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

ELEVENTH ASSEMBLY

**ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT
BILL 2025**

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004, s 37*)**

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ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) AMENDMENT BILL 2025

The Bill is a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

OVERVIEW OF THE BILL

To support the implementation of the next phase of the Traffic Camera Expansion (TCE) initiative to expand mobile device detection cameras to detect seatbelts of drivers and passengers. This is anticipated to commence from 3 November 2025.

The Road Transport (Safety and Traffic Management) Amendment Bill 2025 (the Bill) amends the existing high-level framework for traffic offence detection devices to introduce a seatbelt detection system. This involves amending the *Road Transport (Safety and Traffic Management) Act 1999* (the Act), Road Transport (Safety and Traffic Management) Regulation 2017 (the Regulation), and other pieces of road transport legislation.

In summary, the Bill:

- a. Establishes the term 'seatbelt detection system,' which involves using existing camera technology to detect seatbelts being worn;
- b. Amends the existing traffic offence detection device framework to include the new seatbelt detection system and allow for images to be used that depict both the driver and/or passengers wearing seatbelts;
- c. Makes other technical amendments to support traffic camera expansion to seatbelts; and
- d. Makes minor technical amendments to other traffic offence detection device provisions to keep the legislation up to date with current drafting practice.

The Bill sets the high-level framework for expanding the ACT road safety camera program to include seatbelt enforcement. Further regulatory amendments and preparations will follow. Separate regulation amendments to the Road Transport (Road Rules) Regulation 2017 (the Road Rules) and Road Transport (Offences) Regulation 2005 (the Offences Regulation) will be made to:

- a. Combine the two driver offences for not ensuring passenger compliance into one offence to allow for infringement notices to be issued to the driver without knowing the age of the passenger (currently there is a driver offence at section 265(3) for passengers over 16 and at section 266(1) for passengers under 16);
- b. Include a clear definition of how to wear a seatbelt properly adjusted and fastened in line with the model Australian Road Rules and other jurisdictions; and

- c. Allow persons with a medical exemption to provide evidence of the exemption within 28 days of receiving the infringement notice.

CONSULTATION ON THE PROPOSED APPROACH

The ACT Government has consulted Transport for New South Wales (NSW), the Department of Transport and Main Roads in Queensland (QLD), and the Department of Justice and Community Safety in Victoria (VIC), all of which have similar frameworks already in place.

Transport Canberra and City Services (TCCS) and various business units within Access Canberra (AC) work in collaboration in preparing for the implementation of the TCE initiative to expand to seatbelts. Part of this work involves identifying and planning ways to inform the community prior to the 3 November 2025 commencement to ensure drivers and passengers are aware of the new seatbelt detection method.

The Bill and accompanying regulations, polices and operations do not introduce new road rules around seatbelts. Instead, the TCE initiative introduces new enforcement methods of existing seatbelt requirements for drivers. All drivers are expected to be aware of existing, longstanding and nationally consistent seatbelt requirements for themselves and their passengers.

Comprehensive education and awareness activities will be undertaken to bring traffic camera detection of seatbelts to the awareness of the ACT community in advance of commencement and to remind drivers of the importance of seatbelts in preventing serious injury and death in a crash.

CLIMATE IMPACT

The Bill does not have a climate impact.

CONSISTENCY WITH HUMAN RIGHTS

An assessment of the Bill against section 28 of the *Human Rights Act 2004* (HRA) is provided below. Section 28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Rights engaged

The Bill limits the right to equality and non-discrimination under section 8, right to privacy under section 12, and the right to presumption of innocence under section 22(1) of the HRA. The Bill promotes the right to life under section 9 of the HRA by enhancing enforcement of existing seatbelt requirements, reducing risk of road fatalities.

Rights Promoted

Section 9 of the HRA provides that everyone has the right to life. The right to life includes a duty to safeguard life.

Various studies have demonstrated that improper seatbelt use significantly increases the risk of serious injury or death in the event of a crash (CARRS-Q, 2018). Ensuring that seatbelts are worn correctly is crucial for protecting the lives of drivers and passengers. The government has a responsibility to maintain a robust regulatory framework that supports safe behaviours on ACT roads to protect the lives of all road users, including pedestrians, motorcycle riders, cyclists, and other vulnerable individuals.

The Bill promotes the right to life by introducing measures to more effectively enforce existing seatbelt requirements. This involves the use of mobile device detection cameras to identify improperly adjusted and fastened seatbelts, resulting in potential demerit points and financial penalty for the driver if they and/or their passengers are found not to be properly wearing a seatbelt.

Even a fastened seatbelt that is not properly adjusted can result in the person being propelled forward in a crash, such as being incorrectly adjusted under the arm instead of over the shoulder. The implementation of the TCE initiative supported by the Bill is expected to deter seatbelt non-compliance over time. These measures will help reduce serious injuries and fatalities on the road.

