

16 September 2013

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Dear Dr Groves

Driver Licence Disqualification Reform

Following my appearance to the Committee on Law and Safety on Friday 30 August 2013, the following additional questions were posed:

“In your view, would there be a role for court imposed vehicle sanctions as a penalty for unauthorised driving offences? What factors do you think a court should have to take into account before imposing vehicle sanctions?”

In my opinion, which is based on my reading of the few Australian and the many international (mostly U.S.) research evaluations, there is certainly a role for court imposed vehicle sanctions, at least for short term gains, although additional measures are needed for sustained impacts on recidivism.

Alcohol interlock sanctions for drink driving offenders have been the most extensively evaluated vehicle sanction and, with improved technology to prevent tampering, there is convergent evidence that these interlocks are effective in reducing recidivism and crashes when fitted to offenders' vehicles. Recidivism rates however generally do increase once the devices are removed, although some offenders voluntarily choose to keep the interlocks in their vehicles beyond the sanction period. Incorporating rehabilitation programs into alcohol interlock programs is a more recent intervention approach but is showing promise in sustaining benefits once interlocks are removed.

I also believe that, in the future, speed limiting technology or Intelligent Speed Adaptation (ISA) technology (which helps keep a vehicle to the posted speed limit) might similarly have a role for high range and repeat speeding offenders, so flexibility in wording in legislature or future reviews should account for this potential.

Vehicle impoundment or immobilisation has also been extensively evaluated and shows reductions in recidivism and crashes both during and 2-3 years following sanction periods. Some jurisdictions apply the lower cost alternative of removing vehicle licence plates or apply a sticker or different licence plate that allows persons other than the offender to drive the vehicle, but evaluations of these are limited and have inconsistent findings. There is limited evidence to support the effectiveness of vehicle forfeiture, in part as with this threat the vehicle in question commonly is sold prior to the court hearing or those retained are of little value.

Factors that a court should have to take into account before imposing vehicle sanctions include whether the offender has prior offences, the severity of the offence, circumstances contributing to the offence, feasibility of implementing the sanction and the potential for undue negative impacts should the sanction be actioned.

Detection for offences is not unrelated to the level of enforcement of that offence. In jurisdictions just as Sweden, the ability to police alcohol related driving offences is considered so low that anyone detected driving under the influence receives an extended suspension or must join an alcohol interlock program and prove s/he is not alcohol dependent to continue driving. In Australia generally enforcement is considered relatively high and therefore a first offence at the lowest threshold violation for speeding or alcohol is not generally subject to the extreme of vehicle sanctions.

Conversely, high range Blood Alcohol Concentrations and speed violations can attract vehicle sanctions even for first offenders. However, even in these situations, there can be cases where the offender might argue an emergency situation where no feasible alternative was available, or perceived to be available, which a court might take into consideration. While high speeds and blood alcohol substantially increase the risk of crash, in reality most episodes of speeding and drink driving do not result in a crash and there is some debate and role for judgment as to whether the sanction should match the potential harm of the action or the objective probability of it leading to death and injury depending on the specific circumstances of the offence.

Feasibility issues and potential negative consequences relate to whether the offender is the owner, or sole owner of the vehicle and the age and condition of the vehicle. For example, a recent pilot study of alcohol interlocks in remote Aboriginal communities in Western Australia was abandoned due to the lack of suitability of vehicles – some too old for the technology or not roadworthy – despite the communities' desire to be involved in the initiative. Notably, fewer Aboriginal Australians consume alcohol than non-Aboriginal Australians, but there is a higher rate of alcohol abuse or dependency among those that do. Access to rehabilitation would be far preferable for individuals with alcohol misuse problems but is not always available.

In remote communities especially, a single vehicle might service multiple extended family or community members and confiscation could limit access to employment or basic needs such as food outlets and health services. Therefore, the ability of those accessing a shared vehicle to other transport options, not just the offender, also needs consideration.

Several of the abovementioned factors are not able to be considered in mandatory, administrative sanctions but can be considered by courts. Further to my original opening statement, vehicle sanctions should also be considered relative to the potential role of other alternatives such as restricted work licences. Restricted licence sanctions might be more appropriate for some individuals and could apply in situations where vehicle sanctions are likely to be ineffective or have other negative consequences that would be overly harsh relative to the probability of harm of the offence.

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