



New South Wales

Road Transport Legislation Amendment (Automated Seatbelt Enforcement) Act 2023 No 51

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The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Road Transport Legislation Amendment (Automated Seatbelt Enforcement) Act 2023*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Road Transport Act 2013 No 18

[1] Section 134 Approval of devices by Governor

Insert after section 134(1)(h)—

- (i) photographing a driver or passenger in a vehicle who is not wearing a seatbelt in compliance with the statutory rules.

[2] Section 134(2)(f3)

Insert after section 134(2)(f2)—

- (f3) for a device that photographs a driver or passenger in a vehicle who is not wearing a seatbelt in compliance with the statutory rules—the registration number of the vehicle,

[3] Section 135 Definitions

Insert after section 135(1), definition of *detectable traffic offence*, paragraph (e)—

- (f) a seatbelt offence.

[4] Section 135(1)

Insert in alphabetical order—

seatbelt offence means an offence against the statutory rules involving the responsibility of a driver of a motor vehicle—

- (a) to wear a seatbelt properly, or
- (b) to ensure a passenger in the vehicle wears a seatbelt properly.

[5] Section 135(2)(i)

Insert at the end of section 135(2)(h)—

, and

- (i) an approved traffic enforcement device is *approved for seatbelt offences* if it is approved under section 134 for the use referred to in section 134(1)(i).

[6] Section 138 Admissibility of photographs taken by devices—generally

Insert after section 138(1)(f)—

- (g) for proceedings for a seatbelt offence—a photograph that is tendered as—
 - (i) being taken by means of the operation, on a day specified on the photograph, of an approved traffic enforcement device that is approved for seatbelt offences, and
 - (ii) if the photograph is taken by a digital camera device—bearing a security indicator of a kind prescribed by the statutory rules.

[7] Section 139A, heading

Omit “**devices (other than a device approved for mobile phone use offences) for mobile phone use offences**”.

Insert instead “**certain devices for mobile phone use offences and seatbelt offences**”.

[8] Section 139A(1)

Omit the subsection. Insert instead—

- (1) This section applies if a photograph of a vehicle is taken by—
 - (a) an approved traffic enforcement device that is evidence under this division of a detectable traffic offence, or
 - (b) an approved toll camera that is evidence of a toll offence within the meaning of the *Roads Act 1993*, section 250A.
- (1A) The photograph may also be tendered in evidence in proceedings for a mobile phone use offence or a seatbelt offence involving the driver of the vehicle even if—
 - (a) the photograph was not taken for the purposes of that offence, or
 - (b) the approved traffic enforcement device was not a device approved for offences of that type.

[9] Section 139A(2) and (3)

Insert “or seatbelt offence” after “mobile phone use offence” wherever occurring.

[10] Section 183 Definitions

Insert at the end of section 183(1), definition of *appropriate approved traffic enforcement device*, paragraph (g)—

, or

- (h) for a seatbelt offence—the following—
 - (i) an approved traffic enforcement device that is approved for seatbelt offences,
 - (ii) an approved toll camera, within the meaning of the *Roads Act 1993*, section 250A, that has taken a photograph that may be tendered in evidence under section 139A in proceedings for a seatbelt offence.

[11] Section 183(1), definition of “camera recorded offence”

Insert after paragraph (h)—

- (i) a seatbelt offence in relation to which the penalty notice or the court attendance notice indicates the offence was detected by an appropriate approved traffic enforcement device for the offence.

[12] Schedule 4 Savings, transitional and other provisions

Insert after clause 70—

Part 12 Provision consequent on enactment of Road Transport Legislation Amendment (Automated Seatbelt Enforcement) Act 2023

71 Warning period for seatbelt offences detected by appropriate approved traffic enforcement devices

- (1) This clause applies if after the commencement of this clause a seatbelt offence is detected by an appropriate approved traffic enforcement device.
- (2) To avoid doubt, TfNSW—
 - (a) must deal with the offence in accordance with this Act or the statutory rules, including by issuing a penalty notice or court attendance notice in relation to the seatbelt offence, and

- (b) must not deal with the offence by issuing a warning to the registered owner of the vehicle.
- (3) In this clause—
appropriate approved traffic enforcement device has the same meaning as in Part 7.3, Division 2.
seatbelt offence has the same meaning as in Part 5.3, Division 5.
warning means a notice given to a registered owner of a vehicle warning the registered owner that the driver of the vehicle committed a seatbelt offence but stating that no penalty notice or court attendance notice will be issued in relation to the offence.

Schedule 2 Amendment of Transport Administration Act 1988 No 109

[1] Section 80H Payments into Community Road Safety Fund

Insert after section 80H(1)(a1)—

- (a2) all fines and penalties recovered for camera recorded seatbelt offences,
and

[2] Section 80H(4)

Insert in alphabetical order—

camera recorded seatbelt offence means a seatbelt offence, within the meaning of the *Road Transport Act 2013*, Part 5.3, Division 5, in relation to which the penalty notice or the court attendance notice indicates the offence was detected by the appropriate approved traffic enforcement device for the offence, within the meaning of that Act, Part 7.3, Division 2.

[Second reading speech made in—

Legislative Assembly on 18 October 2023

Legislative Council on 23 November 2023]