

Passed by both Houses



New South Wales

Crimes Amendment (Organised Car and Boat Theft) Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Crimes Amendment (Organised Car and Boat Theft) Bill 2006

Act No , 2006

An Act to amend the *Crimes Act 1900* to make further provision with respect to theft of motor vehicles and vessels, and their parts; to amend other Acts consequentially; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Organised Car and Boat Theft) Act 2006*.

2 Commencement

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

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Consequential amendments

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

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

[1] Section 4 Definitions

Omit the definition of *Vessel* from section 4 (1).

[2] Section 114 Being armed with intent to commit indictable offence

Omit “, whether decked or undecked” from section 114 (2).

[3] Section 154A Taking a conveyance without consent of owner

Omit “, whether decked or undecked” from section 154A (2).

[4] Section 154AA Car stealing etc

Omit the section.

[5] Section 154C Taking motor vehicle or vessel with assault or with occupant on board

Insert “or vessel” after “motor vehicle” wherever occurring in section 154C (1).

[6] Section 154C (3)

Insert in alphabetical order:

drive includes operate.

vessel means a vessel within the meaning of the *Marine Safety Act 1998*.

[7] Part 4, Division 1, Subdivision 5A

Insert after Subdivision 5:

Subdivision 5A Offences relating to theft of motor vehicles and vessels

154E Definitions

(1) In this Subdivision:

interfere with a thing includes alter, deface, remove, obliterate, conceal or add anything to the thing.

motor vehicle means:

- (a) a motor vehicle within the meaning of the *Road Transport (General) Act 2005* (whether or not the vehicle contains the motor intended to form part of it), or

(b) a motor intended to form part of, or capable of forming part of, any such motor vehicle, or

(c) any part of any such motor vehicle containing, or consisting of, an identification plate for a vehicle under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

unique identifier means any numbers, letters, symbols or other identification information:

(a) marked on or attached to a motor vehicle or vessel, or a part of a motor vehicle or vessel, or

(b) marked on a thing that is designed to be attached to a motor vehicle or vessel, or a part of the motor vehicle or vessel, or

(c) stored in electronic form in a part of a motor vehicle or vessel,

for the primary purpose of:

(d) enabling a particular motor vehicle, vessel or part to be distinguished from all other motor vehicles, vessels or parts (including by enabling a part to be identified as a part of a particular motor vehicle or vessel), or

(e) identifying different motor vehicle or vessel production batches (including by enabling a part to be identified as a part of a motor vehicle or vessel of a particular production batch).

vessel means a vessel within the meaning of the *Marine Safety Act 1998*.

(2) For the purposes of this Subdivision, a **part** of a motor vehicle or vessel includes a thing (such as a key) manufactured in connection with the motor vehicle or vessel that enables the operation of the motor vehicle or vessel or prevents the unauthorised operation of the motor vehicle or vessel.

154F Stealing motor vehicle or vessel

A person who steals a motor vehicle or vessel is guilty of an offence.

Maximum penalty: imprisonment for 10 years.

154G Facilitating organised car or boat rebirthing activities

(1) A person who facilitates a car or boat rebirthing activity that is carried out on an organised basis knowing that:

(a) it is a car or boat rebirthing activity, and

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- (b) it is carried out on an organised basis,
is guilty of an offence.
Maximum penalty: imprisonment for 14 years.
- (2) For the purposes of this section, a ***car or boat rebirthing activity*** is an activity involving one or more of the following:
- (a) the stealing of a motor vehicle or vessel or the receiving of a stolen motor vehicle or stolen vessel,
 - (b) the interference with a motor vehicle or vessel, or a part of a motor vehicle or vessel, or a unique identifier, for the purpose of concealing the fact that a motor vehicle or vessel, or any part of a motor vehicle or vessel, is stolen,
 - (c) the affixing of stolen parts to a motor vehicle or vessel,
 - (d) the interference with a unique identifier, being a unique identifier that wholly or partly identifies a motor vehicle or vessel for registration under a law of any jurisdiction, for the purpose of disguising or misrepresenting the identity of a motor vehicle or vessel,
 - (e) the registration, in this or any other jurisdiction, of a stolen motor vehicle or stolen vessel, or of a motor vehicle or vessel that has had stolen parts affixed to it,
 - (f) the supply of, or offering to supply, a stolen motor vehicle or stolen vessel.
- (3) A person ***facilitates*** a car or boat rebirthing activity if the person:
- (a) takes, or participates in, any step, or causes any step to be taken, that is part of the activity, or
 - (b) provides or arranges finance for any step that is part of the activity, or
 - (c) provides the premises in which any step that is part of the activity is taken, or allows any step that is part of the activity to be taken in premises of which the person is the owner, lessee or occupier or of which the person has the care, control or management.
- (4) A car or boat rebirthing activity is carried out on an ***organised basis*** if:
- (a) it is planned, organised, structured or otherwise carried out in such a manner as to indicate that the activity is carried out on more than one occasion and involves more than one participant, and
 - (b) it is carried out for profit or gain.

- (5) In proceedings for an offence against this section, for the purpose of proving that an activity was carried out on an organised basis, or that the accused knew it was carried out on an organised basis, it is not necessary to prove:
- (a) that the accused knew any of the participants in the activity or that any of the participants knew each other, or
 - (b) that the activity was planned, organised, structured or otherwise carried out under the direction of any particular person or persons or in any hierarchical manner, or
 - (c) that the same participants were involved on each occasion on which the activity was carried out.

