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Police Powers (Motor Vehicle
Impoundment) & Other
Legislation Bill 2012
Submission 013

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To whom it may concern - **The Legal Affairs and Community Safety Com**

Subject:

The Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012

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This submission is from the Toowoomba Regional Inc Car Klub (T.R.I.C.K). We are making this submission because we believe that the Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012 will be discriminatory towards car enthusiasts because hoons and car enthusiasts are deemed to be the same thing.

The concerns and possible solutions have been obtained after many discussions with car enthusiasts and non car enthusiasts.

My name is Kyle McCabe. I have been a car enthusiast for over 20 years. I have been working in the automotive industry for the last 8 years and I am currently employed by [REDACTED] in Toowoomba.

Car Enthusiasts

I am the President of T.R.I.C.K – Toowoomba Regional Inc Car Klub. I founded T.R.I.C.K 10 years ago. Our club has over 200 members. I have organised many car events for car enthusiasts during this time. I have hired drag racing complexes, organised Burnout competitions, organised many car cruises etc to ensure our members participate in motor sport in a safe and controlled environment. A significant number of car enthusiasts from all over South East Queensland attend events organised by T.R.I.C.K.

T.R.I.C.K does not condone dangerous driving on community streets and highways. We set a positive example for others to follow and we enjoy portraying a positive image of car enthusiasts to the general community. Car enthusiasts spend big dollars on their vehicles and will not risk damage to their vehicles by driving dangerously on community streets. Our vehicles are well maintained with upgraded safety additions such as brakes, suspension etc making them safer and more presentable than when first manufactured.

Hoons

People who may be classed as hoons seem to drive unattractive cars and feel a need to drive dangerously in a weak attempt to draw attention to themselves. These people have no respect for other people or other people's property and they certainly disregard their own and other people's safety. They might be in the vicinity of car enthusiasts but by no means welcome. Unfortunately, a minority exists in most forms of social activity. T.R.I.C.K does not wish to be associated with the hoon minority and negative stereotype.

The concerns we have with this Bill include -

1. **We believe these amendments, Sections 85 and 85A – Omit, Motor Vehicle Impoundment Bill 2012 should be repealed.** The Police will have too much power – the legal system / courts should punish offenders not Police. Traffic offences outside of the Impoundment Bill 2012 at least have a section on a ticket where you have an option to take the matter to court to attempt to prove your innocence.
2. **We believe this amendment, Section 71 – Motor Vehicle Impoundment Bill 2012, should be repealed.** Drivers will not have an opportunity to be proven innocent or guilty by a court of law – everyone in Australia should have this right. Even people who commit far worse offences are given this right. A person has committed an offence once the person is given an infringement notice in the proposed Bill. Impoundment or forfeiture of your vehicle is then automatic.
3. **We believe these amendments, Section 79 A – 79 H – Motor Vehicle Impoundment Bill 2012, should be repealed.** Applying to the Police Commissioner to release your vehicle if you believe that a vehicle impoundment was unreasonable, will create hardship etc, is not an independent person / organisation who can review your case without bias.
4. **We believe this amendment, Section 69 – Motor Vehicle Impoundment Bill 2012, should be repealed.** The current definition of a burnout in the Police Powers and Responsibilities Act 2000 (P.P.R.A.) is sufficient. The burnout definition in the proposed impoundment Bill is far too open for interpretation - especially when a Police officer decides your fate. For instance, a utility on a wet road with no load in the back on light truck tyres could accidentally lose traction when taking off from a set of traffic lights. This should not make the driver a potential target under the Motor Vehicle Impoundment Bill 2012.
5. There may be more high speed chases if people feel the Police will have all the power – people may take the risk of trying to escape if they feel they do not have a **reasonable opportunity** to prove their innocence.
6. Car enthusiasts will be (and already are) victimised because of the hoon stereotype. The proposed Impoundment Bill will accentuate such discrimination.
7. Type 1 offences, burnouts, racing and speed trials are offences against section 83 and 85 of the Transport Operations (Road Use Management Act) (T.O.R.U.M). The T.O.R.U.M relates to the proposed impoundment Bill. According to one T.O.R.U.M objective the Police will target road users who are least likely to comply with the T.O.R.U.M. With more power from the proposed laws, harassment from some police will increase. This T.O.R.U.M objective is prejudicial – it should not give some Police the opportunity to target anyone. I believe this proves that the line everyone has heard that if you are doing nothing wrong, you have nothing to worry about is simply not true.
(T.O.R.U.M can be found at www.legislation.qld.gov.au – Acts, SL as in Force, Letters – T, find Transport Operations (Road Use Management) Act 1995, Part 4, Objectives)
8. The automotive industry will be adversely effected because car enthusiasts will be less likely to spend money on their vehicles if they feel they will be targeted by some Police
9. Business owners and employees will lose their livelihood. These people rely on car enthusiasts to spend money on their vehicles. This will also lead to higher unemployment. The after market motor industry alone generates over 30 billion dollars annually for Australia and keeps over 30 000 people employed.
As an employee of Burson Auto Parts, I see the financial rewards from car enthusiasts on a daily basis. (After market motor industry information can be found at - <http://www.aaaa.com.au/news.asp?id=145>)

