

**ROAD TRAFFIC AMENDMENT BILL 2005**

*Second Reading*

Resumed from 20 September 2005.

**HON MURRAY CRIDDLE (Agricultural)** [3.39 pm]: I am not the lead speaker for the opposition on this bill. Hon Peter Collier will lead for the opposition, but because I have to leave early today, he has allowed me to make a few remarks now. Hon Peter Collier will go through the bill in detail in his contribution, so I will be brief.

This bill was first contemplated when I was the responsible minister in the previous government. It deals with, among other things, the national driver licensing scheme. There has been a lot of consultation between the states for some time. The arrangements have been put in place in this bill in accordance with an agreement of the National Transport Commission, which is now the National Transport Council.

I advise the parliamentary secretary that there are a number of issues in this bill that I wish to discuss when we reach the committee stage. It is quite an extensive and detailed bill. There are some issues on which I will be asking for clarification, such as licence holders in other states moving to Western Australia. I would also like to know about the development of the regulations for the licensing scheme, so that we clearly understand what the regulations might be. This is one of those perennial things that comes up with regulations, but it is one that I want to understand clearly. I know that Hon Peter Collier will deal with the issue of demerit points, so I will not go into it. I want to place on the record that we were dealing with these regulations quite some time ago through the National Transport Council, and I am pleased to see them here. Uniformity across Australia and the information flow will be of great benefit. I just wanted to make those remarks, and let the parliamentary secretary know that I will be asking questions on these matters in the committee stage.

**HON PETER COLLIER (North Metropolitan)** [3.42 pm]: The opposition supports the fundamental aims of this bill, although I have identified a couple of areas with which we have issues. I will deal with them later in the course of my remarks. We agree with the nationally consistent driver licensing requirements contained in this bill. The opposition is, however, concerned about proposed sections 104J and 104K in clause 31, dealing with the 12 demerit point suspension double-or-nothing option. Aside from that, the bill contains quite a few positive provisions about the national approach to licensing, with which the opposition agrees.

The bill will bring in uniformity in drivers' licences between Western Australia and the other states, which is a good thing. It will make more efficient the targeting of drivers who regularly traverse state boundaries, especially those in the trucking industry. It has been possible in the past for such drivers to avoid penalties for driving misdemeanours by holding a series of different licences in different states. They have been able to abuse the system, for want of a better term. While advance technology has clamped down on this practice in recent years, this bill will remove many of the anomalies that still exist. Having said that, I am of the opinion that establishing an accurate registers of drivers will be a logistical nightmare, requiring significant cooperation between the states and the federal government. I trust that the government has allocated sufficient resources to cope with its implementation. That is something the parliamentary secretary may wish to respond to.

I am a little cynical about the capacity of the government to cope, given the amount of effort it has taken me to obtain details about suspended licences. For a while I thought the government was intentionally making it difficult for me to get some details for my speech; but I know otherwise, of course. It is certainly an area that the government needs to improve on if the legislation is to have its desired effect. I thought details on licensing accreditation, demerit points and lost licences would have been easily accessible. However, as I said, I had great difficulty in my attempts to gain this data four or five months ago when the bill came into the chamber. Just to make a point, on 13 October 2005 I asked a question without notice of the Minister for Justice to gain some data, which reads -

- (1) How many drivers' licences were suspended for unpaid fines and infringements?
- (2) How many drivers' licences were suspended due to the accumulation of 12 demerit points?
- (3) How many drivers' licences were suspended due to drink-driving offences?

I received a response to part (1) of the question. The response to part (2) was that the Minister for Justice advised that the question might be more appropriately directed to the Minister for Planning and Infrastructure. The response to part (3) was that it would take further time to compile this information and the Minister for Justice requested that this part of the question be placed on notice for further consideration.