154H Making, using and interfering with unique identifiers

- (1) A person who:
- (a) dishonestly interferes with, or copies, a unique identifier, or
 - (b) possesses a motor vehicle or vessel, or a part of a motor vehicle or vessel, with the intention of dishonestly interfering with, or copying, a unique identifier, or
 - (c) dishonestly makes a unique identifier, or a purported unique identifier, or
 - (d) knowingly induces another person to accept any information attached to a motor vehicle, vessel or a part of a motor vehicle or vessel as a genuine unique identifier for the motor vehicle, vessel or part, when the information is not in fact a genuine unique identifier for that motor vehicle, vessel or part,
- is guilty of an offence.
Maximum penalty: imprisonment for 7 years.
- (2) For the purposes of this section, information is *attached* to a motor vehicle, vessel or a part of a motor vehicle or vessel if it is:
- (a) marked on or attached to the motor vehicle, vessel or part, or
 - (b) marked on a thing attached to the motor vehicle, vessel or part, or
 - (c) stored in electronic form in a part of the motor vehicle or vessel.
- (3) In proceedings for an offence against this section, if it is necessary to allege a person knowingly induced another person to accept information attached to a motor vehicle, vessel or a part of

a motor vehicle or vessel as a genuine unique identifier for the motor vehicle, vessel or part, it is not necessary to allege that the accused knowingly induced a particular person to accept the information as a genuine unique identifier.

- (4) In this section, a reference to inducing a person to accept information attached to a motor vehicle, vessel or a part of a motor vehicle or vessel as a genuine unique identifier includes a reference to causing a computer to respond to the information attached to the motor vehicle, vessel or part as if it were a genuine unique identifier.
- (5) In this section:
information includes numbers, letters or symbols.

154I Possession of motor vehicle or vessel where unique identifier has been interfered with

- (1) A person who dishonestly has possession of a motor vehicle or vessel, or a part of a motor vehicle or vessel, a unique identifier of which has been interfered with, is guilty of an offence.
Maximum penalty: imprisonment for 5 years.
- (2) For the purposes of this section, a person *dishonestly* has possession of a thing if:
- (a) the person obtained or received the thing dishonestly, or
 - (b) the person intends to register, supply or use the thing dishonestly.

154J Possession of vehicle identification plate not attached to motor vehicle

- (1) A person is guilty of an offence if the person, without reasonable excuse, knowingly has possession of a vehicle identification plate not attached to the motor vehicle to which it relates.
Maximum penalty: imprisonment for 5 years.
- (2) The onus of proof of reasonable excuse in proceedings for an offence against this section lies on the accused.
- (3) In this section:
motor vehicle means a motor vehicle within the meaning of the *Road Transport (General) Act 2005* (whether or not the vehicle contains the motor intended to form part of it).
vehicle identification number means a vehicle identification number allocated to a vehicle in accordance with the national standards under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

vehicle identification plate means a plate, label or other thing that has a vehicle identification number on it, is designed to be attached to a motor vehicle and which:

- (a) enables the motor vehicle to be identified for the purposes of registration under a law of any jurisdiction, or
- (b) includes information relating to the manufacture of the motor vehicle or compliance with the national standards under the *Motor Vehicle Standards Act 1989* of the Commonwealth.

[8] Section 188 Receiving stolen property where stealing a serious indictable offence

Insert “or a vessel or a vessel part,” after “motor vehicle part,” in section 188 (1) (a).

[9] Section 188 (2)

Omit “section 154AA” from the definition of *motor vehicle*.

Insert instead “Subdivision 5A”.

[10] Section 188 (2)

Insert in alphabetical order:

vessel means a vessel within the meaning of the *Marine Safety Act 1998*.

[11] Section 527C Persons unlawfully in possession of property

Insert “or a vessel or a vessel part,” after “motor vehicle part,” in section 527C (1).

[12] Section 527C (3)

Omit “section 154AA” from the definition of *motor vehicle*.

Insert instead “Subdivision 5A of Division 1 of Part 4”.

[13] Section 527C (3)

Omit “, whether decked or undecked,” from the definition of *premises*.

[14] Section 527C (3)

Insert in alphabetical order:

vessel means a vessel within the meaning of the *Marine Safety Act 1998*.

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- [15] Section 546B Convicted persons found with intent to commit offence**
Omit “, whether decked or undecked,” from section 546B (2).

Schedule 2 Consequential amendments

(Section 4)

2.1 Bail Act 1978 No 161

Section 8C Presumption against bail for certain repeat property offenders

Omit “or 154C” from paragraph (a) of the definition of *serious property offence* in section 8C (4).

Insert instead “, 154C or 154F”.

2.2 Criminal Procedure Act 1986 No 209

[1] Schedule 1 Indictable offences triable summarily

Insert “, 154F” after “154D” in clause 9 in Table 1.

[2] Schedule 1, Table 2, clause 4 Other property offences

Insert “, 154H, 154I or 154J” after “154A”.

2.3 Motor Dealers Act 1974 No 52

[1] Section 12 Grounds on which application to be granted or refused

Omit “section 154AA” wherever occurring in section 12 (2) (i) and (4) (k).

Insert instead “Subdivision 5A of Division 1 of Part 4”.

[2] Section 20D Notices to show cause

Omit “section 154AA” wherever occurring in section 20D (1) (d1).

Insert instead “Subdivision 5A of Division 1 of Part 4”.

2.4 Motor Vehicle Repairs Act 1980 No 71

[1] Section 18 Refusal of application for licence

Omit “section 154AA” wherever occurring in section 18 (1) (j) and (3) (k).

Insert instead “Subdivision 5A of Division 1 of Part 4”.

[2] Section 42 Grounds on which a licence holder may be dealt with under this Part

Omit “section 154AA” wherever occurring in section 42 (1) (f).

Insert instead “Subdivision 5A of Division 1 of Part 4”.