

## DRIVER LICENCE DISQUALIFICATION REFORM

Name: Name Suppressed  
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*Partially Confidential*

**SUBMISSION TO THE**

**INQUIRY INTO DRIVER LICENCE**

**DISQUALIFICATION REFORM**

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The Committee Manager  
Committee on Law and Safety  
Parliament House  
Macquarie Street  
Sydney NSW 2000

**Submission to the Inquiry into Driver Licence Disqualification Reform**

Dear Sir/Madam,

I have a keen interest in road safety and matters relating to traffic in New South Wales (NSW). I make this submission as *a member of the public only* and my submission is my own *personal opinion* based on my experience and interest in this field. It may not be the opinion *of my employer*. I am currently employed by the NSW Police Force and work in the field of Highway Patrol under the Traffic and Highway Patrol Command. I have been employed by the NSW Police Force for 10 years and have been within the Traffic and Highway Patrol Command for a little over two years. My work is all things traffic related including driver licencing.

During my career I have dealt with hundreds, if not thousands of traffic related matters in particular driver licencing matters and even more specifically drivers who are or were cancelled, suspended or disqualified. In that time I have encountered many issues arising

from the cancellation, suspension or disqualification of driver licences. Those issues will be raised in this submission and do relate to the Terms of Reference (ToR) for this inquiry.

Due to obvious restrictions, I cannot supply names or other physical information relating to the work I do. My submission will refer to issues that I have seen and that I hope will enhance the work of this inquiry.

Firstly, the number of drivers who are cancelled, suspended or disqualified are quite high in comparison to the number of licence holders in NSW. There are, according to the Roads and Maritime Services 5,568,376 licence holders. As of March this year, there were 227,174 licences that were cancelled, suspended or disqualified for a variety of reasons. This equates to around 4% of licence holders. These statistics are quite variable given that the number of licence holders and the number of cancelled, suspended or disqualified driver's changes every day. In my opinion, even 4% of drivers that have fallen into the category of being cancelled, suspended or disqualified is too high.

*ToR 1(a) - Establish a right to apply to the Court to have any outstanding disqualification periods removed for people who complete a minimum offence free period*

ToR point 1(a) is a good point and one that I have thought about and discussed with colleagues previously. The ability for a disqualified driver to apply to have a disqualification period reduced or removed appears to be an incentive to not drive whilst disqualified. It appears similar to a prisoner's parole period whereby the prisoner is integrated back into society before completing their sentence.

Some might say that a disqualified driver should not have their disqualification period reduced or removed because it was poor or dangerous driving that had them disqualified in

the first place. This is true, however, in instances where the disqualification is a first or where it is because of one moment of poor judgement, it would be appropriate to remove or reduce a period of that disqualification after a minimum period of having been disqualified. It is appropriate as it gives a person an incentive to stay out the driver's seat of a motor vehicle and be less likely to drive whilst disqualified.

An example of this in my experience was a person known to me who spent 3 years disqualified. The person's traffic record was not the worst that I had heard of and the matter that had them disqualified was a one off. This person retained employment and lifestyle despite being disqualified by organising lifts, informing their employer of their licence status and using public transport and remained out of the driver's seat – the whole point of the disqualification. In this case where there were no further driving offences and the person complied with the sentence given to them. This, in my opinion, would be the situation that would have made them a candidate for a reduction or removal of a period of disqualification.

On the other side of the coin, for people who are determined to thumb their nose at a disqualification and the law, this will not work and they will likely end up serving a term of imprisonment anyway. In saying that however, for persons who are disqualified for a period that would likely exceed their natural life (and there are such people – the years 2063 and 2112 are ones that I am aware of), there is still potential to benefit from this reform by giving them an opportunity to reduce their period of disqualification in addition to remaining out of custody.

Controlling this should be done in similar fashion to parole or a good behaviour period on a driver licence whereby conditions are placed on a driver in circumstances where they have a disqualification period reduced or removed. The conditions could be that they are given an opportunity to continue to drive on the condition that they commit no further driving offences

that incur demerit points within the remainder of their original disqualification period. For those that do commit further offences in that period, they become disqualified again for the remainder of the period that they were originally disqualified for. This would also have the benefit to all other road users that this driver would then potentially behave behind the wheel of a motor vehicle.

ToR 1(d) – Revise the maximum penalties prescribed for unauthorised driving offences

The *unauthorised driving offences* relating to these Terms of Reference relate to a driver who has never held a licence or who is disqualified, suspended or cancelled. The maximum penalties for these offences stand at the moment should stay as they are. I have yet to see 20 penalty units given to an offending driver for any offence other than one disqualified driver and only then was it after multiple disqualified driving offences. Even then, the number of times it is given are few and far between. The terms of imprisonment, in my experience, are also rarely given. They are not, never given but rarely and in circumstances where the offender has had multiple disqualified driving offences and who continues to drive.

ToR 1(e) – Introduce vehicle sanctions for offenders who repeatedly drive while disqualified

The point within the Terms of Reference for this inquiry that relates to vehicle sanctions is another good point. But it is not without its problems as I will explain shortly. There is currently no options for Police or the Authority to confiscate a disqualified drivers vehicle if they are caught driving. At this time, only unregistered motor vehicles, vehicles street racing and conducting burnouts and high range speeding offences can currently be confiscated but only in circumstances where the offending driver is the registered owner of the motor vehicle.

