

SUBMISSION

ALCOHOL ADVISORY COUNCIL OF NEW ZEALAND

LAND TRANSPORT (ROAD SAFETY AND OTHER MATTERS) AMENDMENT BILL

The Alcohol Advisory Council of New Zealand (ALAC) is an autonomous Crown Entity. ALAC has statutory responsibility to encourage and promote moderation in the use of alcohol, the reduction and discouragement of the misuse of alcohol, and the minimisation of the personal, social, and economic harm resulting from the misuse of alcohol. It is our statutory function to provide recommendations and advice on alcohol issues to a wide range of authorities and public bodies.

ALAC is pleased to be able to make a submission on the Land Transport (Road Safety and Other Matters) Amendment Bill. We would like to make an oral submission to the Committee.

Introduction

This submission from ALAC will be limited to the alcohol related matters included in the Bill. ALAC wishes to make the following major points:

- ALAC welcomes changes to the legal blood alcohol content limits for young drivers, and the introduction of alcohol interlocks to New Zealand.
- The general BAC should be reduced to 0.05.
- ALAC considers that when a person comes to the attention of the New Zealand Police as an alcohol related risk to road safety, it is likely that alcohol is having a negative effect on other aspects of their lives. We therefore believe that every opportunity should be taken to help all offenders change their behaviour. The provisions for interlocks and for mandatory assessments should therefore apply to a wider pool of offenders.

Legal Blood Alcohol Concentration Limits

ALAC welcomes the introduction of a zero blood alcohol concentration (BAC) limit for drivers aged under 20, and a new zero limit for repeat drink drivers.

We believe however, that a lower general BAC should also be introduced. The Ministry of Transport estimated a lower limit of 0.05 could prevent between 15 and 33 fatalities and 320 to 686 injuries every year, with an estimated annual social cost saving of between \$111 million and \$238 million.¹

Internationally, it has been shown that lowering the limit has positive effects on driver alcohol, not just at the lower legal limits, but also at the upper extremes.² Lowering the legal BAC does not only reduce the BAC of those drivers between 0.05 and 0.08, but has the effect of making all alcohol impaired drivers lower the amount they drink before they drive, and the lower the BAC, the lower the crash risk.³

ALAC urges the committee to consider the evidence of the “nearly 300 studies”⁴ accumulated by the Ministry of Transport. The studies show the impairment effects of alcohol and demonstrate the road safety benefits which would be achieved with a lower general BAC.

A lower general BAC would also make a major contribution to changing the drinking culture of New Zealand. More people would discuss and understand how much alcohol was safe or reasonable to drink on one occasion. More people would consider how their drinking was affecting their ability to drive, and consequently other aspects of their lives. We would see benefits far beyond the road safety gains. With this steer from road safety, New Zealand would be able to build on awareness of what binge drinking really means, and how alcohol affects safety including fire and water safety and trips and falls at home, as well as violence and other crime and health.

Research Provisions

ALAC is pleased that the Bill provides for research intended to provide further evidence to inform a future decision about the general BAC. However, we are concerned that the research provisions are limited and specific provisions are made for repealing the provisions by Order in Council.

Information about breath or blood results is to be forwarded to the Ministry, when a driver has been involved in a serious injury or fatal crash. The vast majority of crashes will therefore not be included in the data. This is insufficient to provide a full set of evidence that alcohol impaired drivers cause or are involved in crashes, or evidence to the contrary. A serious accident is not specifically defined for this part of the Bill (or the Act).

The provisions for repealing the sections concerning alcohol related research are not necessary. Strong data will continue to be vital, whatever the future decisions concerning BAC limits. Blood specimens should continue to be available for anonymous research purposes, in order that legislative provisions can continue to be tested or evidence provided to back up further changes. There is no corresponding end date for the existing provisions for analyzing blood samples.

¹ Ministry of Transport, Safer Journeys Discussion Document, August 2009, p13.

² Frith, W.J. & Strachan, G. (2002). Road safety impact of establishing blood alcohol concentration levels at 0.05.

