



NSW Legislative Council Hansard

Crimes Amendment (Organised Car and Boat Theft) Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 23 May 2006.

Second Reading

The Hon. JOHN DELLA BOSCA (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [5.32 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Crimes Amendment (Organised Car and Boat Theft) Bill 2006.

The Bill proposes amendments to the Crimes Act 1900 which will create several new offences targeted at the practice of car and boat rebirthing. The most serious of the new offences, carrying 14 years imprisonment, is facilitating an organised car or boat rebirthing activity. The Bill will also extend existing theft-related offences of taking motor vehicles, so that they cover taking boats as well.

The Government has a long-standing commitment to assist police in cracking down on car and boat rebirthing. It is estimated that rebirthing activities cost New South Wales \$100 million annually.

The term "rebirthing" covers a range of illegal activities that have one thing in common—the aim is to allow a stolen vehicle (or a vehicle which has parts that have been stolen) to be passed off, and registered, as a legitimate vehicle.

Organised car thieves and their accomplices perform a wide range of activities in order to rebirth vehicles. Just one example is where a rebirthing syndicate steals a car, strips some parts out of it, then dumps or burns the chassis. The chassis is recovered by police. Its details are taken off the stolen car list. Usually ownership of it vests in the car insurance company. The insurance company writes off the chassis and sells it at auction. The original thieves will then buy the chassis on the open market at auction, which makes them the lawful owners of the car. They then add back to the chassis the parts they stripped out of it. They re-register or sell the car, pretending that they innocently bought the chassis and fixed it up with legitimately bought spare parts. They may even have drawn up bogus receipts for the spare parts that they stripped from the stolen car.

This is just one example of the many different and ingenious ways in which criminal syndicates steal motor vehicles and boats, and manipulate their registered identities so that they can be re-registered and sold to unsuspecting buyers.

There are many costs of rebirthing to the community.

Firstly, rebirthing means that the stolen vehicle will not be recovered, in contrast to 'joyriding'-style car theft, where the vehicle is usually recovered. This results in true owners being deprived of their cars permanently, and higher insurance premiums for us all. In addition, if a rebirthed car that has been on-sold is subsequently identified, seized and taken back to its true owner, the honest buyer who paid market price for the car may be left with nothing.

Secondly, rebirthing is dangerous. It may involve serious physical alterations to the car, such as grafting the front end of one car to the back end of another. This creates a structural flaw which in an accident could mean that the car disintegrates with its innocent new owners inside.

Thirdly, because rebirthing is potentially lucrative, it entices young people into becoming involved with organised criminal gangs. It can corrupt legitimate tradespeople who work with vehicles, because rebirthing gangs actively seek to 'recruit' professionals working in the industries of motor vehicle repair, wrecking, sale and registration. These people can provide the paperwork to give the rebirthers' illegal activities the veneer of legitimacy.

These new offences provide deterrence against being involved in rebirthing, and send a clear message to those thinking of being involved in rebirthing activity that the punishment will far outweigh any illegal benefits.

Even though rebirthers may commit a range of existing offences, the law is not currently structured to effectively deal with the methods that rebirthing gangs use.

This Bill addresses the challenge of creating an offence that covers all behaviours that constitute rebirthing. It imposes strict penalties for rebirthing, and closes any loopholes in the criminal law that rebirthers might try to exploit.

The major innovation of the Bill is to create an offence of knowingly facilitating an organised car or boat rebirthing activity, carrying a maximum penalty of 14 years imprisonment.

In addition, the Bill also creates a number of other offences that target dishonest behaviour that forms a part of rebirthing activity. Those new offences are related to:

- _ interfering with identification information (for example compliance plates that are used in the registration of vehicles)
- _ dishonestly possessing vehicles or parts of vehicles where the identification information on that vehicle or part has been altered, and
- _ possessing vehicle identification plates unattached to a vehicle, when they are designed to be attached.

These secondary offences still offer appropriately harsh penalties—5 years or 7 years imprisonment per offence—and it is expected they may be used when a person is found engaging in dishonest behaviour with vehicle identification information, but police cannot prove that the person is involved in a rebirthing syndicate.

The offences created by the Bill generally apply to vessels also, reflecting the fact that vessels are a valuable means of transportation and are also the target of rebirthers.

I will now turn to the detail of the Bill.

Schedule 1 clauses 1–3 omit an outdated definition of "vessel" from the Crimes Act.

Schedule 1 clauses 4 and 7 move the offence that was previously called car stealing, from section 154AA of the Crimes Act, so that it appears in the new Subdivision of the Crimes Act dealing with motor vehicle and vessel theft. The offence will now be section 154F of the Crimes Act. The offence is also amended to provide that it is committed by a person who steals a vessel. "Vessel" is defined as a vessel within the meaning of the Marine Safety Act 1998.

Schedule 1 clauses 5 and 6 extend the offence that was previously known as carjacking, contrary to section 154C of the Crimes Act, so that the offence is also committed where the offender takes a vessel by force or when an occupant is on board. That offence has been re-named appropriately.

Schedule 1 clause 7 inserts a new Subdivision in the Crimes Act entitled "Offences relating to theft of motor vehicles and vessels". That Subdivision contains all of the new rebirthing-related offences.

