POLICE OFFENCES AMENDMENT BILL 2025 (No. 7)

Second Reading

[11.58 a.m.]

Mr ELLIS (Braddon - Minister for Police, Fire and Emergency Management) - Honourable Speaker, the Tasmanian government is committed to making Tasmanian communities and roads safer through our strong plan to crack down on crime. We are committed to exploring any opportunity to support our police and community in achieving this.

The government has received advice from the Department of Police, Fire and Emergency Management regarding amendments to the *Police Offences Act 1935*, which, in turn, approved the drafting of a hooning and other offences related bill. The Police Offences Amendment Bill 2025 is a bill designed to make Tasmanian communities and roads safer. The bill has been subject to extensive consultation with government agencies and non-government organisations, as well as the Tasmanian community and business groups. It is with pleasure that I introduce this bill.

The bill provides for the new offence of road rage to address the rising concerns of aggressive and irrational driving behaviours. This includes verbal abuse or gestures which lead to altercations, property damage or vehicle collisions, all of which may result in serious injury. I refer to one recent example where last October a 43-year-old man was sentenced to three years imprisonment for a road rage offence that the Tasmanian courts described as 'angry retribution for some perceived slight, and for the purposes of instilling fear.' This incident, which terrorised a husband and wife and their two children, was triggered by the victims allegedly having their high beam lights on as they passed the offender's vehicle. This incident has left the husband with back injuries and suffering PTSD, with his wife needing to take leave from work. The older of the two children, a five-year-old boy, has been dealing with health issues and is receiving counselling as a result.

In January this year, whilst reporting on a road rage offence between a pedestrian and a car, a *Mercury* newspaper reader poll revealed that 86 per cent of respondents indicated that they had experienced some road rage. When the Department of Police, Fire and Emergency Management first raised the road rage issue with government in 2024, examples included property damage, assault, and assault with a weapon. Our government will not sit idle while this occurs.

This specific type of offending must be deterred. Where it does occur, we need to send a strong message that this behaviour on Tasmanian roads will not be tolerated. Like those offences in other jurisdictions, such as 'predatory driving' in the Australian Capital Territory, 'menacing driving' in New South Wales, and road rage offences in Western Australia, this new road rage offence will impose significant penalties for those who commit it. The road rage offence will be made out where drivers use threatening, abusive, obscene or offensive language or other gestures or behaviour that cause harm, fear, distress or apprehension in another road user. This includes conduct that damages property or injures a person.

Research has shown through TasCOSS submission material that aggression is a threat to road safety and increases the risk of a crash. Law enforcement can be viewed as a legitimate strategy for changing attitudes, and for road rage offenders to be held to account for their behaviour.

I note, however, that this bill does not interfere with the court's discretion regarding

sentencing options. A person who is found to commit such an offence will be liable to arrest and on conviction may, at the discretion of the court, be fined or sentenced to a term of imprisonment. Offending vehicles will also be subject to clamping or confiscation.

With regard to youths who may be detected committing a road rage offence, I pause to state that there are limitations on arrest powers under the provisions of the *Youth Justice Act 1997*. Further to that, this is not a prescribed offence under the act, which means that where appropriate, early intervention and diversion is an option. The Tasmanian government fully supports a therapeutic approach as an investment in the safety and wellbeing of young people. This approach is underpinned by the 'Youth Justice Blueprint 2024-2034'. I fully support that in conjunction with our responsibilities towards public safety.

Currently in Tasmania, when investigating road rage type offences, Tasmania Police look to rely on other offences to deal with these incidents, such as negligent driving, destroying or injuring property, or common assault. This new offence will provide specific legislative recognition of the serious impacts of road rage incidents to both victims and to the public generally. It is an important step towards making the Tasmanian community and roads safer.

Acknowledging the danger of road rage and discouraging it from occurring ought to be supported by other legislation. This bill also recognises that certain offences which have a significant impact on safety on our roads should have penalties for those offences being commensurate with the danger they pose. As such, the bill increases penalties for motor vehicle stealing and hooning offences.

Aside from the economic impact or the potential for the loss of an innocent person's primary transport, the theft of a motor vehicle poses a great risk on our roads, particularly where the stolen vehicle is driven by an inexperienced or substance-affected driver. In Tasmania, the penalty for motor vehicle stealing is currently a fine not exceeding 50 penalty units or $10,100, and a term of imprisonment not exceeding three years. These penalties are insufficient, and they are inconsistent with other jurisdictions where the fines may be double those in Tasmania, and have periods of imprisonment averaging 10 years. The bill proposes doubling the maximum fine for motor vehicle stealing to 100 penalty units or $20,200.

Hooning vehicles - such as those used to perform burnouts, create excessive noise or smoke, or an execution of speed or acceleration or race against another vehicle on our streets - pose an unacceptable risk to the public. The bill doubles the penalties for these offences to a maximum of 40 penalty units, or $8080, and/or an imprisonment period for up to six months.

Further to this, the bill enhances the ability for police to investigate and deal with reports of hooning and other prescribed offences. Currently, for police to clamp or confiscate a car used in hooning, dangerous or reckless driving, evading police or some disqualified driving offences, they must first observe or witness the offence rather than learning of it from another person or inferring it from evidence such as video footage. This current threshold does not support the use of evidence captured by electronic means from the public, other infrastructure, or surveillance cameras. This does not align with road safety campaigns whereby members of the public are requested to report poor driving behaviour, hooning, or road rage related offences, nor with other legislation that requires police to form a reasonable belief.

