

SECOND READING SPEECH

POLICE OFFENCES AMENDMENT (CLAMPING) BILL 2009

Jim Cox MP

MINISTER FOR POLICE AND EMERGENCY MANAGEMENT

MR SPEAKER,

I move that the Bill now be read a second time.

Mr Speaker, this is the third Bill in relation to amendments to the *Police Offences Act 1935* that has been tabled in the Parliament this year. All of the amendments have provided significant modifications to legislation, with this Bill addressing the clamping of vehicles as an alternative to the confiscation.

Mr Speaker, earlier this year the first of the amendment Bills allowed for additional offences for which vehicles may be confiscated, which included offences that may be prescribed in regulations. These offences included Dangerous and Reckless Driving, Evade Police and once prescribed, speeding at or above 45 kilometres an hour and driving whilst disqualified on a second occasion. These offences have not been proclaimed, and are in fact awaiting the passage of this Bill and the ability for police to clamp vehicles, to be stored on the owner's property, instead of the need to source significant storage space across the state for confiscated vehicles.

Mr Speaker, steering wheel clamping will not only be ground breaking for this State, but its implementation will be watched with interest by a number of other jurisdictions who utilise alternative methods of vehicle clamping and confiscation affecting many thousands of vehicles.

Mr Speaker, this Bill provides definitions for 'clamp', 'clamping device' and others and for the authority to clamp a vehicle as an alternative to

confiscation. The Bill also provides offences of tampering with, damaging or removing the clamping device or driving with the clamping device attached during the authorised clamping period, and for failing to return the clamping device to police. Substantial penalties have been allowed where a person removes or tampers with the clamping device during the authorised clamping period. In addition, police are provided with the authority to seize and confiscate a vehicle in situations where a clamping device has been removed, interfered with or destroyed, and where necessary enter property without a warrant to effect the confiscation. This is not expected to occur on many occasions, but without this authority offenders will not be deterred from tampering with or removing the clamp as the effects of any court action may be many months hence.

Mr Speaker, the vehicle confiscation legislation commenced in September 2004 in Tasmania, and in the period since over 1250 vehicles have been confiscated by police. Advice suggests that the implementation of this legislation will result in, in excess of 2000 cars being confiscated or clamped in the first twelve months of the introduction of this road safety initiative. This legislation to clamp vehicles is simply an alternative to confiscation, with additional offences provided to allow confiscation or clamping to occur. Police will provide similar notices to offenders, owners or registered operators stating that the vehicle has been clamped and the clamping period: offenders will still be required to attend court to answer the charge and upon conviction will have penalties imposed upon them. Where the offender is found not guilty the vehicle will be released or unclamped, should the period not have expired. The period of clamping will be exactly the same as that for confiscation.

Mr Speaker, provisions for the unclamping of vehicles are similar to that for confiscated vehicles. A vehicle will be unclamped once the authorised

clamping period has ended. The owner or offender may seek the authority of a police officer of or above the rank of Inspector or apply to the Magistrates Court for the release or unclamping of the vehicle due to hardship or for other reasons that may arise from time to time. The only modification will be that when the clamping period has expired, the driver or owner will contact police, obtain the key to the clamp from a police station, unlock the clamp and return it to the police station.

Whilst the possession of the key and clamp by a driver or offender may be viewed by some as unusual, it is a cost effective means of having the vehicle unclamped. The Bill provides offence provisions where the clamp and key are damaged or not returned. In addition, Mr Speaker, the steering wheel clamps will be painted bright yellow, engraved as the property of Tasmania Police and each will be uniquely keyed.

Mr Speaker, other authorities have been provided to allow police to apply a steering wheel clamp up to 14 days after the commission of a prescribed offence. For example, where a vehicle is detected by a speed camera exceeding the speed limit by 45 kilometres or more and later found at an offender's home. The Bill also authorises police to enter private property and remove a clamp if no-one has sought to remove the clamp 10 days after the clamping period has expired, and allows the Commissioner of Police to authorise police or other people to remove clamps on private property, should that ever be required.

Mr Speaker, to ensure that there is both a deterrent and significant penalty for the dangerous, careless, risky, and unlawful driving behaviour which puts a number of people in our community at significant risk, the legislation also allows for a special compulsory penalty for all drivers who have their vehicles clamped or confiscated and are convicted for that prescribed offence. This

special compulsory penalty will be in addition to any penalty which is specifically prescribed elsewhere in any other legislation. This penalty is to be prescribed in regulations and at this point of time will be six hundred dollars.

Mr Speaker, whilst there may be some discontentment from a number in the community that the special mandatory penalty removes the discretion of the judiciary, discretion remains. The courts still retain the ability to make a finding of guilt, and not convict, but prescribe a good behaviour period. The matter may be dismissed completely, or the person may be convicted for the offence and ordered to pay the six hundred dollar penalty and no other penalty. The government does not expect this latter situation to occur, as the offences for which clamping and confiscation are allowed, as I have stated, put our family, our friends, members of our community and those visiting at severe risk of injury and death. This government is committed to putting in place legislation which will be marked by the media and all road users as relentless in the pursuit of stamping out dangerous, careless, risky and unlawful behaviour and providing safe roads. The community wants roads that are free of black tyre marks and the serrations made by crashing vehicles, and neighbourhoods which are not affected by speed, excessive noise and drivers who are intent on driving whilst they have been disqualified by the courts.

Mr Speaker, safe drivers who drive and act within the law and the driving conditions have nothing to fear from this legislation or that in the first Police Offences Amendment Bill. The legislation does not target these drivers, but it will target drivers who drive outside the conditions set by speed limits and imposed by the courts, and this government intends to provide further technologically advanced equipment in the form of Automatic Number Plate

Recognition Cameras, software and data for police to target such drivers, especially disqualified drivers.

Mr Speaker, Tasmania Police do not intend to provide a gloved hand to offenders: the intent is that where drivers are apprehended committing a prescribed offence under the *Police Offences Act 1935*, they will be dealt with appropriately and prosecuted before the courts, their vehicles clamped on the spot and the driver or owner required to remove the vehicle by trailer or tow truck. These people take the risk when they commit these offences and it is for these drivers to accept the consequences.

Mr Speaker, finally this Bill removes the 12-month period in which a second or third prescribed offence can occur. For the last five years the prescribed offences must have occurred within a 12-month period to allow for greater confiscation periods. With this period now removed, where people have committed prescribed offences previously, and do so in the future, they may well find that they will be apprehended for second and third offences and have their vehicles clamped or confiscated for extended periods.

I commend the Bill to the House.