Rights Limited

1. Nature of the right and the limitation (s28(a) and (c))

Right to equality and non-discrimination

Everyone has the right to enjoy their human rights without distinction or discrimination of any kind. Everyone is equal before the law and is entitled to equal protection of the law without discrimination, such as because of a medical disability.

Multiple infringements

The TCE initiative increases the risk of multiple infringements that bring demerit points and financial penalties, which may disproportionately impact certain groups more likely to be on a lower income.

Medical exemptions

Infringement notices will also be able to be issued against people who cannot wear a seatbelt due to medical reasons, which may have a disproportionate impact on people who have a medical condition or disability. An exemption may be sought; however, there is potential for repeated infringement notices to be issued for the same exempt person. For example, if the person's exemption is not recorded against the vehicle registration, or if the exempt person is travelling as a

passenger and their driver is issued with an infringement notice. This is because the cameras are not able to detect the identity of the occupants.

The Bill sets the high-level framework for preparations to be finalised prior to commencement of the TCE initiative. These preparations include separate amendments to the Road Rules and Offences Regulation, which will align with NSW by allowing people with a medical exemption from wearing a seatbelt to provide evidence of the exemption within 28 days of receiving an infringement notice, which is in the form of a medical certificate.

Currently, a person with a seatbelt medical exemption must produce this evidence immediately when requested by a police officer. This requirement will continue; however, the regulatory amendments following the Bill will introduce the 28-day timeframe for traffic camera seatbelt infringements.

This limits the right to equality and non-discrimination by requiring people with medical exemptions to produce their medical certificate exemption to the Road Transport Authority. If the exempt person was the driver, they may be issued with an infringement notice and will have to request withdrawal by providing their exemption certificate. If the exempt person was a passenger, the registered operator/driver issued with the infringement for passenger non-compliance may need to provide the evidence on their behalf to have the infringement notice withdrawn or the passenger may need to provide the evidence directly to the Road Transport Authority.

This means people with ongoing medical conditions or disabilities preventing them from wearing a seatbelt may be issued with an infringement notice requiring withdrawal and/or may need to share their medical certificate with the responsible registered operator/driver and the Road Transport Authority.

Definition of 'mobile device'

There is an existing definition of 'mobile device' contained in the Road Rules, which the Bill moves into the Act without changing the definition. The definition of 'mobile device' applies to devices such as mobile phones, portable devices such as tablets, and extends to wearable devices such as smartwatches, provided they can be used for telecommunication.

Some people may use wearable devices that can be used for telecommunication as well as medical monitoring, such as heart rate or blood pressure monitors. Moving the definition of 'mobile device' into the Act may limit the right to equality and non-discrimination if a person relies on such a device for monitoring a medical condition while driving. The device may continue to be running, but the driver is not permitted to read or touch the device while driving.

The definition particularly limits the right to equality and non-discrimination for learners and provisional licence holders, as only full-licence holders are permitted to use voice command for mobile devices while driving. Learners and provisional licence holders must park their vehicle first to control these devices by touch or voice. The key may remain in the ignition and the motor running while parked.

Right to privacy

Everyone has the right to not have their privacy interfered with unlawfully or arbitrarily. This includes communication and information privacy, where individuals should not arbitrarily be required to disclose documents or records containing personal information. Personal information should only be collected by the Road Transport Authority where it is in the interest of the community.

The Bill will introduce the ability for the existing network of mobile device detection cameras to use traffic camera detected images of drivers and front seat passengers not correctly wearing seatbelts as evidence that the offence occurred.

Mobile device detection cameras currently limit the right to privacy as these devices collect images of a vehicle and images of the driver if the driver is detected using a mobile device. This will extend to passengers under the Bill. This data is personal information because the information collected can identify the driver and contains the vehicle's details such as numberplate or make and model and may contain details of a person's travel such as direction, location and time. This limitation on the right to privacy also applies for the use of the same technology to detect seatbelts. However, there is a further limitation as the devices will now also take images of the front seat passenger/s.

Medical exemptions

There is already provision for persons with a medical exemption to not wear a seatbelt or to wear a seatbelt a certain way. The exemption is only applicable if the person is complying with the exemption, for example, the exemption may only allow for the sash to be worn under the arm but must still be fastened.

The introduction of traffic camera detection of seatbelts means that medical certificate exemptions will be able to be provided to the Road Transport Authority within 28 days of receiving the infringement notice.

Currently a person with a medical certificate exempting them from wearing a seatbelt properly adjusted and fastened must carry the certificate on them when travelling in a vehicle. If requested by police, they must produce this evidence immediately for the exemption to apply.

Following the Bill, separate regulatory amendments to the Road Rules will introduce the 28-day timeframe for traffic camera related infringements. There are privacy implications associated with requiring a copy of a person's medical exemption to be provided to the Road Transport Authority.

There are also privacy implications associated with a registered operator/driver providing the exemption of their passenger. For example, if the person with a medical exemption is travelling in a rideshare vehicle and the rideshare operator is issued with an infringement notice for passenger non-compliance. The driver may request evidence of the medical exemption to seek withdrawal.

