

# **FACT SHEET**

## ***Police Offences Amendment (Clamping) Bill 2009***

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The Government has introduced legislation into Parliament to amend the *Police Offences Act 1935* to permit the clamping of vehicles on the public street where a driver has committed certain offences.

The Bill introduces legislation to reinforce the Government's commitment to implement road safety measures to protect our road users and is in accord with the Tasmania *Together* Community Goal, 'to have confident, friendly and safe communities'.

The ***Police Offences Amendment (Clamping) Bill 2009*** amends the *Police Offences Act 1935* to:

- authorise clamping, by means of a steering wheel clamp, wheel clamp and or other means, to immobilise a motor vehicle as an adjunct to confiscating a motor vehicle for 'prescribed offences' under Division 2 of Part IVA;
- provide for a police officer to serve a notice on the offending driver, requiring the driver to remove or cause the vehicle to be removed to a place, on a date and within a time period specified in the notice, and an offence provision for failing to obey such a notice;
- provides offences and significant penalties for the unlawful tampering with, removal of, or damaging a clamping or immobilising device, and failure to return the device to a police station, and for driving or attempting to drive a vehicle with a clamping device attached;
- provide for the clamping and removal of a clamp from a motor vehicle by police and persons approved by the Commissioner of Police;
- provide legislative authority to enter private property for the purpose of attaching or removing a clamp;
- provide for the confiscation of a vehicle and impounding where clamping is breached by means of damage to the clamp or other means, or where the clamping of the vehicle is obstructed by any means and authority to enter on to private property for that purpose;
- remove the 12-month period in which subsequent prescribed offences must occur which determines the longer confiscation period for a vehicle;
- remove the three-month period in which an application for forfeiture of a vehicle must be made to the court;
- remove the words 'or known prostitutes or with persons who have been convicted of having insufficient lawful means of support' from section 6 of the Act; and
- provide a special compulsory penalty for offences where confiscation or clamping of a vehicle is approved under section 37K of the *Police Offences Act 1935*. This penalty

of \$600 is to be prescribed in regulations, and imposed on all offenders where there is a finding of guilt for an offence under sections 37J (excessive noise, smoke from vehicles), 14B (trespass involving the use of a vehicle, vessel or aircraft), 15B (dispersal of persons where a vehicle is used), 48 (racing without a permit) or other prescribed offences listed under section 37K, where confiscation or clamping occurs. The financial penalty is to be in addition to any other penalty which may be imposed by a court, including a fine, imprisonment and/or disqualification of a licence.

## **CLAMPING**

### Attachment and Removal of Clamping Device

The Bill amends Division 2 of the *Police Offences Act 1935* to permit police to clamp a motor vehicle as an alternative to confiscation. This allows police to clamp a vehicle immediately on the public street where a prescribed offence is detected, and will prevent any continuation of the offence. Once a vehicle clamp is applied, the offender has the responsibility to have the vehicle towed or removed from that location. The clamps allow some movement of the steering wheel and therefore there is the ability to manoeuvre the vehicle onto a tow truck or trailer.

The decision as to whether to clamp or confiscate a vehicle will ultimately be made at the time by the police officer who is managing the incident. The time period will be 28-days for the first offence, 3-months for second offence and for the third offence, the vehicle may be clamped or confiscated until all matters before the court are finalised and forfeiture of the vehicle may be ordered. The occurrence of these offences are now not limited to a time period.

The Bill provides authority for police to enter private property for the purpose of clamping a vehicle that has been detected committing a prescribed offence. This provision already exists for the purpose of confiscating a vehicle for a prescribed offence.

The amendments provide that, at the expiration of the clamping period, the key to the device is to be collected by an authorised claimant, being the registered operator or owner of the vehicle or person in charge of the vehicle at the time of the offence. This person then has the responsibility of unclamping the vehicle and returning the clamping device and key to a police station within 4 days of the date of collection. An offence exists for not returning a clamping device or key within the time period.

### Provide offences for tampering with, damaging, or destroying a clamping or immobilising device

The Bill provides offences for any person who unlawfully tampers with, damages, destroys or removes, or attempts to remove a clamping device. It also provides an offence for any person who drives or attempts to drive a vehicle that has a clamping device attached. Where any of these offences are committed, the Bill provides a police officer with the authority to seize the vehicle and have it moved to a holding yard. For the purpose of seizing the vehicle, the police officer may enter, without warrant, any place where the police officer reasonably suspects the vehicle may be found.