

Act No. 44

MOTOR TRAFFIC (ROAD SAFETY) AMENDMENT BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

Crimes (Road Safety) Amendment Bill 1987;

General Traffic (Road Safety) Amendment Bill 1987.

The object of this Bill is to amend the Motor Traffic Act 1909 so as—

- (a) to provide for the taking of samples of blood and urine from the drivers of motor vehicles, where their driving gives reasonable cause for belief that they are under the influence of drugs and they do not appear to have a prohibited concentration of alcohol in their blood after a breath test, and for the giving of certificate evidence relating to analyses of those samples for the presence of drugs;
- (b) to extend the present requirements of the Principal Act relating to the compulsory taking and analysis of samples of blood from drivers and pedestrians admitted to hospitals after having been involved in road accidents to the drivers and riders of vehicles which are not motor vehicles and of horses; and
- (c) to provide that samples of blood taken at hospitals under the Principal Act for the purpose of finding any concentration of alcohol present may be used for road safety research purposes.

Clause 1 specifies the short title of the proposed Act.

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Clause 2 provides that, with minor exceptions, the proposed Act will commence on a day or days appointed by the Governor-in-Council and notified in the Gazette.

Clause 3 states that the Motor Traffic Act 1909 is referred to in the proposed Act as the Principal Act.

Clause 4 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Clause 5 saves regulations which would otherwise be repealed by the proposed Act.

Clause 6 declares that the amendments to be made by the proposed Act do not apply in respect of offences alleged to have been committed before those amendments commence.

SCHEDULE 1—AMENDMENTS RELATING TO DRIVING UNDER THE INFLUENCE OF DRUGS

Schedule 1 (1) inserts definitions of “Drug” (to be defined so as to include alcohol) and “Hospital” into section 2 of the Principal Act (Interpretation) as a consequential amendment.

Schedule 1 (2) amends section 3 of the Principal Act (Regulations) so as to authorise the making of regulations with respect to the taking of samples of blood and urine to be analysed for the presence of drugs.

Schedule 1 (3) makes consequential amendments to section 4F of the Principal Act (Blood samples to be taken in certain cases).

Schedule 1 (4) (a) amends section 5 (2) of the Principal Act so as to vary the offence commonly known as “driving under the influence”. The proposed amendment omits the present reference to “intoxicating liquor” and expressly refers to alcohol as a drug, without affecting the new meaning to be given in the Principal Act to the word “drug”.

Schedule 1 (4) (b) is a minor consequential amendment omitting the present definition of “drug” which is to be replaced.

Schedule 1 (4) (c) inserts proposed section 5 (2A) into the Principal Act which declares—

- (a) that a person may be charged with having been under the influence of more than one drug (which may or may not include alcohol) when driving; and
- (b) that the offence of driving under the influence may be proved if a person is found to have been under the influence of a combination of drugs (which may or may not include alcohol).

Schedule 1 (5) inserts into the Principal Act proposed sections 5AA–5AC of which—

Section 5AA (Samples for detecting drugs) sets out the conditions which need to be satisfied before a sample of blood or urine which will be analysed for drugs can be required to be taken and the procedure to be followed in taking and disposing of the sample.

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Section 5AB (Evidence of the presence of drugs) makes evidentiary provisions relating to the taking of such a sample, the conduct of an analysis of the sample and the findings of an analyst, being similar to those of the Principal Act relating to breath analyses for the presence of alcohol.

Section 5AC (Offences relating to testing for drugs) creates offences to assist enforcement of requirements made by proposed section 5AA corresponding to those which assist enforcement of provisions of the Principal Act relating to breath analyses for the presence of alcohol.

Schedule 1 (6) amends section 10A of the Principal Act (Disqualification for certain major offences) so as to disqualify a person from holding a licence under that Act if the person refuses to provide or tampers with a sample of blood or urine.

SCHEDULE 2—AMENDMENTS RELATING TO RIDING UNDER THE INFLUENCE OF ALCOHOL AND TO ROAD ACCIDENT RESEARCH

Schedule 2 (1) and (2) amend the long title of the Principal Act and insert a definition of "Vehicle" into section 2 of that Act as a consequence of the intention to apply certain of the provisions of that Act to the drivers and riders of vehicles which are not motor vehicles and of horses.

Schedule 2 (3) and (4) amend sections 4F and 4G of the Principal Act, which require doctors to take samples of blood from drivers and pedestrians admitted to hospital after having been involved in motor vehicle accidents and provide for the analysis of those samples, so as to apply those sections to the drivers and riders of vehicles which are not motor vehicles and of horses.

Schedule 2 (5) inserts proposed section 17B (Use of samples for accident research) into the Principal Act which will permit samples of blood taken at hospitals under section 4F of that Act, as well as samples of saliva voluntarily provided, to be used in road safety research programmes approved by the Minister.

The proposed section prevents results of that research from being used as evidence against the person who provided any such sample and prohibits disclosure of the identity of that person by persons carrying out that research.