Rights in criminal proceedings

Everyone charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. Strict liability offences limit this right by removing the burden of proof from the prosecution (the Road Transport Authority) in having to prove the mental fault elements of the offence.

The seatbelt laws applying to drivers and passengers are accompanied by various offences. The offences enforced by traffic cameras under the TCE initiative are for a driver failing to wear a seatbelt correctly and a driver failing to ensure a passenger wears a seatbelt correctly. These are strict liability offences. As traffic cameras cannot determine the identity of the driver, the infringement notice is issued to the registered operator of the vehicle who may then nominate the driver if they were not driving the vehicle at the time.

Drivers are responsible for ensuring their passengers comply. The use of seatbelt detection traffic cameras in Australia involves applying existing strict liability offences to the driver of the vehicle for both the driver and/or the front seat passenger/s. In the ACT, the relevant offences are at Part 16 of the Road Rules, which relate to the driver not wearing a seatbelt correctly and the driver not ensuring a passenger wears a seatbelt correctly. Traffic cameras cannot identify the passenger, which means the existing passenger offence is not applied to offences detected through the traffic camera system.

People with medical exemptions may still be picked up by the traffic camera system and identified by the Infringement Review unit as constituting a seatbelt offence. This means infringement notices may be issued where there is a valid exemption in place. The exemption is only applicable if the person is complying with the exemption, for example, the exemption may only allow for the sash to be worn under the arm but must still be fastened.

The person issued with the infringement notice must provide the evidence of the exemption to the Road Transport Authority within 28 days of receiving the infringement notice.

Multiple infringements

The TCE initiative increases the risk of multiple infringements that bring demerit points and financial penalties. Currently, the ACT uses the following traffic cameras to detect offences as part of the ACT road safety camera program:

- a. Fixed red-light/speed cameras;
- b. Fixed speed cameras;
- c. Mobile speed camera vans;
- d. A point-to-point average speed camera; and
- e. Transportable and fixed mobile device detection cameras.

The TCE initiative involves expanding the types of offences detected by the existing technology. For example, when an offence is captured by red-light/speed cameras the vehicle registration is now checked. From 3 November 2025, mobile device detection cameras will also detect seatbelts, which this Bill supports. This will further increase the risk of multiple infringements.

2. *Legitimate purpose (s28(b))*

Purpose of amendments relating to seatbelts

The purpose of the Bill is to support traffic camera enforcement of seatbelt requirements. This will enhance road safety by encouraging drivers and passengers to properly wear seatbelts and by raising awareness of the dangers associated with not wearing a seatbelt correctly.

The ACT Government is committed to Vision Zero, outlined in the ACT Road Safety Strategy 2020-25, which aims to achieve zero road fatalities and serious injuries. Government regulation of seatbelts and education and awareness efforts are essential in reducing the road death toll in Australia.

The Bill supports expanding traffic camera detection to seatbelts to effectively reduce the risk of serious injuries and fatalities on ACT roads.

Purpose of amendments relating to mobile devices

The purpose of including wearable devices in the definition of 'mobile device' is to prevent road crashes caused by driver distraction and the resulting injuries and fatalities.

The Bill maintains the existing definition of 'mobile device', which extends to wearable devices such as smartwatches. Some people may rely on the health monitoring functions available on wearable devices that also support telecommunication.

The purpose of not providing an exemption for using a wearable device while driving for monitoring a medical condition is to uphold road safety. Fitness to drive is a requirement for all licence holders, as is avoiding driver distraction.

3. *Rational connection between the limitation and the purpose (s28(d))*

Connection for amendments relating to seatbelts

The ACT's road safety camera program benefits the community by encouraging changes in behaviour that protect and support the safety of all road users and ensure compliance with the ACT road transport legislation.

Wearing a seatbelt correctly halves the risk of serious injury or death in a crash (Shiva, 2023). The limitations of expanding mobile device detection cameras to detect seatbelts on the rights to equality and non-discrimination, privacy and presumption of innocence are justifiable to achieve Vision Zero.

Seatbelts are widely known and researched for saving lives and preventing serious injuries from crashes. An international analysis of multiple studies found seatbelts reduce front seat fatalities by 60% (Hoye, 2016).

The Bill supports traffic camera enforcement of seatbelts by allowing infringement notices to be issued where an offence has occurred. The relevant seatbelt offences for the driver apply even where the seatbelt is fastened but not properly adjusted.

The road rules require seatbelts with a lap belt and sash to be worn correctly with the sash firmly across the chest and against the shoulder/collar bone and the hip belt firmly over the hips. Improper seatbelt use, such as wearing the sash under the arm or reclining the seat to separate the sash from the shoulder, can result in serious injury or death in a crash compared to wearing the seatbelt correctly (States et al, 1987).

Crash tests in recent years show that wearing the sash under the arm results in the person being propelled forward into the dashboard. Reclining the seat to separate the sash from the shoulder results in a high load concentrated on the abdomen, damaging organs. Wearing a seatbelt correctly prevents contact with the dashboard and distributes the impact across a greater surface area on the body.

