

DRAFT SECOND READING SPEECH

HON MARK SHELTON MP

Police Legislation Miscellaneous Amendment Bill 2019

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Madam Speaker, I move that the Bill now be read a second time.

The purpose of the Bill is to make miscellaneous amendments to several Acts administered by the Department of Police, Fire and Emergency Management to correct issues that have been identified as a result of prior legislative reform or to enhance the operation of existing provisions.

The Acts to be amended include the *Community Protection (Offender Reporting) Act 2005*, *Road Safety (Alcohol and Drugs) Act 1970*, *Police Powers (Vehicle Interception) Act 2000*, and *Police Offences Act 1935*. I will now summarise the changes relating to each of these.

Madam Speaker, the *Community Protection (Offending Reporting) Act 2005* is the Tasmanian legislation that establishes the state's sex offender register. Under the Act, offenders who commit certain serious offences can be declared reportable offenders, requiring them to report to police to reduce the likelihood of reoffending. The Act also recognises reportable offenders from other Australian jurisdictions and New Zealand.

In 2017, capability was added to the Act to place further restrictions on some reportable offenders, in the form of a *Community Protection Order*. Where a magistrate is satisfied that a reportable offender poses a risk to the safety or wellbeing of any child or children, the magistrate may make an order that includes conditions requiring that the reportable offender:

- not associate with or contact certain persons;
- not be present at, or in the vicinity of, specified places;
- not undertake employment of a specified kind;
- not consume alcohol or drugs; or
- not engage in movement or conduct of a specified kind.

Where an offender breaches a condition of such an order, an offence provision is provided at section 33A of the Act.

When community protection orders were added to the Act in 2017, no provision was made at the time for recognition of similar orders made in other jurisdictions.

The Bill seeks to address this by making amendments to the *Community Protection (Offender Reporting) Act 2005* to recognise equivalent orders made in other Australian states and territories and New Zealand.

Madam Speaker, moving to the *Police Offences Act 1935*, Division 2 of Part 4A of that Act contains provisions allowing for the confiscation or clamping of vehicles used in the commission of certain offences. The relevant offences are defined as prescribed offences in section 37K of the Act, and includes offences against section 32 of the *Traffic Act 1925*.

In September 2017, the offence of dangerous driving was moved from section 32 of the *Traffic Act 1925* to the *Criminal Code* and made a crime by the *Criminal Code Amendment (Dangerous Driving) Act 2017*. An unintended consequence of this move is that dangerous driving offences are no longer covered by the confiscation or clamping provisions.

The Bill will amend the *Police Offences Act 1935* to include the crimes of dangerous driving, causing death by dangerous driving, and dangerous driving causing grievous bodily harm as confiscation or clamping offences.

A further amendment to the *Police Offences Act 1935* relates to a reference to the *Road Rules 2009* in section 47. These rules are due to expire at the end of 2019 and will be remade as the *Road Rules 2019*. To address this, the Bill will amend the Act to refer simply to the *Road Rules* allowing for transition between the *Road Rules 2009* and the *Road Rules 2019*, and any subsequent *Road Rules*, without needing to amend the Act – this form of citation being provided for in the short title of the Rules.

Madam Speaker, with regard to the *Road Safety (Alcohol and Drugs Act) 1970*, this is the legislation that creates the offences for drink- and drug-driving in Tasmania and provides police with the authority to test drivers.

In 2018, a number of amendments were made to this Act, including a process change allowing police to collect samples of oral fluid from drivers for laboratory analysis, following a positive road-side screening test for drugs. Prior to this, it was required that a blood sample be obtained. However, in making this change, there were two inadvertent omissions.

The first relates to evidentiary certificates for the taking, and delivery of oral fluid samples. Section 27 of the *Road Safety (Alcohol and Drugs) Act 1970* allows for evidence of the taking, handling and delivery of a blood sample to be given by an evidentiary certificate, rather than requiring those involved to give evidence. However no similar provision was inserted to cover the taking and delivery of oral fluid samples. The Bill will rectify this omission.

The second issue relates to the *Police Powers (Vehicle Interception) Act 2000*. This Act contains the offence of evading police, which was expanded in 2017 to provide a further offence of evading police with aggravating circumstances – with one of these aggravating circumstance being that the driver was committing a drink- or drug-driving offence at the time of the evasion.

As a result of the overlapping development of the respective amending Acts, the aggravating circumstance in regard to drug driving refers to the presence of an illicit drug in the driver's breath or blood and not to the presence in their oral fluid. The Bill will amend *the Police Powers (Vehicle Interception) Act 2005* to rectify this issue.

The Bill will become law on the day on which it receives Royal Assent.

I commend the Bill to the House.