

2008

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2008
(NO. 2)**

EXPLANATORY STATEMENT

Circulated by Jon Stanhope MLA

Minister for Transport

ROAD TRANSPORT LEGISLATION AMENDMENT BILL

2008(NO. 2)

Overview

This Bill amends provisions in the *Road Transport (Driver Licensing) Act 1999* and the *Road Transport (Driver Licensing) Regulation 2000* for suspending or cancelling driver licences when a driver incurs excessive demerit points. The amendments in this Bill were contained in the Road Transport Legislation Amendment Bill 2008, which was introduced in June 2008 but which was not debated before the term of the previous Assembly expired. The proposed amendments will apply where a person, whose driver licence has already been suspended, nevertheless continues to drive and incurs enough demerit points to trigger a demerit points licence suspension (or a demerit points licence cancellation, in the case of a restricted or probationary licence).

The purpose of the amendments is to alert a driver who incurs a demerit points suspension while his or her licence is already suspended (for example, because the driver has failed to pay outstanding fines) that he or she will face a further period of suspension (or a licence cancellation, for restricted or probationary licences), when the current suspension ends. By making drivers aware that they face a further period of suspension (or a licence cancellation, if relevant) for incurring excessive demerit points and that the suspension or cancellation will take effect after their current suspension ends, drivers will be better placed to plan their transport arrangements before the demerit points suspension or cancellation takes effect. The notice will also remove any confusion that some drivers may have about the effect of the demerit points suspension, by making it clear that the demerit points suspension is additional to their current suspension, and does not operate concurrently.

The proposed amendments require that, if a person reaches the demerit points threshold for licence suspension or cancellation and that person's licence is already suspended for another reason, the road transport authority (the authority) must give a person a notice about the demerit points suspension or cancellation. The notice must tell the person that:

- he or she has incurred the demerit points and accordingly the person's driver licence will be suspended or cancelled;
- the demerit points suspension or cancellation is additional to the person's current licence suspension; and
- the person will be given a further notice about the demerit points suspension or cancellation when it takes effect at the end of the current suspension.

The Bill also makes technical drafting amendments to the *Road Transport (Safety and Traffic Management) Act 1999*. These minor amendments deal with provisions relating to camera detection devices and provide a simple generic description of the offences in the Australian Road Rules that deal with failing to obey traffic lights.

Road Transport Legislation Amendment Bill 2008

Notes on Clauses

Part 1 Preliminary

Clause 1 Name of Act

This clause is a formal provision setting out the name of the proposed Act.

Clause 2 Commencement

This clause explains that the proposed Act will commence on a day fixed by the Minister. This method of commencement has been chosen to allow enough time to put in place necessary the administrative changes to give effect to the new legislation when it commences.

Part 2 Road Transport (Driver Licensing) Act 1999

Clause 3 Legislation Amended - pt 2

This clause is a formal provision to identify that the legislation to be amended by this part of the Bill is the *Road Transport (Driver Licensing) Act 1999* (the Act).

Clause 4 Consequence of incurring demerit points - holder of licence New section 16 (2A) and (2B)

This clause inserts new section 16 (2A) and (2B) into section 16 of the Act.

New section 16(2A) inserts a new notice requirement into section 16. This requirement applies where a person, whose driver licence has already been suspended, incurs enough demerit points to trigger a demerit point suspension under Division 2.3 of the Act. New section 16 (2A) requires the authority to send the person a notice explaining that:

- the person has incurred the demerit points
- the demerit points suspension that the person has incurred under section 18 of the Act is in addition to the person's current suspension; and
- the person will be sent a further notice under section 18 of the Act (this further notice will advise the person when the demerit points suspension will come into effect).

New section 16(2B) makes it clear that non-compliance with the new notice provision in new section 16 (2A) will not affect the validity of anything done by the authority or by a court.

Clause 5 Demerit points not affected by licence suspension etc under another law

This clause amends section 24 of the Act to put beyond any doubt that a demerit points suspension incurred under division 2.3 is additional to, and not concurrent with, any other period of suspension that applies to the person whether under division 2.3 of the Act or under another territory law.

Part 3 Road Transport (Driver Licensing) Regulation 2000

Clause 6 Legislation amended - pt 3

This clause is a formal provision, to identify that the legislation to be amended by this part of the Bill is the *Road Transport (Driver Licensing) Regulations 2000*.

**Clause 7 Demerit points incurred by learner and provisional licence holders
New section 124 (2A) and (2B)**

This clause inserts new section 124 (2A) and (2B) into section 16 of the *Road Transport (Driver Licensing) Regulation 2000* (the Regulation).

Section 124 of the Regulation deals with demerit points incurred by the holder of a learner licence or a provisional licence. New section 124 (2A) applies where a person, whose learner or provisional licence has already been suspended, incurs enough demerit points to trigger a demerit points suspension under section 125 of the Regulation. It requires the authority to send the person a notice explaining that:

- the person has incurred the demerit points
- the demerit points suspension that the person has incurred under section 125 of the Regulation is in addition to the person's current suspension; and
- the person will be sent a further notice under section 125 (note: this further notice will advise the person when the demerit points suspension will come into effect).

