

**ROAD TRAFFIC AMENDMENT BILL 2005**

*Second Reading*

Resumed from 29 August.

**HON NORMAN MOORE (Mining and Pastoral - Leader of the Opposition)** [9.09 pm]: There seems to be a bit of confusion in the house because of the way in which we have moved from one item of business to another. I want to make sure that we know where we are going with the Road Traffic Amendment Bill. It appears to have been adjourned by Hon Bruce Donaldson on 29 August. Have we discussed this bill yet?

**Hon Adele Farina** interjected.

**Hon NORMAN MOORE:** Is the parliamentary secretary about to sum up?

**Hon Adele Farina:** If no other member wishes to speak.

**Hon NORMAN MOORE:** Hon Simon O'Brien is not here, so the parliamentary secretary will probably sum up.

**HON ADELE FARINA (South West - Parliamentary Secretary)** [9.10 pm]: I welcome support for the bill from the Liberal Party, the National Party and the Greens (WA). Members acknowledge the merit of uniformity across Australia and the good initiatives contained in the bill.

I acknowledge the comments of Hon Paul Llewellyn and his concern that although punitive measures can achieve behavioural change, they should not be relied upon solely to achieve that change, and that other measures such as education are equally important and effective. The bill contains initiatives, such as the double-or-nothing provisions, that reflect this concern. The member acknowledged that in his contribution to the debate. I also note the member's comment about the need to ensure that punitive measures are equitable. He illustrated his point by indicating that taking a licence from someone who lives in a regional area with no public transport has a much greater punitive effect than taking a licence from someone who lives in the metropolitan area and has easy access to public transport. I acknowledge that point. In some respects it is difficult to address those relative inequities in legislation, particularly when we are dealing with legislation that seeks to achieve uniformity across Australia. However, I believe that the extraordinary licence provisions do, to some extent, deal with that inequitable application argument by acknowledging that there are certain circumstances in which a licence should be granted for specific limited use.

I also thank Hon Murray Criddle for his contribution to the debate, in particular his support for the bill and the general principle of uniformity across Australia. The member raised a number of issues on which he indicated he would be seeking clarification during the committee stage. However, I note that the member is not present in the chamber at the moment. The two issues that Hon Murray Criddle raised were concerns about licence holders in other states moving to Western Australia, and the development of the regulations for the licensing scheme. He sought some clarification about what the regulations might be. I do not propose to address those issues directly as the member indicated that he wishes to raise them during the committee stage.

I also thank Hon Peter Collier for his contribution to the debate and for the Liberals' general - although qualified - support for the bill. The member identified a couple of areas about which he has concerns. He indicated general support for the principle of uniformity across Australia, which is contained in the bill. The member's concerns were predominantly focused on the double-or-nothing provision. The member argued that that provision represents a deterioration in the current standards. He argued that the 12-point demerit system provides 12 opportunities at best and two or three opportunities at worst for errant drivers to learn the error of their ways. The member argued that the community responds to guidelines and goalposts and that the 12-point demerit system has a deterrent effect. He also argued that the double demerit system has a significant deterrent value. He argued that the majority of drivers evaluate their driving behaviour when faced with a financial penalty or a loss of demerit points. I agree with the member. The majority of community members respond positively to the demerit system. It is effective in the majority of cases as a deterrent. The majority of people in the community respond positively by modifying their behaviour when faced with the prospect of losing their licence. However, by the member's own admission, the 12-point demerit system does not provide a deterrent effect for a proportion of the community. In fact, the member produced figures indicating that approximately 8 000 people a year have their licences suspended due to an accumulation of demerit points. For 8 000 drivers a year the demerit points system has proved to be an ineffective deterrent. For a proportion of those drivers the double demerit system has also failed as a deterrent. The member argues that the double-or-nothing option proposed in the bill will represent a deterioration in standards. I am not persuaded by that argument, because I believe that, in the majority of cases, members of the community will respond to the demerit system as they do currently. The double-or-nothing system seeks to address drivers who are not responding to that system. It will be interesting to see how many of those drivers take up that option when faced with it. It is a significant

deterrent. A driver will face losing his licence for three months compared with losing it for six months. That will occur if he incurs one demerit point during the 12-month good behaviour period. For clearly errant drivers who have accumulated 12 demerit points, it would require a significant modification of their driving behaviour to ensure that they do not incur more than one demerit point in the 12-month period. They would otherwise lose their licence for an extended period, being six months. That principle provides a significant, positive behaviour modification benefit that will not have an impact on the 12-point demerit system. It is the case that in other states the system is in place and is working extremely well in the results it is achieving.

