

Passed by both Houses



New South Wales

Police Powers (Vehicles) Amendment Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Police Powers (Vehicles) Amendment Bill 2001

Act No , 2001

An Act to amend the *Police Powers (Vehicles) Act 1998* with respect to the powers conferred on police officers to stop and search vehicles and to obtain information concerning the identity of drivers of and passengers in or on vehicles used in the commission of certain offences; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Police Powers (Vehicles) Amendment Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Police Powers (Vehicles) Act 1998 No 166

The *Police Powers (Vehicles) Act 1998* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Omit “driver” wherever occurring in the definition of *identity*.
Insert instead “person”.

[2] Section 3

Insert in alphabetical order:

road block authorisation means an authorisation given by a senior police officer under section 10.

[3] Section 3, definition of “search authorisation”

Omit the definition.

[4] Section 3, definition of “vehicle search power”

Omit the definition.

[5] Section 6 Power of police officers to request disclosure of driver or passenger identity

Omit section 6 (1). Insert instead:

- (1) A police officer who reasonably suspects that a vehicle was or may have been used in or in connection with the commission of an indictable offence may make any one or more of the following requests:
 - (a) a request that the driver of the vehicle disclose his or her identity and the identity of any passenger in or on the vehicle at or about the time the vehicle was or may have been so used,
 - (b) a request that any passenger in or on the vehicle disclose his or her identity and the identity of the driver of, or any other passenger in or on, the vehicle at or about the time the vehicle was or may have been so used,

- (c) a request that any owner of the vehicle (who was not the driver or a passenger) disclose the identity of the driver of, and any passenger in or on, the vehicle at or about the time the vehicle was or may have been so used.

[6] Section 7A

Insert after section 7:

7A Failure of passenger to disclose identity on request

- (1) A passenger in or on a vehicle who is requested by a police officer to disclose his or her identity under section 6 must (unless the passenger has a reasonable excuse for not doing so) disclose that fact to the officer.

Maximum penalty: 50 penalty units or 12 months imprisonment, or both.

- (2) A passenger in or on a vehicle who is requested by a police officer to disclose the identity of the driver of, or any other passenger in or on, the vehicle under section 6 must (unless the passenger has a reasonable excuse for not doing so):

- (a) disclose the full and correct identity of the driver or other passenger, or
- (b) if the passenger does not know the full and correct identity of the driver or other passenger—disclose such information about the driver's or other passenger's identity (such as any alias or the general location of his or her residential address) as is known to the passenger.

Maximum penalty: 50 penalty units or 12 months imprisonment, or both.

[7] Section 9A

Insert after section 9:

9A Power of police officers to request proof of identity

A police officer may request a person who is required under this Part to disclose his or her identity to provide proof of his or her identity.

[8] Section 10 Powers to stop and search vehicles

Omit section 10 (1) and (2). Insert instead:

- (1) **Vehicle search powers**
A police officer may exercise any or all of the vehicle search powers in respect of a vehicle (or class of vehicles) on a road, road related area or other public place if:
- (a) the police officer suspects on reasonable grounds that:
 - (i) the vehicle (or a vehicle of the specified class of vehicles) is being, or was or may have been, used in or in connection with the commission of any indictable offence, and
 - (ii) the exercise of the powers may provide evidence of the commission of the offence, or
 - (b) the police officer suspects on reasonable grounds that circumstances exist on or in the vicinity of that road, area or place that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.
- (2) **Vehicle road block powers**
A police officer may exercise vehicle road block powers if authorised to do so under a road block authorisation.
- (2A) **Road block authorisation**
A senior police officer may authorise another police officer to exercise any or all of the vehicle road block powers in respect of a vehicle (or class of vehicles) on a road, road related area or other public place if:
- (a) the senior police officer suspects on reasonable grounds that:
 - (i) the vehicle (or a vehicle of the specified class of vehicles) is being, or was or may have been, used in or in connection with the commission of any indictable offence, and
 - (ii) the exercise of the powers may provide evidence of the commission of the offence, or

- (b) the senior police officer suspects on reasonable grounds that circumstances exist on or in the vicinity of that road, area or place that are likely to give rise to a serious risk to public safety and that the exercise of the powers may lessen the risk.

[9] Section 10 (3)

Omit “A search authorisation to exercise a particular vehicle search power includes”.

Insert instead “A police officer who exercises a vehicle search power under this section, or who is authorised to exercise a vehicle road block power under this section, has”.

[10] Section 10 (5)

Omit “a search authorisation” wherever occurring.

Insert instead “this section”.

[11] Section 10 (6)

Omit the subsection. Insert instead:

(6) **Definitions**

In this section:

vehicle road block power means a power:

- (a) to establish a road block (consisting of any appropriate form of barrier or obstruction preventing or limiting the passage of vehicles) on any specified road, road related area or other public place, or
- (b) to stop vehicles at a road block.

vehicle search power means a power:

- (a) to stop vehicles (other than at a road block), or
- (b) to search vehicles (whether at a road block or otherwise) for the purposes of seeking evidence of the commission of the indictable offence or lessening the risk to public safety concerned and to give reasonable directions to any person in the vehicles for the purpose of facilitating the search, or

- (c) to take possession of any object found in the course of such a search that the police officer conducting the search suspects on reasonable grounds constitutes evidence of any indictable offence.

[12] Section 11 Duration and form of road block authorisation

Omit “search authorisation” wherever occurring.
Insert instead “road block authorisation”.

[13] Section 12 Record of road block authorisation

Omit “search authorisation” wherever occurring.
Insert instead “road block authorisation”.

[14] Section 12 (1) (a) (ii)

Omit “vehicle search”.

[15] Section 16 Monitoring of operation of Act by Ombudsman

Omit section 16 (1). Insert instead:

- (1) For the period of 12 months from the date of assent to the *Police Powers (Vehicles) Amendment Act 2001*, the Ombudsman is to keep under scrutiny the exercise of the additional powers conferred on police officers under that Act.