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ROAD TRANSPORT AMENDMENT (ELECTRONIC TRAFFIC INFRINGEMENT NOTICES TRIAL) BILL 2013

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.29 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 Road Transport Amendment (Electronic Traffic Infringement Notices Trial) Bill 2013 amends the Road Transport Act 2013 to provide for a "proof of concept" trial by the NSW Police Force [NSWPF] for the service of electronic traffic infringement notices—or TINS as they are more commonly known—in the field.

The project will occur in five local area commands [LACs] for four weeks to allow a systems testing and data matching process to occur.

The project findings will be used by the NSW Police Force to determine if a larger production trial followed by an independent evaluation should occur.

To undertake this four-week project certain legislative amendments are required to enable a TIN to be issued in this manner, if agreed to by the offender.

The bill therefore inserts a new section 196A after section 196 of the Road Transport Act 2013 to provide that a traffic infringement notice may also be sent via electronic transmission by the NSW Police Force upon the consent of the person concerned.

The new section:

- clarifies when the infringement notice will be deemed to have been served;
- provides for the voluntary provision of email addresses and mobile phone numbers;
- includes a sunset clause; and
- provides that children under the age of 16 will not be issued infringement notices electronically.

The legislative amendments required for the project have been the subject of consultation with the Office of Liquor, Gaming and Racing, Roads and Maritime Services, Transport for NSW, the Department of Attorney General and Justice and the Department of Finance and Services.

Agreement has been reached to limit the amendments to the statutory provisions necessary for the proof of concept to be conducted.

The NSW Police Force also consulted agencies including the State Debt Recovery Office, the Police Association of New South Wales and other Australian law enforcement jurisdictions.

Without the legislative amendments, police will be unable to issue electronic traffic infringement notices in the field.

In the five local area commands involved in the project, police will only issue electronic notices with consent of the individual concerned. Should the person refuse, infringement notices will be issued manually by police and sent by post, in line with current practice.

Twenty tablets have been supplied to police for the duration of the project.

Pending the outcomes of the proof of concept, police will go to open market to determine which device best suits their needs.

The tablets will be returned to the manufacturer at the conclusion of the four-week trial.

As the current communications supplier to the NSW Police Force, Telstra has supplied 20 individual 4G routers for the

duration of the pilot. The provision of this infrastructure has been "locked" in for September 2013 and is unable to be deferred.

Now turning specifically to the provisions in the amendment bill:

- The bill inserts the new section 196A into the Road Transport Act 2013 to establish a trial for the service of penalty notices to email addresses or mobile phone numbers that are voluntarily provided by the person on whom the notice is to be served.
- The new section provides an additional means of service to that set out in section 196 of the Act.
- Section 196 currently provides that a penalty notice may be served personally or by post.
- The section has effect for two years, unless otherwise prescribed, to allow for the proof of concept and any further production trial.
- If the project does not proceed the section may be repealed or lapse after two years.
- The section applies to a police officer who will be taking part in the trial.
- As there are other "authorised officers" currently included under section 196, the scope of this amendment is limited only to officers of the NSW Police Force.
- The section provides that a police officer may serve an infringement notice by causing the infringement notice to be sent to an email address or mobile phone number, but only if:
 - o The police officer has been authorised by the Commissioner of Police to serve infringement notices in that way for the purposes of the trial; and
 - o The person who is being served with the infringement notice elected to have the infringement notice served on them in that way, and has voluntarily provided an email address or mobile phone number for the purposes of that service.
- The new section also provides that a police officer is not to serve an electronic infringement notice on children under the age of 16 years.

Electronic traffic infringement notices will only be issued to individuals who are of legal driving age. Juveniles under the age of 16 years who commit traffic offences are dealt with pursuant to the requirements of the Young Offenders Act 1997.

The proposed amendment would have, if not qualified, captured a range of other offences beyond those which are usually dealt with under the Young Offenders Act 1997.

For example, had this provision not been included, police would have been able to serve infringement notices electronically to young people who have committed offences under the Road Transport Act 2013 such as travelling on public transport without a valid ticket, or riding a bicycle without a fitted and fastened helmet, and riding a bicycle on a footpath.

Section 196A also provides that an infringement notice will be taken to have been served on a person if it is sent to an email address or mobile phone number that is recorded by a police officer as having been provided by the person for the purposes of the new section.

The section clarifies that the provision of email addresses and mobile phone numbers is voluntary.

The need to obtain consent is consistent with recommendation 6.2 of the New South Wales Law Reform Commission's Report 132: Penalty Notices, which was tabled in Parliament on 29 March 2012.

Recommendation 6.2 proposed an amendment to the Fines Act 1996 to allow agencies to serve penalty notices and subsequent notices (including reminder notices and enforcement notices) electronically where the penalty notice recipient has provided consent in advance.

Police's initiative aligns with NSW 2021 and complements the goals of the NSW Government ICT Strategy.

It is also the first foray for the NSW Police Force into ways to support and promote both the State and Commonwealth commitment to using "cloud" technology.

By a limited proof of concept, we can test the security and applicability of this next stage in efficient and cost-effective ways of Government agencies doing business.

