



## Driving Instructors Amendment Bill

### Second Reading

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### DRIVING INSTRUCTORS AMENDMENT BILL

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### Second Reading

**The Hon. IAN MACDONALD** (Parliamentary Secretary), [3.08 a.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

#### **Leave granted.**

The purpose of this bill is to amend the Driving Instructors Act 1992 to introduce measures ensuring greater consumer protection for novices learning to drive with commercial driving instructors. Forty-five per cent of learners who presented for the 170,000 driving tests conducted during 2001 arrived with a driving instructor. Research shows that 80 per cent of learner drivers take some lessons with a driving school. There are 3,033 registered driving instructors in New South Wales, including more than 1,500 who are members of the Australian Driver Trainers Association. It is a major industry that is entrusted with the lives of tens of thousands of young and inexperienced drivers.

The vast majority of driving instructors are professionals who take their responsibilities seriously. But in the last two years alone the Roads and Traffic Authority [RTA] has conducted 507 inquiries and audits into driver training and testing. Each and every year around 50 complaints are received by the RTA from the general public. The most frequent complaints relate to sexual harassment, instructors being late for class, rudeness, impatience and inadequate instruction. The Driving Instructors Act 1992 was introduced to replace the Motor Vehicle Instructors Act 1961.

The 1992 Act was enacted largely as a result of an investigation into driver licensing by the Independent Commission Against Corruption, which identified instances of corruption within the driving instruction industry. The Government commenced the first review of the Act last year. The review was co-ordinated by a steering committee comprising representatives from the Roads and Traffic Authority, the New South Wales Cabinet, the driving instruction industry and the road freight industry. The Government believes strongly in its responsibility to regulate an industry that is critical to the safety of young drivers.

The review, which was completed earlier this year, recommended tightening requirements on driving instructors and schools, including strengthening character checks and checks of criminal records of applicants by creating a formal system within the RTA, requiring driving schools to report allegations of improper conduct to the RTA, introducing provisions to allow for temporary suspension of an instructor's permit while investigations into serious wrongdoing are being investigated, further development of training curriculum for driving instructors to improve training and driving skills, additional retesting of instructors by the RTA to ensure instructors' skills are up to date, and the introduction of an industry code of practice.

The Minister for Roads announced in the other place earlier this year that the RTA will also publish annually—commencing from January 2003—the pass-fail rates for driving schools over the

preceding 12 months. While most of the recommendations will be implemented administratively, legislative and subsequent regulatory amendments are required to give effect to the following: exemption of post-licence instruction from driving instructor licensing requirements; removal of exemption from the Act for government instrumentalities; a requirement that the holder of a driving instructor's licence must not use a motor vehicle to give driving instruction unless the vehicle is covered by comprehensive motor vehicle insurance; a requirement for driving schools to report to the RTA allegations of improper behaviour by driving instructors; and provision for temporary suspension pending investigation into allegations of serious improper behaviour by a driving instructor.

I turn now to the details of the legislation. It is proposed that the following consumer protection elements be included in the Act: first, a requirement that driving instructors' vehicles be comprehensively insured, protecting learners from any accident claims made against them by driving instructors or other parties; and, second, retention of the requirement that instructors' vehicles be fitted with dual controls, as dual controls allow the instructor to slow the vehicle down to prevent the learner from crashing. Due to the vulnerability of learners whilst receiving tuition in an instructor's vehicle, it is of the utmost importance that the legislation provide protection of learners' rights and their well-being. For this reason a strict approach is recommended.

Any allegations of improper instructor behaviour, such as sexual harassment, corruption or dangerous driving, should result in the immediate suspension of the instructor's licence with a comprehensive investigation to follow. Furthermore, driving schools will be required to report complaints relating to instructor behaviour to the RTA. Failure to notify the authority will carry heavy penalties. The prerequisites to become a driving instructor are well-defined in the existing Act. The Government recommends that these be retained. The prerequisites include a minimum tenure period, fitness and probity checks and a requirement to undergo approved instructor training. The proposed amendments exclude provisional and good behaviour periods from being accepted as tenure time.

The existing Act was unclear regarding training provided off-street or at private venues. It was also argued that the Act did not apply to provision of in-house training, for example, by a road freight company. It is proposed that the scope of the Act be clarified to clearly include off-street training and the provision of training in a workplace context. Some government bodies are currently exempt from the Act. It is proposed that this exemption be removed so that all driving instructors providing training for licensing purposes be covered by the legislation, thus providing a level playing field for the driving instruction industry.

In the interests of encouraging competition, it is proposed that restrictions on advertising and post-licence training be lifted. It was recommended by the review committee that advertising guidelines be incorporated into a driving instruction industry code of practice. The focus of the Driving Instructors Act is on learner drivers. Accordingly, it is proposed that post-licence trainers such as those providing advanced, defensive and recreational driving courses no longer be required to hold driving instructors licences and that the regulation be amended accordingly. The amendments to the Act are cost neutral for the Government. There is no additional revenue, nor is there any additional expense. The proposed changes to the Act will ensure that learner drivers receive the standard of professional tuition that they are entitled to, without placing unreasonable constraints on the driving instruction industry. I commend the bill to the House.

**The Hon. JENNIFER GARDINER** [3.09 a.m.]: The Opposition supports the Driving Instructors Amendment Bill. It was developed in consultation with the Australian Driver Trainers Association, which is the representative body of professional driving instructors in this State, and the New South Wales Road Freight Advisory Committee. The Australian Driver Trainers Association represents more than 1,500 of the 3,033 registered driving instructors in New South Wales. These bodies are entrusted with the lives of tens of thousands of young and inexperienced drivers and the Opposition supports any measure that will improve, directly or indirectly, the safety of young people on our roads.

