

MOTOR TRAFFIC (DRIVERS' LICENCES) AMENDMENT BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:

- Motor Vehicle Driving Instructors (Amendment) Bill 1988;
- Tow-truck (Amendment) Bill 1988.

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

- (a) to enable a member of the police force or other authorised person to whom a driver's licence is produced to seize it if it is reasonably suspected of having been forged or altered or of being fraudulently used or unlawfully in the possession of the person who produced it; and
 - (b) to enable such a member of the police force or other authorised person to require a person producing a licence to provide a specimen of his or her signature; and
 - (c) to enable regulations to be made prescribing circumstances in which a person will not be guilty of an offence by reason of driving a motor vehicle while disqualified from driving, or after the person's licence has been cancelled, or while it is under suspension, or after his or her application for a licence has been refused; and
 - (d) to provide for a mandatory 6 months disqualification from holding a licence for persons convicted of driving after their licences have been cancelled or after their applications for licences have been refused; and
 - (e) to require the licence of a person who has been disqualified from holding it to be surrendered to the court rather than forwarded directly to the Commissioner for Motor Transport; and
 - (f) to make further provision, in the interests of privacy, in relation to drivers' licences, particularly licences that feature a photograph of the licensee.
-

Motor Traffic (Drivers' Licences) Amendment 1988

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent except for the amendment made by Schedule 1 (3), which commences on a day to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Bogus or “doctored” drivers’ licences

Schedule 1 (1) adds new subsections (2)–(7) to section 7 of the Principal Act. The new provisions enable a member of the police force or other authorised person to whom a driver’s licence is produced to seize the licence if it appears to be a forgery or to have been altered or used for fraudulent purposes, or to be unlawfully in the possession of the person who produced it. The member of the police force or other such person may require the person producing the licence to provide a specimen of his or her signature for comparison with the signature on the licence. Failure to do so constitutes an offence.

Where a licence is seized it is to be forwarded to the Commissioner for Motor Transport who will deal with it appropriately according to whether it is genuine or not.

The new provisions also state that, if a licence is seized and afterwards confirmed to be genuine, the driver to whom it belongs commits no offence by reason of driving without it until such time as the Commissioner returns it.

Driving while licence cancelled or suspended or after application refused

Schedule 1 (2) (a) amends section 7A of the Principal Act so as to allow the regulations to prescribe circumstances in which it is not an offence for a person to drive after his or her licence has been cancelled, or while it is under suspension, or after his or her application for a licence has been refused. (The circumstances envisaged include, for example, a case where a person whose application for a New South Wales licence has been refused moves to the A.C.T. and there obtains a driver’s licence.)

Schedule 1 (2) (b) amends the same section so as to provide for mandatory disqualification from holding a licence, for a period of 6 months, in the case of a person convicted of driving after his or her licence has been cancelled or after his or her application for a licence has been refused. At present the mandatory disqualification applies only to a conviction for driving during a period of disqualification or suspension.

Surrender of licence on disqualification

Schedule 1 (3) amends section 10AA of the Principal Act. The section, which deals with procedure on disqualification from holding a licence by virtue of a conviction, at present requires the convicted driver to deliver his or her licence to the Commissioner. This procedure is varied by the amendment, which provides for surrender of the licence to the convicting court.

Photographic licences

Schedule 1 (4) amends section 11AA of the Principal Act, which relates to licences that feature a photograph of the licensee.

A new subsection (3A) is inserted, enabling the regulations to provide for the exemption of persons from the requirement to be photographed.

A new subsection (8) is inserted, which requires any photographic negative (or other means of reproducing a photographic image) to be destroyed after a photograph has been incorporated in the licence.

Motor Traffic (Drivers' Licences) Amendment 1988

A new subsection (9) is inserted, which makes it unlawful for persons employed or under contract in connection with the production of photographic licences, or otherwise concerned in the administration of the Principal Act, to copy (or allow a copy to be made of) the photograph on (or to be used on) a licence.

Unauthorised demand for production of licence

Schedule 1 (5) inserts a new section 11AD into the Principal Act, prohibiting the making of any demand for the production by a person of his or her driver's licence, except where the demand is made by a person in that behalf authorised by law. The prohibition does not operate so as to prevent a person supplying goods or services, or a person in other circumstances, from requesting production of a licence as proof of another person's identity or age if it is reasonable to make that request in the circumstances.
