



New South Wales

Road Transport (General) Amendment (Licence Suspension) Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to expand the range of driving related offences in relation to which a police officer is able to suspend a person's driver licence to certain major offences involving death or grievous bodily harm,
- (b) to enable a police officer to suspend a person's driver licence if the person is caught exceeding the applicable speed limit by more than 45 kilometres per hour,
- (c) to make provision with respect to statutory declarations for ascertaining the driver of a vehicle involved in a parking offence or camera recorded offences.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Road Transport (General) Act 1999* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Road Transport (Driver Licensing) Act 1998* set out in Schedule 2.

Clause 5 repeals the *Road Transport (General) Amendment (Operator Onus Offences) Act 2002* as a consequence of the amendment made by **Schedule 1 [10]** (referred to below).

Schedule 1 Amendment of the Road Transport (General) Act 1999

Schedule 1 [1] inserts proposed section 34 (1), (1A) and (2) into the *Road Transport (General) Act 1999* (the *Principal Act*). Proposed section 34 (1) expands the range of offences currently appearing in section 34 (1) of the Principal Act in relation to which a police officer may suspend a person's driver licence on the person being charged for any such offence. The new group of offences concerned involves the death of, or grievous bodily harm to, another person caused by the use of a motor vehicle, where the offence comprises one of the following:

- (a) the crime of murder or manslaughter,
- (b) an offence against section 33 of the *Crimes Act 1900* (maliciously causing grievous bodily harm with intent to do so),
- (c) an offence against section 35 (1) (b) of that Act (maliciously inflicting grievous bodily harm),
- (d) an offence against section 52A (1), (2), (3) or (4) of that Act (aggravated or dangerous driving occasioning death or grievous bodily harm),
- (e) an offence against section 54 of that Act (causing grievous bodily harm by any unlawful or negligent act or omission).

Proposed section 34 (1A) enables a police officer to suspend a person's driver licence if the person is charged with, or served with a penalty notice for, the offence under the *Road Transport (Safety and Traffic Management) Act 1999* of exceeding a speed limit by more than 45 kilometres per hour.

Proposed section 34 (2) recreates the existing section 34 (2) (which specifies the particulars to be contained in a suspension notice given under the section). It further provides that, if a person is served with a penalty notice for exceeding a speed limit by more than 45 kilometres per hour, the suspension notice must

inform the person that the driver licence is suspended for 6 months or until the matter is determined by a court (or withdrawn).

Schedule 1 [2]–[4] provide for amendments consequential on the amendments made by **Schedule 1 [1]**.

Schedule 1 [6] and [7] make equivalent amendments to **Schedule 1 [1]** in relation to interstate and overseas drivers.

Schedule 1 [5], [8] and [9] provide for amendments that are consequential on the amendments made by **Schedule 1 [6] and [7]**.

Schedule 1 [10] inserts proposed section 43 (7A) and (7B).

Proposed section 43 (7A) makes it clear that if a person is served with a penalty notice or summons in relation to a parking offence or camera recorded offence, a statutory declaration may be considered in determining whether the person did not know (and could not with reasonable diligence have ascertained) the name and address of the driver at the time of the offence.

Proposed section 43 (7B) enables the regulations to prescribe matters that must be included in any such statutory declaration.

Schedule 1 [11] provides for an amendment that is consequential on the amendment made by **Schedule 1 [10]**.

Schedule 1 [12] enables the making of regulations of a savings and transitional nature as a consequence of the enactment of the proposed Act.

Schedule 2 Amendment of Road Transport (Driver Licensing) Act 1998

This Schedule provides for an amendment to section 33A of the *Road Transport (Driver Licensing) Act 1998*. Section 33A currently provides that if a person's driver licence expires after being suspended under that Act:

- (a) the person cannot apply for another driver licence during any unexpired portion of the suspension period, and
- (b) the person remains potentially liable, during that period, for any offence in relation to driving a vehicle while a driver licence is suspended.

The proposed amendment to section 33A extends the application of that section to the suspension of a licence by a police officer under the *Road Transport (General) Act 1999*.