

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**ROAD TRANSPORT LEGISLATION (AMENDMENT)
BILL (NO 2) 1999**

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Independent**

ROAD TRANSPORT LEGISLATION (AMENDMENT) BILL (No 2) 1999

Explanatory Memorandum

OUTLINE

The Road Transport Legislation (Amendment) Bill (No 2) 1999 intends to prohibit racing vehicles, testing them and their drivers at high speed or deliberately spinning the wheels of a vehicle - or "burnouts" - on public streets.

The driver of a motor vehicle shall not engage in the specified actions unless he or she holds an approval granted by the road transport authority.

The Bill allows for the cars of offenders to be impounded for a time or, for a second or subsequent offence, forfeited. There are also provisions for disqualification of licences.

The Bill would insert sections 5A and 5B to the Act. A new division 2.3 is also proposed relating to the seizure, impounding and forfeiture of vehicles for certain offences.

FINANCIAL IMPACT

There are no associated costs arising from this Bill.

PART 1 - PRELIMINARY

Clauses 1 and 2 are formal clauses setting out the short title of the Act and providing for the commencement of its provisions.

PART 2 – AMENDMENT OF ROAD TRANSPORT (GENERAL) ACT 1999

Clauses 3 and 4 add proposed subsections 5A (1) and (5) and 5B (2) and (4) of the Road Transport (Safety and Traffic Management) Act to the list of offences to which Section 63 of the Act applies. Under Section 63 an automatic minimum 3-month period license disqualification applies to a first offender and a minimum 12-month period applies to a repeat offender.

PART 3 – AMENDMENTS OF ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) BILL 1999

Clauses 5 and 6 insert provisions to specify offences and penalties for engaging in motor vehicle races, attempts on speed records, speed trials, burnouts and other prohibited conduct.

Proposed *new subsection 5A (1)* sets out that the conduct of races, attempted speed records, speed trials or driving trials are not permitted on public streets without written approval from the road transport authority. It also sets out the penalties for such offences.

Proposed *new subsection 5A (2)* gives the road transport authority power to issue or deny approval to conduct events and impose any conditions for the approval deemed necessary to meet the interests of public safety and convenience.

Proposed *new subsections 5A (3) and 5A (4)* stipulates the consultation requirements for the road transport authority before issuing an approval to conduct an event.

Proposed *new subsections 5A (5)* makes it an offence for drivers, organisers or promoters who break the conditions of an approval to conduct a race, speed attempt or driving trial.

Proposed *new subsection 5B (1)* inserts the definitions of burnouts, other prohibited conduct and prohibited substance.

Proposed *new subsection 5B (2)* sets out the penalties for drivers who perform a burnout with their vehicle. The penalty for a burnout

performed with the assistance of a prohibited substance is greater than the penalty for a burnout performed in any other case.

Proposed *new subsection 5B (3)* allows for drivers to use a “not deliberate burnout” as a defence against prosecution.

Proposed *new subsection 5B (4)* makes it an offence to engage in other prohibited conduct on a road or public area.

Proposed *new subsection 5B (5)* exempts drivers who are operating the vehicle in accordance with an approved race, attempt or trial.

INSERTION

Clause 7 inserts Division 2.3 relating to seizure, impounding and forfeiture of vehicles for certain offences.

Proposed *new section 10A* provides powers to the Court to impound or forfeit a motor vehicle where a person is convicted of an offence against section 5A and 5B:

- in the case of a first offence by an offender, the vehicle used in connection with the offence be impounded for 3 months.
- in the case of a second or subsequent offence by the offender the vehicle be forfeited to the Territory.
- the court may specify lesser penalties to avoid undue hardship to any person or other injustice perceived by the court.

Proposed *new section 10B* provides seizure powers where a police officer suspects on reasonable grounds that an offence against section 5A or 5B and where a vehicle is subject to impounding or forfeiture:

- any locking device may be neutralised and if the keys to the vehicle are not surrendered, the vehicle may be started by other means
- the vehicle may be moved at the discretion of a police officer to a place determined by the chief police officer.

Proposed *new section 10C* provides the procedures for giving notice to the registered operator and persons with registered interests of impounding or forfeiture of motor vehicles.

Proposed *new sections 10D and 10E* refer to the period the chief police officer is responsible for impounded and forfeited motor vehicles.

Proposed *new sections 10F and 10G* provides the procedures and conditions for persons applying to the chief police officer or court for the release of an impounded motor vehicle. This includes protection measures for persons who had no knowledge that their vehicle would be used to commit such offences.

Proposed *new section 10H* stipulates the chief police officer must take reasonable steps to protect vehicles from theft or damage while they are impounded.

Proposed *new section 10I* provides legal immunity for the Territory, the chief police officer or a police officer in the event a prosecution does not go ahead.

Proposed *new section 10J* sets out procedures and options for the chief police officer in disposing of vehicles in circumstances prescribed under the regulations.

DICTIONARY

Clause 8 inserts definitions for “registered interest” and “registered operator”.