

## Agreement in Principle

**Mr ANDREW STONER** (Oxley—Leader of The Nationals) [10.05 a.m.]: I move:

That this bill be now agreed to in principle.

The Road Transport (Driver Licensing) Amendment (Demerit Points) Bill 2009 is introduced by the Liberal-Nationals Coalition in this State to resolve an inconsistency in the law in that New South Wales courts can overturn an infringement notice under section 10 of the Crimes (Sentencing Procedure) Act 1999 but the Roads and Traffic Authority is still able to impose demerit points. This hot topic of debate is often raised in talkback radio, and as shadow roads Minister I receive a lot of correspondence relating to this issue. Simply put, it relates to those occasions when a driver challenges a speeding fine, a red light fine, or other traffic infringements on the basis that there was an acceptable excuse, he or she takes the issue to court, and the judge decides that the fine ought to be overturned.

One would think that, in all fairness, any demerit points that might be incurred ought also to be overturned or removed, but that is not case. In those instances the fines incurred by drivers might be waived but they still receive the demerit points. Recently the Government acknowledged that there was a problem with the demerit points system in this State and it changed the system and reverted to one demerit point for the lowest level speeding offences, which until recently attracted three demerit points. During times of double demerit points a record number of drivers have had their licences suspended. Despite that fact, it is estimated that every day 110 road users in New South Wales have their licences suspended due to traffic and parking offences.

All members would be aware that demerit points are incurred automatically once a driver pays the fine noted on the infringement notice. If drivers challenge the transgression in court and the charge is dismissed under section 10 of the Crimes (Sentencing Provisions) Act the fine is quashed but the Roads and Traffic Authority still imposes the demerit points. When a driver incurs 12 demerit points his or her licence is lost or suspended. I have received correspondence from professional drivers or people whose employment depends upon having their driver licences. If the court decides that the fine ought to be expunged or removed those drivers still end up having their licences suspended, and they believe that justice is not being done.

Section 10 offences relate to those occasions when a person is found guilty but the court records no conviction. Currently demerit points can be avoided only if a driver defends himself or herself again the charge and is found not guilty of that transgression. However, a driver might have a legitimate reason for speeding. For example, a driver's wife might be pregnant and he might have been rushing her to hospital; there might be some other emergency situation; or the road signs might be found to be misleading or confusing. The judge might understand those reasons but the Roads and Traffic Authority might not. Drivers might walk out of court without a fine but still with demerit points and possibly end up having their licences suspended if they have other demerit points against their record.

Under this bill, if drivers choose to defend themselves in court against a low-level speeding or red light offence they could have two possible outcomes. First, the magistrate might uphold the charge, the driver might be found guilty, and he or she might have to pay the designated fine and have the requisite number of demerit points imposed upon him or her, which is fair enough. The second outcome is that the charge is dismissed under section 10 by the magistrate and the driver neither pays the fine nor has demerit points imposed for the offence. We believe that is fair and that is certainly the public perception. Of course, legislative changes would be required so that the Roads and Traffic Authority does not impose demerit points unless the motorist has been convicted in court.

These proposed changes are logical. If the court waives the fine it is logical that the Roads and Traffic Authority also should waive the demerit points. We are seeking to amend the existing anomaly in the system whereby the Roads and Traffic Authority can impose demerit points even if the magistrate has dismissed the case. To be clear, this bill applies only to low-level speeding offences and traffic light offences. The New South Wales Liberal-Nationals do not include drink-driving offences or high-level speeding offences in the provisions of this bill. This bill simply seeks to address a glitch in our system that has resulted in countless parents, truckies, business owners and workers across New South Wales losing their licences.

Too often we hear stories about, for example, country mothers losing their licences for exceeding the speed limit by less than 10 kilometres per hour on a couple of occasions during double demerit periods. They then become dependent on neighbours to drop their kids at school or even to take them to the shops. The Rees Labor Government has been slow to reform the demerit points system and hundreds of drivers have lost their licences due to petty offences and inconsistencies in the law. The Liberals-Nationals do not want drivers losing their licences for minor offences when those charges effectively have been dismissed in court under section 10. That is the rationale behind the bill. I commend the bill to the House.