The application will be fully integrated with the NSW Police Force Computerised Operational Policing System [COPS] database.

The project commences on 2 September 2013. It will run for four weeks across five locations—the Hunter Valley, Rose

Bay, Sutherland, Moree and Goulburn.

Utilising both urban and regional local area commands will ensure that the efficacy of the cloud technology will be tested in remote sites.

It is anticipated that the project will return significant time savings for front-line police by eliminating unnecessary data duplication and entry requirements.

The State Debt Recovery Office [SDRO] has estimated that \$1.2 million could be saved each year by eliminating the manual handling of traffic infringement notices.

The NSW Police Force Highway Patrol has estimated that approximately an hour per day per police officer will be saved through the service of traffic infringement notices electronically.

This equates to around 240,000 hours a year, and will allow more time working on the front line rather than undertaking administrative tasks.

I will now describe the process of the trial.

Police will first seek a person's consent to send the traffic infringement notice via email or text message, not both; or should the person prefer, by Australia Post.

This transaction will be recorded on "in-car video" which will be available for review in the event there is a problem or complaint about the conversation.

As the pilot is testing the efficacy of electronic transmission as a means of serving infringement notices, personal service will not be provided.

The application contains a number of fields which police populate with all necessary data in connection with one or multiple offences.

These include the person's proof of identity—his or her driver licence details, the location, date and time of the offence, vehicle registration number and the offences which are alleged to have been committed.

The location field uses GPS technology and a map to pinpoint the exact spot the offence occurred.

For the purpose of the proof of concept, all traffic infringement notices will be issued electronically including:

- Exceed speed limit less than 10 kilometres per hour
- Exceed speed limit greater than 10 kilometres per hour and less than 20 kilometres per hour
- Exceed speed limit greater than 20 kilometres per hour
- Failure to stop at a red light
- Use handheld mobile phone when not permitted
- Driver not wear seatbelt correctly fitted or fastened
- Use unregistered vehicle
- Use uninsured vehicle
- Not carry licence

If consent is given, a PDF of the infringement notice will be sent to the person via email or text message which they will then be able to download and print; or pay via a hyperlink to the State Debt Recovery Office site.

The electronic infringement notice will contain the same information as that found on the existing paper-based notice.

However, unlike its paper counterpart, the electronic infringement notice will have the capacity for multiple infringements to be entered on the one notice, effectively reducing the amount of paperwork required.

If the person receiving the notice chooses to pay one and challenge another in court, they will be able to do so via the unique penalty numbers.

As with current practice, the electronic infringement notice will provide a number of payment options for the person concerned.

If a person wishes to have one or all of the offences determined by a court, then he or she will be required to complete and submit the court election format provided at www.sdرو.nsw.gov.au.

If submitting the request electronically, the online court election format requires the person to enter the penalty notice

number for the matter they want dealt with.

It is anticipated that additional paperwork and administration will be eliminated as the police officer will not be required to re-enter data from his or her notebook onto COPS when they return to the station. The data will automatically upload to the COPS database from the field.

If the person declines to provide a mobile phone number or email address then the officer will issue the infringement notice manually and send it by post, in line with current practice.

In the event that a person fails to provide a bona fide email address or phone number then he or she will be dealt with via the State Debt Recovery Office's follow-up procedures.

The State Debt Recovery Office issues reminder notices 28 days after the initial notice has been issued. These reminder notices are mailed to the person's residential address as shown on their driver licence.

If a police officer believes at the time that the email address or mobile phone number being provided is false, they may choose to proceed with a manual paper notice.

In this way avoidance of service, in terms of an electronic penalty notice, will not differ from the current process where issues may occur with the person not receiving a paper fine.

In the event that an electronic infringement notice is issued to an email address or mobile phone number which belongs to a person other than the intended recipient, a disclaimer will be provided on the infringement notice with instructions requesting that the person contact police and, quoting the infringement notice number, advise that the notice has been sent in error.

A link will also be provided which will take the person to the NSW Police Force "Contact Us" page on its website. There the person will be able to select the area they wish to contact, in this case the Customer Assistance Unit, and enter all necessary details. Should the person wish to provide additional details, such as their name, email and contact number they can; however, it is not compulsory to do so.

The Police Assistance Line [PAL] number will also be available and Police Assistance Line staff advised on how to record and deal with issues relating to the project.

People who contact the police may be spoken to by a project team member to determine the issues which will be incorporated into the findings from the pilot.

On notification, police will send the infringement notice to the correct recipient by mail.

If a tablet is lost, police will have the capability to locate, lock and wipe the device remotely. This is more secure than the current process if a notebook is missing.

Accountability mechanisms have also been built into the infringement notice application to ensure that all of the required fields have been entered and checked prior to sending. This will mitigate any instances of an error occurring.

The evaluation of the proof of concept focuses on the testing of the software, with no capability to determine broader issues such as the level of productivity savings to be achieved through the elimination of manual handling and data duplication or the suitability of the handheld device.

These will be part of a larger evaluation if the project proceeds to a production trial.

These are straightforward amendments that serve a good purpose: they enable the NSW Police Force to test a technological response in a highly technological society where electronic communications are fast replacing more traditional methods.

I commend the bill to the House.