

TASMANIA

CRIMINAL CODE AMENDMENT (DANGEROUS DRIVING) BILL 2017

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CRIMINAL CODE AMENDMENT (DANGEROUS DRIVING) BILL 2017

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
10 August 2017

(Brought in by the Minister for State Growth, acting for and on behalf of the Minister for Justice, the Honourable Matthew Guy Groom)

A BILL FOR

An Act to amend the *Criminal Code Act 1924* and the *Traffic Act 1925* and to consequentially amend certain other Acts

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Criminal Code Amendment (Dangerous Driving) Act 2017*.

2. Commencement

- (1) Except as provided in this section, the provisions of this Act commence on the day on which this Act receives the Royal Assent.

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 2

Part 1 – Preliminary

(2) Part 7 commences –

- (a) on the day on which this Act receives the Royal Assent, if the *Road Safety (Alcohol and Drugs) Amendment Act 2017* has not commenced on or before that day; or
- (b) on a day to be proclaimed, if the *Road Safety (Alcohol and Drugs) Amendment Act 2017* has commenced on or before the day on which this Act receives the Royal Assent.

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

Part 2 – Traffic Act 1925 Amended

s. 3

PART 2 – TRAFFIC ACT 1925 AMENDED

3. Principal Act

In this Part, the *Traffic Act 1925** is referred to as the Principal Act.

4. Section 32 amended (Reckless driving)

Section 32 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “or at a speed or in a manner that is dangerous to the public,”;
- (b) by inserting the following subsection after subsection (1):
 - (1A) For the avoidance of doubt, a second or subsequent offence under subsection (1) includes any offence under that subsection whether the offence occurred before or after the commencement of the *Criminal Code Amendment (Dangerous Driving) Act 2017*.
- (c) by omitting from paragraph (a) of the penalty under subsection (2A) “1 year” and substituting “2 years”;

*No. 38 of 1925

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 4

Part 2 – Traffic Act 1925 Amended

- (d) by omitting from paragraph (b) of the penalty under subsection (2A) “2 years” and substituting “3 years”;
- (e) by omitting from paragraph (a) of the penalty under subsection (2B) “6 months” and substituting “1 year”;
- (f) by omitting from paragraph (b) of the penalty under subsection (2B) “1 year” and substituting “18 months”.

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

Part 3 – Criminal Code Act 1924 Amended

s. 5

PART 3 – CRIMINAL CODE ACT 1924 AMENDED

5. Principal Act

In this Part, the *Criminal Code Act 1924** is referred to as the Principal Act.

6. Schedule 1 amended (*Criminal Code*)

Schedule 1 to the Principal Act is amended as follows:

- (a) by inserting the following section after section 172:

172A. Dangerous driving

Any person who drives a motor vehicle on a public street at a speed, or in a manner, that is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the street, and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the street, is guilty of a crime.

Charge: Dangerous driving.

- (b) by inserting the following paragraph after paragraph (ca) in section 334:

*No. 69 of 1924

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 6

Part 3 – Criminal Code Act 1924 Amended

(cb) dangerous driving; or

(c) by omitting sections 334B and 334C and substituting the following sections:

334B. Dangerous driving causing grievous bodily harm

Upon an indictment for causing grievous bodily harm by dangerous driving, the accused person may be convicted of –

(a) dangerous driving; or

(b) an offence under section 32(1) or (2B) of the *Traffic Act 1925*.

334C. Causing death by dangerous driving

Upon an indictment for causing death by dangerous driving, the accused person may be convicted of –

(a) dangerous driving; or

(b) an offence under section 32(1) or (2A) of the *Traffic Act 1925*.

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

Part 4 – Coroners Act 1995 Amended

s. 7

PART 4 – CORONERS ACT 1995 AMENDED

7. Principal Act

In this Part, the *Coroners Act 1995** is referred to as the Principal Act.

8. Section 25 amended (Procedure at inquest where person charged with an offence)

Section 25(2) of the Principal Act is amended by inserting after paragraph (e) the following paragraph:

- (ea) dangerous driving where the driving caused an accident that resulted in the death of the deceased; or

*No. 73 of 1995

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 9

Part 5 – Motor Accidents (Liabilities and Compensation) Act 1973
Amended

**PART 5 – MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) ACT 1973 AMENDED**

9. Principal Act

In this Part, the *Motor Accidents (Liabilities and Compensation) Act 1973** is referred to as the Principal Act.

10. Section 18 amended (Recovery by Board from owner or driver in certain cases)

Section 18(3) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (ac):
 - (ad) of dangerous driving; or
- (b) by inserting in paragraph (d) “(ad),” after “(ac),”.

11. Section 24 amended (Exclusions from scheduled benefits)

Section 24(2)(a) of the Principal Act is amended as follows:

- (a) by inserting the following subparagraph after subparagraph (ib):
 - (ic) of dangerous driving; or

*No. 71 of 1973

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

Part 5 – Motor Accidents (Liabilities and Compensation) Act 1973 Amended

s. 12

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- (b) by inserting in subparagraph (iv) “(ic),” after “(ib),”.

12. Section 28B amended (Recovery by Board of scheduled benefits)

Section 28B(5) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (c):
 - (ca) of dangerous driving; or
- (b) by inserting in paragraph (f) “(ca),” after “(c),”.

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 13

Part 6 – Passenger Transport Services Act 2011 Amended

**PART 6 – PASSENGER TRANSPORT SERVICES ACT
2011 AMENDED**

13. Principal Act

In this Part, the *Passenger Transport Services Act 2011** is referred to as the Principal Act.

14. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by omitting “170 and 172 of the *Criminal Code*” from paragraph (b) of the definition of *serious offence* and substituting “170, 172 and 172A of the *Criminal Code*”.

*No. 59 of 2011

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

Part 7 – Road Safety (Alcohol and Drugs) Act 1970 Amended

s. 15

**PART 7 – ROAD SAFETY (ALCOHOL AND DRUGS)
ACT 1970 AMENDED**

15. Principal Act

In this Part, the *Road Safety (Alcohol and Drugs) Act 1970** is referred to as the Principal Act.

16. Section 18A amended (Traffic infringement notice may be issued in certain circumstances)

Section 18A(1)(a) of the Principal Act is amended by inserting after subparagraph (ii) the following subparagraph:

(iia) the crime of dangerous driving; or

*No. 77 of 1970

Criminal Code Amendment (Dangerous Driving) Act 2017
Act No. of

s. 17

Part 8 – Miscellaneous

PART 8 – MISCELLANEOUS

17. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it receives the Royal Assent, regardless of whether all of its provisions have commenced.