



New South Wales

Road Transport Amendment (Mandatory Alcohol Interlock Program) Bill 2014

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Road Transport Act 2013* (the *Principal Act*):

- (a) to replace provisions of that Act giving a court the discretion to order the use of breath alcohol interlock devices fitted to motor vehicles as an alternative to disqualification for drivers convicted of certain alcohol-related driving offences with provisions requiring the making of a mandatory interlock order imposing a mandatory period of disqualification together with such an interlock requirement, and
- (b) to provide for the accreditation of persons installing, removing, maintaining and carrying out other functions in relation to such devices and for Roads and Maritime Services (the *Authority*) to enter into agreements concerning the exercise of such functions, and
- (c) to enable the Authority to require certain holders of licences who repeatedly exceed specified demerit point thresholds to undertake driver education courses and driver knowledge tests, and
- (d) to make provisions of a consequential or savings and transitional nature.

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 proclaimed.

Schedule 1 Amendment of Road Transport Act 2013 No 18

Mandatory alcohol interlock program

Schedule 1 [29] substitutes Division 2 of Part 7.4 of the Principal Act with a new Division to achieve the object described in paragraph (a) of the above Overview.

The new Division will apply only to persons convicted of a *mandatory interlock offence* (as defined in proposed section 209) committed after the commencement of proposed section 208. Persons to whom a disqualification order applied under the Division being replaced will continue to be subject to the provisions applicable before substitution of the Division (**Schedule 1 [33]**).

Under the new Division, a court that convicts a person of a mandatory interlock offence must make either a mandatory interlock order or an interlock exemption order in respect of the person (proposed section 210).

The effect of a mandatory interlock order is to disqualify the person from holding any licence for a minimum disqualification period prescribed by proposed section 211 (or a longer period specified by the court) and to disqualify the person from holding a licence (other than a learner licence or an interlock driver licence) for a further minimum or specified period. An interlock driver licence is a conditional licence that restricts the holder from driving a vehicle unless it is fitted with an approved interlock device and imposes certain conditions (such as conditions relating to use and maintenance of the device).

An interlock exemption order exempts an offender from the operation of section 211 and can only be made if the offender satisfies the court as to certain matters specified in proposed section 212. If an interlock exemption order is made, the offender will be disqualified from driving under section 205 of the Principal Act and may be required by the Authority to undergo a drink driving education program. An offender who is subject to an interlock exemption order is able, in accordance with proposed section 213, to convert the disqualification period applying to the offender into an interlock period.

Proposed section 214 enables a court to make an interlock order in relation to a person convicted of certain prescribed dangerous driving offences.

Proposed section 215 describes participation in an interlock program and makes it clear that the Authority may refuse to issue to a person who wishes to cease participating in such a program with a licence without an interlock condition in certain circumstances.

Proposed sections 215A and 215B describe the effect of completing an interlock period.

Schedule 1 [30] and [31] amend section 225 of the Principal Act so that periods of suspension under immediate licence suspension notices may be taken into account by a court in imposing mandatory interlock orders.

Schedule 1 [3] makes a consequential amendment to section 9 of the Principal Act to explain the meaning of the term “second or subsequent offence” as used in the definition of *mandatory interlock offence* in proposed section 209.

Schedule 1 [20]–[26] make consequential amendments to Part 5.1 of the Principal Act (Alcohol and other drug use).

Schedule 1 [27] and [28] make consequential amendments to Division 1 (Licence disqualification) of Part 7.4 of the Principal Act.

Accreditation of interlock service providers

Schedule 1 [8]–[15] and [17]–[19] amend Part 3.3 (Interlock devices) of the Principal Act to achieve the object described in paragraph (b) of the above Overview.

Schedule 1 [16] amends section 47 of the Principal Act to enable statutory rules to be made with respect to the issue of interlock driver licences to persons who held licences in other jurisdictions that were subject to interlock conditions.

Repeated incurrence of threshold number of demerit points

Schedule 1 [7] inserts proposed section 43A into the Principal Act to achieve the object described in paragraph (c) of the above Overview.

Proposed section 43A enables the Authority to require the holder of an unrestricted driver licence who incurs the threshold number of demerit points on 2 occasions within a period of 5 years to undertake a specified driver knowledge test or driver education course (or both) and the holder of a provisional P1 or P2 licence who incurs the threshold number of demerit points on 2 occasions (whether or not within a 5-year period) to undertake a specified driver knowledge test. Failure to comply with such a requirement may result in an extension of any period of suspension or licence ineligibility applicable to the holder or suspension of all licences held by the holder.

Schedule 1 [4]–[6] make consequential amendments to section 36 of the Principal Act with respect to when the good behaviour period of a person who makes an election under that section to be of good behaviour as an alternative to licence suspension or ineligibility commences if the person is required to undertake a driver knowledge test under section 43A.

Schedule 1 [1] inserts definitions of *driver education course* and *driver knowledge test*.

Schedule 1 [2] amends the definition of *threshold number of demerit points* to cover holders of unrestricted driver licences.

Schedule 1 [32] amends Schedule 1 to the Principal Act to include the power to make statutory rules with respect to driver education courses to be undertaken by holders of driver licences who exceed the threshold number of demerit points.

Savings and transitional provisions

Schedule 1 [33] inserts savings and transitional provisions consequent on the enactment of the proposed Act.