

1992

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1992

SUPPLEMENTARY
EXPLANATORY MEMORANDUM

Amendments to be moved on Behalf of the Government

Circulated by Authority of the Minister for Urban Services

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MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1992

Amendment 1

Clause 14 of the Motor Traffic (Amendment) Bill (No. 2) 1992 repeals section 164D of the Principal Act and substitutes new sections 164D, 164DA and 164DB. Amendment 1 omits proposed section 164D of the Bill and substitutes a new section 164D. This amendment simplifies the requirement to provide child restraints by providing for two things. Firstly, paragraphs 164D(a) and (b) deal with the restraining of a child or young person in a child restraint or seatbelt and secondly, paragraph 164D(c) deals with the position of a child in the vehicle.

The essential requirements of the amendment are:

- where there is a child being driven in a vehicle then that child must be in a child restraint; and
- where there is a young person being driven in a vehicle then that young person must be in a seatbelt.

There are some exceptions to the provisions in paragraphs 164D(a) and (b). These are:

- where the child is being carried in a vehicle that comes within the exceptions listed in new section 164DB (the exceptions in section 164DB apply only to the provision of child restraints); and
- situations that fall within the defence provisions of section 164E of the Principal Act - in particular, the defence that it was not unreasonable in the circumstances to carry the child or the young person without an appropriate restraint.

It is intended that section 164D should cover the most usual situations where children or young persons are carried in a vehicle such as in a vehicle driven by a parent or guardian. It is recognised that there may exist many circumstances where, in the absence of the "not unreasonable" defence in section 164E of the Principal Act, a child could be at risk if she or he could not be carried in a vehicle without a restraint. For example:

- where the parents of a child are injured in a motor vehicle accident and cannot pick up the child from school it would be acceptable for neighbours to pick up the child and carry her or him in their vehicle without a child restraint;
- where a child is being driven to a hospital for urgent medical attention;
- where a child is caught in an electrical storm.

In these examples it would not be unreasonable in the circumstances for a person to assist a child without having a child restraint for the child in the motor vehicle.

Paragraph 164D(c) enables a child to occupy a position abreast of the driver only if:

- . the position has a child restraint fitted and there is no unoccupied position to the rear that is, or could, fitted with a child restraint; or
- . the position has a seatbelt and there is no unoccupied position to the rear that has a seatbelt or a child restraint.

Amendments 2 to 6

Amendments 2 to 6 are consequential on the amendment made by the amendment 1.