The member also raised concerns about the database and the logistical nightmare that the database will provide. The member is correct in saying that the register of drivers will require significant cooperation between the states and the federal government. However, his concern that that will create a logistical nightmare is unfounded. Currently, the national exchange of vehicle and driver information system is the national database that provides access to all registered vehicles and licensed drivers in Australia. The database was implemented in an effort to reduce licence fraud, vehicle theft and vehicle fraud. The key principle underpinning the NEVDIS database for driver licensing purposes is to ensure that, at any one time, only one driving licence is issued for each person. Details of people applying for a Western Australian driver's licence are checked against the NEVDIS data to ascertain whether the person already holds a licence in another Australian jurisdiction. If a licence is already held, the provisions contained within the Road Traffic Amendment Bill 2005 will require that the person surrender the licence before a Western Australian licence is issued. When the interstate licence is surrendered and a WA licence issued, the interstate licensing authority will be advised through NEVDIS that the licence issued by the jurisdiction has been surrendered and the WA licence issued. NEVDIS also facilitates the exchange of demerit point information between jurisdictions via the demerit point exchange system. Clearly, a database is already in place that is working effectively. Therefore, the honourable member's concerns about that are unfounded.

Turning back to the member's concerns about the double-or-nothing system, I point out that the proposed new demerit points system will provide a viable alternative to the current automatic demerit points suspension period. The concept of a double-or-nothing plan is not new, as I have explained, and has many benefits for road safety that have been recognised. This gives offending motorists a choice between losing their licence for the standard set period or continuing to drive on a strict undertaking of good behaviour for a full year. It has the potential to modify errant road-user behaviour to a greater extent than is possible at present by including a strict additional penalty for breaching the good behaviour period. Recidivists will basically be compelled to fully examine their driving habits, remove or reduce those bad habits that result in their accumulating demerit points, and give far more attention to road safety principles as a whole. The principle of double or nothing was seriously considered by the various jurisdictions in forging national strategies and common agreed goals for road safety through the national driver licensing scheme. The consensus was that the adoption of the double-or-nothing initiative would provide a means of emphasising personal responsibility for behaviour on the roads. These provisions are in line with agreed national transport and road safety strategy objectives and have been implemented in all other jurisdictions, as I indicated earlier, other than the Northern Territory, which does not have a demerit points scheme.

People who are eligible to opt for the good behaviour period will be provided with the appropriate information at the time the licence disqualification notice is personally served. The information will detail the option available that will allow the person to continue driving, and the implications of breaching the good behaviour period. People who make an election will be required to sign a notice acknowledging that they understand the implications of opting for the good behaviour period. Under the proposed amendments, provisional licence holders will not be eligible to make an election for the alternative to licence suspension. Consequently, provisional licence holders will have their licences cancelled upon accumulating 12 or more demerit points within a three-year period. Furthermore, recommendations arising from a review of the existing novice driver requirements recently undertaken by the Office of Road Safety include reducing the number of demerit points that provisional licence holders can accrue before they lose their licence. These recommendations have already received cabinet in-principle approval. They do not form part of this bill, but will be looked at in terms of subsequent amendments to the Road Traffic Act.

While I note the arguments put by the honourable member, I do not think there is any foundation for the honourable member's concern that we will actually reduce the standards through the introduction of the double-or-nothing system. In fact, I am strongly of the view, and the government is of the view, as are the federal government and the governments of the other states, that this will provide a more stringent system regarding those behaviour modification indicators. On that point I will wrap up my response. I believe I have addressed the primary issues raised by members. I note that members have indicated that they want to explore some issues further during committee, so I think it would be appropriate to do that during the committee debate.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Hon Ken Travers) in the chair; Hon Adele Farina (Parliamentary Secretary) in charge of the bill.

**Clauses 1 to 5 put and passed.**

**Clause 6: Part IVA replaced -**

**Hon ADELE FARINA:** I move -

Page 8, line 7 - To insert after "holding" -

or obtaining

Fundamentally, this amendment corrects a drafting inconsistency, as the Road Traffic Act 1974 refers to the fact that when a person is disqualified under the act, the disqualification also has the effect of disqualifying the person from holding or obtaining a driver's licence. This amendment will correct this inconsistency and provide clarity as to the extent of the regulation-making powers under proposed subsection (5)(e).