I then asked the Minister for Planning and Infrastructure part (2) of the question, as directed, and I put part (3) of the question on notice. Before I received a response to part (2), I was requested to direct it on notice to the

parliamentary secretary representing the Minister for Planning and Infrastructure. I finally received a response to both questions on 29 November 2005 and 1 December 2005 respectively. However, the response to my question regarding the number of drivers who had lost their licences due to drink-driving was not satisfactory. As I said, I put the following question on notice -

For the years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 -

...

- (2) For each of the years, of the number of licences lost due to drink driving, how many drivers had previously lost their licence due to drink driving?

The response was -

- (2) The Department of Justice cannot provide this detail. Comprehensive criminal and tracking records are held by the WA Police.

As I said, I was very concerned because getting detailed information to present a coherent case on this bill was very frustrating and I was having a tremendous amount of difficulty. I actually thought that I would not have the detail available while preparing for debate on the bill, as I thought it was coming on for debate before the house rose at the end of last year. I have to say that the Auditor General has similar concerns about the lack of data on unauthorised drivers. Once again, the government gave me the run-around while I was trying to extract this information. On 17 November I asked the Minister for Planning and Infrastructure the following question without notice, of which some notice was given -

The Auditor General's third public sector performance report of 2005 commented that unauthorised drivers tend to be high-risk drivers who are over-represented in fatal or serious car crashes - 10 per cent according to one study. The report found that neither the Department for Planning and Infrastructure nor the police have comprehensive or reliable data on the incidences of unauthorised driving in the general community in Western Australia.

- (1) Why does the Department for Planning and Infrastructure not have comprehensive or reliable data on the incidences of unauthorised driving in Western Australia?
- (2) What steps will the minister implement to ensure that such data is available in the future?

I did not get a response from the minister to that question. I then asked the same question on 29 November, and again there was no response. However, I received a note that the question was being redirected to the parliamentary secretary representing the minister. Finally, on 1 December, at my third attempt, I received a response. The response to whether the DPI had comprehensive reliable data in response to the concerns of the Auditor General stated -

- (1) The Department for Planning and Infrastructure is responsible for issuing drivers' licences after applicants have demonstrated eligibility and competence. The department records the names of those who currently hold a valid motor driver's licence. That information is made available to the Western Australia Police to enable it to carry out its law enforcement responsibilities and apprehend drivers without an MDL. DPI does not have information relating to unauthorised driving other than being advised about convictions requiring the suspension or disqualification of an MDL.

I asked what steps the minister would implement to ensure that such data was made available in the future and the response was that the DPI had no intention of capturing this data. I can understand the merits behind having a national database and I can see the benefits of such a system, but the state government must be more efficient in this process. Perhaps the parliamentary secretary might respond to that.

I refer now to the provision of indemnity for medical practitioners and members of the public reporting unsafe or unfit drivers. The opposition does not have a problem with that. I acknowledge the advice provided earlier today from the parliamentary secretary on that aspect of the bill. We do not have a problem with that advice. The one aspect the opposition has a problem with is the boundaries of the demerit points suspension system under proposed sections 104J and 104K. I will move an amendment to those proposed sections. Currently, a driver who has 12 demerit points is automatically given a three-month suspension. A magistrate may grant to a suspended driver an extraordinary licence in the case of extreme hardship; for example, when no other forms of transport are available to the person for the purposes of employment or medical treatment. Extraordinary licences were quite difficult to get when they were initially introduced. However, they have become much more prevalent and easily accessible to members of the public. I am led to believe that Western Australia is the only state that issues extraordinary licences. The Northern Territory issues them also. This bill seeks to change the 12 demerit point suspension system to make it easier for people to secure their licence. It will create a system whereby a person who is given a 12 demerit point suspension will be given a double-or-nothing option. That is,

if he or she loses more than one demerit point in the 12 months following the suspension, the initial three-month suspension will become a six-month suspension and so on, depending on the length of the initial suspension. My opposition colleagues and I have a problem with that. We feel that under the proposed changes it is inevitable that the number of people driving under suspension will proliferate from the already unacceptable number. We seek some justification from the government for why it is moving in this direction. I have read the second reading debates of the other place and I am not convinced.

