

[Act 1998 No 166]



New South Wales

Police Powers (Vehicles) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are:

- (a) to enable a police officer who reasonably suspects that a vehicle was or may have been used in the commission of an indictable offence to request:
 - (i) the driver of the vehicle to disclose his or her identity and the identity of any passenger in or on the vehicle at or about the time the offence was or may have been committed, and
 - (ii) any owner of the vehicle to disclose the identity of the driver of, and any passenger in or on, the vehicle at or about the time the offence was or may have been committed, and
- (b) to enable senior police officers to authorise other police officers to stop and search vehicles at road blocks and other places in certain circumstances, and

* Amended in committee—see table at end of volume.

- (c) to create offences for failing to disclose identities on request, giving false or misleading information about identities and failing to comply with directions concerning the stopping and searching of such vehicles.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 makes it clear that nothing in the proposed Act limits any function of a police officer under any other Act or law.

Clause 5 provides that notes in the text of the proposed Act do not form part of the Act.

Part 2 Driver and passenger identification

Clause 6 enables a police officer who reasonably suspects that a vehicle was or may have been used in the commission of an indictable offence to request:

- (a) the driver of the vehicle to disclose his or her identity and the identity of any passenger in or on the vehicle at or about the time the offence was or may have been committed, and
- (b) any owner of the vehicle (who was not the driver) to disclose the identity of the driver of, and any passenger in or on, the vehicle at or about the time the offence was or may have been committed.

It also provides for certain procedures to be followed by a police officer before making such a request.

Clause 7 makes it an offence for the driver of a vehicle to fail to disclose his or her identity or the identity of a passenger if requested to disclose it unless the driver has a reasonable excuse for failing to do so.

Clause 8 makes it an offence for the owner of a vehicle to fail to disclose the identity of the driver of the vehicle or the identity of a passenger if requested to disclose it unless the owner has a reasonable excuse for failing to do so.

Clause 9 makes it an offence to give false or misleading information about an identity that a person has been requested to disclose.

Part 3 Stopping and searching vehicles

Clause 18 enables a senior police officer to authorise another police officer to exercise any or all of certain stop and search powers (set out in proposed section 10 (6)) in respect of any specified vehicle (or class of vehicles) on a road, road related area or other public place (a *search authorisation*). However, a search authorisation may only be given if the senior officer suspects on reasonable grounds that:

- (a) the vehicle (or a vehicle of the specified class of vehicles) is being, or was or may have been, used in or in connection with the commission of any indictable offence and the exercise of the powers may provide evidence of the commission of the offence. or
- (b) circumstances exist on or in the vicinity of that road, area or place that are likely to give rise to a serious risk to public safety and the exercise of the powers may lessen the risk.

A police officer given a search authorisation may give reasonable directions to another person to facilitate the exercise of the powers conferred by the authorisation. The police officer must follow certain procedures before giving such a direction.

The proposed section makes it an offence for a person, without reasonable excuse, to fail to comply with such a direction.

Clause 11 provides for a search authorisation to be given verbally or in writing and to have effect for a period of 6 hours (or such lesser period as may be specified by the senior police officer giving the authorisation).

Clause 12 requires certain records to be kept relating to search authorisations.

Part 4 Miscellaneous

Clause 13 provides for the onus of proof of reasonable excuse in proceedings for an offence against the proposed Act to lie on the accused.

Clause 14 provides for proceedings for offences against the proposed Act to be dealt with summarily by a Magistrate.

Clause 15 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 16 requires the Ombudsman to keep under scrutiny the exercise of the powers conferred on police officers by the proposed Act for a period of 12 months and to furnish the Minister and the Commissioner of Police with a copy of a report on the Ombudsman's scrutiny of the exercise of those powers.

Clause 17 requires the Minister to review the proposed Act as soon as possible after the end of the period of 12 months following assent to the Act.