The bill will require a police officer to form a reasonable belief that a person is or has committed hooning or prescribed offences. This, in addition to any electronic evidence, will still require supporting evidentiary materials such as statutory declarations and witness

accounts for the laying of a charge.

In addition, the validity of any clamping or confiscation will, as is the case now, be subject to court proceedings. Where a vehicle is clamped or confiscated for a prescribed offence as mentioned, the seriousness of the offending warrants an increase in those periods of clamping and confiscation.

For the first offence, the clamping or confiscation period will increase from 28 days to three months, and the second offence from three to six months. Where a vehicle has been clamped or confiscated for a third or subsequent offence, upon conviction for that offence, the vehicle will be forfeited to the Crown unless the offending driver, owner or registered operator apply to the court for return of the vehicle. Currently, police are required to apply to the court for a forfeiture order where there has been a third or subsequent offence conviction. This automatic forfeiture provision mirrors that of South Australia, which demonstrates a strong commitment to reducing dangerous driving behaviours on our roads.

There are a number of miscellaneous amendments relating to traffic policing and clamped and confiscated vehicles. These include reducing the time period for disposal of non-recovered, clamped or confiscated vehicles from nine to six months; removing the requirement for an application to the court for forfeiture of a vehicle used in an 'evade police' offence where the driver has not been identified or an application for its return has not been made; doubling the penalties for interfering with confiscated vehicles being transported to a holding yard, or removing a vehicle from a holding yard to a maximum of, respectively, 40 penalty units, which is $1080, and 18 penalty units, which is $16,160; and doubling the penalty for a vehicle owner or operator who does not comply with a legal demand to identify the driver of a vehicle at the time that an offence was committed to a maximum of 100 penalty units or $20,200. Maximum penalties for these offences have been increased to better align with other jurisdictions and to meet community expectations of proportionate penalties.

In relation to community safety, the bill makes a number of amendments to the act, including a number of penalties for offences against persons and property. Passenger transport and ferry services will now be included in the definition of a 'public place'. The amendment is essential in reducing confusion for police officers dealing with incidents or offences on public transport services.

Penalties are also increased for trespass offences where the offender is in possession of a firearm. The fine is increased from 100 penalty units or $20,200 to a maximum of 150 penalty units or $30,300, with the maximum term of imprisonment increased from two to three years. The latter increase will ensure that the offence remains a summary matter whilst closer aligning the gap between summary and entitlement matters.

Penalties are also increased for property offences such as destroying or injuring property. Tasmania currently has the lowest penalties across all Australian jurisdictions for these offences. The bill increases the maximum penalty for property offences from 10 penalty units, or $2020, and 12 months' imprisonment to a maximum of 50 penalty units, or $10,100, and two years' imprisonment.

These changes reflect, where the court deems appropriate, the increased financial hardship on victims of property damage, and better aligns Tasmania's penalties with that of other Australian jurisdictions.

I turn to assault offences. In Tasmania, the maximum penalties for common assault are

at the lower end of the scale when compared to interstate penalties. The increase to assault penalties reflects the seriousness of violent offences upon the community and more closely aligns the Tasmanian maximum penalties with those in other jurisdictions.

The increase in penalties is as follows. For a common assault, from 20 penalty units and 12 months' imprisonment to 50 penalty units, or $10,100, and 18 months' imprisonment. Where the assault is considered aggravated in nature, this penalty increases from 50 penalty units and two years' imprisonment to 100 penalty units, or $20,200, and three years' imprisonment. These increases will provide a broader range of discretion and afford the court an opportunity to apply a penalty proportionate to the facts that are presented and subsequent to the seriousness of the offence and/or the offender's personal circumstances.

This bill, of course, does not impede any sentencing options the court would have for therapeutic or other rehabilitative purposes.

Finally, I turn to matters relating to evidence. For offences relating to computers, mobile phones have been explicitly included in the definition of a computer. The inclusion of mobile phones as a computer will accommodate computer-related and other fraud offences where a phone or similar internet-enabled device is used.

The bill also improves evidentiary provisions as they relate to property complaints and consorting offences. The amendments will create an averment negating the need for a property owner to be called as a witness where their property has been injured or destroyed, or a motor vehicle stolen. Victims of crime, including agencies such as housing providers and business owners, are regularly called to give evidence in court proceedings to merely state that they were the property or vehicle owner and that the charged person did not have their permission to destroy, injure or steal that property. This new provision is contained within existing averments already in the act, such as those which relate to age, liquor and licensed premises where the charge is contested, and will not discharge the onus of the prosecution to the satisfaction of the court.

In relation to consorting of convicted offenders who have been given an official warning, an averment will apply to the official warning having been authorised, served and in force at the time of the alleged offence. This will, given the five-year life of an official warning, address the burden to the court where witnesses are not freely available to give evidence of those administrative matters.

This amendment is similar to the evidential provisions for orders relating to family violence and underpins the prevention of convicted offenders establishing, maintaining and expanding criminal networks. The bill is to commence on royal assent, and I commend the bill to the House.