Seatbelt laws and enforcement activities relating to proper seatbelt use have been found effective at improving compliance and reducing risk of serious injury or death in a crash (Dinh-Zarr, 2001).

Connection for amendments relating to mobile devices

Retaining the existing definition of ‘mobile device’ relates directly to achieving Vision Zero – the principle that there should be no deaths or serious injuries on our road transport network.

In Australia, driver distraction has been found to be a factor in 16% of crashes where a person was hospitalised for at least 24 hours (Beanland et al, 2013). Since this data was collected, mobile device technology, including wearable devices, has progressed significantly. Researchers have been exploring these newer technologies and their impacts on driver distraction in recent years. There is evidence to suggest that reading information on a smartwatch while driving takes your eyes off the road for longer than a mobile phone (Brodeur et al, 2021). This data shows the need for the definition of ‘mobile device’ to also capture wearable devices capable of telecommunication, even if these devices are also used for monitoring medical conditions.

There is a well-established national framework for managing fitness to drive to reduce crash risk. The Austroads publication *Assessing Fitness to Drive* sets out detailed medical standards to guide health practitioners in assessing whether a person can drive safely. If a person’s health status unduly increases their crash risk, they may require a conditional licence or even lose their licence. Some medical conditions can affect driving by impairing cognition, motor function, and/or sensory function.

The use of traffic offence detection devices in enforcing existing road rules has proven effective in promoting road safety in Australia and globally from speeding to mobile phone use. NSW saw a significant reduction in the illegal use of mobile phones in the first two years of introducing traffic camera detection of mobile devices in late 2018. During the pilot of the cameras, the NSW Government captured people illegally using their mobile phones 1.22% of the time. This decreased to 0.34% during the initial implementation of the cameras, when warning letters only were issued, and further to 0.24% when enforcement of offences commenced.

While data on the prevalence of using wearable devices while driving is not as readily available due to the recent nature of this technology, the evidence showing the effectiveness of traffic camera detection devices and the high risk of distraction posed by wearable devices suggests there is a strong connection between the limitation and legitimate purpose. Increased enforcement of road rules deters non-compliance and decreases risk of a crash.

4. *Proportionality (s28 (e))*

Right to equality and non-discrimination

Multiple infringements

There is a disproportionate impact of financial penalties and demerit points associated with receiving multiple infringements in a single detection event on people on a lower income. However, the impacts of high-risk behaviours on the road such as speeding, running a red light, driving unregistered, and not wearing a seatbelt correctly are serious and also impact on certain groups disproportionately. This extends to the financial, health, social and psychological impacts of crashes on individuals and families and community.

There are existing safeguards in place for managing financial penalties and potential loss of licence from multiple infringements. For example, the infringement review process allows for withdrawal (to withdraw the entire infringement notice, including financial penalty and demerit points), waiver of the fine in cases of financial hardship, payment plans, or entering a work or development program.

The Road Transport (General) Withdrawal of Infringement Notices Guidelines 2019 set out the policy and circumstances for the infringement review application process. These will be reviewed as part of preparations for the TCE seatbelts initiative to ensure a balance between the impacts on individuals from multiple infringements and road safety. The primary objective is to achieve Vision Zero – the principle that no one should die or suffer serious injury on our road transport network.

Medical exemptions

Seatbelt requirements apply to all passengers and drivers unless certain circumstances apply, such as if the vehicle was not manufactured to be fitted with a lap and sash seatbelt, if the passenger is a child who must be restrained in a child restraint, the car is parked or reversing, or if the individual has a medical certificate stating they are not able to wear the seatbelt correctly or at all.

For medical exemptions, traffic cameras are not able to discern if the person has a valid medical certificate at the time of the image being taken. Infringement review officers may not be aware of the exemption, and so an infringement notice may be issued to the registered operator. The infringement notice may be withdrawn after evidence of the exemption is provided. This process may be repeated if the vehicle registration is not recorded as being attached to an exempt individual.

Operational processes will be identified and considered to reduce the likelihood of repeated infringement notices being issued for exempt persons. As the cameras can't detect an individual, the risk of repeated infringements may remain. These cases will be monitored following commencement of the TCE seatbelts initiative. The application process for people with a medical exemption

to have an infringement notice withdrawn will be made simple and easily accessible.

Separate to the Bill, an amendment regulation will allow evidence of the medical exemption to be provided within 28 days of the seatbelt infringement notice being received. However, the existing infringement review process will still allow for an application for withdrawal if the person does not provide the certificate within the 28-day timeframe. The 28-day timeframe ensures the person issued with the infringement notice can resolve the notice in a reasonable timeframe in line with existing processes and time limits for seeking prosecution in court if required. This is also the timeframe in NSW, giving consistency in the road transport legislation across the border.

