



New South Wales

Road Transport Legislation Amendment (Public Transport Lanes) Bill 2003

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Road Transport (Safety and Traffic Management) Act 1999* to allow the use of approved traffic lane camera devices as a means of detecting certain offences of driving in traffic lanes that are dedicated primarily for the use of public transport in contravention of the regulations, and
- (b) to amend the *Road Transport (General) Act 1999* to introduce operator onus enforcement of such an offence, and
- (c) to make consequential amendments to the *Criminal Procedure Act 1986*, and
- (d) to make a consequential amendment to the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

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 the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the Acts and regulation set out in Schedules 1–4.

Schedule 1 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20

Schedule 1 [1] inserts a new Division 3 in Part 4 of the *Road Transport (Safety and Traffic Management) Act 1999* to provide for the use of photographs taken by approved traffic lane camera devices as evidence of public transport lane offences. A public transport lane offence is defined to include a bus lane offence, a T-Way lane offence or any other offence of driving a vehicle in a public transport lane in contravention of the regulations that is prescribed by the regulations for the purposes of the proposed definition. **Schedule 1 [3]** makes a consequential amendment. **Schedule 1 [2]** inserts a provision of a savings and transitional nature.

Schedule 2 Amendment of Road Transport (General) Act 1999 No 18

Schedule 2 [5] expands the owner onus enforcement provisions in section 43 of the *Road Transport (General) Act 1999* so that the provisions will also apply to a public transport lane offence that is detected by an approved traffic lane camera device. **Schedule 2 [2]–[4], [6] and [7]** make consequential amendments. **Schedule 2 [1]** provides that in any prosecution under section 43, the responsible person for the vehicle in which a designated offence occurs may rely on any defence that would be available to the actual offender. **Schedule 2 [8]** inserts a provision of a savings and transitional nature.

Schedule 3 Amendment of Criminal Procedure Act 1986 No 209

Schedule 3 [1]–[5] amend section 283 of the *Criminal Procedure Act 1986* which deals with the need for, and admissibility of, certain evidentiary matters relating to law enforcement devices. The proposed amendments are consequential on the amendments to the *Road Transport (Safety and Traffic Management) Act 1999* and the *Road Transport (General) Act 1999*. The amendments extend the coverage of section 283 to approved traffic lane camera

devices and to certificates and photographs that are admissible in proceedings by virtue of proposed Division 3 of Part 4 of the *Road Transport (Safety and Traffic Management) Act 1999*. **Schedule 3 [6]** inserts a provision of a savings and transitional nature.

Schedule 4 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

Schedule 4 makes a consequential amendment to the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* to prescribe a security indicator for the purposes of proposed section 57B (2) (b) of the *Road Transport (Safety and Traffic Management) Act 1999*. A security indicator is a marking on a photograph that verifies that the photograph was taken by a particular camera.



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New South Wales

Road Transport Legislation Amendment (Public Transport Lanes) Bill 2003

No , 2003

A Bill for

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999* to allow the use of approved traffic lane camera devices to detect offences involving vehicles driven in traffic lanes dedicated primarily for the use of public transport; to amend the *Road Transport (General) Act 1999* to introduce operator onus enforcement of those offences; to make consequential amendments to the *Criminal Procedure Act 1986* and other legislation; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport Legislation Amendment (Public Transport Lanes) Act 2003*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Acts and regulation

Each Act and regulation specified in Schedules 1–4 is amended as set out in those Schedules.

**Schedule 1 Amendment of Road Transport (Safety and
Traffic Management) Act 1999 No 20**

(Section 3)

[1] Part 4 Traffic control devices

Insert after Division 2:

Division 3 Monitoring of public transport lane offences

57A Approved traffic lane camera devices

In this Act:

approved traffic lane camera device means a device of a type approved by the Governor by order published in the Gazette as being designed to photograph a vehicle that is driven in a traffic lane on a road or a road related area and to record on any such photograph:

- (a) the date on which the photograph is taken, and
- (b) the time and location at which the photograph is taken, and
- (c) the direction and lane in which the vehicle activating the camera is travelling, and
- (d) the kind of traffic lane in which the vehicle activating the camera is travelling, and
- (e) such other information as may be prescribed by the regulations.

57B Photographic evidence of public transport lane offences

(1) In this section:

authorised person means a person (or a person belonging to a class of persons) authorised by the Authority to install and inspect approved traffic lane camera devices.

public transport lane means a traffic lane on a road or road related area that is dedicated by or under this Act (whether continuously or at particular times) primarily for the use of coaches regardless of whether certain other vehicles, such as emergency vehicles, are also permitted to use the lane.

public transport lane offence means:

- (a) an offence against clause 96B (1) of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*, or
- (b) an offence against rule 154 (1) of the *Australian Road Rules* within the meaning of the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*, or
- (c) any other offence of driving a vehicle in a public transport lane in contravention of the regulations that is prescribed by the regulations for the purposes of this definition.

(2) In proceedings for a public transport lane offence:

- (a) one or more photographs tendered in evidence as photographs taken by means of the operation, on a specified day, of an approved traffic lane camera device or devices installed at a specified location or locations is or are taken to have been so taken (unless evidence to the contrary is adduced), and
- (b) evidence that a photograph tendered in evidence taken by an approved traffic lane camera device bears a security indicator of a kind prescribed by the regulations is evidence (unless evidence to the contrary is adduced) that the photograph has not been altered since it was taken, and
- (c) any such photograph is evidence (unless evidence to the contrary is adduced) of the matters shown or recorded on the photograph, and
- (d) evidence of the condition of an approved traffic lane camera device is not required unless evidence that the device was not in proper condition has been adduced.

