

# House of Representatives

# Supplementary Order Paper

Tuesday, 12 April 2011

## Land Transport (Road Safety and Other Matters) Amendment Bill

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### *Proposed amendments*

Hon Steven Joyce, in Committee, to move the following amendments:

#### *Clause 2*

*Subclause (1):* to insert “**4(8),**” after “**Sections**” (line 2 on page 6).

*Subclause (1):* to omit “**50(1), 54,**” (line 3 on page 6).

*Subclause (2):* to omit “**31 to 35 and 37**” (line 5 on page 6) and substitute “**4(15A), 31 to 35, and 37**” .

*Subclause (3):* to omit “**56,**” (line 8 on page 6) and substitute “**56(1),**”.

#### *Clause 4*

To insert the following subclause above *subclause (9)* (after line 11 on page 8):

(9AA) The definition of **qualifying bylaw** in section 2(1) is amended by—

- (a) omitting “section 22AB(1)(b)” and substituting “section 22AB(1)(a)”;
- (b) omitting “, section 72(1)(d) of the Transport Act 1962, section 684(1)(13) of the Local Government Act 1974,”.

*Subclause (15):* to omit the definitions of **blood specimen collecting instrument** and **blood specimen collecting procedure** (lines 21 to 30 on page 9).

To insert the following subclause after *subclause (15)* (after line 23 on page 11):

(15A) Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**blood specimen collecting instrument** means—

- “(a) a needle and syringe; or
- “(b) an instrument of a kind designed for the taking of blood specimens approved by the Minister of Police (after

consulting the Science Minister and the Minister of Transport) by notice in the *Gazette*

“**blood specimen collecting procedure** means the taking of a blood specimen by a blood specimen collecting instrument in a manner prescribed by the Minister of Police by notice in the *Gazette*”.

*Clause 8: new section 16A(3)*

To insert after “offence” (line 28 on page 13) “, and is liable on conviction to a fine not exceeding \$1,000.”.

*Clause 10: new section 22AB(1)(g)*

To omit “a class specified in the bylaw” (line 16 on page 17) and substitute “a specified class”.

*Clause 12(2): new section 25(2)*

To omit “**1 July 2011**” (line 35 on page 23) and substitute “the commencement of **section 12 of the Land Transport (Road Safety and Other Matters) Amendment Act 2011**”.

*New clause 12A*

To insert the following clause after *clause 12* (after line 4 on page 24):

**12A Certain driver licences have no effect**

Section 29 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) A driver licence has no effect if—
- “(a) a person is disqualified from holding, or unqualified to hold, a driver licence:
  - “(b) the licence is invalid or is issued invalidly:
  - “(c) the licence is revoked, cancelled, superseded, or replaced:
  - “(d) the licence is for the time being suspended under any Act.”

*Clause 17(4)*

To omit this subclause (line 12 on page 26).

*Clause 28*

*New section 65A(2)(b)(ii)(A)*: to omit “the specified” (line 13 on page 34) and substitute “a”.

*New section 65A(2)(b)(iii)*: to omit this subparagraph (lines 22 to 27 on page 34) and substitute the following subparagraph:

- “(iii) provides that the person may apply for any other driver licence (including, but not limited to, a limited licence) only if the person has obtained, and has satisfied the requirements of, the alcohol interlock licence; and

*New section 65B(3)(b)*: to omit this paragraph (lines 5 to 8 on page 36) and substitute the following paragraph:

- “(b) in the case of a person who is subject to an order made under **section 65A(2)(b)**, when the Agency makes an order under **section 100A(1)**.

*New section 65B(4)*: to insert after “of no effect” (line 11 on page 36) “under section 29(1)”.

