New South Wales Road Fatalities and Legislation on Alcohol, Drugs and Driving since 1950


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ABSTRACT

In 1950 the road fatalities were 634. By 1993 the figure had fallen to 581. In terms of fatalities per 100,000 persons it is a drop from 19.9 to 9.7. Legislative initiatives since 1968 have been aimed at diminishing the risk of motor vehicle crashes caused by intoxication. Today it is difficult to drive a motor vehicle in New South Wales without expecting to come under the scrutiny of the law in relation to alcohol and drugs. The laws on alcohol, drugs and driving have evolved over several years for the purpose of spreading a law-enforcement net wide enough to ensure that motorists will be deterred from risking their well being and well being of other motorists and law-abiding road users by driving while intoxicated.

ROAD FATALITIES AND LEGISLATION

This paper outlines the progression of changes which have been made to the New South Wales alcohol, drugs and driving legislation since 1950. Until 1968, alcohol, drugs and driving laws were very difficult to enforce in New South Wales. Although it was against the law to drive a motor vehicle while under the influence of alcohol or a drug, there were major problems in substantiating such charges at Court. It was necessary for the Prosecution to prove that the accused exhibited specific signs and symptoms of intoxication and that the direct cause of these signs and symptoms was alcohol or drug consumption. The Defence would almost invariably challenge the fact that the signs and symptoms, as recorded by Police Officers and other witnesses, were ever present and would strenuously refute any suggestion that they were alcohol or drug-related. This was unreasonably labour-intensive and wasteful of time in that many witnesses, including Police Officers and those with professional expertise, were committed to attending at Court until such challenges were resolved. The procedure was inefficient and expensive and many potentially successful prosecutions failed because of deliberate obfuscation by the Defence which caused the Magistracy to opt for a “safe” verdict.

In December, 1968, legislation (Motor Traffic Act, 1968) was introduced which made it an offence to be in control of a motor vehicle if there was present in the blood an alcohol concentration at or above a specific (0.080 g/100 ml) prescribed level (Government Gazette Supplement, 1968). The legislation determined that the method to be used to establish the blood alcohol concentration was breath analysis.
In December, 1980, the definition of the prescribed concentration of alcohol was modified (Motor Traffic Act, 1980) to include a low range (0.050 - 0.079 g/100 ml) and a high range (0.080 g/100 ml and above).

There was a perception, however, that these measures had failed to have a significant impact because between 1968 and 1982, the fatalities on New South Wales roads did not fall (1211 in 1969 and 1253 in 1982) and the number of injuries increased (30,919 in 1968 and 34,553 in 1982). The substantial increase in the population of the state, with a concomitant increase in the number of registered motor vehicles and the number of motor vehicle driver’s licences issued, appeared to have been tacitly ignored.

Three very important initiatives were contained in the Motor Traffic Act (1982), which came into force in December of that year. These were the introduction of random breath testing, on a massive scale and supported by saturation advertising, and compulsory blood testing for alcohol of drivers and pedestrians who presented at a hospital following an accident. The prescribed concentration of alcohol was again altered to include a low range (0.050 - 0.079 g/100 ml), a middle range (0.080 - 0.149 g/100 ml) and a high range (0.150 g/100 ml and above).

The impact of this legislation on the community was significant. There was an almost immediate and very substantial decrease in the number of road fatalities. In the first twelve months after the introduction of these measures, there was a steep fall in fatalities from 1253 (1982) to 966 (1983). This downward trend continued and, during the first five years following the introduction of “random breath testing” in New South Wales, the number of crash-related fatalities fell by 22% and alcohol-related crashes by 35% (Homel et al., 1988).

In April, 1985, the Motor Traffic Act (1985) provided for the introduction of a special range prescribed concentration of alcohol. This was effectively a zero blood alcohol concentration in that prosecutions are mounted at blood alcohol concentrations of 0.020 g/100 ml and above. This means that a driver cannot consume a single standard drink without the very real possibility that his/her blood alcohol concentration might exceed the new limit within the following hour. This new limit applied to learner drivers and drivers in their first year of holding a driver’s licence (Provisional Driver’s Licence). Instructors of learner drivers are also liable to prosecution (within the appropriate range) if their blood alcohol concentration is found to be 0.050 g/100 ml or above.

