



New South Wales

Traffic and Crimes Amendment (Menacing and Predatory Driving) Act 1997 No 75

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Traffic and Crimes Amendment (Menacing and Predatory Driving) Act 1997 No 75

Act No 75, 1997

*An Act to amend the Traffic Act 1909, the Crimes Act 1900 and the Criminal Procedure Act 1986 with respect to menacing and predatory driving.
[Assented to 10 July 1997]*

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Traffic and Crimes Amendment (Menacing and Predatory Driving) Act 1997*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedule 1.

4 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 2.

5 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 3.

Schedule 1 Amendment of Traffic Act 1909

(Section 3)

[1] Section 4AA

Omit the section. Insert instead:

4AA Menacing driving

(1) **Offence—intent to menace**

A person is guilty of an offence against this Act if

- (a) the person drives a motor vehicle on a public street in a manner that menaces another person, and
- (b) the person intended to menace that other person.

Maximum penalty:

- for a first offence—30 penalty units or imprisonment for 18 months, or both, and
- for a second or subsequent offence—50 penalty units or imprisonment for 2 years, or both.

(2) **Offence—possibility of menace**

A person is guilty of an offence against this Act if

- (a) the person drives a motor vehicle on a public street in a manner that menaces another person, and
- (b) the person ought to have known that the other person might be menaced.

Maximum penalty:

- for a first offence—20 penalty units or imprisonment for 12 months, or both, and
- for a second or subsequent offence—30 penalty units or imprisonment for 18 months, or both.

(3) **Application**

This section applies:

- (a) whether the other person is menaced by a threat of personal injury or by a threat of damage to property, and

(b) whether or not that person or that property is on a public street.

(4) **Defence**

A person is not guilty of an offence under this section if the person could not, in the circumstances, reasonably avoid menacing the other person.

(5) **Double jeopardy**

A person is not liable to be convicted of

(a) both an offence under subsection (1) and an offence under subsection (2), or

(b) both an offence under this section and an offence under section 4,

arising out of a single incident.

(6) **Second or subsequent offences**

An offence under this section is a second or subsequent offence for the purposes of this section if

(a) it is the second or subsequent occasion on which the person is convicted of that same offence, or

(b) within the period of 5 years immediately before the person is convicted of the offence, the person was convicted of a major offence.

[2] Section 10A Disqualification for certain major offences

Insert after section 10A (1) (a):

(a1) is convicted of an offence under section 51A of the *Crimes Act 1900*,

Schedule 2 Amendment of Crimes Act 1900

(Section 4)

Section 51A

Insert before section 52A:

51A Predatory driving

- (1) The driver of a vehicle who, while in pursuit of or travelling near another vehicle:
 - (a) engages in a course of conduct that causes or threatens an impact involving the other vehicle, and
 - (b) intends by that course of conduct to cause a person in the other vehicle actual bodily harm,

is guilty of an offence and liable to imprisonment for 5 years.

- (2) This section does not take away the liability of any person to be prosecuted for or found guilty of an offence under this Act or of any other offence, or affect the punishment that may be imposed for any such offence; However, a person who:
 - (a) has been convicted or acquitted of an offence under this section cannot be prosecuted for any other offence under this Act on the same, or substantially the same, facts, or
 - (b) has been convicted or acquitted of any other offence under this Act cannot be prosecuted for an offence under this section on the same, or substantially the same, facts.

- (3) In this section:

impact involving a vehicle includes:

- (a) an impact with any other vehicle or with a person or object, or
- (b) the vehicle overturning or leaving a road.

vehicle has the same meaning it has in section 52A.

Schedule 3 Amendment of Criminal Procedure Act 1986

(Section 5)

[1] Section 33J Maximum penalties for Table 1 offences

Insert “51A,” after “section” in section 33J (4) (a).

[2] Table 1 to Part 9A (Summary disposal of indictable offences by Local Courts)

Insert “51A,” after “49,” in Part 1 of Table 1.

[Minister’s second reading speech made in—
Legislative Assembly on 19 June 1997
Legislative Council on 27 June 1997]