

Gail Easton

From: Gary Lambert [REDACTED]
Sent: Thursday, 31 January 2013 9:02 PM
To: Legal Affairs and Community Safety Committee
Subject: Submission: Police Powers and Responsibilities (Motor Vehicle Impoundment) and other Legislation 2012

Please accept this email as my submission against the measures outlined in the current "*Police Powers and Responsibilities (Motor Vehicle Impoundment) and other Legislation 2012*" Bill (the Bill).

I make this submission a member of the community with genuine concerns about road safety. I am also a member of five motoring clubs/associations.

Put simply the proposals in their current form as outlined in the Bill do not appear to be good policy. In fact the Bill appears to do nothing but tinker around the edges of the flawed impoundment scheme introduced by the Labor government.

The reason stated for the proposed new regime is that the government wants to have the toughest laws in the country. I have no problem with this objective. I do however hold grave concerns with the proposed methods of meeting this objective.

Automatic impoundment

Regarding the proposition for the penalty of impoundment to be implemented administratively (with the decision being automatic by way of legislative function rather than having a trained person turn their mind to each person's particular circumstances) upon the issuing of a Traffic Infringement Notice (TIN). The removal of a person's right to a proper hearing by an appropriately qualified member of the Judiciary is not an insignificant matter.

There may be certain categories of serious offences under the criminal code that warrant such removal of a person's rights due to the potential impacts those offences may have on the safety of others.

I submit that many of the offences listed in the Bill under type 1 and type 2 do not appear to fall into such a category. Examples of this are the inclusion of offences of unlicensed and unregistered driving, and the driving of modified vehicles, which although being serious offences are unlikely to result in immediate harm to others. And, the burnout offence, which research shows, is more a public nuisance issue than one of safety.

The removal of a person's right to a proper hearing for any of the road safety offences outlined in the Bill cannot be justified. The explanatory notes to the Bill attempt to justify the removal of this most basic of rights on the grounds of providing administrative efficiencies for the Police. Surely these efficiencies can be found through methods that do not involve taking away people's basic right to a fair hearing before a decision is made. Perhaps efficiencies could be found by altering the need to impound vehicles in all but extreme cases, and instead immobilising or removing number plates, thereby reducing the need for towing and storage facilities and the associated costs and administration.

Inclusion of low-level offences

Additionally, the inclusion of some of these offences appears inconsistent with governments stated objective to crack down on 'hooning'. It is difficult to reconcile a person's failure to pay their registration, or to renew their licence on time, with 'hooning'.

I doubt most of your constituents would consider themselves as likely to be caught up in your 'anti-hooning' laws. However, a recent Courier Mail article <http://couriermail.com.au/news/queensland/fines-total-millions-drivers-left-without-vital-insurance-cover/story-e6freoof-1226554642866> regarding the number of motorists who paid their registration late provides some startling information that can be used as a guide on the likelihood of the average Queensland motorist being caught up:

- As at June 2012 there were approximately 4,500,000 vehicles registered with Queensland Transport
http://www.tmr.qld.gov.au/~-/media/Safety/Transport%20and%20road%20statistics/Registration/stats_vehicles_on_register_queensland.pdf
- The figures the Courier Mail obtained from Queensland Transport indicated that 20%, or one in five Queensland motorists paid their registration late, and that in a six month period a total of 415,000 motorists had a late fee penalty applied to their registration.
- Many of these persons likely had little choice but to use their vehicles prior during the unregistered period.
- That is potentially 830,000 Queenslanders per year that could be caught out driving their vehicles unregistered in the last year alone.

- The opportunity for persons to be caught up is also compounded by the extension of the period for collection of impoundment offences from 3 years to 5 years.
- Payment of registration can now be made in 6 monthly instalments.
- This means the average motorist, if paying registration 6 monthly on one vehicle, has the potential to have up to 10 registration renewals in any 5 year period.
- Add to this the fact that drivers licence renewals can also be made yearly, and there's another 5 opportunities for late renewal of licence in any given 5 year period.
- Making a total of 15 opportunities for the average and largely law abiding motorist, with only one vehicle to get caught out in any 5 year period.
- Obviously the chances go up considerably with the addition of each vehicle to a household.