(3) When a photograph tendered in evidence is taken by an approved traffic lane camera device, a certificate purporting to be signed by an authorised person and certifying the following particulars is also to be tendered in evidence and is evidence (unless evidence to the contrary is adduced) of those particulars:

- (a) that the person is an authorised person,

- (b) that within 30 days (or such other period as may be prescribed by the regulations) before the time and day recorded on the photograph as the time at which and the day on which the photograph was taken, the person carried out the inspection specified in the certificate on the approved traffic lane camera device that took the photograph, 1
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 - (c) that on that inspection the approved traffic lane camera device was found to be operating correctly. 8
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- (4) A single certificate may be tendered for the purposes of subsection (3) if more than one photograph taken by an approved traffic lane camera device is tendered in evidence, but only if: 10
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 - (a) each photograph is of the same vehicle, and 14
 - (b) each photograph is taken on the same day at approximately the same time and at approximately the same location. 15
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[2] Schedule 2 Savings, transitional and other provisions 18

Insert at the end of clause 1 (1): 19

Road Transport Legislation Amendment (Public Transport Lanes) Act 2003, but only in relation to the amendments made to this Act 20
21
22

[3] Dictionary 23

Insert in clause 1 in alphabetical order: 24

approved traffic lane camera device—see section 57A. 25

**Schedule 2 Amendment of Road Transport (General)
 Act 1999 No 18**

(Section 3)

**[1] Section 43 Liability of responsible person for vehicle for
 designated offences**

Omit section 43 (1) (a) and (b). Insert instead:

- (a) in any case where the offence is dealt with under
 Division 1—the person satisfies the authorised officer
 under section 15 that:
 - (i) the vehicle was at the relevant time a stolen
 vehicle or a vehicle illegally taken or used, or
 - (ii) the actual offender would have a defence to any
 prosecution for the designated offence brought
 against the offender, or
- (b) in any other case—the person satisfies the court hearing
 the proceedings for the offence that:
 - (i) the vehicle was at the relevant time a stolen
 vehicle or a vehicle illegally taken or used, or
 - (ii) the actual offender would have a defence to any
 prosecution for the designated offence brought
 against the offender.

[2] Section 43 (4) and (7), headings

Omit “**camera-detected traffic light offence or camera-recorded
speeding offence**” wherever occurring.

Insert instead “**camera recorded offence**”.

[3] Section 43 (4) (a), (5) (b), (7) and (8) (b)

Omit “camera-detected traffic light offence or camera-recorded speeding
offence” wherever occurring.

Insert instead “camera recorded offence”.

[4] Section 43 (11)

Omit the definitions of *camera-detected traffic light offence* and *camera-
recorded speeding offence*.

[5] Section 43 (11)

Insert in alphabetical order:

camera recorded offence means:

- (a) a public transport lane offence as defined in section 57B of the *Road Transport (Safety and Traffic Management) Act 1999* in respect of which the penalty notice or the summons indicates that the offence was detected by an approved traffic lane camera device (within the meaning of that Act), or
- (b) a traffic light offence as defined in section 57 of the *Road Transport (Safety and Traffic Management) Act 1999* in respect of which the penalty notice or the summons indicates that the offence was detected by an approved camera detection device (within the meaning of that Act), or
- (c) a speeding offence in respect of which the penalty notice or the summons indicates that the offence was detected by an approved speed measuring device and recorded by an approved camera recording device (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*).

[6] Section 43 (11), definition of “designated offence”

Omit the definition. Insert instead:

designated offence means:

- (a) a camera recorded offence, or
- (b) a parking offence.

[7] Section 47 Proceedings for offences

Omit section 47 (3). insert instead:

- (3) In this section:

operator onus offence means a designated offence within the meaning of section 43.

[8] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Road Transport Legislation Amendment (Public Transport Lanes) Act 2003, but only in relation to the amendments made to this Act

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**Schedule 3 Amendment of Criminal Procedure Act
1986 No 209**

(Section 3)

[1] Section 283 Law enforcement devices

Omit “or 57” from section 283 (1) (a). Insert instead “, 57 or 57B”.

[2] Section 283 (3) (a)

Insert “approved traffic lane camera device,” after “reliability of any”.

[3] Section 283 (3) (b)

Insert “approved traffic lane camera device,” after “in which any”.

[4] Section 283 (4)

Omit “or 57”. Insert instead “, 57 or 57B”.

[5] Section 283 (5)

Insert “, *approved traffic lane camera device*,” after “*approved speed measuring device*”.

[6] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Road Transport Legislation Amendment (Public Transport
Lanes) Act 2003*, but only in relation to the amendments made
to this Act

Schedule 4 Amendment of Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

(Section 3)

Clause 156B

Insert after clause 156A:

156B Security indicators: section 57B (2) (b) of Act

For the purposes of section 57B (2) (b) of the Act, an identifier consisting of a series of 48 characters that is an individual combination of letters, numbers and symbols that has been produced by an MD5 algorithm is prescribed as a security indicator.