

ROAD TRAFFIC AMENDMENT (IMPAIRED DRIVING AND PENALTIES) BILL 2019

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson (Minister for Environment)**, read a first time.

Second Reading

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [6.20 pm]: I move —

That the bill be now read a second time.

Substance-impaired driving is a key road safety concern in Western Australia. Although over several decades, attitudes and behaviours regarding drink-driving have changed for the better, alcohol and drugs still contribute to around one in five fatal crashes, and one in 10 serious injury crashes. The impacts of these crashes are often lifelong on the drivers, other road users, their family and friends, and first responders, as well as financially costing our community over \$460 million annually.

The message to drivers under the influence of alcohol and drugs is unequivocal: they have no place on our roads. To reinforce that approach, the government has boosted police traffic enforcement on our roads, including through the regional enforcement unit and increased roadside drug testing. This bill implements several overdue reforms to strengthen our approach to police enforcement and to deter those drivers from getting behind the wheel.

Currently, Western Australia and Tasmania are the only Australian jurisdictions where a driver testing positive to a roadside drug test may continue driving. Other jurisdictions, some for many years, have equipped their police with the power to immediately prohibit a driver who tests positive from driving off. It was introduced, for example, in Queensland in 1999, in New South Wales and South Australia in 2006, and in Victoria in 2007.

Western Australian police have been left to rely on ambiguity and goodwill to dissuade these drivers from continuing to drive. Our police should have, and the community expects them to have, a clear statutory power to immediately prevent those drug-drivers from driving. This bill will provide police with the power to issue a roadside driving ban following a positive drug test to prohibit the driver from driving for 24 hours. The ban will be separate from any charges that may be laid for drug-driving. This roadside driving ban will provide an immediate road safety response to protect other road users.

The bill also introduces new offences for driving after having consumed both alcohol and drugs, known as polydrug offences. Research has shown that the use of alcohol and illicit drugs together often results in exponentially increased levels of driving impairment. One research project found, for example, that drivers who took both alcohol and psychoactive drugs were 20 times more likely to be seriously injured or killed in a road incident than an unimpaired driver. In 2015, the report of the Community Development and Justice Standing Committee of the thirty-ninth Parliament titled “Are we there yet? How WA Police determines whether traffic law enforcement is effective” recommended the introduction of an offence for the combined use of alcohol and illicit drugs. Although no reforms were introduced in Western Australia despite the growing scourge of methamphetamine use in our community, Victoria introduced its polydrug reforms in 2017.

The penalties for these new offences targeting concurrent alcohol and drug-driving will reflect the seriousness of these offences and will be generally 1.5 times more than the penalties for drink-driving alone. The penalties will include minimum periods of disqualification and, consistent with current penalties for drink-driving, prescribe longer periods for higher blood alcohol content levels and repeat offending. The new polydrug offences will be complemented by provisions for failing to comply with a direction from a police officer to provide a sample of breath or blood for the purposes of blood alcohol content testing or oral fluid for the purposes of illicit drug testing. This will ensure that a driver who has consumed both prescribed or illicit drugs and alcohol will not be able to avoid the appropriate polydrug-driving offence penalty by refusing to submit to the tests.

The current penalties for alcohol and drug-driving offences in the Road Traffic Act 1974 were also allowed to lag behind those in many other Australian jurisdictions. For instance, the maximum fine that can be imposed on a driver who is convicted by a court for the first time of driving with a blood alcohol content of .05 is \$500 in Western Australia compared with \$1 100 in South Australia, \$1 828 in Queensland and \$3 223.80 in Victoria. In general terms, under the bill, penalties for offences with a BAC below .08 are to increase by a multiple of 2.5, and penalties for offences with a higher BAC are to increase by 1.5 times. Penalties for drug-driving offences will also increase. The new penalty for driving with a blood alcohol content of .08 or above will be a fine of up to \$4 500 and licence disqualification of at least 30 months. The penalty for driving whilst impaired by drugs will now be a fine of up to \$7 500 or 18 months’ imprisonment. In addition to these reforms, the bill will enhance and streamline substance-impaired driving law enforcement processes and modernise some provisions in the act, including the regulation-making power.

The bill will ensure that blood samples can be taken safely in certain situations. The act provides for the taking of blood samples in a manner prescribed in the regulations. This provision is considered too narrow, as there are occasions when sample takers need to follow a different process due to practical and safety considerations. For instance, when the driver has collapsed veins and low blood pressure, it would be preferable to use a needle and syringe to draw the blood required for the sample so the person's blood flow is carefully maintained, rather than use the prescribed vacutainer equipment from the blood kit, as the prescribed approach may put the person's health at risk. The act is being amended to provide for samples to be taken in a manner other than that prescribed in the regulations so long as it is done in a proper manner and there are sound justifications for deviating from the prescribed manner of drawing blood. The bill also provides for drivers to submit to drug testing in line with current drink-driving enforcement powers, and removes references to obsolete equipment and processes such as urine sampling.

The McGowan government has invested in increasing roadside drug testing to detect drivers who drive after consuming illicit drugs like methamphetamine, and this bill will ensure that appropriate penalties apply when drug-drivers are convicted. This bill will ensure that the government is able to address drink and drug-driving effectively, deter unsafe driving and reduce the number of people killed and seriously injured on WA roads.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

This government takes road safety very seriously indeed. The reforms introduced in this legislation are long overdue and will make a significant contribution to reducing the incidence and severity of road trauma in Western Australia. We may never know whose lives these laws will save, but I can assure the house that our roads will be safer places as a result of their passage.

I commend the bill to the house and table the explanatory memorandum.

[See paper 3461.]

Debate adjourned, pursuant to standing orders.

House adjourned at 6.27 pm
