



Land Transport Amendment Bill 2013

NZAA submission

The New Zealand Automobile Association Incorporated

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NEW ZEALAND

11 February 2014

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Committee Secretariat
Transport and Industrial Relations Select Committee
Parliament Buildings
WELLINGTON

The NZ Automobile Association's Submission on The Land Transport Amendment Bill 2013

Summary of our position on the Bill

The New Zealand Automobile Association (AA) supports:

- reducing the drink driving limit to 250 micrograms of alcohol per litre of breath and 50 milligrams of alcohol per 100 millilitres of blood (referred to as “the new limit” from here on in)
- making driving between the proposed new limit and the current limit an infringement offence (subject to 50 demerits and a \$200 fine).

The AA supports the above because:

- research in New Zealand and overseas shows that at the current limit drivers are too impaired to safely drive (see Charlton and Starkey 2013)¹
- recent surveys of AA Members and the wider public have shown that around two thirds of respondents believe that the current limit is too high and that it's time to get tougher on drink driving
- international examples have shown that lowering the drink driving limit may also reduce the impairment levels of some high level drink drivers (known as the “halo effect”)
- driving between the new and current limit is at the lower end of impaired driving offending. It therefore should not result in criminal prosecution. A drink driving conviction can affect employment, reputation, mobility, financial security and international travel.

¹ *Drunker than you think you are: Delayed performance impairment from moderate amounts of alcohol*, Charlton, S.G. & Starkey, N.J. Traffic and Road Safety Research Group, School of Psychology, University of Waikato, Hamilton, New Zealand, August 2013

Specific components of the Bill supported by the AA

The AA supports:

- the proposed new drink driving limit
- an infringement offence for driving between the new and current limit
- 50 demerit points and a \$200 fine for offences between the new and current limit
- drivers who record an Evidential Breath Test (EBT) result of between 251–400 mcg of alcohol per litre of breath not being eligible to request a blood test. However, should it be determined that this is likely to lead to successful legal challenges to convictions, the AA would support allowing the right to a blood test
- drivers undergoing a blood test (because they have refused or have failed to successfully undergo an EBT) being informed that, if they are subsequently convicted for driving above the new limit, they may be liable for cost recovery of the blood test. (A judge, however, should be able to waive this charge if the driver can prove they were unable to provide an EBT result due to medical reasons).

Component of the Bill not supported by the AA

The AA does not support:

- A \$500 infringement fee where a blood test is administered because a driver is unable to successfully undergo an EBT due to medical reasons. A driver should not be given a higher punishment if they can prove they are medically unable to provide an EBT result. We agree, however, that the \$500 fee should apply if a driver is deliberately trying to not provide an EBT result.

Lowering the limit is not a silver bullet: We need to reduce recidivism and high level drink driving

It is widely recognised that many high level and recidivist drink drivers are unlikely to change their behaviour unless their alcohol abuse is tackled. The lower limit is unlikely, on its own, to significantly reduce high level and recidivist drink driving.

New Zealand has, for far too long, adopted a “catch and release” approach towards drink drivers. Fines and disqualifications have not deterred or prevented reoffending by some of our most dangerous drink drivers. Many drink drivers are caught multiple times.

The AA therefore strongly argues that, in addition to the new limit, the following three actions are also required to comprehensively reduce drink driving on our roads:

- mandatory alcohol interlocks for serious and repeat offenders to be installed in vehicles immediately (currently a three month stand down period is required before installation can occur)
- repeat and serious drink drivers to be assessed for alcohol issues and, if required, have rehabilitative treatment included in their sentence

- net revenue from the new \$200 infringement fee to be used to fund an increase in provision of alcohol interlocks, alcohol assessments and rehabilitation programmes.

Federated Farmers have, in writing, informed us and the Minister of Transport that they support the above three policies.

Alcohol interlocks

An alcohol interlock requires a driver to breath into a handheld device. The vehicle will not start if alcohol is detected on the driver's breath. The driver is also required to provide a breath sample at regular intervals when the vehicle is in use.

There is compelling evidence that interlocks significantly restrict an offenders' ability to drink and drive. Their success in reducing long term reoffending is also increased if they are combined with effective alcohol treatment.

The AA is calling for mandatory alcohol interlocks for serious and repeat offenders to be installed vehicles immediately because:

- the current Alcohol Interlock Programme (AIP) uptake is a significant policy failure. The Ministry of Transport's Regulatory Impact Statement assumed 20% of eligible offenders would undertake the AIP in its first year of operation. We estimate this to be 2400 offenders. However, between September 2012 and 31 August 2013, only 75 interlock licences had actually been issued
- The current 3 month mandatory licence disqualification before an interlock can be installed is deterring judges from imposing interlock sentences on those who need to drive for work. In these situations the judge will usually issue a standard drink driving sentence as this enables the offender to immediately apply for a limited licence
- there is no compulsion for an AIP participant to apply for an interlock after their mandatory 3 month licence disqualification. They may simply choose to drive illegally without an interlock
- the current AIP is a more punitive sentence than alternative drink driving sentences. Lawyers and offenders often argue for "easier" and cheaper sentences such as limited licences.
- there is a lack of judicial and public awareness of the AIP. Little promotion of the benefits of interlocks or the AIP appears to have been undertaken.

We also therefore believe an interlock public information campaign is required. This would:

- increase awareness of interlocks purpose and their benefits
- demonstrate that interlocks are not a "soft option".

Expansion of alcohol assessment and treatment programmes

The AA calls for the expansion of alcohol assessment and treatment programmes because:

- specialist drink driver assessment and treatment programmes in New Zealand are of variable quality, may have long waiting lists and are only available in limited areas. Offenders are often usually not directed to attend a treatment programme until at least their third offence. Some repeat offenders never receive any treatment
- we are not holding high level or recidivist drink drivers accountable if we do not require them to tackle their alcohol dependency. Victims' interests and rights are also not being met by repeatedly releasing drink drivers into the community with little or no treatment.

Net revenue from the new drink driving infringement to partly fund interlocks, alcohol assessment and treatment

The AA would like the estimated net \$3m annual revenue from the new drink driving infringement to partly fund the expanded use of interlocks and alcohol assessment and treatment. This is strongly supported by an AA Members' survey that found that 93% of respondents support using net traffic fines to improve road safety.

This would:

- reduce any accusations that the fines imposed on drivers exceeding the new limit are motivated by "revenue gathering"
- help create a sustainable funding model for the AIP and alcohol treatment.

Conclusion

The AA supports the new drink driving limit and the proposed \$200 fee and 50 demerits penalty for driving between the new and current limit.

We do not support the proposed higher \$500 infringement fee where a blood test is required because a driver is unable to undergo an EBT due to medical reasons.

We agree that drivers with an EBT result of between 251–400 mcg of alcohol per litre of breath should be ineligible to undergo a blood test. However, the AA would support allowing these drivers the right to a blood test if it is expected that its removal would result in successful legal challenges.

The AA also believes that the lower limit will not sufficiently reduce the problems of serious and recidivist drink driving. We therefore strongly call for:

- mandatory alcohol interlocks for serious and repeat offenders to be installed in vehicles immediately
- repeat and serious drink drivers to be assessed for alcohol issues and have rehabilitative treatment included in their sentence

- net revenue from the new \$200 infringement fee to be used to fund an increase in alcohol interlocks, alcohol assessment and rehabilitation.

The AA would also like to make an oral submission to the Transport and Industrial Relations Select Committee on the Land Transport Amendment Bill 2013.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Noon', written in a cursive style.

Mike Noon
General Manager, Motoring Affairs