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

**Second Reading**

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [3.08 p.m.]: I move:

That this bill be now read a second time.

The primary purpose of the bill before the House is to amend the road transport legislation to remove an anomaly whereby a person 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.

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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 of sentencing, 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 they cannot drive. 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 their driving privileges for a period 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 the case I refer to 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 five years imprisonment and was also disqualified from driving for five years. As I have highlighted, the current laws provide that both periods commence from the date the person is convicted.

Clearly, in cases such as this, where a person is serving a prison sentence, the penalty of driver licence disqualification has little or no effect because the person would be in no position to drive a motor vehicle during their 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 their licence and be back on the road. This Government has acted swiftly to put an end to this situation by introducing the proposals in the bill before the House. 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 the 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 the road transport legislation. The amendments I speak of here will be to the Road Transport Act 2013, which commenced operation 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 imprisonment and a period of licence disqualification, the disqualification period is to be served after the imprisonment ends. Specifically, the bill will amend the Road Transport Act 2013 to insert proposed new section 206A to provide that where a person is convicted of a "major disqualification offence" and the court imposes a custodial sentence and a period of licence disqualification, whether by statute or by an order of the court, the period of disqualification will not commence until the expiry of the period of imprisonment or upon the day of release from imprisonment if early release is granted under parole.

Courts will have the power to rule that any statutory disqualification period or any court-ordered disqualification period starts from the date of conviction if it considers that is justified in a particular case. To achieve this outcome, proposed new section 206A (3) will provide that a specified period of disqualification is to be extended by any period of imprisonment. This effectively means that the overall period of disqualification will equal the

period of imprisonment and the actual period of licence disqualification that was imposed. This ensures that the offender does not get the benefit of both periods being served concurrently. Proposed new subsection (4) provides that, for the purposes of the new section, a period of imprisonment will not include any period during which 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 come into effect accordingly and the person may apply for a licence earlier by a corresponding period.

It is proposed that offenders who have non-custodial sentences imposed, such as suspended prison sentences, intensive correction orders or home detention, not be included in these reforms. In these cases the courts have determined that the offenders effectively remain in the community. As I have stated, proposed 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 as defined under section 115 and an aggravated burnout offence as defined under section 116 (2) of the Act respectively. Major offences in 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 excluded from this proposal at this time. 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 deal only with the most serious of driving offences that 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 implementation of 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 this great proposal from the Government.