



NSW Legislative Assembly Hansard

Marine Safety Amendment (Random Breath Testing) Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 8 December 2004.

Second Reading

Mr GRAHAM WEST (Campbelltown—Parliamentary Secretary) [10.17 a.m.], on behalf of Mr Craig Knowles: I move:

That this bill be now read a second time.

The Marine Safety Amendment (Random Breath Testing) Bill amends the Marine Safety Act 1998 to provide for random breath testing by police officers on New South Wales navigable waters. The bill implements a recommendation of the New South Wales Alcohol Summit and is a symbol of the Government's continued commitment toward the safety of the boating and general public on New South Wales waters. The effects of alcohol on boating can be devastating. Alcohol consumption can lead to diminished judgment, slower reaction in response times, reduced depth perception, reduced night vision and focus, and accelerated onset of hypothermia if a person who has consumed alcohol falls into the water.

Research conducted by the National Maritime Safety Committee has shown that alcohol has been involved in at least 35 per cent of all boating fatalities nationwide. In New South Wales alcohol has been a factor in more than 25 per cent of all boating-related deaths since 1992. Nearly one-quarter of those killed when alcohol was a factor returned an alcohol content in the high range of 0.15 grams of alcohol in 100 millilitres of blood or greater. In the light of such evidence, the Alcohol Summit recommended that the NSW Police investigate the feasibility of random breath testing in New South Wales waterways.

The Government's response to the Alcohol Summit indicated that legislation would be developed to enable random breath testing on New South Wales waterways during 2004. The Marine Safety Amendment (Random Breath Testing) Bill 2004 implements this commitment. Currently police have the power to conduct a breath test on a vessel operator only if there is reasonable cause to believe that a person operated a vessel, or supervised the operation of the vessel by a juvenile, while there is or was alcohol in that person's blood; or was involved in an accident which resulted in the death or injury of any person; or was operating a vessel involved in an accident which resulted in damage to property in excess of \$1,000 or damage to a vessel such that its seaworthiness or the safety of persons on board was compromised. The Marine Safety Amendment (Random Breath Testing) Bill 2004 will enable police to conduct random breath tests.

I will now describe the provisions of the bill in more detail. Random breath testing will apply to persons who were or are operating a vessel. In addition to a person piloting, steering or exercising control over a vessel, a person supervising a juvenile in control of a vessel may also be randomly tested. The existing definition of a vessel operator in section 20 of the Marine Safety Act will apply, which means that a person may be randomly tested if they are being towed by a vessel, whether on a water ski, aquaplane, parafling device or other device; or acting as an observer, for safety purposes, of any person being towed by the vessel.

Persons on vessels that are moored, berthed or at anchor will not be subject to random breath testing. Nevertheless, it would be prudent for persons in charge of a moored vessel to remain under the legal limit when on the water in case they need to move their vessel for any reason. To ensure consistency with the Road Transport (Safety and Traffic Management) Act 1999, the bill brings the drink-driving provisions applying on the water into line with those currently applying on the roads. NSW Police, NSW Health, the Roads and Traffic Authority and NSW Maritime all support consistency between the breath testing laws. Increased uniformity of legislation effectively removes any potential for confusion by the public, health care professionals and enforcement agencies, as there is only one set of requirements to observe.

To be consistent with roads legislation, the bill introduces new section 24 (1A). This section reduces the prescribed concentration of alcohol for persons under the age of 18 years from 0.02 to 0.00 grams of alcohol in 100 millilitres of blood. It is appropriate that the same levels of alcohol apply across both road and marine legislation. New section 24A of the bill means that the same defences are available on the water as on the roads for traces of alcohol detected in the blood following consumption of food or medicine. Currently the penalties associated with operating a vessel whilst under the influence of alcohol range from \$550 for a first offence in the low range to \$2,200 or 12 months imprisonment, or both, for a second or subsequent offence of operating a vessel with a high range prescribed concentration of alcohol.

To bring them into line with the road laws, these penalties will now increase to \$1,100 for a first offence in the low range to \$5,500 or two years imprisonment, or both, for second or subsequent high range offences. The bill will promote water safety by discouraging drinking and driving on New South Wales waterways. Although police alone will have the authority to conduct random breath testing, NSW Maritime will work with police to conduct joint patrols where necessary. NSW Maritime will also be responsible for developing new safety broadcasting messages and multilingual campaigns to promote responsible use of alcohol prior to the introduction of random breath testing. These campaigns will complement the regional and local boating safety education and compliance campaigns conducted by NSW Maritime. Over 90 such campaigns are conducted on various waterways annually. These programs address all aspects of boating safety including alcohol and boating issues and will be continued on a regular basis. I commend the bill to the House.