



New South Wales

Road Transport Legislation Amendment (Offender Nomination) Bill 2012

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Road Transport (General) Act 2005*:
 - (i) to increase the maximum monetary penalty that a corporation will be liable to pay for a certain kind of camera recorded traffic offence under section 179 of that Act when the corporation is liable for the offence because of a failure to nominate the actual offender, and
 - (ii) to enable an authorised officer or prosecutor to obtain additional information concerning the identity of an actual offender nominated under section 179 of that Act, and
 - (iii) to reduce the time when a penalty notice served by post on a responsible person under section 179 of that Act is taken to have been served, and
 - (iv) to enable a single nomination to be made under section 179 of that Act where more than one camera recorded traffic offence was detected by the same camera at approximately the same time, and
- (b) to make consequential amendments and amendments in the nature of statute law revision to the *Fines Act 1996* and certain road transport legislation.

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.

Schedule 1 Amendment of Road Transport (General) Act 2005 No 11

Schedule 1 [1]–[5] amend section 179 of the *Road Transport (General) Act 2005*:

- (a) to provide for a corporation that is deemed to be guilty of a certain kind of camera recorded offence by the section to be liable to a court imposed maximum monetary penalty that is 5 times the maximum monetary penalty to which a natural person would be liable for the offence, and
- (b) to enable a statutory declaration that nominates a person under the section to deal with more than one offence if each of the offences are camera recorded offences detected by the same camera device at approximately the same time, and
- (c) to provide that a penalty notice served by post on a responsible person under the section is taken to have been served 7 days after it was posted (instead of the current 21 days) unless the person proves otherwise, and
- (d) to enable an authorised officer or prosecutor to obtain additional information from a responsible person who makes a nomination under the section (including by means of a personal interview with the person) concerning identity of the nominee.

Schedule 1 [6] confirms that a reference in the Act to offences under section 41 (Conduct associated with road and drag racing and other activities) of the *Road Transport (Safety and Traffic Management) Act 1999* is limited to certain aggravated forms of those offences.

Schedule 1 [7] amends Schedule 1 to that Act to enable the Governor to make savings or transitional regulations consequent on the enactment of the proposed Act.

Schedule 1 [8] inserts a transitional provision in Schedule 1 to that Act consequent on the amendments made to section 179 of that Act.

Schedule 2 Amendment of other legislation

Schedule 2.1 [1] makes an amendment to section 38 of the *Fines Act 1996* in relation to the use of statutory declarations in relation to more than one camera recorded offence. This amendment is consequential on a comparable amendment made to section 179 of the *Road Transport (General) Act 2005* by Schedule 1. **Schedule 2.1 [2]** inserts a transitional provision consequent on the amendment made to section 38 of that Act.

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Schedule 2.2 amends the *Road Transport (General) Regulation 2005* to provide for the penalty amount for a penalty notice served on a corporation for a certain kind of camera recorded offence for which the corporation is deemed to be liable under section 179 of the *Road Transport (General) Act 2005* to be, generally, 5 times the penalty amount prescribed for a natural person served with such a penalty notice.

Schedule 2.3 amends the *Road Transport (Safety and Traffic Management) Act 1999*:

- (a) to ensure that certain persons with expired driver licences are treated as being special category drivers for the purposes of Part 2 of that Act, and
- (b) to update a reference to the holder of a learner or provisional licence so that it refers to a novice driver within the meaning of Part 2 of that Act.

First print



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Road Transport Legislation Amendment (Offender Nomination) Bill 2012

No , 2012

A Bill for

An Act to amend the *Road Transport (General) Act 2005* to make further provision with respect to the nomination of offenders for certain camera recorded and parking offences; and to make consequential and other minor amendments to the *Fines Act 1996* and the road transport legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Road Transport Legislation Amendment (Offender Nomination) Act 2012</i> .	3 4
2 Commencement	5
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	6 7
(2) Schedules 1 [3], 2.1 and 2.2 commence on a day or days to be appointed by proclamation.	8 9

