



Plan to keep drunk motorists from facing court

Dan Proudman

83 reading now

SHARE

TWEET

MORE

Some motorists who are caught driving over the blood alcohol limit will avoid losing their licences, while others will receive on-the-spot fines and disqualifications in proposals being considered by the NSW Government.

In a plan to declutter the court system and align NSW laws with those in Victoria, drink drivers without previous convictions and those who register blood alcohol levels under 0.10 will never have to face a magistrate.



John Sutton is solicitor and managing partner at Armstrong Partners Law Firm. John is critical of a proposal for on the spot fines for low-range drink driving to keep cases out of the court system. Photo: Dominic Lorrimer

Advertisement

However the proposals, seen as a "priority area" within the state's draft Road Safety Plan 2021, have been criticised by some in the legal profession as being too lenient and lacking a deterrence factor for others thinking of getting behind the wheel while drunk.

Under current Victorian law, drivers aged over 26 who register a blood alcohol limit of between 0.05 and 0.07 only receive an on-the-spot fine and lose 10 demerit points.

Learners and probationary drivers are still disqualified from driving for six months and need to install an alcohol interlock for a minimum of six months.

Drivers who blow between 0.07 and 0.10 are disqualified on the spot for six months and also have to fit an alcohol interlock device.

Advertisement

But they do not have to face court.

Those who register over 0.10 are still dealt with by a magistrate.



AM & PM UPDATE NEWSLETTER

Get the latest news and updates emailed straight to your inbox.

Enter your email address

SIGN UP

By submitting your email you are agreeing to Fairfax Media's [terms and conditions](#) and [privacy policy](#).

As part of the draft Road Safety Plan 2021, the proposal identified the "priority area" options "to manage lower range and first time offences through penalty notices to deliver swift, certain and targeted penalties and ensure court resources are directed to the most serious offenders".

Also identified were initiatives to "increase the offenders required to install interlock devices and attend proven behaviour change programs, in coordination with other penalties such as vehicle sanctions".

"Currently, half of all low range drink driving first offenders in NSW do not receive a conviction or licence disqualification for their first offence," Centre for Road Safety executive director Bernard Carlon said.

"We have come a long way in shifting attitudes over the last 40 years – it's no longer OK to make excuses and drive after drinking."

But a former police officer and managing partner of Armstrong Partners Law Firm, John Sutton, said drink drivers should not be allowed to avoid the "shame" of dealing with their matters publicly in court.

"The Crimes (Sentencing Procedure) Act at s.3A sets out the purposes of sentencing [and] denouncing the crime and deterring others from committing similar offences are two of those purposes," Mr Sutton said.

"How can that work if a person doesn't even have to go to court to be reprimanded by a magistrate, or so others see them there and see

MOST POPULAR

- 1 Fitness model's '\$220k bedroom cash stash'
- 2 Hayne rape accuser 'Ms V' had been 'saving herself' for marriage
- 3 Plan to keep drunk motorists from facing court
- 4 Man killed by train at railway level crossing
- 5 \$290,000 payout for mother who broke leg at daughter's concert



PROPERTY NEWS

Palm Beach, the conservative Sydney ...



Property Investors Council of Australia ...



FOLLOW SYDNEY NOW

FACEBOOK

FOLLOW SMH

NEWSLETTERS

represented by a magistrate, or so others see them there and see what happens, or if they do not have to speak to family and friends, work colleagues and relatives, to ask for character references to put before the court," he said.

"An infringement notice denounces nothing," said Mr Sutton.

Mr Sutton conceded legal firms make a lot of income from representing drink drivers at court, but he said the proposals also lacked the chance for magistrates to make common sense decisions.

"Infringement notices remove the judicial discretion involved in the sentencing process such that a person with 40 years of driving without offending will receive the same penalty a person with only, for example, four years' experience and multiple offences on their record," he said.

"Because the penalty needs to be homogenous it will be excessive for the person with the clean record and wholly insufficient for the person with multiple offences.

"I have acted for many [people] with appalling traffic records littered with multiple infringement notice offences.

"The only time they are forced to truly examine their driving is when they are compelled to appeal the suspension of their licence at court because of exceeding the demerit points allowance.

"Court is what focuses them on their behaviour. Outsourcing justice by paying a tax, does not.