³ Ministry of Transport Alcohol/Drugs crash fact sheet available at http://www.transport.govt.nz/research/Documents/alcohol_drugs_2009.pdf

⁴ Ministry of Transport, Regulatory Impact Statement: Safer Journeys New Zealand’s Road Safety Strategy 2010 to 2020,p18. Available at <http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-transport-sjnzrss-mar10.pdf>

Alcohol Interlock Devices

ALAC welcomes the introduction of alcohol interlocks as a legal sanction in New Zealand. We have a unique opportunity to learn from the experiences of others, and there are some 'best practice' lessons from other jurisdictions that would improve the proposed provisions.

First time offenders

The proposals would allow Courts the option of requiring interlocks for second and subsequent offences, or for very serious offences. The Ministry of Transport notes in the Regulatory Impact Statement dated June 2010 that "international practice is now moving away from restricting use of interlocks to repeat offenders. To get the maximum benefit from an interlock programme all first time offenders should be included as they make up a significant percentage of the overall drink driving population. The use of an interlock after the first conviction maximises the chance of changing the offender's attitude towards drink driving and reduces the risk of the offender re-entering the criminal justice system".⁵

Researchers identifying 'best practice' for interlocks note that all persons convicted of an alcohol impaired driving offence should be required to participate in an ignition interlock programme as a condition of continued driving privileges or driving reinstatement.⁶ Interlocks have been shown to be effective for both first time and repeat offenders.⁷

While the Bill includes provisions for first time offenders with very high (twice the legal limit) alcohol readings, other first time offenders will continue to be sentenced to fines and periods of disqualification from driving. Leaving the large majority of first time offenders out of the interlock regime in this manner will minimise the benefits of the introduction of interlocks.

In recommending the above approach, ALAC recognizes there are resource issues in the introduction of interlocks which are well canvassed in the Ministry of Transport's Regulatory Impact Statement.⁸

Disqualification period

Courts will have the option of requiring offenders to use alcohol interlocks, after a mandated 90 day disqualification period. According to the Regulatory Impact Statement, the New Zealand Police is concerned that as a person with an interlock can still drive (albeit with an interlock fitted) there is no real

⁵ Ministry of Transport, Regulatory Impact Statement Completing the actions to address alcohol-impaired driving. Available at <http://www.transport.govt.nz>

⁶ Beirness D and Boase P, Interlock Program Standards for Canada, Washington 2007. Available at <http://www.icadts2007.org/print/iis25canada.pdf>

⁷ Clayton A. and Beirness D. A Review of International Evidence on the Use of Alcohol Ignition Interlocks in Drink-Drive Offences. Department for Transport, London 2008.

⁸ Ministry of Transport, Regulatory Impact Statement Completing the actions to address alcohol-impaired driving. Available at <http://www.transport.govt.nz>

sanction for drink driving because there is no loss of driving privilege. Police therefore favoured a mandatory disqualification period.⁹

While the deterrent effect of the existing penalties has helped to prevent the majority of drivers from drink driving, many studies worldwide have identified that licensing sanctions such as disqualification from driving generally fail to deter habitual offenders from continuing to drink and drive.¹⁰

“Even a minimum period of (driver licence) revocation teaches offenders that they can get by with driving without a licence and doing so is much cheaper and less bother than installing an interlock.”¹¹

Drink drivers are widely estimated to have driven under the influence of alcohol a number of times before they are apprehended. “Evidence from multiple DWI (Driving While Intoxicated) investigators... has shown that for each DWI conviction there have been 300 to 2000 episodes of impaired driving that have not resulted in an arrest. The first-time convicted offender who has never before been impaired while driving is a very rare bird”.¹²

Deterrence principles have played an important role in road safety policy. While punishment for a criminal offence is understandably sought by Police, in the long term, aiming for behaviour change will bring much better outcomes for New Zealand. The effectiveness of a legal threat relies on the perceived certainty, severity and swiftness of the punishment. Researchers have argued that besides punishment and punishment avoidance, indirect or vicarious experiences obtained through contact with the peer group are also important deterrent factors. A wide range of non-legal factors can influence compliance with the law, including social sanctions and rewards, moral commitment to the law, and the opportunity for the commission of crime are also very important influences on behaviour.¹³

⁹ Ministry of Transport, Regulatory Impact Statement Completing the actions to address alcohol-impaired driving. Available at <http://www.transport.govt.nz>

¹⁰ Freeman, J. et al. A Preliminary Investigation Into a Group of Recidivist Drink Drivers' Experiences and perceptions of Legal Sanctions. Proceedings: Road Safety Research, Policing and Education Conference 2004.