Schedule 1	Amendment of Road Transport (General) Act 2005 No 11	1
		2
[1]	Section 179 Liability of responsible person for vehicle for designated offences	3
		4
	Insert after section 179 (1):	5
	(1A) Maximum penalty payable by corporation that is taken to be guilty of certain camera recorded offences	6
		7
	If a corporation is taken to be guilty of a camera recorded offence (other than an unauthorised vehicle use offence) by the operation of subsection (1), the maximum monetary penalty that a court may impose on the corporation for the offence is taken to be 5 times the maximum monetary penalty for the offence for which the actual offender (as a natural person) would be liable.	8
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[2]	Section 179 (5)	14
	Omit “21 days” and “21-day period”.	15
	Insert instead “7 days” and “7-day period”, respectively.	16
[3]	Section 179 (10)	17
	Insert “unless each of the offences is a camera recorded offence detected by the same camera device at approximately the same time” after “subsection (3), (4) or (8C)”.	18
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[4]	Section 179 (10B)–(10D)	21
	Insert after section 179 (10A):	22
	(10B) Provision of further identity information	23
	An authorised officer or prosecutor to whom a relevant nomination document is supplied for the purpose of subsection (3) or (4) may, by written notice served on the nomination information provider, require the provider to do one or both of the following:	24
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	(a) provide such relevant identity information that is in the provider’s power to provide (including, if so required, by means of a written statement signed by the provider), as may be specified in the notice, within the period specified in the notice,	29
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(b)	appear before the authorised officer or prosecutor at a specified time and place and provide (either orally or in writing) such relevant identity information that is in the provider's power to provide as may be specified in the notice.	1 2 3 4 5
(10C)	The period or time specified in a notice under subsection (10B) for information to be provided, or an appearance to be made, must be no earlier than 7 days after the date of service of the notice.	6 7 8 9
(10D)	A person served with a notice under subsection (10B) must not, without lawful or reasonable excuse, refuse or fail to comply with the notice. Maximum penalty: 20 penalty units.	10 11 12 13
[5]	Section 179 (12)	14
	Insert in alphabetical order:	15
	<i>nomination information provider</i> , in relation to a relevant nomination document, means:	16 17
(a)	in the case of a document supplied by a responsible person for the vehicle concerned who is a natural person—the person who supplies the document, or	18 19 20
(b)	in the case of a document supplied by a responsible person for the vehicle concerned that is a corporation—a person who prepares or supplies the document on behalf of the corporation.	21 22 23 24
	<i>prosecutor</i> has the same meaning as it has in the <i>Criminal Procedure Act 1986</i> .	25 26
	<i>relevant identity information</i> means any information that may assist in confirming or establishing the identity of the person driving or in charge of a vehicle when a designated offence to which a relevant nomination document relates was committed.	27 28 29 30
[6]	Section 218 Removal or production of vehicles used for certain offences for clamping, impounding or forfeiture	31 32
	Omit “41” from section 218 (1) (a). Insert instead “41 (2)”.	33
[7]	Schedule 1 Savings, transitional and other provisions	34
	Insert at the end of clause 1 (1):	35
	<i>Road Transport Legislation Amendment (Offender Nomination) Act 2012</i>	36 37

[8] Schedule 1	1
Insert at the end of the Schedule:	2
Part 11 Provisions consequent on enactment of Road Transport Legislation Amendment (Offender Nomination) Act 2012	3 4 5
26 Definitions	6
In this Part:	7
<i>amending Act</i> means the <i>Road Transport Legislation Amendment (Offender Nomination) Act 2012</i> .	8 9
<i>assent day</i> means the day that is the date of assent to the amending Act.	10 11
27 Application of certain amendments to section 179	12
(1) Section 179 (1A) (as inserted by the amending Act) applies in relation to camera recorded offences committed on or after the assent day.	13 14 15
(2) Section 179 (5) (as amended by the amending Act) applies in relation to penalty notices issued on or after the assent day.	16 17
(3) Section 179 (10) (as amended by the amending Act) applies in relation to designated offences committed (or alleged to have been committed) on or after the day on which the amendment to that subsection commences.	18 19 20 21
(4) Section 179 (10B)–(10D) (as inserted by the amending Act) extend to a designated offence committed (or alleged to have been committed) before the assent day, but only if a relevant nomination document for the offence had not been supplied before that day.	22 23 24 25 26

Schedule 2	Amendment of other legislation	1
2.1	Fines Act 1996 No 99	2
[1]	Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty	3 4
	Insert “unless each of the offences is a camera recorded offence (within the meaning of section 179 of the <i>Road Transport (General) Act 2005</i>) detected by the same camera device at approximately the same time” after “subsection (1A) or (1D)” in section 38 (3).	5 6 7 8
[2]	Schedule 3 Savings, transitional and other provisions	9
	Insert at the end of the Schedule (with appropriate Part and clause numbers):	10
Part	Provision consequent on enactment of Road Transport Legislation Amendment (Offender Nomination) Act 2012	11 12 13
	Application of amendment to section 38	14
	Section 38 (3) (as amended by the <i>Road Transport Legislation Amendment (Offender Nomination) Act 2012</i>) applies in relation to vehicle or vessel offences committed (or alleged to have been committed) on or after the day on which the amendment to that subsection commences.	15 16 17 18 19
2.2	Road Transport (General) Regulation 2005	20
[1]	Clause 169 Penalty notice offences	21
	Insert “subject to subclause (1A),” before “the prescribed penalty” in clause 169 (1) (c).	22 23
[2]	Clause 169 (1A)	24
	Insert after clause 169 (1):	25
	(1A) The amount of the prescribed penalty for a camera recorded offence of a kind referred to in section 179 (1A) of the Act of which a corporation is taken to be guilty under section 179 (1) of the Act is 5 times the amount specified in Schedule 3 as the penalty amount for the offence unless a lesser amount is specified in that Schedule for the offence when it is committed by a corporation.	26 27 28 29 30 31 32

2.3 Road Transport (Safety and Traffic Management) Act 1999	1
No 20	2
[1] Section 8 General definitions	3
Omit section 8 (3) (b). Insert instead:	4
(b) if the person is not authorised to drive that motor vehicle	5
in New South Wales because:	6
(i) the person (in New South Wales or elsewhere) has	7
had his or her application for a relevant driver	8
licence or authority refused, or	9
(ii) the person (in New South Wales or elsewhere) has	10
ceased to hold a relevant driver licence or authority	11
as a result of the cancellation, suspension or expiry	12
of the licence or authority, or	13
(iii) the person (in New South Wales or elsewhere) has	14
been disqualified from driving, or	15
(iv) the person has never obtained a relevant driver	16
licence or authority, or	17
[2] Section 14 Arrest following failed breath test	18
Omit “the holder of a learner licence or a provisional licence” from	19
section 14 (1) (a1).	20
Insert instead “a novice driver”.	21