10. The anti-hoon laws have been in force for ten years. The current anti-hoon legislation is already tough enough. There must be other avenues that can be pursued when it comes to decreasing hooning IF it really is the major issue that it is portrayed to be. Under the current anti-hoon legislation, hoons already have the threat of having their vehicle impounded for a significant amount of time or forfeiting their vehicle to the State. Impoundment does not deter hoons now so how will tougher penalties stop them from driving dangerously?
11. In a media release that I heard on the radio, the Police Minister Hon Jack Dempsey MP said that this Bill is being tabled because the Police and government are trying to reduce Queensland's road toll and improve road safety. My research indicates that drugs and alcohol, inattention, inexperience and not obeying the road rules are the major causes of crashes in Queensland. Hooning does not appear to be a major cause of crashes in Queensland so why is Queensland going to possibly have the toughest anti-hoon laws in Australia? **I understand the government is meeting a policy commitment but it appears hooning is more of a nuisance issue than a road safety issue.**
(Road Safety Statistics are available at www.tmr.qld.gov.au – Safety – Transport and road statistics – Road safety statistics)
12. Vehicle Modification laws are too open for interpretation. This makes it very difficult to comply with the law even when you are trying to do so to avoid a Type 2, illegally modified vehicle, hooning offence. Unlicensed drivers / unregistered vehicle owners can have their impounded vehicle returned on the basis that circumstances leading to the offence have been rectified ie paid registration fees or obtained a current licence. If a Police officer deems a vehicle is illegally modified, I would hope that vehicle owners will have a similar option where they could prove the illegal modification has been rectified or removed.
Section 79 E - Motor Vehicle Impoundment Bill 2012
13. We believe that illegally modified vehicles, drink driving, unlicensed driving or driving an unregistered vehicle are not hooning offences at all - these offences should NOT be included in anti-hoon legislation. Any of these offences should NOT be grouped as one which may lead to a second, third etc type 2 offence.
14. Police officers should have the power to inspect vehicles for basic defects such as bald tyres, head light / tail light not working etc. Currently some Police are booking vehicle owners who have Modification Plates approving their vehicle's modifications ; this has happened to me personally. Even worse, some Police are booking Approved Persons (people who are authorised to issue Modification Plates) or qualified mechanics with a roadworthy licence. I am sure the Police would not like anyone telling them how to do their job.
Police do not have the required years of training / job experience to determine illegal modifications. Currently car enthusiasts can be on the side of the road for up to an hour while some Police try to find a defect. Police are always claiming they are under resourced. I am sure there are plenty of more serious offences that require their time.
15. Increasing the relevant period for a vehicle impoundment offence from 3 to 5 years. Drivers who lose demerit points have them back after 3 years. Why do impoundment offences attract a 5 year relevant period? We believe this amendment should be repealed.
16. If this Bill becomes law the punishments will not fit the crimes. One example - the Bill appears to punish burnout offenders (Type 1 offences) more severely than Drink Drivers (Type 2 Offences). Drink drivers are one of the biggest causes of crashes in Queensland? **Why are Drink Drivers not punished appropriately?**
Burnouts are not a major cause of crashes in Queensland. Why does this offence attract a harsh penalty such as crushing the owners vehicle on just the second offence? There are far worse offences that attract a much smaller penalty. There is a time and a place but **this penalty is very severe.**

Some alternative solutions that will decrease hooning / decrease the road toll / improve road safety

The Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012 - Page 5 of the explanatory notes claims there are no alternatives other than reform that will achieve the desired policy objectives. I do not believe any body has had a reasonable opportunity to do this. I do have some alternative suggestions that the Legal Affairs and Community Safety Committee should consider.