*New clause 46A*

To insert the following clause after *clause 46* (after line 30 on page 44):

**46A New licence or endorsement to be issued if disqualified driver qualifies for specified vehicle classes**

- (1) The heading to section 84 is amended by omitting “**or endorsement**”.
- (2) Section 84(1)(a) is amended by omitting “section 83(1)” and substituting “**section 82A** or 83(1)”.
- (3) Section 84 is amended by repealing subsection (2) and substituting the following subsection:  
“(2) If this section applies, then the Agency must issue a new licence to that person to authorise that person to drive the relevant class of motor vehicle and all lower classes of motor vehicles for which that person held a licence immediately before he or she was disqualified.”

*Clause 55*

*New section 95A(4)*: to omit “A District Court Judge” (line 25 on page 50) and substitute “A District Court”.

*New section 95A(6)*: to omit “court” (line 30 on page 50) and substitute “High Court”.

*Clause 73*

*Heading to clause 73*: to omit “**sections 139A and 139B**” (line 1 on page 60) and substitute “**section 139A**”.

To omit “sections are” (line 2 on page 60) and substitute “section is”.

*New section 139A*: to omit this section (line 3 on page 60 to line 5 on page 61).

*Heading to new section 139B*: to omit “**139B**” (line 6 on page 61) and substitute “**139A**”.

*Clause 74*

To omit this clause (lines 26 to 28 on page 61) and substitute the following clause:

**74 New section 141 substituted**

Section 141 is repealed and the following section substituted:

**“141 Provisions relating to infringement fees**

- “(1) The infringement fee payable in respect of an infringement of offence is the appropriate infringement fee prescribed in respect of the relevant offence by or under this Act.
- “(2) If an infringement fee is paid to an enforcement authority other than the Police, the enforcement authority must give the Commissioner the particulars of the infringement and of the payment that the Commissioner requires.
- “(3) Subject to **subsections (4) and (5)**, all infringement fees received under this Act by an enforcement authority or recovered under the Summary Proceedings Act 1957 must be paid into a Crown Bank Account, except that the enforcement authority may retain any portion of the fees so received that the Minister of Finance from time to time approves as being the expenses incidental to their collection.
- “(4) An enforcement authority that is the Agency or a local authority may retain the portion of the infringement fees received by it under this Act—
- “(a) that the Minister of Finance from time to time approves; and
  - “(b) that is received in respect of an infringement offence in relation to the use of a special vehicle lane.
- “(5) An enforcement authority that is a road controlling authority may retain—
- “(a) all infringement fees that it receives in respect of offences that involve—
    - “(i) parking in breach of a bylaw of the road controlling authority on any portion of a road where parking is for the time being governed by the location of parking meters placed pursuant to a bylaw of the road controlling authority; or
    - “(ii) parking on any other portion of a road in breach of a bylaw of the road controlling authority that prohibits parking for a period in excess of the period fixed by the bylaw where the infringement notice in respect of the offence was issued by an officer or other person appointed by the road controlling authority; and
  - “(b) all towage fees received by it; and
  - “(c) the portion of all other infringement fees received by it that the Minister of Finance from time to time approves.
- “(6) The Commissioner must from time to time, out of money appropriated by Parliament for the purpose, pay to a road controlling authority the portions of the infringement fees (other than towage fees) that the Minister of Finance from time to time approves and that the Commissioner receives in respect

of other offences that involve breaches of the road controlling authority's bylaws (not being offences that are also offences against an Act or a regulation).

“(7) For the purposes of **subsections (4) and (5)**, the Minister of Finance may approve the retention of different portions for road controlling authorities or enforcement authorities and different categories of infringement offences.

“(8) For the purposes of this section, **road controlling authority** includes an airport authority.”

*New clause 92A*

To insert the following clause after *clause 92* (after line 4 on page 70):

**92A Repeals**

Section 214(3) is repealed.

*New clause 94A*

To insert the following clause after *clause 94* (after line 22 on page 70):

**94A Schedule 2 amended**

Part 5 of Schedule 2 is repealed.