Deaths due to transportation-related crashes are higher among those aged 15 to 24 years than in any other age group. In 1998 young people aged 17 to 25 years represented 16 per cent of all

licensed drivers and riders in New South Wales yet they accounted for 30 per cent of all drivers or motorcyclists killed or seriously injured. Research shows that if learners are presented with a structured approach to their training and driving experience they are safer, more competent drivers and are involved in far fewer crashes. They are able to nip bad habits in the bud. The vast majority of New South Wales driving instructors take their responsibilities very seriously, but the Opposition supports cracking down on the irresponsible few.

Parents and young people must be more confident that their driving instructors are safe, well regulated and professional. This bill has been introduced as a result of a review of the Act last year. This was the first review undertaken since the Act came into force more than a decade ago and it resulted in a number of recommendations, some of which are in this bill—namely, recommendations relating to the tightening of requirements on driving instructors and schools, including strengthening character checks and checks of criminal records of applicants by the Roads and Traffic Authority [RTA]; requirements for driving schools to report allegations of improper conduct to the RTA; and provisions to allow temporary suspension of an instructor's licence while investigations are continuing. I seek leave to incorporate the remainder of my speech in *Hansard*.

### **Leave granted.**

Parliamentary Secretary, Tony Stewart, told the other House in his speech that each and every year around 50 complaints are received by the RTA from the general public, the most common of which related to sexual harassment, instructors being late for class, rudeness, impatience and inadequate instruction. Given this is the case, we in the Opposition are somewhat surprised that the Minister has not seen fit to introduce measures at an earlier date relating to strengthening character checks, requiring driving schools to report allegations of improper conduct to the RTA, introducing provisions to allow for temporary suspension of an instructor's permit while investigations into serious wrongdoings are being investigated.

An applicant for a licence is not eligible to be issued with a licence whilst serving a period of good behaviour under section 16(8) or 16A(7) of the Road Transport (Driver Licensing) Act 1998 which may be granted as an alternative to suspension for a person who incurs at least 12 demerit points within the 3 year period ending on the day on which the person last committed an offence for which demerit points have been recorded against the person may, after being served with a notice of licence suspension by the Authority, but before the commencement of the period of suspension, notify the Authority in a form approved by the Authority that he or she elects, as an alternative to undergoing the suspension, to be of good behaviour for a period of 12 months from the day on which the licence would otherwise be suspended.

The bill contains grounds for refusal of application and identifies the grounds for suspension or cancellation of a driver instructor's license if the Authority is satisfied that the applicant is guilty of misconduct, which is defined in clause 3(1) of the bill as being any conduct relating to sexual assault, sexual harassment, fraud or dishonesty, the commission of any offence involving dangerous driving, or the commission of any offence involving assault. This bill contains an amendment requiring driving schools to report allegations of improper conduct to the RTA—but I note there are no details as to what procedure the RTA will undertake on receipt of these allegations. That is of concern. Is that the end of the matter, or will the RTA be required to then go through the proper police channels and report it from there? In matters that relate to serious allegations of misconduct relating to sexual assault and sexual harassment, the RTA may not be an appropriate referral point.

**The Hon. IAN COHEN** [3.11 a.m.]: The Greens support the Driving Instructors Amendment Bill and acknowledge that, in light of the high youth accident statistics, it is appropriate to have properly regulated, licensed driving instructors and schools. Financial considerations may be involved as some people may no longer be able to afford driving instruction. However, the Greens believe driving is an important safety issue and we are concerned about the disproportionate number of road accidents involving young people. We believe driving schools play an important role in driver training and should be regulated properly. Schools should employ responsible, well-trained driving instructors so that young drivers can learn good driving habits. I commend the bill to the House.

**The Hon. Dr ARTHUR CHESTERFIELD-EVANS** [3.12 a.m.]: The Australian Democrats support the Driving Instructors Amendment Bill as a good consumer protection measure.

**Reverend the Hon. FRED NILE** [3.12 a.m.]: The Christian Democratic Party supports the Driving Instructors Amendment Bill. The review of the Driving Instructors Act 1992, which concluded early this year, made several recommendations that have been included in the bill. Some will be implemented administratively and there will be subsequent regulatory amendments. We believe this bill will improve the quality of driver training and, ultimately, the quality of driving.

**The Hon. HELEN SHAM-HO** [3.13 a.m.]: I support the Driving Instructors Amendment Bill. The objects of the bill are to ensure that driving instructors attain a minimum skills standard in order to promote the safety and protection of persons who receive driving instruction, to minimise the potential for corruption in the driving instruction industry and to discourage inappropriate behaviour by driving instructors. This is the last bill that I will speak to in this place, and I commend it to the House.

**The Hon. Dr PETER WONG** [3.13 a.m.]: I support the Driving Instructors Amendment Bill, which will introduce minimum standards for driving instructors and will protect consumers.

**The Hon. RICHARD JONES** [3.14 a.m.]: I support the Driving Instructors Amendment Bill, which is the last bill that I shall support in this House.

**The Hon. IAN MACDONALD** (Parliamentary Secretary) [3.15 a.m.], in reply: I thank all honourable members for their contributions to this debate. I thank particularly the Hon. Helen Sham-Ho and the Hon. Richard Jones for their final speeches on legislation in this Parliament. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**

[*The President left the chair at 3.17 a.m. Friday 6 December 2002.*]

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