**Hon Paul Llewellyn** interjected.

**Hon PETER COLLIER:** The member is correct. I temper my comments. Ideally, they would have been under suspension previously.

**Hon Paul Llewellyn:** It is based on pretty good research about behaviour.

**Hon PETER COLLIER:** It would be great if the member could provide that for me because I have not come across it. Although the changes will impact on all drivers, my primary concern is for our youth. The message we will send to our youth is that the significant standards that they should be adhering to will deteriorate. This provision will impact negatively on society. I will quote some statistics from the Office of Road Safety of Western Australia on the number of drivers who are involved in accidents and the impact that has on young drivers in particular. The statistics refer specifically to road safety and youths aged between 15 and 24 -

- People aged 15-24 make up 15% of the Australian population, but account for 31% of road crash fatalities.  
...
- During 1999, Western Australian drivers aged between 17 & 20 years represented 19% of driver fatalities, despite this age group making up only 6% of licensed drivers.  
...
- Between the years 1990 and 1999 male drivers aged 17-24 years represented 24% of all driver fatalities. 8% of driver fatalities during this time period were young female drivers.  
...
- 65% of the road crash fatalities and serious injuries of people aged 17-24 involve the young person as the driver.  
...
- Research indicates that young drivers face a significantly higher risk of being seriously injured than more mature drivers. The major contributing factors to this greater risk are:
  - A tendency among the 17-24 age group to take risks
  - Less developed driving skills resulting from having little on-road experience  
...
- Young drivers are more likely to be killed or seriously injured in single vehicle 'veer off road' and crashes at intersections and rear-end collisions. These types of crashes are related to the young person's vehicle control skills being inadequate in the situation.  
...
- Drivers in their early 20s appear to have a problem of inattention or failure to anticipate. Drivers in this age bracket also tend to have a higher rate of alcohol involvement.  
...
- Crash risk is influenced by driver motivation as well as skills. It is recognised that the personal goals or motives of young drivers may sometimes conflict with safety goals. For example, wanting to impress friends by driving fast is not compatible with safe driving.

The point of bringing those figures forward is to show that the message that that would send to that group is that the goalposts are being shifted, and consequences - sometimes the youth of our society, in particular, fail to consider the consequences of their actions - need to be addressed.

The proposal is to convenience those drivers within our community who will be inconvenienced when they lose their licences. That is always an issue. When the goalposts are changed or the standards are reduced, the implications are often profound. That is why we oppose this provision. By altering driver standards, there is definitely an ambiguity associated with what is acceptable. In the view of the opposition, this change is

unnecessary and has the potential to cause significant problems on our roads. At the moment, drivers receive more than adequate opportunities to learn the errors of their ways - 12 opportunities, in fact - unless they perform well outside the law on three or four occasions, when they can lose three, four, five or six demerit points. If they do so, basically they deserve to lose their licence in the first place.

It has been reported that the number of Western Australians currently driving without valid licences is in excess of 14 000. This, in addition to the number of drivers not driving due to suspension, makes the mind boggle in relation to the recalcitrance on our roads. To add a little perspective, I will remind the house of how many suspended drivers I am referring to in this respect; that is, the number who have lost their licence because they have lost 12 demerit points. I thank WA Police and the Department for Planning and Infrastructure for the figures they provided. I asked how many licences were suspended due to the accumulation of 12 demerit points. The figures varied from 2001 to 2005. In 2004-05, there were 7 337. The highest figure was 8 673 in 2003-04. It was approximately 8 000 drivers a year. I asked how many extraordinary licences were granted each year. In 2001, there were 1 490; in 2002, there were 1 243; in 2003, there were 1 279; and in 2004, there were 1 969. I asked, of those people who had extraordinary licences, how many lost their licence - that is, they were granted an extraordinary licence, and then they lost their extraordinary licence? In 2001, it was 162; in 2002, it was 229; in 2003, it was 247; and in 2004, it was 258.