*Item relating to Land Transport (Driver Licensing) Rule 1999 in Schedule 1*

To omit *new subparagraphs (i) and (ii)* in the item relating to paragraph (a) of the item relating to Class 1 in clause 19 (lines 24 to 32 on page 72) and substitute the following subparagraphs:

- (i) is 18 years of age or over and holds, and has held for at least 18 months, a Class 1R licence; or
- (ii) is 17 years and 6 months of age or over and holds, and has held for at least 12 months, a Class 1R licence, if the person provides a certificate showing successful completion by the person of an approved course of a type specified in clause 93(a) that was undertaken at least 6 months after the person's restricted licence was issued

To omit *new paragraph (a)* in the item relating to paragraph (a) of the item relating to Class 6 in clause 19 (lines 8 to 16 on page 73) and substitute the following paragraph:

- (a) if under 25 years of age,—
  - (i) is 18 years of age or over and holds, and has held for at least 18 months, a Class 6R licence; or
  - (ii) is 17 years and 6 months of age or over and holds, and has held for at least 12 months, a Class 6R licence, if the person provides a certificate showing successful completion by the person of an approved course of a type specified in clause 93(a) that was undertaken at least 6 months after the person's restricted licence was issued

*Item relating to Land Transport (Offences and Penalties) Regulations 1999 in Part 2 of Schedule 2*

To insert the following item before the item relating to Schedule 1 (before line 21 on page 77):

Schedule 1: insert after the item relating to section 31(1)(c) of the Land Transport Act 1998 (as inserted by **section 97(3)** and **Schedule 3**):

31(1)(c)	Person fails to produce zero alcohol licence	-	-	400	-
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To insert before the item relating to Schedule 2 (before line 3 on page 78):

Schedule 2: insert after the item relating to section 31(1)(b) of the Land Transport Act 1998:

31(1)(c)	Person fails to produce zero alcohol licence				25
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*Part 1 of Schedule 3*

To insert after the item relating to Christchurch-Lyttelton Road Tunnel Authority Dissolution Act 1978 (after line 6 on page 81):

**Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)**

Item relating to section 36 of the Land Transport Act 1998 in Part 3 of Schedule: omit “or death”.

Item relating to section 36 of the Land Transport Act 1998 in Part 3 of Schedule: insert:

Contravention of section 7 by causing death of another person		<b>section 36AA</b>
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*Item relating to Land Transport (Enforcement Powers) Amendment Act 2009 in Part 1 of Schedule 3*

To insert after the item relating to section 2(1) (after line 3 on page 82):

Section 9: repeal.

Section 10: repeal.

To insert after the item relating to section 18 (after line 4 on page 82):

Section 20: repeal.

Section 21: repeal.

Second item relating to Part 2 of Schedule 2: to omit “new clause 67B of” (line 10 on page 82) and substitute “the”.

*Part 2 of Schedule 3*

To insert the following item after the item relating to the Land Transport (Driver Licensing and Driver Testing Fees) Regulations 1999 (before line 17 on page 90):

**Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)**

Clause 11(1): omit “or replace” and substitute “replace, or reinstate”.

Clause 14: omit “or replace” and substitute “replace, or reinstate”.

Heading to clause 67A: insert “**with respect to those who have been disqualified for more than 12 months**” after “**driver licence**”.

Clause 75(1): omit “The Agency must” and substitute “The Agency may, on the application of the holder of a driver licence or a driver identification card,”.

*Item relating to Land Transport (Offences and Penalties) Regulations 1999 in Part 2 of Schedule 3*

Item relating to Schedule 1: to omit the second item relating to section 31(1)(c) of the Land Transport Act 1998 (page 92).

To insert the following items above the item relating to new Schedule 7 (before line 3 on page 97):

Clause 1(e) of Part 1 of Schedule 3: insert “**57A,**” after “sections 56(1) or (2),”.

Clause 1(f) of Part 1 of Schedule 3: insert “**57A,**” after “sections 56(1) or (2),”.

