

[Act 2001 No 70]



New South Wales

Police Powers (Vehicles) Amendment Bill 2001

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to make it clear that the same identity particulars (that is, name or residential address, or both) may be required of both drivers and passengers of vehicles suspected of being used in or in connection with the commission of indictable offences, and
 - (b) to make it clear that police powers relating to obtaining information about the identity of drivers of, or passengers in or on, vehicles suspected of being used in the commission of indictable offences also extend to vehicles suspected of being used in connection with the commission of such offences, and
 - (c) to require passengers in or on vehicles suspected of being used in or in connection with the commission of indictable offences to disclose their identity or the identity of the driver or any other passengers, and
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- (d) to give police officers power to request drivers of, or passengers in or on, vehicles who are required to disclose their identity to provide proof of that identity, and
- (e) to remove the requirement for a police officer to obtain the authorisation of a senior police officer before exercising vehicle search and stop powers (other than road block powers), and
- (f) to make other consequential amendments.

Outline of provisions

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 is a formal provision giving effect to the amendments to the *Police Powers (Vehicles) Act 1998* set out in Schedule 1.

Schedule 1 Amendments

Powers to request identity

Schedule 1 [1] makes it clear that identity has the same meaning for the purposes of the Principal Act in relation to both drivers and passengers, that is, name or residential address, or both.

Schedule 1 [5] re-enacts the provision setting out the power of police officers to request that drivers and owners of vehicles suspected of being used in or in connection with indictable offences disclose the identity of certain persons. The new provision makes it clear that the power to request disclosure may be made where a police officer reasonably suspects that a vehicle was or may have been used in or in connection with the commission of an indictable offence. Currently the provision is limited to vehicles that were or may have been used in the commission of an indictable offence.

The new provision also contains a power for police officers to request a passenger in or on a vehicle to disclose his or her identity or the identity of the driver of, or another passenger in or on, the vehicle, in addition to the current power to make such a request of the driver or owner of the vehicle.

Schedule 1 [6] makes it an offence for a passenger in or on a vehicle to fail to disclose his or her identity, or the identity of the driver of, or another passenger in or on, the vehicle when requested to do so by a police officer. The maximum penalty for the offence is to be 50 penalty units or 12 months imprisonment, or both. The new offence reflects the existing offences applying to drivers and owners of vehicles who fail to comply with similar requests by police officers.

Schedule 1 [7] confers on a police officer who exercises a power under the Principal Act to request the disclosure of identity an additional power to request the person concerned to provide proof of identity.

Authorisation to exercise road block and search powers

Currently, an authorisation by a senior police officer is required before police officers may exercise powers under the Principal Act to search vehicles and exercise related powers. Such authorisation is not required under other legislation setting out search powers.

Schedule 1 [8] removes the requirement for an authorisation to be obtained from a senior police officer before a police officer may exercise vehicle search and stop powers (other than powers to stop vehicles at road blocks). The amendment retains the current requirement for an authorisation to be obtained from a senior police officer before a police officer may exercise road block powers.

Schedule 1 [2]–[4] and **[9]–[14]** make consequential amendments.

Review by Ombudsman

Schedule 1 [15] requires the Ombudsman to keep the exercise of the powers conferred on police officers by the proposed Act under scrutiny for 12 months from the date of assent to the proposed Act. As soon as practicable after the end of that period the Ombudsman must prepare a report and forward the report to the Minister for Police and the Commissioner of Police.