



New South Wales

Crimes Amendment (Road Accidents) (Brendan's Law) Act 2005 No 74

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Crimes Amendment (Road Accidents) (Brendan's Law) Act 2005 No 74

Act No 74, 2005

An Act to amend the *Crimes Act 1900* and various other Acts with respect to the obligations of drivers to stop and provide assistance where their vehicles are involved in accidents that cause death or injury. [Assented to 26 October 2005]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Road Accidents) (Brendan's Law) Act 2005*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 2.3 commences:
 - (a) on the commencement of Schedule 1, or
 - (b) on the commencement of Part 5.4 of the *Road Transport (General) Act 2005*,whichever is the later.

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

Section 52AB

Insert after section 52AA:

52AB Offence of failing to stop and assist after vehicle impact causing death or grievous bodily harm

- (1) A person is guilty of an offence if:
- (a) a vehicle being driven by the person is involved in an impact occasioning the death of another person, and
 - (b) the person knows, or ought reasonably to know, that the vehicle has been involved in an impact occasioning the death of, or grievous bodily harm to, another person, and
 - (c) the person fails to stop and give any assistance that may be necessary and that it is in his or her power to give.

Maximum penalty: imprisonment for 10 years.

- (2) A person is guilty of an offence if:
- (a) a vehicle being driven by the person is involved in an impact occasioning grievous bodily harm to another person, and
 - (b) the person knows, or ought reasonably to know, that the vehicle has been involved in an impact occasioning the death of, or grievous bodily harm to, another person, and
 - (c) the person fails to stop and give any assistance that may be necessary and that it is in his or her power to give.

Maximum penalty: imprisonment for 7 years.

- (3) The provisions of section 52A (5) and (6) (which prescribe circumstances in which a vehicle is taken to be involved in an impact) apply for the purposes of this section in the same way as they apply for the purposes of section 52A.

- (4) In this section, *vehicle* has the same meaning as it has in section 52A.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Criminal Procedure Act 1986 No 209

[1] Section 267 Maximum penalties for Table 1 offences

Insert “, 52AB” after “52A” in section 267 (4) (a).

[2] Schedule 1 Indictable offences triable summarily

Insert after clause 16 of Table 1:

16A Failing to stop and assist after road accident

An offence under section 52AB of the *Crimes Act 1900*.

2.2 Road Transport (General) Act 1999 No 18

[1] Section 24 Court may impose penalty and disqualify driver on conviction

Insert after section 24 (6) (c):

(c1) an offence under section 52AB of the *Crimes Act 1900*,

[2] Section 25 Disqualification for certain major offences

Insert “or 52AB” after “51A” in paragraph (b) of the definition of *convicted person* in section 25 (1).

2.3 Road Transport (General) Act 2005 No 11

[1] Section 187 Court may impose penalty and disqualify driver on conviction

Insert after section 187 (6) (c):

(c1) an offence under section 52AB of the *Crimes Act 1900*,

[2] Section 188 Disqualification for certain major offences

Insert “or 52AB” after “51A” in paragraph (b) of the definition of *convicted person* in section 188 (1).

2.4 Road Transport (Safety and Traffic Management) Act 1999 No 20

Section 70

Omit the section. Insert instead:

70 Offence of failing to stop and assist after impact causing injury

- (1) A person is guilty of an offence if:
- (a) a vehicle or horse being driven or ridden by the person on a road or road related area is involved in an impact occasioning the death of, or injury to, another person, and
 - (b) the person knows, or ought reasonably to know, that the vehicle or horse has been involved in an impact occasioning injury to another person, and
 - (c) the person fails to stop and give any assistance that may be necessary and that it is in his or her power to give.

Maximum penalty: 30 penalty units or imprisonment for 18 months or both (in the case of a first offence) or 50 penalty units or imprisonment for 2 years or both (in the case of a second or subsequent offence).

- (2) For the purposes of this section, the circumstances in which a vehicle is involved in an impact occasioning the death of, or injury to, a person include if the death or injury is occasioned through any of the following:
- (a) the vehicle overturning or leaving a road or road related area while the person is being conveyed in or on that vehicle (whether as a passenger or otherwise),
 - (b) an impact between any object and the vehicle while the person is being conveyed in or on that vehicle (whether as a passenger or otherwise),
 - (c) an impact between the person and the vehicle,
 - (d) the impact of the vehicle with another vehicle or an object in, on or near which the person is at the time of the impact,
 - (e) an impact with anything on, or attached to, the vehicle,
 - (f) an impact with anything that is in motion through falling from the vehicle,
 - (g) the person falling from the vehicle, or being thrown or ejected from the vehicle, while being conveyed in or on the vehicle (whether as a passenger or otherwise),

- (h) an impact between any object (including the ground) and the person, as a consequence of the person (or any part of the person) being or protruding outside the vehicle, while the person is being conveyed in or on the vehicle (whether as a passenger or otherwise).
- (3) For the purposes of this section, a vehicle is also involved in an impact occasioning the death of, or injury to, a person if:
 - (a) the death or injury is occasioned through the vehicle causing an impact between other vehicles or between another vehicle and any object or person or causing another vehicle to overturn or leave a road or road related area, and
 - (b) the prosecution proves that the vehicle caused the impact.
- (4) In this section, *object* includes an animal, building, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post or tree.

Note. Similar obligations are imposed on a person by section 52AB of the *Crimes Act 1900* in relation to impacts causing death or grievous bodily harm.

[Second reading speech made in—
Legislative Assembly on 21 September 2005
Legislative Council on 18 October 2005]

BY AUTHORITY