Basically, how difficult is it for a person to lose his licence due to the accumulation of 12 demerit points? At the moment, if a driver exceeds the speed limit by up to nine kilometres an hour, he does not lose any demerit points; he receives a fine. If he exceeds the speed limit by 10 to 19 kilometres an hour, he receives one demerit point. If he exceeds the speed limit by 20 to 29 kilometres an hour, he receives three demerit points. If he exceeds the speed limit by 30 to 39 kilometres an hour, he receives four demerit points. If he exceeds the speed limit by 40 kilometres an hour or more, he receives six demerit points. Although it might be deemed to be bad luck for a driver to be caught driving under 20 kilometres over the limit, the maximum number of demerit points he or she can lose is one; that is, unless it is a long-weekend, double-demerit period. If a driver is exceeding the limit by more than 20 kilometres an hour, we would have to assume it was an emergency, that the person was driving recklessly or, in some instances, driving on a long country road. I have lost many, demerit points between Southern Cross to Kalgoorlie, I can assure members. In addition, not wearing a seatbelt means the loss of three demerit points; and using a mobile phone while driving, one demerit - I think that is about to increase - running a red light, three demerits; running an amber light, two; and failing to stop at a stop sign, three. People would be consistently abusing the road rules -

**Hon Paul Llewellyn:** And getting caught.

**Hon PETER COLLIER:** Precisely, that is a good point. People must be consistently abusing the road rules if they lose their licence. There is evidence that loss of a driver's licence goes very little way towards altering driver behaviour. To support that comment, I refer to an article in *The West Australian* of 8 November 2002 headed "Banned drivers sought in study" which reads -

Suspending the licence of bad and dangerous drivers does not keep them off the roads overseas studies show.

And suspended drivers have a higher risk of being involved in a serious crash, according to WA crime researcher, Anna Ferrante.

Ms Ferrante, from the University of WA Crime Research Centre, and fellow researchers are probing what makes WA's suspended drivers get behind the wheel despite the risk of further charges.

It is hoped the research will lead to ways to make the licence suspension system more effective.

In parts of the United States, people caught driving while under suspension had their vehicle impounded.

This legislation will give those drivers another chance; it does not seek to take away their car. Another article of 20 August 2005 in *The West Australian* headed "Banned motorists flout the law" reads -

Some WA motorists are getting back behind the wheel minutes after having their licences cancelled.

*The West Australian* saw three men driving away from court this week after losing their licences, risking hefty fines, further suspensions and possible jail.

Police admitted the misdemeanours occurred regularly but said it would be unrealistic to expect every offender to be caught.

Further on it states -

Police minister Michelle Roberts and WA Police Assistant Commissioner, Barbara Etter said the presence of booze buses, number plate recognition cameras and community members who doled in offenders should be enough to deter those who were considering driving while disqualified.

Mrs Etter said repeat offenders faced the possibility of going to gaol while lesser penalties included additional fines and suspensions.

It was not practical to expect police officers to follow offenders out of court.

She urged community members who suspected someone of driving while under suspension to contact police, who would follow it up.

Road Safety Council chairman Grant Dorrington said the community should be concerned.

“These people are sending out the wrong message, but what is done about it is up to the police,” he said.

“Something has got to happen to let these people know that once the judge takes your licence off you, you can no longer drive.”

Finally in that same newspaper, an article headed “Thousands drive under suspension” reads -

Almost one-third of West Australians who were disqualified from driving by a court in the past year were caught driving under suspension, according to WA Police statistics.

WA Police Assistant Commissioner Barbara Etter said 33,436 licences were suspended in the 12 months to June. She said 10,000 motorists were caught driving under disqualification.

Mrs Etter was not surprised when supplied with details of motorists who drove their cars immediately after having their licence suspended.