Many of the persons who pay registration late would only do so because of a precarious financial position. Add into the equation the fact that number plate recognition technology is catching more and more of these offenders, and it's starting to look like the average Joe from the less affluent side of town could be highly likely to face automatic impoundment at some stage. There is no doubt that penalty is required as a deterrent, however, removal of their vehicle and the other associated costs does not appear to be justified, and there is no opportunity for them to have their circumstances considered prior to imposition of the penalty.

Many of your constituents who would never consider themselves 'hoons' are likely to face automatic confiscation of their vehicle for a second offence in a 5 year period. With these offences having a limited nexus with road fatalities surely this cannot be your intention.

Inconsistent penalties

Another glaring inconsistency is that under the current and proposed scheme, a person's vehicle can be impounded or potentially lost to the state for spinning the wheels on their vehicle. No doubt, penalties should apply. However, it has been established that in the absence of other more serious behaviours such as street racing the 'burnout' offence is more a matter of public nuisance than a road safety issue. As a comparison give consideration to penalties for other similar nuisance offences. For example a neighbour renovating a home, who constantly runs their power tools outside the allowable hours set down in law - what is the penalty for neighbourhood noise offences? A small fine only. Definitely not the loss of their house, even after receiving repeated fines over many years. Why then should a person lose their property for

causing a similar nuisance in a motor vehicle. There are no statistics to support such an extreme response.

On the other hand, contrast this with the lesser penalties for offences such as low/high level drink-driving and inattentive driving, which are proven killers. It is difficult to reconcile why a person caught spinning the wheels of their vehicle should face tougher penalties by way of imposition of a significant fine plus the automatic loss of their vehicle, when compared against the penalties for inattentive drivers or a persons caught drink-driving.

Alternatives

The Queensland Police Service's figures show that the impoundment laws introduced by the previous government have been to good effect.

Queensland Transport's figures also indicate significant improvements in road safety http://www.tmr.qld.gov.au/~media/Safety/Transport%20and%20road%20statistics/Road%20safety/Fatal_road_traffic_crashes_in_qld_2011.pdf with the 'hooning' type behaviours only making up a small percentage. And, although that begs the question, why does the impoundment system need to be changed, most would agree there is always more that could be done.

My concern is that the proposals outlined in the Bill appear to just be a bolt-on to previous laws which were reactively introduced and did not fully deal with all of the fatal five. This is the government's opportunity to introduce its own more effective process.

I respectfully suggest the Committee should investigate an alternative policy approach which does not just tinker around the edge of the current flawed system and instead deals with the real road safety issues.

This is an opportunity to do much more to improve safety on our roads and would likely result in a much better system than proposed by the current Bill, which in its current form just seems to be a reaction to the ill-conceived and media fuelled public perceptions and generalisations about a group of citizens who in the main just enjoy caring for, modifying, and driving their vehicles in a safe manner.

In order to find the solution I believe the government needs to move away from the current narrow focus of responding to perceptions of 'hooning' and instead take a more broad approach by restructuring the laws to properly address the most deadly road-safety offences.

- Including all of the 'Fatal Five', including mobile phone use, as impoundment offences makes sense.
- As does removing all of the minor type, and nuisance type offences such as unlicensed driving, driving an unregistered vehicle, and 'burnouts' from the impoundment scheme.
- The automatic impoundment provisions are unfair and oppressive and should be removed. A well thought out system will gain efficiencies elsewhere.

I will finish up stating that I am supportive of any initiatives that will produce tangible improvements in road safety provided they do not impinge on peoples basic right to a 'fair go'. I am sure that many of your constituents are unaware of, and would be quite suprised that they could be very easily caught up in your 'anit-hooning' initiative.

For the reasons stated above I am against the Bill in its current form. I request the Committee fully investigate other, more effective and 'fair' means of achieving the desired outcomes by engaging in a real public consultation process and inviting the various stakeholder groups to form a working party to come up with viable solutions. I also request the Committee decline to make any recommendations for the government accept the Bill in its current form.

Yours faithfully

Gary Lambert

