

[Act 2002 No 72]



New South Wales

Road Transport Legislation Amendment (Interlock Devices) Bill 2002

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Road Transport (General) Act 1999* to enable a court to order the use of breath alcohol interlock devices fitted to motor vehicles as a partial alternative to disqualification for drivers convicted of certain alcohol-related driving offences, and
 - (b) to amend the *Road Transport (Driver Licensing) Act 1998* to enable the regulations made under that Act to provide for the issue of conditional licences restricting their holders to driving motor vehicles fitted with breath alcohol interlock devices and to provide for the installation, removal, maintenance and use of such devices.
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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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Road Transport (General) Act 1999* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Road Transport (Driver Licensing) Act 1998* set out in Schedule 2.

Schedule 1 Amendment of Road Transport (General) Act 1999

Schedule 1 [3] inserts a Subdivision 2 (Use of interlock devices as alternative to disqualification) in Division 3 (Licence disqualification) of Part 3 of the *Road Transport (General) Act 1999*.

The proposed Subdivision will enable a court that convicts a person of certain alcohol-related offences to order that a licence disqualification imposed by or under section 25 of that Act be suspended if the person participates in an interlock program. Entry into the program will involve the person obtaining an interlock driver licence. An interlock driver licence is a conditional driver licence issued under the *Road Transport (Driver Licensing) Act 1998* that restricts the holder of the licence to driving a motor vehicle fitted with an approved interlock device (within the meaning of Part 2A of that Act to be inserted by the proposed Act). An approved interlock device is a device approved by the Roads and Traffic Authority (the *Authority*) that is designed to analyse a breath sample for the presence of alcohol and prevent a motor vehicle from being started if it detects more than a certain concentration of alcohol.

The convicted person will be able to apply for an interlock driver licence at any time during the disqualification period applicable to the person (but no earlier than 28 days before the expiry of the disqualification compliance period). However, the convicted person will not be able to participate in an interlock program until the expiry of the disqualification compliance period. If an interlock driver licence is issued by the Authority, the original disqualification will be suspended for the interlock participation period specified by or under the proposed Subdivision. On the completion of that period, the convicted person will be taken to have completed the original disqualification.

Schedule 1 [1] and [4] insert Subdivision headings in other places in Division 3 of Part 3 of the Act consequent on the insertion of proposed Subdivision 2.

Schedule 1 [2] and [5] make consequential amendments to sections 25 and 26 of the Act to make it clear that the provisions of those sections are subject to the provisions of the proposed Subdivision 2.

Schedule 1 [6] inserts a Schedule 1A in the Act that specifies minimum interlock participation periods and disqualification compliance periods for the purposes of the proposed Subdivision 2.

Schedule 2 Amendment of Road Transport (Driver Licensing) Act 1998

Schedule 2 inserts a new Part 2A (Interlock devices) containing proposed sections 21–21D to be inserted in the *Road Transport (Driver Licensing) Act 1998*.

Proposed section 21 contains definitions for the new Part.

Proposed section 21A provides that, for the purposes of the new Part, an ***approved interlock device*** is an interlock device of a type approved by the Authority by order published in the Gazette.

Proposed section 21B provides that an ***approved interlock installer*** means a person approved by the Authority as a person who may install and remove approved interlock devices in motor vehicles for the purposes of the new Part. It also provides that an ***approved interlock service provider*** means a person approved by the Authority as a person who may carry out maintenance to ensure the proper operation of approved interlock devices, or conduct inspections of such devices, for the purposes of the new Part. A person may be both an approved interlock device installer and approved interlock service provider.

Proposed section 21C enables the regulations to provide for the installation, removal and maintenance of interlock devices on motor vehicles and for their use (whether or not for the purposes of a disqualification suspension order within the meaning of the new section 25A of the *Road Transport (General) Act 1999* to be inserted by the proposed Act).

Proposed section 21D requires the Authority to establish a scheme under which persons seeking to gain the use of approved interlock devices may obtain financial assistance from the Authority for the installation or maintenance of such devices.