1. Driver education for everyone should be a priority ; skilled drivers with a positive attitude are safer drivers.
2. Driver training facilities will allow our drivers to be better skilled, safer and teach people to be better prepared in dangerous situations on our roads. Driver Training facilities could also incorporate more organised events and venues for people to participate in burnouts, racing, drifting etc in a safe and controlled environment. Some people believe this is rewarding hoons. This in not rewarding hoons ; it is just decreasing the amount of dangerous driving that may happen on community streets and highways. Most community activities have events and venues to participate in their activity in a safe and controlled environment. Unfortunately the car scene does not have this luxury.
3. It may be possible in some areas for Police and car enthusiasts to work together to alienate the hoons, not the car enthusiasts, so community streets and highways are safer for everyone.
4. According to the objectives of the Transport Operations (Road Use Management) Act 1995 (T.O.R.U.M) information about compliance should be available to everyone who uses the road. People who use the road should also have an opportunity to voluntarily fix an issue instead of the Police enforcing an issue. I believe with more black and white and not grey information / laws, more modification / defective issues would be legal and not open to the discretion of a Police Officer. I also believe that if road users were able to show that they have repaired/removed/alterd an illegal modification or defect they would do so in order to comply with the law before an unfair confiscation takes place. Unlicenced and unregistered vehicle owners have their vehicles returned if they obtain their licence or register their car so why don't illegally modified vehicle owners have a similar option? T.O.R.U.M objectives also suggest to avoid burdening costs on road users who will most likely comply voluntarily. I am sure car enthusiasts would be happy to comply voluntarily.
(T.O.R.U.M can be found at www.legislation.qld.gov.au – Acts, SL as in Force, Letters – T, find Transport Operations (Road Use Management) Act 1995. Page 27 and 28.)
5. To help to decrease hooning, the community may have to attempt to have the same thought process as hoons. Hoons have an addiction and they are not concerned with consequences. Rehabilitation should be forced upon hoons. Hooning offenders should be studied and assessed by a Psychologist. Hoons should be asked what punishments they think will be effective in decreasing the hoon problem. Change the hoon mindset and poor / unsafe attitude – this is the issue that needs to be addressed. Drink drivers and drug addicts are given every opportunity for rehabilitation and a network of support groups. Why can't hoons be given support to rectify their irresponsible behavior / attitude?
I recently heard on the radio that similar studies will be done with firebugs who enjoy starting fires. People are attempting to understand why they behave the way that they do.
6. Car enthusiasts know that there is a time and place for everything. Our cars are worth plenty of money and we have all spent many hours, days, years getting them to a high standard of presentation and safety. There is no way a car enthusiast is going to risk damage to anyone or their vehicle by driving dangerously on a community street or highway. The person driving the car, controls the car ; the car only does what the driver tells it to do. A driver's attitude can be an issue, not the car they are driving. Anyone can drive dangerously in any vehicle. The result will be a dangerous situation for everyone.

7. Peer pressure / acceptance should be a big part of decreasing hooning and irresponsible behavior. Hooning should be promoted as unacceptable behavior among peer groups with celebrities echoing this message. Hoons probably won't listen to authority, they won't be concerned with tough penalties or losing a car that is not worth much, but they do crave acceptance. If the youth of tomorrow know only a time and place message, then future hooning will be decreased also. I am sure most car clubs would happily set a good example for others if they have support from the local Police. An example of a similar idea would be the 'White Ribbon' day where 'violence against women' is highlighted as unacceptable behavior.

Conclusion

In conclusion, we believe the Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Bill 2012 will not succeed in improving road safety and decreasing hooning as it does not address the actual problems associated with road safety and hooning.

We believe the current anti-hoon legislation is already tough enough.

We recommend improving driver education and creating more opportunities for people to participate in drag racing, burnouts, drifting etc in a safe and controlled environment – away from community streets and highways.

Road safety and the hoon issue are important issues for our club. We want the roads safer for everyone. The hoon minority are destroying our car scene. They are making our choice of social activity almost impossible. We want them gone as well.

If the Legal Affairs and Community Safety Committee have any more questions or would like to speak with myself and representatives from T.R.I.C.K my contact details are on page one of this submission.

Thank you for your time. We hope the Legal Affairs and Community Safety Committee take our concerns and solutions into consideration.

Yours sincerely,

Kyle McCabe
President
Toowoomba Regional Inc Car Klub (T.R.I.C.K)