There is no less restrictive means for the Bill to support traffic camera enforcement of seatbelt requirements than the current drafting, which reflects how traffic cameras cannot detect the identity of the occupants and instead rely on the ability for the registered operator to nominate another driver or apply for withdrawal through the infringement review framework.

The risks of improper seatbelt use are serious. The education and awareness campaign accompanying the TCE initiative following passage of the amendments will emphasise how to wear a seatbelt correctly and the dangers associated with improper use or not wearing a seatbelt at all. It is essential that patients and medical practitioners understand the risks associated with not wearing a seatbelt correctly when considering temporary or long-term exemptions for medical reasons.

The impacts on persons with medical exemptions from wearing a seatbelt will be monitored following implementation to assist in evaluation and to potentially identify non-legislative mechanisms that may further reduce any limitation on human rights.

Definition of 'mobile device'

The definition of 'mobile device' contained in the Bill remains unchanged from previous years but is relocated from the subordinate legislation into the Act in line with current drafting principles. Retaining the definition is necessary to uphold road safety principles in preventing driver distraction from telecommunication devices (other than radios).

There is a limitation on the right to equality and non-discrimination by preventing people who rely on mobile devices such as smartwatches that monitor health status and record data from using the device while driving. However, the legislation does not prevent them from continuing to wear the device and allows it

to operate as normal while driving, including transmitting data to their phone, provided they do not read the information or touch the device (other than wearing it).

People driving with medical conditions who use medical monitoring devices that also can be used for telecommunication may park the vehicle before using the device. Alternatively, they may use voice command to listen to data readings while driving if they have a full licence; however, learner and provisional licence holders must not use voice command to use devices while driving.

Like the ACT, VIC explicitly prohibits using wearable devices that can be used for communication while driving. The model Australian Road Rules also include wearable devices along with mobile phones and portable devices such as tablets. As communication technology continues to evolve and create further distraction for drivers, it is necessary that the road transport legislation reflects this clearly.

The Austroads Fitness to Drive Guidelines provide a nationally consistent set of medical standards and guidance for health practitioners in informing their patients. This existing framework allows for people who rely on health monitoring devices while driving to consult a health professional on how to ensure they can drive safely. As driver distraction affects the safety of all road users, not just those in vehicles, it is essential that all drivers are fit to drive and do not need to read or touch medical devices that are capable of telecommunication while driving.

Right to privacy

The Bill does not authorise arbitrary interferences with privacy. The purpose of collecting personal information, its usage and storage is closely and directly connected to the enforcement of seatbelt requirements with the aim of improving road safety. It is also specifically limited to the identification and location of persons who were identified as committing an offence by not correctly wearing a seatbelt or ensuring their passengers comply.

The proposed amendments are considered reasonable, necessary and proportionate given the safeguards included in the framework for the operation of traffic offence detection devices to improve seatbelt compliance.

Images captured by the seatbelt detection system are only taken if a seatbelt offence is identified by the technology. The faces of people captured in the image are pixelated for privacy. This is because the Bill includes a safeguard so that only as much of the driver and/or passenger as necessary is shown on the image to prove the offence took place.

There are other privacy safeguards in the existing legislation that apply to all traffic offence detection devices, including traffic camera enforcement of seatbelts. These include:

- a. Images taken by a traffic camera that do not show an offence took place must be deleted as soon as possible;
- b. Images and data associated with an image taken by a traffic offence detection device must be encrypted; and
- c. Images are only to be captured by traffic offence detection devices that are designed to capture this information for the purpose of enforcing a provision of the road transport legislation.

The purposes for which the personal information is collected, used and stored is closely and directly connected to the enforcement of seatbelt requirements with the aim of improving road safety. It is also specifically limited to the identification and location of persons involved in breaching seatbelt requirements.

The information collected by the seatbelt detection system is consistent with information collected in other jurisdictions with similar systems and will be handled and stored in accordance with the Territory Privacy Principles as provided in the *Information Privacy Act 2014*.

Data collected by the seatbelt detection system is protected by security safeguards that are reasonable in the circumstances to prevent loss, unauthorised access, use, modification or disclosure and any other type of misuse. The image and any data or information related to that image or the making of that image, must be encrypted.

Information may only be disclosed in limited circumstances that relate to improving road safety. This includes supporting law enforcement, improving community education and for specific road safety related research purposes.

Medical exemptions

Requiring a person to provide evidence of a medical exemption is essential to the success of the TCE initiative. It is an established process for evidence to be provided when applying for an infringement notice to be withdrawn.

Just as a person with a medical exemption from wearing a seatbelt must produce the certificate as evidence immediately upon request by a police officer, it must be provided to the Road Transport Authority to ensure the infringement can be withdrawn.

If evidence is not required, this would result in many registered operators/drivers applying for withdrawal under the guise of an exemption to avoid financial penalty

and demerit points. The information contained on a medical certificate is the minimum information necessary to uphold the framework and allow for only those with a valid exemption to have the infringement withdrawn for that reason. The information being provided to the Road Transport Authority is kept secure in accordance with privacy principles and laws and is not shared.

