

**ROAD TRANSPORT AMENDMENT (DISQUALIFICATION ON CONVICTION)  
BILL 2013**

Page: 58

**Bill introduced on motion by Mr Greg Smith, read a first time and printed.**

**Second Reading**

**Mr GREG SMITH** (Epping—Attorney General, and Minister for Justice) [4.55 p.m.]: The primary purpose of this bill is to amend road transport legislation to remove an anomaly whereby persons convicted of a serious driving offence—for example, dangerous driving occasioning death—can serve part or all of their licence disqualification period while they are serving a period of imprisonment imposed for the same offence. Current legislation provides that where a disqualification period is imposed for a serious driving offence, whether by order of the court or by statute, the period of disqualification will ordinarily commence from the date that the court convicts the offender. Where the court also sentences the offender to a period of imprisonment, section 47 of the Crimes (Sentencing Procedure) Act 1999 provides that the term of imprisonment is to commence from the date that sentence is imposed, which will also generally be the date the court convicts the offender.

In these cases where both periods are served concurrently, the penalty of licence disqualification is of little consequence because generally when the person is in prison he or she cannot drive anyway. It is clear the community has an expectation that a person who commits the most serious of driving offences, particularly those where death or grievous bodily harm has been occasioned, should be made to suffer the loss of his or her driving privileges for a period of time commensurate with the nature of the offence committed. The unusual situation of the current provisions, allowing a person to serve the separate penalties of a custodial sentence and driver licence disqualification at the same time, was recently highlighted in a case reported widely in the media.

In that case, an offender was convicted of aggravated dangerous driving occasioning death under the Crimes Act 1900 in which the circumstances of aggravation were the presence of a high range concentration of alcohol in the offending driver's blood. The offender was convicted by the court and sentenced to a period of five years imprisonment. The offender was also disqualified from driving for a period of five years. As I have highlighted, the current laws provide that both periods commence from the date the person was convicted. Clearly, in cases such as this, where a person is serving a prison sentence, the penalty of driver licence disqualification is of little or no effect because the person would be in no position to drive a motor vehicle during his or her time in custody.

It is obvious why situations such as this cause great concern to the general public. In effect, a person convicted of a serious driving offence could be released from prison, immediately re-apply for his or her driver licence and be back on the road. This Government has acted swiftly to put an end to this situation by introducing the proposals in this bill. The bill is a result of consultations between the relevant agencies including the Department of Premier and Cabinet, Transport for NSW, the Department of Attorney General and Justice, the

Ministry for Police and Emergency Services, and Roads and Maritime Services. I thank officers from those agencies for their efforts in assisting with the development of this important legislation.

I now turn to the changes the bill proposes to make to road transport legislation. I should also make mention that the amendments to which I refer will be to the Road Transport Act 2013 which commences operations on 1 July 2013. The main purpose of the bill is to provide that where an offender is convicted of a serious driving offence and is sentenced to both a custodial period of imprisonment and a period of licence disqualification, the disqualification period is extended so that it will be served after the period of custodial imprisonment ends.

Specifically, the bill will amend the Road Transport Act 2013 to insert a new section 206A to provide that where a person is convicted of a major disqualification offence, and the court imposes a period of custodial imprisonment and a period of licence disqualification is applied, whether by statute or by an order of the court, the period of disqualification will be extended by the period of time the person spends in custody. Courts will have the power to rule that any statutory disqualification period, or any court ordered disqualification period, shall not be extended under the section if they consider that is justified in a particular case.

To achieve this outcome proposed section 206A (3) will provide that a specified period of disqualification is to be extended by any period of imprisonment imposed. This effectively means that the overall period of disqualification will equal the period of imprisonment in addition to the actual period of licence disqualification that was applied. This ensures that the offender does not get the benefit of both periods being served concurrently. Proposed subsection (4) will provide that, for the purposes of the new section, a period of imprisonment will not include any period that the person has been released on parole.

This ensures fairness in that if the offender does not serve the full sentence and is released early on parole, the overall disqualification period will be reduced accordingly and the person may apply for a licence earlier by a corresponding period. As I have foreshadowed, proposed sub-paragraph (5) reserves the court's discretion to make a specific order regarding the operation of the extension provision. Offenders who have non-custodial sentences ordered, such as suspended prison sentences or intensive correction orders or home detention, will not be included in these reforms. In these cases the courts have determined that these offenders effectively remain in the community.

As I have stated, new section 206A will make reference to a major disqualification offence. For the purposes of the new section a "major disqualification offence" will mean a major offence as defined under section 205, a street racing offence under section 115 and an aggravated burnout offence under section 116 (2) of the Act respectively. Major offences under section 205 include serious driving offences under the Crimes Act 1900, and offences under the Road Transport Act 2013 of drink and drug driving and other alcohol-related offences, driving at a speed or in a manner dangerous and negligent driving offences causing death or grievous bodily harm. I make it clear, however, that offences of unlicensed driving,

never licensed, under section 53 and the offences of driving while disqualified, suspended, cancelled or refused under section 54 of the Road Transport Act 2013 respectively are not included in these reforms.

High range speeding offences are also not included in this proposal because while they attract a penalty of licence disqualification, they do not attract a penalty of imprisonment. The proposals in this bill will not impact in any way on law abiding citizens. The proposals only deal with the most serious of driving offences which carry mandatory driver licence disqualification and periods of imprisonment as a sentencing option for the court. It is anticipated that, subject to successful passage through the Parliament, the provisions will commence in the forthcoming months following the appropriate arrangements for the receipt and recording of the relevant court conviction information by Roads and Maritime Services. I trust members will lend their unreserved support to the Government's proposal. I commend the bill to the House.

**Debate adjourned on motion by Mr Ron Hoenig and set down as an order of the day for a later hour.**