This means that a driver who is not the registered owner can conduct burnouts, street race and the like with impunity because it is not their vehicle and are not at risk of having the vehicle confiscated. Although not within the scope of this inquiry, this *should* be the case for those drivers previously mentioned but *must* be the case with drivers who are caught committing any of the unauthorised driving offences. If vehicle sanctions are to be legislated, then vehicle confiscations must be able to be carried out regardless of who the owner is. There are many vehicles out there registered to mum and/or dad and employers and driven by sons or daughter's or employees which means that those vehicles cannot be confiscated under the current vehicle sanction legislation.

The word 'repeatedly' appears in the title for this part of the ToR. In my opinion, vehicle sanctions should be able to be used for any person caught for an unauthorised driving offence after a person is convicted of one of the 'unauthorised driving offences' for the first time. So, once a driver is convicted for a *first* offence, if they are caught at any subsequent occasion committing any of the unauthorised driving offences, they are then liable to have the vehicle they are driving, confiscated regardless of ownership.

Some would say that having a vehicle confiscated when the owner is *not* the offending driver is harsh. That may be the case, however the owners in these cases be it a company or a parent, may find themselves liable for more than the cost of having their vehicle confiscated if a disqualified driver is in a collision in their vehicle.

This brings me to my next point which is the possibility of having a vehicle impounded, at the owner or offenders expense, for a period of time. This would, in the case of the offending driver not being the owner and the owner not being aware, bring the status of the offending drivers licence to light for the owner. The owner should then have the option of applying to a Court for the return of the vehicle prior to the completion of the confiscation period. The



owner would then be inconvenienced financially and by way of having to attend Court to have the vehicle returned to them – if the vehicle was to be returned. This would have the effect on owners of vehicles that by allowing disqualified drivers to drive their vehicles, they would also be held accountable.

*ToR 2(b) – Reforms contained in the Road Transport Amendment (Licence Disqualification on Conviction Bill 2013*

The amendments proposed in the *Road Transport Amendment (Licence Disqualification on Conviction Bill 2013* I believe relate to the recent media report surrounding the drink driving death of a person in the Southern Highlands of New South Wales. In this case, the offending driver was sentenced to a term of imprisonment that was longer than the period of disqualification contained within the sentence. On release from prison, the offending driver was then able to drive as the period of disqualification had been completed.

Without knowing what offences the driver in the previously mentioned case was charged with and subsequently sentenced to, it does not make sense that if a person charged with, for example, dangerous driving causing death *and* high range drink driving and who is sentenced to a term of imprisonment for the death and then a period of disqualification that is lesser than the term of imprisonment for the drink driving offence that the period of disqualification is served whilst that person cannot possibly be impacted by the disqualification. The purpose of a disqualification is ultimately to keep drivers off the road as a punishment for the offence they have been convicted of in addition to the protection of the road using public.

This amendment will remove the ‘loophole’ that exists such that allowed the offending driver to drive once released from prison. This amendment should progress and become legislation because it is quite obvious that while in prison, a disqualified driver cannot drive a motor vehicle and cannot be negatively impacted by a disqualification. The Bill will then enable Courts to disqualify a person from the date of completion of any term of imprisonment. I, and no doubt many others, including the family of the victim in the matter that has caused this amendment would support this Bill being made legislation.

ToR 2(d) – Any related matters

Currently under section 53 (1b) (Driver must be licenced) of the Road Transport Act 2013 (Formerly s25 (1b) Road Transport (Driver Licencing) Act 1998), there is an offence for a person to employ or permit another person who is not licenced to drive a motor vehicle on a road or road related area to in fact drive a motor vehicle on a road or road related area.

There is no such offence within section 54 of the Road Transport Act 2013 (Formerly 25A of the Road Transport (Driver Licencing) Act 1998) (Offences committed by disqualified drivers or drivers whose licences are suspended or cancelled). I believe that there should be such an offence within section 54 of The Act to act as a deterrent from owners of motor vehicle, be it privately owned or owned by a company, allowing their vehicles to be driven by disqualified, suspended or cancelled drivers.

Some may ask ‘how is an owner meant to know if someone is disqualified, suspended or cancelled?’ Well there is no difference between this and a driver who is unlicenced and is permitted to drive by an owner. Yes, there should be some commonsense when taking action against an owner of a motor vehicle who permits an unlicensed driver to drive. For example, if an owner is aware that a driver is unlicenced and are allowing them to drive, then they will

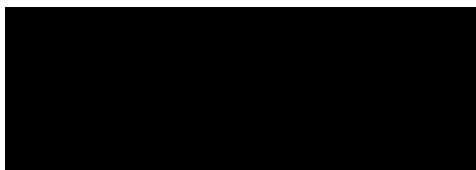
most likely have action taken against them. It could, or should be the same for owners who allow disqualified, suspended or cancelled drivers to drive. Where the owner is unaware or it cannot be proven that the owner is aware, then commonsense would usually prevail and no formal action would be taken against the owner.

My employment relies on me having a valid driver licence and my employer takes steps to ensure that my licence is current during my employment. It should be no different with any other employer that employs a person to drive a company vehicle or even a mum and dad allowing their children to drive vehicles registered to them.

That is my submission to the Inquiry. As mentioned previously, I base this submission on my experience in dealing with traffic matters through my employment, matters that relate to the Terms of Reference of this Inquiry.

I hope that this submission assists the Inquiry in making a determination in the Driver Licence Disqualification Reform that improves the way that Police and the Courts deal with unlicensed (never held), cancelled, suspended or disqualified drivers and I look forward to seeing the outcome in both a legislative and practical way.

Yours Sincerely,

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20/07/2013