If the exempt person is a passenger and is requested by the driver to provide a copy of the medical certificate, the person may choose to provide the certificate directly to the Road Transport Authority.

Rights in criminal proceedings

Alternative methods of enhancing enforcement of seatbelt requirements would rely on enforcement by police, which is subject to limited resources and is already in use. The use of police officers alone in enforcing seatbelt compliance is far less effective and less likely to contribute to achieving Vision Zero than complimenting this enforcement using the road safety camera program. This is due to the limited resources available to ACT Policing and the risks in directing resources to target seatbelts over other equally important road rules.

Introducing seatbelt detection to the existing cameras on ACT roads will provide ACT Policing with greater capacity to enforce offences under the road transport legislation in areas where the cameras are not located and for offences that cameras cannot enforce, increasing enforcement and compliance with the ACT's road transport laws.

Increasing penalties for seatbelt offences is also not being pursued through the Bill, as evidence supports increased enforcement to be more effective in deterring non-compliance than solely relying on high penalties. The technology and cameras are readily available to achieve this. QLD has higher financial penalties and demerit points for seatbelt offences than the ACT yet also relies on traffic camera enforcement of seatbelt offences to further reduce the risk of serious injuries and deaths on the road transport network.

The strict liability offences for a driver not wearing a seatbelt correctly or not ensuring their passenger/s wear a seatbelt correctly means it must be clear that the offence took place. While the seatbelt detection system relies on camera technology to identify an offence and take an image as evidence, the image is then reviewed by an infringement review officer to confirm the offence took place before an infringement notice can be issued. From this point, the person who receives the infringement notice can then apply for withdrawal if they have evidence the offence did not take place e.g. a medical exemption or if certain circumstances were met that make the notice eligible for withdrawal.

The offences being enforced by the seatbelt detection system apply to the driver. As the driver's identity isn't detected, the infringement notice is issued to the registered operator under section 12A of the Offences Regulation. The driver can then be nominated if the registered operator was not responsible. While there is also an offence available in the Road Rules for a passenger over age 16 not wearing a seatbelt correctly, the traffic camera can't detect the identity of the passenger and there is no provision equivalent to section 12A for an infringement notice to be issued to them.

This means a driver will be penalised for their passenger's non-compliance. Drivers being held responsible for passenger seatbelt compliance is already an established offence enforced by ACT policing and it is accepted practice that drivers are responsible for their passengers wearing their seatbelts correctly. This is also accepted practice in all other Australian jurisdictions with seatbelt detection by traffic camera.

Establishing the seatbelt detection system where only the driver offences are enforced is the least restrictive means of enhancing seatbelt compliance in the absence of a suitable framework to allow for passengers over age 16 to be nominated to take the penalty.

Enforcement of the driver offence through the TCE initiative is essential to reach the purpose of Vision Zero. The ACT Government will monitor the TCE initiative and work with other jurisdictions to identify if nominating a passenger to be penalised instead of the driver is achievable and lawful.

The offences for a driver failing to wear a seatbelt or failing to ensure their passenger complies are strict liability. This means there are no mental fault elements to the offence, but the defence of mistake of fact is available.

It is important to note that the Bill does not remove a person's right to contest the evidence of the seatbelt offence captured by a traffic camera. As is the current administrative practice for camera detected offences, a person may apply to Access Canberra to raise any issues they believe support the withdrawal of an infringement notice or dispute the infringement notice in court.

For court proceedings relating to a traffic camera seatbelt infringement notice, the Bill has an amendment allowing for an image of a seatbelt offence to be used as evidence that the vehicle was moving or stationary but not parked. The status of a vehicle being moving or stationary for the purposes of traffic cameras is a factual element of the offence that must be proven by the Prosecution. However, there may be circumstances where a vehicle is in fact parked rather than moving or stationary when captured by a camera, but this cannot be determined by reference to the camera image alone. Given the purpose of these cameras and

the locations where they will operate, it is unlikely to capture vehicles that are parked. However, in circumstances where the camera has captured a parked vehicle, the defendant will have the defence of mistake of fact available to contest the offence in court.

None of the amendments in the Bill limit the right of a person to dispute an infringement notice in court and therefore will not limit rights to a fair trial under section 21 of the HRA. If a matter proceeds to court, the person may provide evidence contesting the infringement notice and the evidence provided. It will then be a matter for the court to determine whether an offence has been committed.

Multiple infringements

The TCE initiative increases the risk of multiple infringements from a single detection event that bring demerit points and financial penalties. This is already possible through police enforcement; however, the use of traffic cameras increases the likelihood of offenders being detected.

This is justified to reach the objectives of improving road safety by reducing unnecessary injuries and deaths on the road transport network. The intent of issuing multiple infringements is to deter offences being committed. Effective enforcement is a proven method in improving road safety.

Safeguards are available, such as the infringement review process, waiver of fines in cases of financial hardship, and entering into a payment plan or a work or development program.

