



New South Wales

Road Transport Legislation (Speed Limiters) Amendment Act 2005 No 36

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Road Transport Legislation (Speed Limiters) Amendment Act 2005 No 36

Act No 36, 2005

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999* to make further provision with respect to the speed limiting of certain heavy vehicles; and for other purposes. [Assented to 15 June 2005]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport Legislation (Speed Limiters) Amendment Act 2005*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

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

The *Road Transport (Safety and Traffic Management) Act 1999* is amended as set out in Schedule 1.

4 Amendment of regulations

The regulations specified in Schedule 2 are amended as set out in that Schedule.

Schedule 1 Amendment of Road Transport (Safety and Traffic Management) Act 1999

(Section 3)

Part 5, Division 2A

Insert after section 69:

Division 2A Speed limiting of heavy vehicles

69A Definitions

In this Division:

speed limiter compliant, in relation to a vehicle, means that the speed at which the vehicle is capable of being driven is limited, in the manner prescribed by the regulations for the purposes of this Division, to not more than 100 km/h.

speed limiter offence means an offence against section 69C.

69B Application of Division

- (1) This Division applies to the vehicles prescribed by the regulations for the purposes of this Division.
- (2) This Division applies to vehicles and the drivers of, and responsible persons for, vehicles whether or not:
 - (a) the vehicles are registered in New South Wales, or
 - (b) the drivers hold driver licences issued in New South Wales, or
 - (c) the responsible persons ordinarily reside (or, being corporations, are incorporated or have their principal places of business) in New South Wales.

69C Vehicles to be speed limited

- (1) The responsible person for a vehicle to which this Division applies is guilty of an offence unless the vehicle is speed limiter compliant when the vehicle is being driven on a road or road related area.

Maximum penalty: 30 penalty units (in the case of an individual) or 150 penalty units (in the case of a corporation).

- (2) In proceedings for an offence under this section, proof that the vehicle concerned was driven on a road or road related area at a speed of more than 115 km/h is evidence (unless contrary evidence as to that speed is adduced) that the vehicle was not speed limiter compliant at the time that it was travelling at that speed.
- (3) It is a defence to a prosecution for an offence under this section if the defendant proves:
 - (a) that the vehicle was, at the time of the alleged offence, a stolen vehicle or a vehicle illegally taken or used, or
 - (b) that the vehicle is speed limiter compliant and that, at the time it was travelling at a speed of more than 115 km/h, the gradient of the length of road or road related area along which the vehicle was being driven at or immediately before that time, combined with the speed at which the vehicle was travelling on that length of road or road related area, caused it to be driven at more than 100 km/h despite the vehicle being speed limiter compliant.
- (4) In proceedings for an offence under this section, it is no defence that the defendant had a mistaken but reasonable belief as to the facts that constituted the offence.

69D Certificate evidence of speed limiter compliance

- (1) In proceedings for a speed limiter offence, a certificate issued by an authorised person certifying that, at the time of certification, the manner of limiting the speed of the vehicle complied with the requirements prescribed by the regulations for the purposes of this Division is evidence (unless contrary evidence is adduced) that the vehicle is speed limiter compliant.
- (2) In this section, *authorised person* means:
 - (a) the manufacturer of a speed limiting mechanism fitted to the vehicle, or
 - (b) any other person (or person belonging to a class or description of persons) prescribed by the regulations.

69E Photographic evidence of speed of vehicle

- (1) Without limiting the evidence that may be given in proceedings for a speed limiter offence, in proceedings for such an offence evidence may be given of the measurement of speed obtained by the use of an approved speed measuring device and recorded by an approved camera recording device to prove the fact that a

vehicle was driven on a road or road related area at a speed of more than 115 km/h.

- (2) Section 47 (2)–(6) apply to the proceedings in the same way as they apply to proceedings for an offence of driving at a speed in excess of a speed limit imposed by or under this Act or the regulations in which such evidence is given.

69F Liability of offender for speed offence and giving of evidence of speed unaffected

Nothing in this Division:

- (a) affects the liability of a person who commits an offence under this Act or the regulations involving the driving of a vehicle on a road or road related area at a speed of more than 115 km/h for that offence, or
- (b) prevents the giving of evidence of the measurement of speed obtained by the use of an approved speed measuring device and recorded by an approved camera recording device in proceedings both for that offence and for a speed limiter offence.

Schedule 2 Amendment of regulations

(Section 4)

2.1 Road Transport (General) (Penalty Notice Offences) Regulation 2002

Schedule 2 Penalty notice offences

Insert in appropriate order in Columns 1, 2 and 3 under the matter relating to the *Road Transport (Safety and Traffic Management) Act 1999*:

Section 69C	1, 2	1,550
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2.2 Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999

[1] Clause 139 Application of Division 2A of Part 5 of the Act

Omit “This Part applies to the following vehicles”.

Insert instead “For the purposes of section 69B (1) of the Act, the following vehicles are prescribed as vehicles to which Division 2A of Part 5 of the Act applies”.

[2] Clause 140 Vehicles to be speed-limited

Omit the clause.

[3] Clause 141 Manner of limiting speed

Omit “this Part” from clause 141 (1).

Insert instead “Division 2A of Part 5 of the Act”.

[4] Clause 142 Modifications

Omit “this Part” wherever occurring.

Insert instead “Division 2A of Part 5 of the Act”.

[Second reading speech made in—

Legislative Assembly on 8 December 2004

Legislative Council on 7 June 2005]

BY AUTHORITY