



# NSW Legislative Council Hansard Full Day Transcript

Extract from NSW Legislative Council Hansard and Papers Wednesday, 2 March 2005.

## MARITIME SAFETY AMENDMENT (RANDOM BREATH TESTING) BILL Second Reading

**The Hon. ERIC ROOZENDAAL** (Parliamentary Secretary) [5.36 p.m.]: I move:

That this bill be now read a second time.

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

### Leave granted.

The *Marine Safety Amendment (Random Breath Testing) Bill 2004* amends the *Marine Safety Act 1998* to provide for random breath testing by police officers on NSW navigable waters.

The Bill implements a recommendation of the NSW Alcohol Summit. It underlines the Government's commitment to public safety on NSW waters.

The effects of alcohol while boating can be devastating.

Alcohol consumption can lead to:

- Diminished judgment;
- Slower reaction and 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 Marine Safety Committee has shown alcohol to be involved in at least 35% of boating fatalities nationwide.

In NSW, more than 25% of boating related deaths since 1992 have had alcohol as a factor.

Nearly one quarter of those killed where 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.

That's why the Alcohol Summit recommended NSW police investigate the feasibility of random breath testing on NSW waterways.

The *Marine Safety Amendment (Random Breath Testing) Bill 2004* implements the government's response to the Alcohol Summit.

Currently, police only have the power to conduct a breath test on a vessel operator if there is reasonable cause to believe 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;
- 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 onboard was compromised.

The *Marine Safety Amendment (Random Breath Testing) Bill* 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, paraflying device or other device; or
- Acting as an observer, for safety purposes, of any person being towed by the vessel.

Persons on vessels 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 are only one set of requirements to observe.

To be consistent with roads legislation a new Section 24(1A) is introduced by the Bill.

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 the same levels of alcohol apply across both road and marine legislation.

The new Section 24A of the Bill means 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 PCA.

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 2 years imprisonment, or both, for second or subsequent high range offences.

Police alone will have the authority to conduct random breath testing.

NSW Maritime will work with police to conduct joint patrols where necessary. For example joint patrols may involve a Maritime vessel and officer with a police officer on board to conduct random breath testing.

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 the states waterways annually.

I commend the Bill to the House.