**Hon MURRAY CRIDDLE:** I tried to listen to what the parliamentary secretary said then. I understand that if the amendment is passed, proposed paragraph (e) will read -

include provisions about the disqualification of a person from holding or obtaining a driver's licence and the surrender, cancellation, variation or suspension of a driver's licence;

Can the parliamentary secretary explain what some of those provisions might be?

**Hon ADELE FARINA:** The amendment basically ensures that we will prevent a person from holding or obtaining a licence in certain circumstances; for example, when a licence in another state has been suspended or withdrawn, or when the person in question did not have a driver's licence. The circumstances we are looking at include refusal on medical grounds and character in relation to certain occupations such as taxidrivers and school bus drivers, in which case there could be a potential risk to the community.

**Hon Murray Criddle:** Does this clause deal mainly with the more complicated drivers' licences?

**Hon ADELE FARINA:** Yes.

**Hon MURRAY CRIDDLE:** I know of an instance involving a school bus driver. In that situation it was difficult to revoke that person's licence. If this provision deals with situations in which people have a licence, does it also allow for a licence to be revoked?

**Hon ADELE FARINA:** Section 48 of the existing legislation gives the director general the power to revoke a licence. This provision provides that the head power be included in the regulations rather than in a section of the act.

**Hon Murray Criddle:** What is the head power?

**Hon ADELE FARINA:** The head power will be included in proposed section 42(5). It states -

The regulations may -

- (a) provide for the grant or renewal of a driver's licence and include provisions about refusal to grant or renew a driver's licence;
- (b) impose, or provide for the imposition of, conditions on a driver's licence;
- ...
- (e) include provisions about the disqualification of a person from holding a driver's licence and the surrender, cancellation, variation or suspension of a driver's licence;

**Hon MURRAY CRIDDLE:** I will explain the situation to which I referred. A person had a licence to drive a bus. He had not been found to have committed an offence, but there was serious concern that he was committing an offence. The parliamentary secretary is saying that in that situation the person involved can be put through another test and the case can be dealt with by the director general. It was a situation that was difficult to resolve because the person was never found to have committed an offence and he had a driver's licence. If this amendment has the potential to cover that situation, I do not have a problem.

**Hon ADELE FARINA:** These amendments will not change the powers. We are simply transferring them from the act to the regulations. The functions of the director general are administrative functions. He would review

each case on its merits and consider the evidence that is brought before him. It is not necessary for the person to have committed an offence for the director general to determine that it is appropriate to suspend or cancel a licence. The director general's decisions can be reviewed by the State Administrative Tribunal. Over time a body of precedent will be established. The director general has the power under the amendments to consider each case on its merits.

**Amendment put and passed.**

**Hon MURRAY CRIDDLE:** Can we deal with the clause page by page? I want to raise something on page 9 and I notice the next amendment is on page 11.

**The DEPUTY CHAIRMAN (Hon Ken Travers):** I will only put the one question, but if it helps the committee, I will call page by page.

**Hon MURRAY CRIDDLE:** It will be easier for members to go through this clause page by page. I refer to proposed section 42B, "Certain licences authorise learner driving". Proposed subsection (1) states -

The holder of an Australian driver licence may drive a vehicle on a road even though -

- (a) that licence is not sufficient authorisation to do so; and
- (b) the person does not hold a learner's permit authorising the person to do so,

if the regulations specify a licence of that description as authorising that driving to the same extent as if the person held the appropriate learner's permit.

This raises an issue. Even though a person does not hold a learner's permit or sufficient authorisation, what mechanism is in place that allows people to drive legally?

**Hon ADELE FARINA:** Some jurisdictions in Australia allow a person to learn the next eligible higher class without having to gain a permit. This provision allows those conditions in the other jurisdictions to apply to a person visiting Western Australia for a short period. A person from another jurisdiction where that provision exists, coming to Western Australia for a short period, would be able to continue the practice while he is in Western Australia. It brings in uniformity of that provision across Australia.

**Hon MURRAY CRIDDLE:** I understand what the parliamentary secretary said, but that flies in the face of trying to get a standard licence across Australia, does it not?

**Hon Adele Farina:** No.

**Hon MURRAY CRIDDLE:** If a person from another jurisdiction comes to Western Australia and is allowed to drive in a different category, I would have thought that it did.

**Hon ADELE FARINA:** Perhaps I did not explain myself very well. The provision actually provides authorisation for learning to drive in the next eligible category without obtaining a learner's permit. It does not actually authorise a person to drive at the higher category, but only to learn in that category. It does not actually weaken the provisions as the member suggested.

**Progress reported and leave granted to sit again, pursuant to sessional orders.**