"If the courts are not dealing with low-range drink drive offences, it is possible, over time, that the sentencing range for mid-range drink driving offences will slowly diminish in severity as well, as this will be the new baseline seen by magistrates."

It is unclear what would happen to successful initiatives such as the education programs where drivers threatened with disqualification attend a series of tutorials to teach them the dangers of drink driving.

In 1980, more than 380 people were killed in alcohol-related crashes compared to 59 deaths last year.

"Development of any detailed policy would include review of the evidence on penalties and the offences and licence holders that they may apply. We would also consider the role of driver education and community attitudes," Mr Carlon said.

"Any potential future reform would need to be appropriate for NSW and designed to strengthen, not detract from, our current approach."



“
**A PASSION FOR
 PEOPLE & PI**
 Abhi Jindal & Pinto Puliko
 DISCOVER MY STORY

YOU MIGHT LIKE

Vehicle Manufacturing in Australia isn't going anywhere. Here's why.

VOLVO TRUCKS SPONSORED



RECOMMENDED

powered by plista



LIFESTYLE

What should we read into Meghan Markle's 'controversial' engagement outfit?



NEWS

Fitness model's '\$220k bedroom cash stash'



NEWS

Details emerge about the life of accused Flinders Street driver Saeed Noori



NEWS

Las Vegas shooter was rich and victims may benefit

FROM THE WEB

DEAKIN UNIVERSITY

The sport industry offers great career options



KELLOGGS

Over half of our Aus & NZ senior management are working mums



UNISA

A 100% Online Construction degree



KATHMANDU

Camping gear for every summer getaway.



AMERICAN EXPRESS

Boost your business, cash flow & your next holiday.



CRICKET AUSTRALIA

Better value than a family pass to the movies!



AMERICAN EXPRESS

OPENAIR

CINEMAS



BONDI BEACH

25 JAN - 4 MAR

BOOK TICKETS

MOST VIEWED TODAY

NSW

[Fitness model's '\\$220k bedroom cash stash'](#)

[James' only crime was kindness, now he might die in jail](#)

[Details emerge about the life of accused Flinders Street driver](#)

[Hit-and-run truck driver leaves more destruction than just a mess](#)

[Fitness model's '\\$220k bedroom cash stash'](#)

[My comments on the Flinders Street attack managed to offend](#)

['You were adored': Tributes for man who died after Sydney bridge](#)

[Bill Shorten, Labor's great hope, is slowly deflating](#)

[Estranged children could seek share of NZ Lotto winner's estate](#)

[Hayne rape accuser 'Ms V' had been 'saving herself' for marriage](#)

[Estranged children could seek share of NZ Lotto winner's estate](#)

[Accused Flinders Street driver Saeed Noori remanded after](#)

[\\$290,000 payout for mother who broke leg at daughter's concert](#)

[My comments on the Flinders Street attack managed to offend](#)

['I just knew I was next': Flinders Street victims describes 'scariest](#)

GET STARTED

Subscribe today for unlimited access from only 50c a day

PRODUCTS AND SERVICES

- [AM Edition](#)
- [PM Edition](#)
- [SMH for iPad](#)
- [Today's Paper](#)
- [Subscribe](#)
- [Manage My Subscription](#)
- [Subscriber Hub](#)
- [Corporate Subscriptions](#)
- [Digital Subscription FAQs](#)
- [Good Food Guide](#)
- [The Store by Fairfax](#)
- [Newsletters](#)

SYDNEY MORNING HERALD

- [Sitemap](#)
- [About Us](#)
- [Contact Us](#)
- [Subscribers](#)
- [Advertise With Us](#)
- [Text Version](#)
- [Site Accessibility Guide](#)
- [Privacy Policy](#)
- [Conditions of Use](#)

CLASSIFIEDS

- [Place an Ad](#)
- [Cars](#)
- [Dating](#)
- [Jobs](#)
- [Real Estate](#)
- [Commercial Real Estate](#)
- [Oneflare](#)
- [Nabo](#)
- [Tributes](#)
- [Celebrations](#)

OUR SITES

- [SMH](#)
- [The Age](#)
- [AFR.com](#)
- [Adzuna](#)
- [Domain](#)
- [Drive](#)
- [RSVP](#)
- [Essential Baby](#)
- [Home Price Guide](#)
- [Weatherzone](#)

WEBSITE FEEDBACK