

ROAD SAFETY (ALCOHOL AND DRUGS) AMENDMENT BILL 2009

CLAUSE NOTES

Background:

The Bill introduces legislation to increase the penalties for drug driving under section 6A of the *Road Safety (Alcohol and Drugs) Act 1970*, and to provide penalties for second and subsequent drug driving offences under that Act.

In line with the provisions relating to drink driving, the Bill also provides that a person who commits any alcohol or drug driving related offence will be deemed to have committed a subsequent offence, if that person has previously been convicted of an alcohol or drug driving related offence.

The proposed penalty for drug driving is comparable to the zero tolerance approach to learner and provisional drivers who engage in drink driving. This approach is desirable as laboratory testing for drugs in the blood of a person only reports the presence of the drug and not the quantity.

The Bill responds to comments made by Magistrate Chris Webster and comments made in the *Review of the Road Safety (Alcohol and Drugs) Amendment Act 2005* by the Tasmanian Institute of Law Enforcement Studies, to the effect that drug driving penalties are too lenient.

PART 1 – PRELIMINARY MATTERS

Clause 1: Short title

Specifies the name of the proposed Act.

Clause 2: Commencement

Specifies this Act commences on a day to be proclaimed.

Clause 3: Principal Act

Specifies that the *Road Safety (Alcohol and Drugs) Act 1970* is referred to as the Principal Act.

Clause 4: Section 6A amended (Driving with prescribed illicit drug in blood)

This clause removes the penalty from sections 6A(1) and (3), which will be inserted in section 17(5) instead.

The clause also removes section 6A(4), as this is already duplicated in section 17(3A). Section 6A(4) requires that the court must suspend or cancel any Australian driver licence held, when the court imposes a disqualification under the section.

Clause 5: Section 17 amended (Penalties for drink-driving offences, &c.)

The clause inserts a reference to the drug driving offence, namely 6A(1) in section 17(1)(b). This will have the effect of providing that a person who commits any alcohol or drug driving related offence, will be deemed to have committed a subsequent offence, if that person has previously been convicted of an alcohol or drug driving related offence.

The clause also inserts the penalty provision for a first drug driving offence in Part 1 of the table at section 17(5). The penalty is a minimum fine of 2 penalty units and a maximum of 10 penalty units, and a minimum period of disqualification of 3 months and a maximum of 12 months. The clause also provides for a term of imprisonment of up to 3 months, in addition to or instead of the fine.

The penalty provision for a subsequent drug driving offence is inserted in Part 2 of the table at section 17(5). The penalty is a minimum fine of 4 penalty units and a maximum of 20 penalty units, and a minimum period of disqualification of 6 months and a maximum of 24 months. The clause also provides for a term of imprisonment of up to 6 months, in addition to or instead of the fine.

Clause 6: Repeal of Act

This clause repeals this amending Act on the ninetieth day from the day of commencement.