I am not convinced that moving the goalposts will necessarily have the desired impact. I am interested to hear the parliamentary secretary’s response to that. As I said, my point is that providing a thirteenth chance, which this legislation does in effect, will not alter the patterns of repeat traffic offenders. To put it simply, it provides nothing more than another opportunity to flout the law. As previously mentioned, moving the goalposts and sending a message that this is absolutely the last opportunity - almost - will be seen by drivers as an act of weakness by the government. The normal law-abiding citizens of the community do not need this modification to our current laws on demerit points. They are familiar with the 12 demerit points system and they respond accordingly. I will use the demerit point system as an example. An article in *The West Australian* on 2 October 2002 is headed, “Demerits threat cuts toll: police”, and reads as follows -

THE threat of double demerit points for speeding, drink-driving and seatbelt offences is saving lives on WA roads during long weekends, police believe.

...

Assistant Commissioner (traffic and operations support) John Standing said that apart from the fatalities, he was very happy with the way the weekend ran and praised motorists for their efforts.

The threat of double demerits had made a big impact on driver behaviour.

“It definitely made a difference,” Mr Standing said. “The message is that we will target them (bad drivers) and we will keep on targeting them.”

The editorial in *The West Australian* on 3 January 2003 is headed, “WA demerits here to stay”, and reads -

WA DRIVERS might as well get used to double demerit point penalties over key holiday periods in road safety campaigns for the foreseeable future.

Road Safety Minister Michelle Roberts has declared the double demerit points system a success in its trial year and predicted that it probably will continue. A formal decision on this is not to be made until the end of the trial at Easter.

But the Government is hardly likely to abandon a measure that it has already pronounced a success in reducing tragedy on our roads. If the system can do that, it must be continued.

...

For many drivers, the ultimate penalty is the loss of their licences and the threat of hastened accumulation of demerit points can be a potent deterrent, though there is still a widespread perception that extraordinary licences are too easy to get.

The key to road safety is in changing the behaviour of offending drivers. As Mrs Roberts has observed, human error is to blame in 95 per cent of crashes and pure accidents are rare.

There is a compelling case to be made for increasing the sizes of fines for road offences, if only to underscore their seriousness in the eyes of society.

I totally agree with that. The community does respond to guidelines and goalposts. We do not need to move those goalposts to satisfy the whim of a small group. Basically, the community responds accordingly to guidelines.

**Hon Murray Criddle:** The only difficulty is that the penalty for some people is a small charge; for others it is a huge charge.

**Hon PETER COLLIER:** In what respect?

**Hon Murray Criddle:** Some people can pay fines and it does not affect them; for others it means a helluva lot to their living standards.

**Hon PETER COLLIER:** It does, but the prospect of losing one's licence would have a profoundly more significant impact.

**Hon Murray Criddle:** That is in the loss of demerit points.

**Hon PETER COLLIER:** That is what I am referring to. I am talking about the prospect of someone losing their licence, as opposed to not losing their licence with this amendment. I understand where the member is coming from. I understand the government has introduced a raft of increases in fines and that has come under a tremendous amount of scrutiny and criticism from some quarters. This bill will reduce the barriers in maintaining one's driver's licence.

The public does respond to boundaries and limitations. Most drivers drive within the prescribed limits. They do not use their mobile phones to access information that will be equally as relevant 15 or 20 minutes later. Most of them do not run red lights or go on a drinking binge and then drive. They do not need the driving standards to be altered to service the needs of a few individuals who would benefit from a reduction in these standards. It comes back to the notion of consequences. Drivers are aware of the consequences of accumulating 12 demerit points, and they respond accordingly. That is the reason the double demerit system has been successful. The intention of double demerit points is to enhance the deterrent effect of penalties and, as I have outlined, it does have an impact. It is recognised that the majority of drivers evaluate their driving behaviour when faced with a financial penalty or loss of demerit points. The opposition believes that the notion of offering another level of acceptance for those who abuse the current demerit point structure is without merit. I will quote from a couple of sources to support that argument. I refer first to an article in *The Sunday Times* of 19 September 2004 titled "Target young drivers - Plan calls for curfews and zero alcohol". The article states -

WA's licensing system must be overhauled if the State Government is to reduce the number of young drivers killed in road smashes, according to a leading crash researcher.