Clause 2A of Part 1 of Schedule 3: insert “**57A,**” after “sections 56(1) or (2),”.

Clause 2(b)(v) of Part 2 of Schedule 3: insert “**57A,**” after “sections 56(1) or (2),”.

Clause 2(b)(vi) of Part 2 of Schedule 3: insert “**57A,**” after “sections 56(1) or (2),”.

Paragraph (d) of Part 1 of Schedule 4A: insert “**57, 57A, 57AA,**” after “sections 56(1) or (2),”.

Paragraph (e) of Part 1 of Schedule 4A: insert “**57, 57A, 57AA,**” after “sections 56(1) or (2),”.

Clause 4(b)(iv)(B) of Part 2 of Schedule 4A: insert “**57, 57A, 57AA,**” after “sections 56(1) or (2),”.

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**Explanatory note**

This Supplementary Order Paper amends the Land Transport (Road Safety and Other Matters) Amendment Bill.

The amendments to *clause 2* change the commencement date of certain provisions in the Bill.

The amendments to *clause 4* insert *new subclause (9AA)*, which adjusts the definition of qualifying bylaw, and move the definitions of blood specimen collecting instrument and blood specimen collecting procedure into their own subsection to change the commencement date of these definitions (see *clause 2*).

The amendment to *clause 8* provides a penalty for the specified offence set out in *new section 16A(3)*.

The amendment to *clause 10* changes “a class specified in the bylaw” to “a specified class” to achieve consistency of terminology in *new section 22AB(1)*.

The amendment to *clause 12* changes the date on which *new section 25(2)* is determinative.

*New clause 12A* transfers the amendment set out in section 9 of the Land Transport (Enforcement Powers) Act 2009, which is yet to be brought into force, to this Bill to clarify when the amendment comes into force.

The amendment to *clause 17* omits *subclause (4)*.

The amendments to *clause 28* omit “the specified” and substitute “a” in *new section 65A(2)(b)(ii)(A)* and omit the reference to zero alcohol licences in *new section 65A(2)(b)(iii)*, refine *new section 65B(3)(b)*, and adjust *new section 65B(4)* in the light of *new clause 12A*.

*New clause 46A* transfers the amendment set out in section 20 of the Land Transport (Enforcement Powers) Act 2009, which is yet to be brought into force, to this Bill to clarify when the amendment comes into force.

The amendments to *clause 55* change “A District Court Judge” to “A District Court” in *new section 95A(4)* and change “court” to “High Court” in *new section 95A(6)*.

The amendments to *clause 73* omit *new section 139A* and change the heading of *new section 139B* as a consequence.

The amendment to *clause 74* replaces section 141 of the Land Transport Act 1998 with a provision that combines elements from *new section 139A*, as omitted by the amendments to *clause 73*, and section 141 of the Land Transport Act 1998, as it currently stands.

*New clause 92A* repeals section 214(3) of the Land Transport Act 1998, which is no longer necessary as *clause 95* of the Bill repeals the Transport Act 1962.

*New clause 94A* repeals Part 5 of Schedule 2 of the Land Transport Act 1998, which is no longer necessary as *clause 95* of the Bill repeals the Transport Act 1962.

The amendments to *Schedule 1* change the punctuation of 2 similar provisions.

The amendments to *Schedules 2 and 3* specify the demerit points for a failure to produce a zero alcohol licence, and shift the item relating to section 31(1)(c) of the Land Transport Act 1998, which relates to zero alcohol licences, from *Schedule 3* to *Schedule 2* to group it with the other provisions in *Schedule 2* related to zero alcohol licences. They also make consequential amendments to Part 3 of the Schedule of the Criminal Investigations (Bodily Samples) Act 1995, and repeal sections 9, 10, 20, and 21 of the Land Transport (Enforcement Powers)



Act 2009 (which are yet to come into force), as a consequence of those sections being dealt with in the Bill or this SOP, and change several cross-references.

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