The proposed new section 154G of the Crimes Act creates the offence of knowingly facilitating organised car or boat rebirthing activities. For the purpose of the offence, a "car or boat rebirthing activity" involves any one of:

- _ stealing a car or boat, or receiving a stolen car or boat
- _ interfering with a part of car or boat with the intention of either disguising its identity, or concealing the fact that it is stolen
- _ putting stolen parts on a car or boat
- _ registering a car or boat that is either stolen or has stolen parts attached to it, or
- _ supplying or offering to supply a stolen car or boat.

For the purpose of the offence, the car or boat rebirthing is carried out on an "organised basis" if it is done in a way that indicates it is done on more than one occasion and involves more than one person, and it is done for profit or gain.

For the purpose of the offence, the word "facilitates" is defined broadly to include anything that assists in the car or boat rebirthing activity being carried out, including providing the premises in which the activity is carried out.

The offence has been specifically designed to be relevant to Australian crime networks. The definition of the term "organised basis" has been constructed to reflect the reality of car rebirthing in Australia.

Organised crime in Australia is not generally run like a Mafia-style hierarchy, controlled by an absolute ruler, with a fixed structure like a company. More commonly in Australia, rebirthing is committed as part of a more fluid, entrepreneurial kind of organised crime, built around networks of contacts.

In a typical case, a car rebirther may telephone several criminal contacts seeking a particular make of stolen car. Once the stolen car has been supplied, the rebirther will seek out other contacts to find premises in which to alter the car, and a skilled person to forge identification information. Once the car has been rebirthed, the

original rebirther may not have any direct involvement in re-registering the car or selling it on the open market. It might be passed to another criminal group, here or possibly even interstate or overseas, for presentation to the authorities, re-registering and sale.

The rebirthers' method of operation is compartmentalised. In the example given, the person who makes a false VIN plate has no involvement in the re-registration process, and may not even know who the people are who will present the car for fraudulent re-registration.

Proposed section 154G(5) makes it clear that it does not matter whether the activity is carried out under the direction of any particular person, or whether the same people were always involved in the rebirthing. It does not even matter that the accused didn't know any of the other participants in the rebirthing ring. If the person has knowingly participated in a car or boat rebirthing activity, also knowing that the activity as a whole is carried out on an organised basis, the person is guilty of the offence created by proposed section 154G, and is liable to 14 years imprisonment.

Proposed section 154H creates new offences which are related to interference or other dishonest dealings with a "unique identifier" of a vehicle. A unique identifier means any numbers, letters or symbols marked on a vehicle or part, or stored electronically in the vehicle or part, for the primary purpose of allowing the vehicle or part to be distinguished from all others, or allowing a vehicle batch to be identified. Most obviously, a unique identifier will include a number plate, a compliance plate and a vehicle identification number or VIN. However, other things are unique identifiers as well: for example, part numbers that may be etched into vehicle parts by the manufacturer, and electronic identification information stored in a modern car's computer. Unique identifiers are not on the car for a mechanical or aesthetic purpose—their primary purpose is to help identify the vehicle.

Proposed section 154H establishes the following offences relating to unique identifiers:

- _ the offence of dishonestly interfering with or copying a unique identifier
- _ the offence of possessing a motor vehicle or part with the intention of dishonestly interfering with or copying a unique identifier
- _ the offence of dishonestly making a unique identifier or purported unique identifier, and
- _ the offence of knowingly inducing another person to accept any information attached to a vehicle or part as a genuine unique identifier for the vehicle or part, when it is not.

Each of these offences carries a maximum penalty of 7 years imprisonment.

Proposed section 154I introduces the offence of dishonestly having possession of a motor vehicle or part that has a unique identifier that has been interfered with. This offence carries a maximum penalty of 5 years imprisonment.

The offences under proposed sections 154G, 154H and 154I apply to vessels and their parts in exactly the same way that they apply to motor vehicles.

Proposed section 154J introduces the offence of having, without reasonable excuse, a vehicle identification plate detached from a vehicle. This offence is particularly intended to target persons who improperly remove VIN plates or compliance plates from vehicles. Those plates are only valid for the particular vehicle they are attached to, and should only be removed by those having particular authority to do so. Removing them, or possessing fabricated or altered plates that are unattached to a vehicle (and so can be added to a stolen vehicle when one becomes available) is a crucial step in rebirthing; it is highly unlikely there will be a legitimate reason for an owner or vehicle repairer to remove these plates. Hence the offence is one of strict liability, requiring the defendant to prove a reasonable excuse for having the plate detached from a vehicle. This offence carries a maximum penalty of 5 years' imprisonment.

Schedule 1 clauses 8, 9 and 10 of the Bill amend the offence of receiving stolen goods contrary to section 188 of the Crimes Act. The amendments provide that the elevated maximum penalty of 12 years imprisonment that applies to receiving motor vehicles or motor vehicle parts, also applies to receiving vessels and their parts.

Schedule 1 clauses 11 to 14 of the Bill amend the offence of being unlawfully in possession of property—commonly known as "goods in custody"—contrary to section 527C of the Crimes Act. The amendments provide that the elevated maximum penalty of 1 year imprisonment that applies to offences under the section involving motor vehicles or motor vehicle parts, also apply to unlawful dealings with vessels and their parts.

The Bill represents an important part of the Government's anti-gang strategy. The specifically targeted offences that it creates, give police added power in their crackdown against car rebirthing gangs and those who work for them.

I commend the Bill to the House.