

First print



New South Wales

Traffic Amendment (Speeding Anti-evasion Measures) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

At present under the *Traffic Act 1909*, the sale, purchase and use of radar detectors and radar jammers is prohibited. These devices are designed to detect, or interfere with, the approved radar based devices used by the police to measure the speed of vehicles.

The object of this Bill is to widen the prohibition, with the result that it will be an offence to sell, purchase or use any device or substance that is designed to detect, interfere with, or reduce the effectiveness of, any approved speed measuring device used by the police.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Traffic Act 1909* set out in Schedule 1.

Schedule 1 [1] inserts a definition of *prohibited speed measuring evasion article*. The term covers any device or substance (eg paint), that is designed to be fitted or applied to, or carried in, a vehicle for the purpose of detecting, interfering with, or reducing the effectiveness of, the devices used by the police to measure the speed of a vehicle (these measuring devices may be radar based, or non-radar based). The new definition will include radar detectors and radar jammers which are currently defined in the Act.

Schedule 1 [2] and **[3]** amend provisions currently prohibiting the sale, purchase and use of radar detectors and radar jammers in order to extend the offences to cover the sale, purchase and use of any prohibited speed measuring evasion article.

Schedule 1 [4]–[6] are consequential amendments.

Schedule 1 [7] recasts existing provisions relating to the surrender and forfeit of radar detectors and jammers so that they apply to prohibited speed measuring evasion articles.

Schedule 1 [8]–[10] are consequential amendments.

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New South Wales

Traffic Amendment (Speeding Anti-evasion Measures) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Traffic Act 1909* to make further provision with respect to the prohibition of articles that detect or interfere with approved speed measuring devices; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Traffic Amendment (Speeding Anti-evasion Measures) Act 1998*.

2 Commencement

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

3 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

Prohibited speed measuring evasion article means any device or substance that is designed, or apparently designed, to be fitted or applied to, or to be carried in, a motor vehicle or trailer for the purpose of detecting, interfering with, or reducing the effectiveness of, an approved speed measuring device, and includes a radar detecting device and a radar jamming device. 5
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[2] Section 4AD Sale, purchase and use of prohibited speed measuring evasion articles

Omit "radar detecting device or a radar jamming device" from section 4AD (1). 15
Insert instead "prohibited speed measuring evasion article".

[3] Section 4AD (2)

Omit "the vehicle is fitted with or is carrying a radar detecting device or a radar jamming device".
Insert instead "a prohibited speed measuring evasion article is fitted or applied to, or carried in, the vehicle". 20

[4] Section 4AD (4)

Omit the subsection. Insert instead:

- (4) It is a defence to a prosecution for an offence under this section if the defendant satisfies the court that the article concerned was not designed as a prohibited speed measuring evasion article but was designed for another purpose. 25

[5] Section 4AD (5) (a) and (b)

Omit "device" wherever occurring. Insert instead "article".

[6] Section 4AD (5) (c)

Omit "vehicle was fitted with or was carrying the device concerned".

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Insert instead "article concerned was fitted or applied to, or was being carried in, the vehicle".

[7] Section 4AE Surrender and forfeiture of prohibited speed measuring evasion articles

Omit section 4AE (1) and (2). Insert instead:

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(1) A police officer who reasonably believes that:

(a) a prohibited speed measuring evasion article is being sold or offered for sale in contravention of section 4AD (1), or

(b) a motor vehicle or trailer is standing or being driven in contravention of section 4AD (2) because of an article fitted or applied to, or carried in, the vehicle.

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may require a person in possession of the article to surrender it immediately to the police officer or, in the case of an article fitted or applied to a motor vehicle or trailer and not immediately removable, may by notice in writing served on the owner of the vehicle require the owner to surrender the article within a specified time and in a specified manner to the Commissioner of Police.

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(2) An officer of the Authority who is authorised in writing by the Authority for the purposes of this section and who finds a prohibited speed measuring evasion article fitted or applied to, or carried in, a motor vehicle or trailer may, by notice in writing served on the owner of the vehicle, require the owner to do either or both of the following:

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(a) remove the article (if it is fitted to the vehicle).

(b) surrender the article within a specified time and in a specified manner to the Commissioner of Police.

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[8] Section 4AE (3) and (4)

Omit "device" wherever occurring. Insert instead "article".

[9] Section 4AE (5)

Omit "A device". Insert instead "An article".

[10] Section 4AE (6)

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Omit "radar detecting device or radar jamming device".
Insert instead "prohibited speed measuring evasion article".