

**Submission
No 8**

DRIVER LICENCE DISQUALIFICATION REFORM

Organisation: Douglass & Ford Criminal Law

Name: Mr Brett Ford

Date Received: 22/07/2013

douglass & ford criminal law

Solicitors & Barristers

21 July 2013

89 Plunkett Street, Nowra
PO Box 623 Nowra, 2541

Private and Confidential

ph: 02 4423 4115

fax: 02 4423 4092

NSW Parliament
Legislative Assembly
Committee on Law and Safety
Macquarrie Street,
SYDNEY. NSW. 2000.

Brett Eric Ford
Dip. Law, GDLP, LLM

Re: Inquiry into Driver Licence Disqualification Reform

Dear Committee Members,

Please accept this as my submissions in relation to the Inquiry into Driver Licence Disqualification Reform.

I am a solicitor on the South Coast of New South Wales and specialise in Criminal Law. I have appeared for numerous people who have had their licence disqualified resulting from offences. I also lecture at the Serious Traffic Offenders Program at Nowra in relation to legal issues.

There is always the balance between public safety and punishment however disqualification periods are not part of the punishment, they are in addition to it¹. That being the case public safety is probably the overriding consideration.

In my view there is a difference between people whose offences involve a risk to public safety and those that continue to drive after being disqualified for other reasons. For example if you drive after having been disqualified for drink driving is one thing however driving after having been disqualified for driving after fine default suspension is another. My submission is that the court should have greater discretion in dealing with offenders not less, and that includes periods of disqualification. The law should be reviewed to include the period of disqualification as part of the penalty for the offence with less focus on automatic periods of disqualification.

The second submission I make is that there is a difference between people who live in the city and the country however the penalties are the same. This is based generally on the fact access to services and public transport in the city is better and distances are smaller. Whilst I accept there are dangers of driving on country roads that may be more significant than on city roads there should be some ability for country drivers to maintain their licence after being disqualified.

¹ Road Transport Act 2013 Section 204(3)

This would be a matter for investigation but could take the form of a work licence, a licence for a specific day time period or good behaviour type licence. Technology could also be investigated and rather than disqualification, a vehicles operator could be restricted relating to the original offence for example an interlock licence or speed recording device. However country people should not be put in the position of choosing to comply with the law by not driving when disqualified or paying the mortgage, paying the bills or putting food on the table. Whilst I accept the need for deterrence and that having a driver licence is a privilege, a driver licence for country drivers may be, in reality, more important than to people in metropolitan Sydney, Newcastle and Wollongong. Of course I am not saying that a person can be discriminated against because of the location in which they live I am submitting that it is a factor that should be significant in relation to any disqualification period.

Further to the current programs available to drivers disqualified as a result of drink driving offences, there should be a wider use of the interlock licensing program. At this stage it is a discretionary matter of the court to be applied for if the solicitor or unrepresented offender knows about it. In my view this program should be more widely promoted and supported.

My final submission is that long disqualification periods should be abandoned as they set people up to fail. Periods applied such as Habitual offender's declaration or three years disqualification after having driven twice when you have never had a licence are so long that the offender may not even try to comply. The situation that I see regularly in my practice is people receiving long disqualification periods for short periods of offending. When the reason for the offending is addressed they may be completely different people yet they are not able to reintegrate into the community as they can't drive affecting their ability to gain employment or maintain their responsibilities.

I have recently appeared for a number of people who are disqualified for years to come as a result of court ordered habitual offender declaration. Because it has been court ordered they cannot ask for it to be reviewed. If the habitual offender program is abandoned there should be some ability for these people to do something about these disqualification periods.

In my view long disqualification periods do nothing but put driving offenders in gaol. While at times this may be appropriate, when you consider the original disqualification may come about as a result of licence suspension because of non-payment of fines we are in the same situation as many years ago with people being in gaol essentially because they haven't paid their fine.

I have tried to keep my submissions as brief as possible. I am happy to expand on the experience of my practice if it is of any assistance.

Yours sincerely,

Brett Ford
Principal Solicitor