

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.16 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Road Transport Legislation Amendment (Car Hoons) Bill 2008. Some people treat our roads as race tracks. They do not seem to realise, or care, that illegal street racing, burnouts or any sort of hoon behaviour is irresponsible and dangerous. At best, their behaviour disturbs the amenity and peaceful enjoyment of our neighbourhoods. At worst, this selfishness ends in carnage and loss of life—not just their own lives but the lives of innocent motorists and pedestrians. While there are already tough measures in place to deal with hoon behaviour such as illegal street racing, the message does not seem to be getting through to those who view our roads as their personal playgrounds.

This bill introduces tough new penalties for street racing and aggravated burnouts—new penalties that suit the seriousness of the offences and the potential consequences. And, since the callous disregard that these hoon drivers have for other road users seems to be matched only by their love for their cars, this bill will hit them where it hurts. Their cars will be able to be clamped at their property and at their expense for up to three months. This will provide a daily reminder of the consequences of their actions, and it will show their neighbours exactly what they have been up to. And for those who persist in their hoon behaviour, this bill allows the Roads and Traffic Authority [RTA] to use those vehicles for crash testing and educational programs.

This bill primarily amends the Road Transport (General) Act 2005 and the Road Transport (Safety and Traffic Management) Act 1999, as well as some other Acts and regulations that are set out in Schedule 3 to the bill. The bill introduces tough new penalties and sanctions that can be brought against drivers convicted of street racing or aggravated burnout offences. A street race is any race between two vehicles on a road or road-related area or any speed trial for which permission has not been granted by the New South Wales Police Force. A street race can be pre-arranged or it can be spontaneous for example, two cars racing away from traffic lights. The bill increases the penalty for street racing to \$3,300 for a first offence and to \$3,300 or nine months imprisonment, or both, for a second or subsequent offence. This will provide a more effective deterrent to those hoons who persist in committing street racing offences, because a second offence now carries the threat of a jail term.

The bill substantially expands the criteria and increases the penalties for burnouts. A burnout is a sustained loss of wheel traction. It can be accidental, such as when a wheel loses traction on a wet or icy road, or it can be a deliberate attempt by a hoon driver to show off to their mates. This bill distinguishes between simple, possibly unintentional, burnouts and deliberate, thrill-seeking behaviour. The Government does not intend to throw the book at drivers who unintentionally do a burnout. However, even negligent burnouts are dangerous driving behaviour that can lead to an accident. That is why the bill provides for a doubling of the penalty to 10 penalty units—that is, \$1,100—for burnouts. The lemma Government is getting tough on those people who deliberately do long, noisy burnouts down public streets or as part of an illegal street race. These types of burnouts are described as "aggravated burnouts" in the bill.

Currently "aggravated burnouts" are defined as burnouts committed with the knowledge that an inflammable liquid was on the road. This is one type of aggravated burnout, but the definition falls too short and the offence does not capture the worst types of hoon behaviour. The bill provides that "aggravated burnouts" will now include behaviour such as repeated burnouts, long and loud burnouts that disturb community amenity, burnouts that endanger public safety and burnouts that are committed as part of a group activity. All these factors contribute to the severity of the burnout. As such, they should also contribute to the severity of the penalty. The bill increases the penalty for aggravated burnouts to \$3,300 for a first offence and \$3,300 and up to nine months imprisonment, or both, for a second or subsequent offence.

The bill also introduces tough new penalties for the mates of hoon drivers. Not only will hoon drivers be charged for their reckless behaviour, but also the groups of friends and associates that may gather to watch, or urge others on, or who take photographs or film to glamorise the activity. The bill introduces offences for willingly participating in a group activity involving burnouts; viewing, organising, promoting, or urging any person to participate in any group activity involving burnouts; and photographing or filming a motor vehicle doing burnouts for the purpose of using the photographs or film to promote or organise group activity involving burnouts. The penalties are the same for these people: \$3,300 for a first offence and \$3,300 or nine months imprisonment, or both, for a second or subsequent offence. This will ensure that all participants in aggravated burnout activities will be charged, not just those driving the vehicle at the time the offence is detected.

The bill will also permit police to immediately suspend the licences of people charged with street racing and aggravated burnout offences at the roadside. In addition, it provides for a 12-month licence disqualification for drivers convicted of an aggravated burnout offence. This is already the case for people convicted of a street racing offence. A number of factors contribute to, or enable, hoon behaviour. One factor is the behaviour of the driver. Hoon driving is inexcusable and dangerous, and this bill introduces tough new penalties to punish it. Another factor is the behaviour of the hoon driver's mates, and we have included this as an aggravating factor in burnouts. A similar offence already exists for

street racing. There is a further factor: a vehicle owner who permits their vehicle to be used by a hoon driver.

The Government is aware that for a number of reasons the vehicles used by hoon drivers to commit offences may not necessarily be registered in their own name. Cars may be deliberately registered in someone else's name to avoid higher insurance premiums or to avoid the current confiscation penalties, whereby the owner can plead ignorance and hardship and almost always get to keep the car. That is why this bill distinguishes between drivers who use their own car to commit street racing and aggravated burnout offences and drivers who use someone else's car. In cases where a driver is found guilty of a street racing or aggravated burnout offence committed in their own vehicle, the vehicle can be impounded or clamped for three months for a first offence, and forfeited to the Crown for a second or subsequent offence. A vehicle that is forfeited may be sold or provided to the Roads and Traffic Authority to be used for crash testing.