New section 124 (2B) makes it clear that non-compliance with the new notice provision in new section 124 (2A) will not affect the validity of anything done by the authority or by a court.

**Clause 8 Demerit points incurred by holders of licences with additional provisional class
New section 127 (4) and (5)**

This clause inserts new section 127 (4) and (5). Section 127 deals with demerit points incurred by a person who holds a licence with an additional provisional class (note: Division 3.4 of the Regulations explains how a person may be granted a licence with an additional provisional class).

New section 127 (4) applies where a person, whose additional licence class has already been suspended, incurs enough demerit points to trigger a demerit points suspension under section 128 of the Regulation. It requires the authority to send the person a notice explaining that:

- the person has incurred the demerit points
- the demerit points suspension that the person has incurred under section 128 of the Regulation is in addition to the person's current suspension; and
- the person will be sent a further notice under section 128 (note: this further notice will advise the person when the demerit points suspension will come into effect).

New section 127 (5) makes it clear that non-compliance with the new notice provision in new section 124 (4) will not affect the validity of anything done by the authority or by a court.

**Clause 9 Demerit points incurred by restricted licence holders
New section 130 (2A) and (2B)**

This clause inserts new section 130 (2A) and (2B). Section 130 deals with demerit points incurred by a person who holds a restricted licence (note: Division 3.7 of the Regulations explains how a person may be granted a restricted licence).

New section 130 (2A) applies where a person, whose learner or provisional licence has already been suspended, incurs enough demerit points to trigger a demerit points cancellation under section 130. It requires the authority to send the person a notice explaining that:

- the person has incurred the demerit points
- the demerit points cancellation that the person has incurred under section 130 of the Regulation is in addition to the person's current suspension; and
- the person will be sent a further notice under section 130 (note: this further notice will advise the person when the demerit points cancellation will come into effect).

New section 130 (2B) makes it clear that non-compliance with the new notice provision in new section 130 (2A) will not affect the validity of anything done by the authority or by a court.

**Clause 10 Demerit points incurred by probationary licence holders
New section 132 (2A) and (2B)**

This clause inserts new section 132 (3) and (4). Section 132 deals with demerit points incurred by a person who holds a probationary licence (note: Division 3.8 of the Regulations explains how a person may be granted a probationary licence).

New section 132 (3) applies where a person, whose probationary licence has already been suspended, incurs enough demerit points to trigger a demerit points cancellation under section 133 of the Regulation. It requires the authority to send the person a notice explaining that:

- the person has incurred the demerit points
- the demerit points cancellation that the person has incurred under section 133 of the Regulation is in addition to the person's current suspension; and
- the person will be sent a further notice under section 133 (note: this further notice will advise the person when the demerit points cancellation will come into effect).

New section 132 (4) makes it clear that non-compliance with the new notice provision in new section 132 (3) will not affect the validity of anything done by the authority or by a court.

**Clause 11 Demerit points - pt 8 not affected by suspension etc under another law
Section 135 (1) and (2)**

This clause amends section 135 of the Regulation to put beyond any doubt that a demerit points suspension incurred under part 8 of the Regulation is additional to, and not concurrent with, any other period of suspension that applies to the person, whether under Part 8 of the Regulation Act or under another territory law.

Part 4 Road Transport (Safety and Traffic Management) Act 1999

Clause 12 Legislation amended - pt 4

This clause is a formal provision to identify that the legislation to be amended by this part of the Bill is the *Road Transport (Safety and Traffic Management) Act 1999*.

**Clause 13 Meaning of *relevant information* for pt 6
Section 22A (c)**

This clause is a technical drafting amendment to replace existing section 22A (c) with a new provision that refers to a vehicle being driven "in contravention of a regulation about traffic lights". Section 22A of the *Road Transport (Safety and Traffic Management) Act 1999* is a definitional provision that explains the term "relevant information" as used in Part 6 of that Act. The amendment uses the term "a regulation about traffic lights" as a generic description that is intended to cover the offences in Division 1 of Part 6 of the Australian Road Rules. That Division, which is headed "Obeying traffic lights", contains basic offences such as failing to stop at red traffic lights and proceeding through a red traffic light or red traffic arrow. The use of a straightforward generic description for these offences simplifies the drafting of provisions in the *Road*

Transport (Safety and Traffic Management) Act 1999 about using traffic cameras to detect vehicles that fail to obey traffic lights and ensures that relevant red-light offences are covered.

Clause 14 **Use of camera detection devices**
Section 23 (1)(a)

This clause replaces existing section 23 (1)(a). Like the amendments in clause 13 and clause 15, this technical drafting amendment uses a generic description for the offences in the Australian Road Rules that are relevant to section 23 of the *Road Transport (Safety and Traffic Management) Act 1999*, which deals with the use of camera detection devices such as speed and red light cameras.

Clause 15 **Evidentiary certificates**
Section 25 (5)(e)

This clause replaces existing clause 25 (5)(e). Like clauses 13 and 14, it is a technical drafting amendment to refer generically to the traffic light offences in the Australian Road Rules that are relevant to section 25 of the *Road Transport (Safety and Traffic Management) Act 1999*, which deals with evidentiary matters arising in relation to camera-detected traffic offences.