



New South Wales

Crimes Amendment (Road Accidents) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is 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.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (with minor exceptions) on a day or days to be appointed by proclamation. The minor exceptions comprise consequential amendments that relate to the uncommenced *Road Transport (General) Act 2005*.

Clause 3 is a formal provision that gives effect to the amendment to the *Crimes Act 1900* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Schedule 1 Amendment of Crimes Act 1900

Schedule 1 inserts a new section 52AB into the *Crimes Act 1900*. The proposed section makes it an offence for the driver of a vehicle that is involved in a collision causing death or grievous bodily harm to fail to stop and give assistance in circumstances in which he or she knows, or ought reasonably to know, that the vehicle has been involved in such a collision. Where the collision causes death, the maximum penalty for such a failure is imprisonment for 10 years. Where the collision causes grievous bodily harm, the maximum penalty for such a failure is imprisonment for 7 years.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Criminal Procedure Act 1986* so as to provide that an offence against proposed section 52AB of the *Crimes Act 1900* will be dealt with summarily unless the prosecution or person charged elects for it to be dealt with on indictment. If dealt with summarily, the maximum penalty that can be imposed for such an offence will be imprisonment for 18 months.

Schedule 2.2 amends the *Road Transport (General) Act 1999* so as to provide for the disqualification of a person from holding a driver licence in circumstances in which the person is convicted of an offence under proposed section 52AB of the *Crimes Act 1900*.

Schedule 2.3 amends the (uncommenced) *Road Transport (General) Act 2005* so as to provide for the disqualification of a person from holding a driver licence in circumstances in which the person is convicted of an offence under proposed section 52AB of the *Crimes Act 1900*.

Schedule 2.4 substitutes section 70 of the *Road Transport (Safety and Traffic Management) Act 1999*. The proposed new section, which replaces an existing section with respect to the giving of assistance at accidents involving death or injury, is in similar terms to proposed section 52AB of the *Crimes Act 1900*, but is intended to apply only where there is a collision where any injury appears to fall short of death or grievous bodily harm. As with existing section 70, the maximum penalty for failing to stop and give assistance is 30 penalty units or imprisonment for 18 months or both (for a first offence) or 50 penalty units or imprisonment for 2 years or both (for a second or subsequent offence).

First print



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No. , 2005

A Bill for

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.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Crimes Amendment (Road Accidents) Act 2005</i> .	3
2 Commencement	4
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).	5 6
(2) Schedule 2.3 commences:	7
(a) on the commencement of Schedule 1, or	8
(b) on the commencement of Part 5.4 of the <i>Road Transport (General) Act 2005</i> ,	9 10
whichever is the later.	11
3 Amendment of Crimes Act 1900 No 40	12
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	13
4 Amendment of other Acts	14
Each Act specified in Schedule 2 is amended as set out in that Schedule.	15

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	1
	(Section 4)	2
2.1	Criminal Procedure Act 1986 No 209	3
[1]	Section 267 Maximum penalties for Table 1 offences	4
	Insert “, 52AB” after “52A” in section 267 (4) (a).	5
[2]	Schedule 1 Indictable offences triable summarily	6
	Insert after clause 16 of Table 1:	7
16A	Failing to stop and assist after road accident	8
	An offence under section 52AB of the <i>Crimes Act 1900</i> .	9
2.2	Road Transport (General) Act 1999 No 18	10
[1]	Section 24 Court may impose penalty and disqualify driver on conviction	11
	Insert after section 24 (6) (c):	12
	(c1) an offence under section 52AB of the <i>Crimes Act 1900</i> ,	13
[2]	Section 25 Disqualification for certain major offences	14
	Insert “or 52AB” after “51A” in paragraph (b) of the definition of <i>convicted person</i> in section 25 (1).	15 16
2.3	Road Transport (General) Act 2005 No 11	17
[1]	Section 187 Court may impose penalty and disqualify driver on conviction	18 19
	Insert after section 187 (6) (c):	20
	(c1) an offence under section 52AB of the <i>Crimes Act 1900</i> ,	21
[2]	Section 188 Disqualification for certain major offences	22
	Insert “or 52AB” after “51A” in paragraph (b) of the definition of <i>convicted person</i> in section 188 (1).	23 24

2.4 Road Transport (Safety and Traffic Management) Act 1999	1
No 20	2
Section 70	3
Omit the section. Insert instead:	4
70 Offence of failing to stop and assist after impact causing injury	5
(1) A person is guilty of an offence if:	6
(a) a vehicle or horse being driven or ridden by the person on	7
a road or road related area is involved in an impact	8
occasioning the death of, or injury to, another person, and	9
(b) the person knows, or ought reasonably to know, that the	10
vehicle or horse has been involved in an impact	11
occasioning injury to another person, and	12
(c) the person fails to stop and give any assistance that may be	13
necessary and that it is in his or her power to give.	14
Maximum penalty: 30 penalty units or imprisonment for 18	15
months or both (in the case of a first offence) or 50 penalty units	16
or imprisonment for 2 years or both (in the case of a second or	17
subsequent offence).	18
(2) For the purposes of this section, the circumstances in which a	19
vehicle is involved in an impact occasioning the death of, or	20
injury to, a person include if the death or injury is occasioned	21
through any of the following:	22
(a) the vehicle overturning or leaving a road or road related	23
area while the person is being conveyed in or on that	24
vehicle (whether as a passenger or otherwise),	25
(b) an impact between any object and the vehicle while the	26
person is being conveyed in or on that vehicle (whether as	27
a passenger or otherwise),	28
(c) an impact between the person and the vehicle,	29
(d) the impact of the vehicle with another vehicle or an object	30
in, on or near which the person is at the time of the impact,	31
(e) an impact with anything on, or attached to, the vehicle,	32
(f) an impact with anything that is in motion through falling	33
from the vehicle,	34
(g) the person falling from the vehicle, or being thrown or	35
ejected from the vehicle, while being conveyed in or on the	36
vehicle (whether as a passenger or otherwise),	37

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Schedule 2 Amendment of other Acts

- (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). 1
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- (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: 6
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 - (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 8
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 - (b) the prosecution proves that the vehicle caused the impact. 13
- (4) In this section, *object* includes an animal, building, structure, earthwork, embankment, gutter, stormwater channel, drain, bridge, culvert, median strip, post or tree. 14
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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. 17
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