The Road Transport (General) Act already allows vehicles used in connection with a street racing or burnout offence to be impounded for a first offence and forfeited for a second or subsequent offence. The changes included in the bill are that vehicles may be clamped and they may be used for crash testing. A further change is that the bill restricts the court's discretion to reduce, commute or dispense with a period of confiscation or forfeiture to cases of extreme hardship only. Penalties will not be reduced because of inconvenience. Difficulty in carrying out employment or in travelling to or from a place of employment, business or education will not be considered sufficient to constitute extreme hardship. In cases where a driver is found guilty of a street racing or aggravated burnout offence committed in someone else's vehicle, the bill provides for sanctions to be placed on the registered operator of that vehicle. This is to ensure that hoon drivers who register their vehicles in other people's names, or who share vehicles around amongst themselves, do not avoid confiscation penalties.

If a driver found guilty of a street-racing or aggravated burnout offence is not the registered operator of the vehicle, the Roads and Traffic Authority will issue the registered operator with a suspension warning notice. The warning notice puts the registered operator on notice that additional sanctions will apply if any vehicle owned by them is used in the commission of a further street-racing or aggravated burnout offence within five years of receiving the warning notice. No further action is proposed to be taken against the registered operator at this stage, provided that no further offence is committed in a vehicle owned by them. If, however, a vehicle owned by them is used in a second street-racing or aggravated burnout offence within five years of the suspension warning notice being issued, the Roads and Traffic Authority may suspend the vehicle's registration for up to three months.

There will be instances when the Roads and Traffic Authority will be unable to suspend the vehicle's registration—for example, if the vehicle's registration is already suspended or about to expire within 28 days, or if the vehicle is already unregistered. In those cases police may cause the vehicle to be clamped or impounded. If a vehicle belonging to that same registered owner is used in connection with a third offence within five years from the date a suspension warning notice is issued, the vehicle may be forfeited to the Crown. I make no apology for this tough stance. Car owners will not be penalised for the driving offence committed, but rather for failing to adequately supervise the use of their vehicle.

Receipt of a suspension warning notice will not attract a registration sanction. However, it will advise the owner that if they do not keep better custody of their vehicle there will be further penalties. The bill does, however, include provisions to cover instances when a registered operator has taken all reasonable steps to prevent the use of their vehicle without consent or when the confiscation of the vehicle will cause extreme hardship. May I again emphasise, however, that inconvenience does not constitute extreme hardship. If people repeatedly permit their vehicles to be used in a manner that puts the lives of members of our community at risk, I send them this message: Be prepared to be inconvenienced. Vehicles will not be returned because of weak excuses, or because they suddenly have to find alternative means of carrying out their day-to-day life.

The bill also provides police with new powers to wheel-clamp vehicles. Vehicles used in the commission of a street-racing or aggravated burnout offence, and owned by the driver who committed that offence, may be clamped. Wheel clamping will be available as an alternative sanction to impounding. The advantage of clamping is that it will minimise the need for police to maintain holding yards for hoon vehicles. Vehicles may be clamped at the owner's home—often in full view of both them and their neighbours. This will serve as a daily reminder of their crime and act as a deterrent to both them and others.

The bill permits the New South Wales Police Force to appoint a clamping agent. It also allows for a vehicle to be clamped at a road or public place, any place used for the clamping of motor vehicles by a clamping agent, or the home address of the driver or registered operator. Clamping agents will be permitted to charge a fee for wheel clamping. This fee will be determined within regulations relating to the clamping of the vehicle. It will be the responsibility of the registered operator of the vehicle to pay all clamping fees. The bill also introduces a penalty of \$2,200 for those who tamper with, damage or remove wheel clamps from a clamped vehicle. Clamping agents will be required to carry identification. They will face a penalty of \$2,200 if they cease to be a clamping agent and do not return this identification. Police will retain the option of impounding rather than clamping a vehicle should it be necessary, for example, when there is no suitable place for the vehicle to be clamped on the owner's property. The Government intends to trial the wheel-clamping provisions in the bill for a 12-month period in one metropolitan location and one regional location.

The bill also recommends amendments to the current confiscation provisions to allow police to enforce them more effectively. Currently, police can seize a vehicle only if they can find and have access to it. This is not much use if the vehicle is deliberately hidden or disguised. The bill provides police with a power to demand, from either a driver or the registered operator, that a vehicle be produced for confiscation. Non-compliance with this production notice without reasonable excuse will be an offence with a maximum penalty of \$2,200. The Roads and Traffic Authority will also be able to suspend the registration of that vehicle for up to three months. This is a two-faceted penalty: a fine for not complying with a police direction and a vehicle sanction for not producing the vehicle for confiscation.

The hoon activity of a few should not be allowed to disturb the peaceful enjoyment of many; nor should it be allowed to put other road users at risk of serious injury or death. This bill toughens the penalties for street racing and aggravated burnouts to provide more appropriate sanctions and a more effective deterrent. The bill targets the drivers, the vehicles used to commit the offences, the vehicle owners who let hoons use their vehicles, and the participants who actively encourage hoon behaviour. It sends a clear message to the community that hoon behaviour is not acceptable and will not be tolerated. I commend the bill to the House.