Two decades of youth driver education had failed, said Peter Palamara from the University of WA Injury Research Centre.

The senior researcher said a radical rethink of probationary driver regulations was needed.

He wanted new restrictions to include zero alcohol, fewer points on probationary licences, curfews, age limits for passengers, and more supervised driving hours.

Tougher rules have the support of Road Safety Council independent chairman Grant Dorrington, who expects to put a raft of changes to the Government by the end of this year.

It is interesting that this article does not talk about extending the boundaries. It talks about reducing the boundaries.

I refer also to a report from the Road Safety Council titled "helping keep our kids safe on western australia's roads". The report states on page 6 -

Last year we asked road safety experts at the Monash University Accident Research Centre to review Western Australia's driver training, education and enforcement systems. They concluded there was plenty of potential to improve our current training process by introducing initiatives drawn from best-practice around the world. Based on the review and other proven research, the Road Safety Council developed nine major recommendations.

They are in essence:

1. To increase the minimum number of supervised driving hours from 25 to 120 over a longer period.
2. To specify a minimum of six months for the Learner Phase 2 period.

3. To increase the maximum time a learner can stay on their Learner's Permit to three years.
4. To extend the Provisional (P-Plate) licence period from two years to three.
5. To tighten the requirements for supervising drivers, particularly in relation to the Blood Alcohol Concentration limit.
6. To introduce night-time driving restrictions for P-Plate drivers for the first six months.
7. To limit the number of "peer group" passengers for P-Plate drivers in the first six months.
8. To introduce a zero blood alcohol concentration for both L-Plate and P-Plate drivers.
9. To introduce a graduated demerit point system for novice drivers and issue warning letters for unsafe driving practices.

I note that none of those recommendations is to extend the boundaries. None of those recommendations is that drivers should be given a thirteenth or fourteenth chance. I am conscious of the fact that the government has taken up some of these recommendations in recent months.

The report states under recommendation 9 -

Drivers are more likely to comply with road laws when penalties are high enough to act as a deterrent and when they believe they will be caught if they offend.

In WA, P-Platers don't face higher penalties than full licence holders. But under a graduated demerit point system, high penalties for serious offences and a lowering of the demerit point threshold will deter young drivers from risk-taking, particularly speeding.

A reduced demerit threshold for novice drivers would help modify their driving behaviour.

That is exactly what I have just been saying. It continues -

We strongly support a change so that in the first year on a Provisional licence a novice would lose their licence if they accumulated four points. In the second year, they would lose it if they had accumulated eight points and in the third year they would be on the same restriction as full licence holders, ie: accumulate 12 demerit points and lose your licence.

For example if a driver lost their licence after receiving four points in the first year, the restriction period would start over and after serving their suspension they would only be able to accumulate four more points in the next 12 months - or lose it again.

The parliamentary secretary might like to respond to that later, or during the committee stage. I am aware that there have been some moves with regard to P-plate drivers. However, not all young people are P-plate drivers. Members may recall my comment that a large proportion of the young people who are involved in accidents are in the 20 to 24 age demographic. Most of them would be off their P-plates. Therefore, that group, which constitutes a significant proportion of the drivers who are involved in accidents, would not be impacted upon by any shift to focus just on P-plate drivers. Therefore, I cannot see that extending the boundaries, or lowering the standard in any way, shape or form, will have a positive impact on road safety, particularly for young drivers.

Debate interrupted, pursuant to sessional orders.

[Continued on page 3425.]

*Sitting suspended from 4.15 to 4.30 pm*