



Crimes Legislation Amendment (Property Identification)

Bill.

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [8.00 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.

This bill was introduced on 11 December 2002 but was unable to pass through all stages. The bill responds to those who dishonestly tamper with unique identifiers on goods for the purpose of concealing a theft and depriving rightful owners of those goods the chance to recover their property. Many types of goods are supplied with a serial number by the manufacturer or retailer. The Government's crime prevention policy also encourages citizens to mark personal property with their own personal identifiers. This has been a feature of Neighbourhood Watch programs for many years. NSW Police Crime Prevention Officers assist by loaning citizens engraving equipment for this purpose. The Government also encourages people to consider new microdot technology, where unique electronic markers can be sprayed onto motor vehicles and other personal property.

The Government has already taken legislative steps to use the spread of unique identifiers to better target the stolen goods market. The Pawnbrokers and Second-hand Dealers Act 1996 aims to reduce the extent to which pawnbrokers and second-hand dealers are wittingly or unwittingly involved in the disposal of stolen goods. NSW Police has established a Pawnbrokers Unit, which maintains a database of second-hand and pawned goods. The Pawnbrokers and Second-hand Dealers Act requires second-hand dealers to report to the unit the details of a wide range of goods likely to have unique identifiers, including musical instruments, photographic equipment, most electric or electronic goods and computer hardware.

Specifically in relation to pawnbroking, the Act requires that a pawnbroker's records of pawned goods must note any unique identifier on the goods. These records are transmitted electronically to the NSW Police pawnbrokers database, which is used for intelligence purposes and to identify and track stolen goods. The effectiveness of the database depends to a significant degree upon the use of discrete identifiable serial numbers or markings against which the database can be searched. The criminal law as it stands does not adequately address dishonest tampering with identifiers on goods. There are offences relating to the malicious or dishonest damage to property under sections 195 and 197 of the Crimes Act, but these as they stand are not suitable for dealing with offences where unique identifiers on property are tampered with.

Currently damage to property means that the function, usefulness or value of the property is in some way impaired, even on a temporary basis. The removal of an identifier—for instance scratching off a serial number—will not generally impair the function or usefulness of the property, with the function of a piece of property and its ability to be identified being two distinct things in almost all cases. The bill rectifies this problem by amendments to the Crimes Act 1900 and the Criminal Procedure Act 1986. It also makes a facilitating amendment to the Pawnbrokers and Second-hand Dealers Act 1996. Schedule 1 provides that removing, obliterating, defacing or altering unique identifiers on goods falls within the definition of "damage to property" for the purposes of the Crimes Act 1900. This is defined broadly to include outright removal of identifiers as well as alterations to them.

Schedule 1 defines "unique identifier" to include identification numbers, letters or symbols that are marked on or attached to property as a permanent record so as to enable the property to be distinguished from similar property. This covers a broad range of identifiers such as manufacturers' serial numbers as well as personal identifiers that owners may have put on their goods themselves. Schedule 2 amends the Criminal Procedures Act 1986 in respect of the manner in which such charges may be tried. As noted above, the actual dollar value damage of tampering may be very small and it is unlikely to impede the function of the goods.

Dollar value damage determines whether a matter is a table 1 or table 2 offence under the Criminal Procedure Act 1986—this being relevant to the election of whether the matter is heard summarily or by indictment. The amendment makes it clear that in cases of identifier tampering the value of the damage to property is the value of the goods. So if a thief scratches out a serial number on a DVD player worth \$500, the damage done is taken to

be \$500, not the negligible value of scratching out the serial number. This ensures that the justice system focuses on the criminal intent to deprive an owner of the goods, rather than on the small actual damage done. This should lead to appropriate sentences for what is a premeditated strategy to confound investigations and deprive owners permanently of their property.

Schedule 3 amends the Pawnbrokers and Second-hand Dealers Act 1996 to deem that a licensee or employee of a pawnbroking or second-hand business suspects that an item whose identifiers have been tampered with is stolen. This requires the dealer to notify that fact to police, which will assist with timely police investigation of the case to determine whether the goods are indeed stolen. The requirement to notify also acts as a deterrent to those persons in the second-hand business who may be tempted to trade in stolen goods. I commend the bill to the House.

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