour quadricycle livery,” after “a minicar livery, ”.

(4) Schedule 1 to the Traffic Offences (Penalties) Act 1976 is amended by inserting the following after the item on section 85(2) of the Motor Car Act 1951—

- “ Head 1: Motor Car Act 1951
- Head 2: section 101I(3)
- Head 3: Driving or riding quadricycle not wearing protective headgear
- Head 4: summary
- Head 5: \$100
- Head 6: discretionary - 6 months
- Head 7: 5 to 7 points ”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend to amend the Motor Car Act 1951 (the “principal Act”) to include provisions for a quadricycle tour livery scheme including the types of quadricycles that are available for use on guided tours, the specifications of and licence duty for those quadricycles, the licence fee applicable for the operation of a quadricycle tour livery, to modify the definition of a motorcycle to include three wheels, and for connected purposes.

Clause 1 is the title of the Bill.

Clause 2 amends section 24 of the principal Act in the definition of “motor cycle” to expand the class of vehicle considered to be a motor cycle to include certain three wheeled vehicles.

Clause 3 inserts Part VIB into the principal Act providing—

(a) in sections 101E and 101I that—

(i) a person must have a licence to operate a tour quadricycle livery, which can be obtained on application to the Minister and creates an offence for operating a tour quadricycle livery without a licence;

(ii) a person must have a licence to operate a guided tour quadricycle livery, which can be obtained on application to the Minister;

(iii) the Minister has the power to grant or refuse a licence, or grant a licence with such conditions as the Minister deems fit, or revoke a licence in specified circumstances;

(iv) a tour quadricycle can only be used in a guided tour with a guided tour consisting of no more than seven quadricycles;

(v) protective headgear shall be worn while driving or riding a tour quadricycle and creates offences for a tour livery operator who does not provide protective headgear for driver and passengers and for a rider or passenger failing to wear protective headgear;

(vi) the make or model of a quadricycle may be approved by the Minister by notice in the Gazette;

(vii) no tour quadricycle shall be rented for use on a guided tour to a person under the age of 18 years or a person who does not hold a valid driver’s licence for that class of vehicle;

(b) in section 101J that the Minister has the power to regulate by order the design or build of a quadricycle;

(c) in section 101K that the Minister has regulation-making powers.

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Clause 4 amends Schedule 1 to the principal Act to provide the specifications for a tour quadricycle.

Clause 5 amends Schedule 2 to the principal Act to provide the licence duty for a tour quadricycle.

Clause 6 provides consequential amendments to—

- (a) the Government Fees Regulations 1976 to insert the annual licence fee for the operation of a livery;
- (b) the Public Holidays Act 1947 to include a guided tour quadricycle livery in the specified categories of retail shops that can conduct business on a public holiday;
- (c) the Motor-Cycles and Auxiliary Bicycles (Special Measures of Control) Act 1953 is amended to prohibit the engines of tour quadricycles being upgraded to increase the cubic capacity of the motor.
- (d) the Traffic Offences (Penalties) Act 1976 to insert the penalty for an offence under section 101H(3) of the principal Act (driving or riding a quadricycle without protective headgear).