To ensure that existing infringement review policies are reflective of human rights considerations while upholding road safety principles, the ACT Government is also reviewing the Road Transport (General) Withdrawal of Infringement Notices Guidelines 2019 and associated policies as part of the TCE initiative.

A comprehensive communications campaign will be rolled out aligning with that of NSW, QLD and VIC on seatbelt-specific components and raising awareness of the TCE initiative. Website materials will be updated, and education and awareness activities will be rolled out to ensure the Canberra community is aware of the risk of multiple infringements.

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Road Transport (Safety and Traffic Management) Amendment Bill 2025

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Road Transport (Safety and Traffic Management) Amendment Bill 2025**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Tara Cheyne MLA
Attorney-General

CLAUSE NOTES

PART 1 PRELIMINARY

Clause 1 Name of Act

This clause states that the name of the Act is the *Road Transport (Safety and Traffic Management) Amendment Act 2025*.

Clause 2 Commencement

This clause states that the Act commences on 3 November 2025.

Clause 3 Legislation amended

This clause states the legislation amended by this Act is primarily the *Road Transport (Safety and Traffic Management) Act 1999* (the Act) and the *Road Transport (Safety and Traffic Management) Regulation 2017*.

Amendments to other pieces of road transport legislation are contained in Schedule 1 and include amendments to the *Road Transport (General) Act 1999* and *Road Transport (Road Rules) Regulation 2017*.

PART 2 ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT 1999

This part of the Bill amends Part 6 of the Act, which establishes the regulatory framework for the ACT road safety camera program. It also makes consequential amendments to the dictionary.

Clause 4 Section 22A

This clause substitutes existing section 22A to relocate terms not used in the Act or only used in one section of the Act and adds subsection numbers in line with current drafting practice. This clause does not amend the definitions themselves and is technical in nature.

The terms not used in the Act are *average speed detection system* and *mobile device detection system*. These have been moved to the *Road Transport (Safety and Traffic Management) Regulation 2017*. The term *mobile device* has been omitted as it was defined by referring to the subordinate legislation. Instead, the definition of *mobile device* has been moved from the subordinate legislation to section 25 (10) of the Act.

Clause 5 Meaning of *traffic offence detection device* Section 23 (1) (a)

This clause removes any ambiguity regarding whether a traffic offence detection device can capture images of any one of the three elements (vehicle, driver,

passenger) or must capture images of all three. The amendment allows for any one of the three elements to be captured.

Clause 6 New section 23 (1) (a) (iii)

This clause inserts a new subsection so that a *traffic offence detection device* can take an image of all three elements (vehicle, driver and passenger).

Clause 7 Regulation for approval etc of device or system

Section 24 (1)

This clause removes any ambiguity regarding whether a traffic offence detection device can capture images of any one of the three elements (vehicle, driver, passenger) or must capture images of all three. The amendment allows for any one of the three elements to be captured.

Clause 8 New section 24 (1) (c)

This clause inserts new section 24 (1) (c) which includes a passenger in a vehicle being driven in contravention of a provision of the road transport legislation.

**Clause 9 Evidentiary certificates etc
Section 25 (5) (e)**

This clause corrects a typographical error.

Clause 10 New section 25 (5) (ea)

This clause inserts new section 25 (5) (ea) which provides that an image of a driver or passenger in the vehicle not wearing a seatbelt correctly is taken to be evidence that the vehicle was moving, or stationary but not parked, when the image was taken.

The road rules require a seatbelt to be worn in a vehicle that is moving or is stationary but not parked. This clause reflects this requirement. There are various other exemptions in addition to the vehicle being parked, such as if the vehicle is reversing, if the vehicle is not required to be fitted with a seatbelt as per the manufacturer's intention, if the person has a medical exemption, if the vehicle is a bus, etc. The purpose of new section 25 (5) (ea) is to allow the Road Transport Authority to rely on an image captured by a traffic camera to show that the car was moving or stationary but not parked. Evidence to support other exemptions available under the road rules can be provided by the applicant through the infringement review process.

Clause 11 Section 25 (10), new definition of *mobile device*

This clause relocates the term of *mobile device* from the *Road Transport (Road Rules) Regulation 2017* to the Act. The definition is not changed.

Previously, the Act listed its definition of *mobile device* by referring to the definition in the subordinate legislation. Current best practice drafting is to define a term fully in the primary legislation to prevent subordinate legislation from overriding an Act.

Clause 12 Dictionary, definition of *average speed detection system*

This clause omits the dictionary definition of *average speed detection system*, which referred to the definition at section 22A. This is consequential to the amendment at clause 4, which moved the definition to the subordinate legislation.

Clause 13 Dictionary, definitions of *average speed limit* and *detection point*

This clause updates the dictionary definitions of *average speed limit* and *detection point* with the new subsection numbers added to those definitions at section 22A, which is consequential to the changes at clause 4.