In December, 1987 (Motor Traffic Act, 1987), drug testing for drivers was introduced. Urine and blood samples were taken from drivers who were considered to be intoxicated, but not by alcohol. When first introduced, the procedure required Police to witness the manner of driving or the way in which the driver was occupying the driving seat and attempting to put the vehicle in motion. The driver was then subjected to a breath test for alcohol and an assessment of the driver’s demeanour was made. Urine and blood samples could only be taken if the breath test indicated that the driver was below the legal blood alcohol limit (0.05 g/100 ml).

An amendment to the Act (Motor Traffic Amendment Act, 1988) came into force in January, 1989. This extended the provisions of earlier legislation to include riders of bicycles and the drivers of horse-drawn vehicles. These individuals could now be subjected to blood alcohol sampling if they presented to hospital after a crash and could be charged with being “under the influence of alcohol” (as opposed to a per se offence). At the same time, the Motor Traffic (Transport Administration) Amendment Act No. 110, 1988 became law. The Act

In December 1989, drivers who were apprehended by police and subjected to evidential breath analysis and were found to have a high range prescribed concentration of alcohol (> 0.150 g/100 ml) were immediately deprived of their licence. The suspension remained in force until the driver appeared at Court and the magistrate had determined the period of disqualification, as well as any other penalty which might be considered appropriate.

New South Wales Police Service policy is to test approximately 1.25 million of a total of about 2 million motorists each year. This should be seen against the background that approximately 90% of the motorists who are tested would be expected to have a zero blood alcohol concentration. Only about 1% of motorists who are tested are eventually charged with an alcohol offence.

**Figure 1**

*Road Crash Fatalities in New South Wales (1950-1994)*

The Traffic Act (1990) was further amended in January, 1991 to incorporate alterations to the Collection of Compulsory Blood Samples (Schedule 1), which allowed nursing staff to assume the legal obligation to take the samples in the absence of a medical practitioner. Because the procedure for drug testing originally required the manner of driving to be witnessed by Police, many crash-involved drivers were not subjected to blood/urine sampling. This procedure was amended to include accident-involved drivers and allowed
for the drug testing of blood samples taken from injured drivers who had been taken to hospital and who had not been breath analysed or subjected to sobriety assessment. These blood samples are routinely taken for alcohol analysis, but for a sample to also be tested for drugs, Police must have justifiable grounds to suspect that, at the time of the accident, the driver/rider was under the influence of a drug other than alcohol. The procedure was changed from a three to a two sample system and the method of delivery of the samples to the Blood Sample Section was altered to improve security and efficiency. At the same time, there was consolidation of the Special Range Prescribed Concentration of Alcohol (0.02 g/100 ml) for Special Category Drivers (Schedule 4). These now include drivers under 25 years of age, those who have held a driving licence for less than 3 years, drivers of public passenger vehicles (taxis and hire cars), drivers of coaches (buses) and heavy motor vehicles (e.g. trucks) and carriers of dangerous or radioactive goods.

It is considered that the methods of alcohol and drug detection in drivers in New South Wales are well-advanced and efficient and cost-effective. Road fatalities in New South Wales in 1994 (651) are essentially similar to those in 1950 (634), despite an enormous increase in population and road users. Per 100,000 population, this represents a decrease from 19.9 in 1950 to 10.7 in 1994 (Figure 1). Although, superficially, this appears impressive, there is no room for complacency and other factors must be considered. Australia has emerged from the worst economic circumstances since the Great Depression and this has negatively influenced both the number of motor vehicles on the roads as well as the distance driven per vehicle. It remains to be seen whether an improvement in the economic climate will negate the progress which has been made so far.

REFERENCES

Alcohol, Drugs and Driving. (1988) 4, 113-144.
Drink-driving countermeasures in Australia.
Homel R., Carseldine D., Kearns I.
Motor Traffic (Amendment Act), 1968.
Motor Traffic (Road Safety) Amendment Act, 1982, No 123.
Supplement to the Government Gazette of the State of New South Wales, No. 159, Wednesday, 18 December, 1968.
Traffic (Amendment) Act , 1990, No. 96 (Schedule 1, Schedule 4).
Traffic Act (Section 10C and Section 10D), 18 December, 1989.