

Legislative Council

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South Australia

Criminal Law Consolidation (Dangerous Driving) Amendment Bill 2006

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Criminal Law Consolidation (Dangerous Driving) Amendment Act 2006*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 5AA—Aggravated offences

- (1) Section 5AA(1)—delete "Subject to subsection (1a)" and substitute:
Subject to this section
- (2) Section 5AA(1a)(d)—delete ".15 grams" and substitute:
.08 grams
- (3) Section 5AA(1a)(e)—delete "or 47" and substitute:
, 47 or 47BA
- (4) Section 5AA—after subsection (1a) insert:
 - (1b) For the purposes of section 19AC, an aggravated offence is an offence committed in the following circumstances:
 - (a) the offender was, at the time of the offence, driving or using a motor vehicle that—
 - (i) was stolen; or
 - (ii) was being driven or used without the consent of the owner of the vehicle,and the offender knew, or was reckless with respect to, that fact;
 - (b) the offender was, at the time of the offence, driving a motor vehicle knowing that he or she was disqualified, under the law of this State or another State or Territory of the Commonwealth, from holding or obtaining a driver's licence or that his or her licence was suspended by notice given under the *Road Traffic Act 1961*;
 - (c) the offender committed the offence while there was present in his or her blood a concentration of .08 grams or more of alcohol in 100 millilitres of blood;
 - (d) the offender was, at the time of the offence, driving a motor vehicle in contravention of section 47 or 47BA of the *Road Traffic Act 1961*.

5—Insertion of section 19AC

After section 19AB insert:

19AC—Dangerous driving to escape police pursuit etc

- (1) A person who, intending to—
 - (a) escape pursuit by a police officer; or
 - (b) cause a police officer to engage in a pursuit,

drives a motor vehicle in a culpably negligent manner, recklessly, or at a speed or in a manner dangerous to the public is guilty of an offence.

Maximum penalty:

- (a) for a basic offence—imprisonment for 3 years;
 - (b) for an aggravated offence—imprisonment for 5 years.
- (2) Where a court convicts a person of an offence against subsection (1) the following provisions apply:
- (a) the court must order that the person be disqualified from holding or obtaining a driver's licence for such period, being not less than 2 years, as the court thinks fit;
 - (b) the disqualification prescribed by paragraph (a) may not be reduced or mitigated in any way or be substituted by any other penalty or sentence;
 - (c) the disqualification operates to cancel any driver's licence held by the convicted person as at the commencement of the period of disqualification.
- (3) If a person is tried on a charge of an offence against section 29—
- (a) the person may not be convicted of both the offence against section 29 and an offence against subsection (1) if the charge under subsection (1) arises out of the same set of circumstances that gave rise to the charge under section 29; and
 - (b) an offence against subsection (1) is not available as an alternative verdict to the charge under section 29 unless the offence against subsection (1) was specified in the instrument of charge as an alternative offence.

6—Amendment of section 19B—Alternative verdicts

Section 19B—after subsection (3) insert:

- (4) If at the trial of a person for an offence against section 19A(1) or (3) that is alleged to be an aggravated offence committed in the course of attempting to escape pursuit by a police officer, the jury is not satisfied that the accused is guilty of the aggravated offence charged but is satisfied that the accused is guilty of an offence against section 19AC(1), the jury may bring in a verdict that the accused is guilty of an offence against section 19AC(1).
- (5) If at the trial of a person for an offence against section 19AC(1), the jury is not satisfied that the accused is guilty of the offence charged but is satisfied that the accused is guilty of—
 - (a) an offence against section 46 of the *Road Traffic Act 1961*;
or
 - (b) an offence against section 45 of the *Road Traffic Act 1961*,

the jury may bring in a verdict that the accused is guilty of the relevant offence against the *Road Traffic Act 1961*.