Clause 14 Dictionary, definitions of *minimum travel time*, *mobile device* and *mobile device detection system*

This clause omits the dictionary definitions of *minimum travel time*, *mobile device* and *mobile device detection system*. The terms *minimum travel time* and *mobile device* are only used in a specific section (sections 22A and 25 respectively), so they are considered section definitions for the Act and are not required to be listed in the Act dictionary. The term *mobile device detection system* is not used in the Act and was moved to the subordinate legislation by the changes at clause 4.

Clause 15 Dictionary, definition of *shortest practicable distance*

This clause updates the existing definition of *shortest practicable distance* with the new subsection number added at section 22A, which is consequential to the changes at clause 4.

Clause 16 Dictionary, definition of *shortest practicable route*

This clause omits the dictionary definition of *shortest practicable route*. This definition is only used in section 22A, making it a section definition that does not need to be defined in the Act dictionary.

Clause 17 Dictionary, definitions of *speeding offence* and *speed measuring device*

This clause updates the existing definitions of *speeding offence* and *speed measuring device* with the new subsection numbers, consequential to the changes at clause 4.

**PART 3 ROAD TRANSPORT (SAFETY AND TRAFFIC
MANAGEMENT) REGULATION 2017**

Clause 18 New sections 11A and 11B

This clause inserts definitions of *average speed detection system*, *minimum travel time*, and *shortest practicable route*, consequential to the changes at clause 4.

**Clause 19 Average speed detection systems—Act, s 22A
Section 12 (1) to (3)**

This clause updates definitions with the new subsection numbers introduced at clause 4.

Clause 20 Section 12 (4) and (5)

This clause updates definitions with the new subsection numbers introduced at clause 4.

**Clause 21 Approval of traffic offence detection devices—Act, s 24
New section 13 (1) (ca)**

This clause inserts the term *seatbelt detection system* to section 13 (1) (ca), allowing the Road Transport Authority to approve this type of system by disallowable instrument.

Clause 22 New section 13 (1) (d) (iii)

This clause expands the types of things that traffic offence detection devices may take images of to include passengers.

Clause 23 New section 13 (5)

This clause inserts definitions for *mobile device*, *mobile device detection system* and *seatbelt detection system*. The definition for *mobile device* refers to the Act definition, the definition for *mobile device detection system* was moved from the Act, and the definition for *seatbelt detection system* is new to support using existing technology to detect seatbelt compliance.

**Clause 24 Requirements for images taken by traffic offence
detection devices—Act, s 24 (2) (a) and (d)
Section 15 (1)**

This clause expands the scope of images taken by traffic offence detection devices to include passengers in addition to the vehicle or driver.

Clause 25 Section 15 (1) (b) (ii)

This clause expands the scope of requirements for images taken by traffic offence detection devices to include passengers in addition to the driver.

Clause 26 Section 15 (2)

This clause expands the scope of requirements for images taken by traffic offence detection devices to include passengers in addition to the driver.

Clause 27 Schedule 1, part 1.2 heading

This clause makes a typographical change to the heading *average speed detection systems* by removing reference to the section of the Act in line with current drafting practice.

Clause 28 Dictionary, note 3

This clause omits the references to definitions in the Act for *average speed detection system* and *mobile device detection system* as these definitions are no longer in the Act.

Clause 29 Dictionary, note 3

This clause updates the definition with a reference to the correct section of the Act.

Clause 30 Dictionary, new definitions

This clause inserts references to the definitions for *average speed detection system*, *minimum travel time*, and *shortest practicable route*.

SCHEDULE 1 Other amendments

PART 1.1 ROAD TRANSPORT (GENERAL) ACT 1999

Clause 1.1 Dictionary, definition of *approved average speed detection system*

This is a minor and technical amendment to omit *approved average speed detection system*, as this term is not used in the road transport legislation.

An average speed detection system may be approved under section 13 of the *Road Transport (Safety and Traffic Management) Regulation 2017*. The approval is a disallowable instrument. The term *approved average speed detection system* was removed from other pieces of road transport legislation in 2021 as part of the *Road Transport (Safety and Traffic Management) Amendment Act 2021* and is no longer necessary.

PART 1.2 ROAD TRANSPORT (ROAD RULES) REGULATION 2017

Clause 1.2 Section 307A heading

This clause inserts seatbelt detection system into the heading for Stopping and parking exemption – mobile device detection system. Exemptions to the road rules are available to drivers whose vehicles are being used to install or otherwise work on a mobile device detection system. This amendment adds seatbelt detection system, as the same camera assets are used for both systems.

Clause 1.3 Section 307A (1) (b)

This clause inserts seatbelt detection system along with mobile device detection system to allow exemptions for workers to apply for both.

Clause 1.4 Section 307A (3), new definition of *seatbelt detection system*

This clause inserts a definition of *seatbelt detection system* alongside the existing definition of *mobile device detection system*.

Clause 1.5 Dictionary, definition of *mobile device* and note

This clause updates the definition of *mobile device* to reflect its new location in the Act.