¹¹ Bjerre, B. et al. Primary and secondary prevention of drink driving by the use of interlock device and program: Swedish experiences. Alcohol Interlock Programs: A global perspective. Proceedings of the Sixth International Symposium on Alcohol Ignition Interlock Programs France September 2005.

Available at

http://www.interlocksymposium.com/site/ywd_acs_corporation/assets/pdf/2005_Summary_of_Papers_from_6th_Interlock_Symposium.pdf

¹² Marques et al (2005) Some objective differences between first and multiple offenders. Traffic Injury Research Foundation Proceedings of the Sixth International Symposium on Alcohol Ignition Interlock Programs.

¹³ Watson, B. (2004) How effective is deterrence theory in explaining driver behaviour? A case study of unlicensed driving. Proceedings of the 2004 Road Safety Research, Policing, and Education Conference. Perth: Road Safety Council, Government of Western Australia.

The effectiveness of interlocks will be greatly enhanced by ensuring they are perceived as a real legal threat. The proposed disqualification period ensures however, that there is a great lack of 'certainty or swiftness of the punishment'.

ALAC is concerned that the proposed regime including a period of disqualification before the interlock device is fitted will be counter-productive. Experience shows that some drink drivers who are disqualified from driving will continue to drive, and they are likely to continue to drink and drive, particularly when they have already proved they are accustomed to drinking and driving by having more than one conviction, or by being apprehended with a very high alcohol reading that would render most of the population unable to stand, let alone drive.

Following the disqualification period the convicted driver is required to apply for an interlock licence. The device would then have to be installed, and the correct (physical) licence provided to the driver. Further months may pass. The sentence is neither swift nor certain.

The benefits of the interlock programme are undermined by the proposed disqualification period.

Section 65 Referrals

The Bill clarifies the circumstances in which a court must make an order requiring a person to attend an assessment centre. A person who is convicted of a second or subsequent offence within a five year period must receive an order requiring them to attend an assessment centre and disqualifying them from driving for an indefinite period.

ALAC is pleased to see the clarification, and hopes that along with the changes to the law, the requirement for mandatory orders will be communicated with the Courts. We are aware that a minority of those who should receive such an order actually receive one, let alone attend an assessment, and that there are not enough treatment providers available. This is an area where increased investment would have considerable benefit, and should be more seriously considered. As well as an improved road safety outcome, the result would be a reduction in alcohol related harm across society. Seizing this opportunity to work with people who have presented with a proven alcohol related problem is an ideal way to influence some real behaviour change.

Even assuming the assessments were working as intended, requiring an assessment after the second or subsequent conviction is leaving out a large number of alcohol impaired drivers who would greatly benefit from a much earlier intervention. Drivers convicted for the first time are highly unlikely to be first time offenders. By limiting the assessment order to second or subsequent convictions, the provisions limit the opportunity to provide assistance to a large number of people who have demonstrated a clear need for help with their ability to manage their drinking.

ALAC recommends that all convicted drink drivers should receive at least some information about managing their use of alcohol, and that serious first time offenders should also be able to be referred for an alcohol assessment.

Conclusion

The Land Transport (Road Safety and Other Matters) Amendment Bill includes provisions which will help to reduce alcohol related harm on New Zealand's roads. However, it could go further, and make a

considerable difference to New Zealand's drinking culture. ALAC urges the committee to consider lowering the general BAC and enable sanctions which will help to educate and change behaviour for all offenders, in order to help reduce alcohol related harm for all New Zealanders.