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*Transport and Other
Legislation (Road Safety,
Technology and Other
Matters) Amendment Bill
2020*

- *For Information*
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Thank you for seeking RACQ's comments on the *Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Bill 2020*

This Bill covers many subjects, some of which are outside RACQ's areas of interest, and as such we will only be offering comment on certain aspects of it. This includes the digital licence app and camera detection of seatbelt and mobile phone offences.

Digital licence app

RACQ was briefed on the digital licence proposal and trial some time ago. We believe the adoption of this technology to be an important step in ensuring that licenses keep up with contemporary community needs and expectations. We also believe it appropriate that digital licences operate in conjunction with conventional licenses and that the public has the option of adopting them if they wish.

Camera detection of seatbelt and mobile phone offences

Ordinarily RACQ would oppose the concept of reverse onus of proof as proposed by this Bill. However, we understand that many Queenslanders feel strongly about the illegal use of mobile phones while driving and are rightly concerned about the safety implications of this practice. RACQ shares these views.

We also understand the difficulties in enforcing the current rules. In view of this, and the serious problem presented by driver distraction, we accept that in this case it is appropriate to apply a reverse onus of proof. Similarly, we accept that it is necessary to introduce certain presumptions to enable camera enforcement of seatbelt use. We also believe it essential that human adjudication by the QPS continues, prior to the issue of any camera detected infringement notice.

However, we do have some concerns.

First, as the higher penalties for illegal mobile phone use and camera detected phone offences legislation will have been introduced quite close together, it will be difficult to separate the two in order to evaluate their individual effectiveness.

The draft legislation as written (extract below) presumes, in the absence of proof to the contrary, that all vehicles are fitted with seatbelts and that anyone identified by the camera as not wearing a seatbelt, wasn't wearing a seatbelt.

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- (2) In the absence of proof to the contrary-*
 - (b) the vehicle depicted in the image or video is taken to be fitted with an approved seatbelt in the seating position occupied by the driver or passenger; and*
 - (c) if the image or video depicts the driver or passenger not wearing a seatbelt, the driver or passenger is taken not to be wearing an approved seatbelt.*

Mr Andrew Mahon of the Department of Transport and Main Roads explained in the DTMR Public Briefing of March 30 2020, that where a person has been granted an exemption from wearing a seatbelt on medical grounds, a copy of the medical certificate would serve as a defence, and that a note would be added to the file to prevent further infringement notices being issued. He also noted that the number of medical certificates exempting seatbelt use will be quite small.

While we accept that a medical certificate serves as a defence, and consider this to be appropriate given the small number of persons likely to be involved and the often limited period these certificates are in force, owners of vehicles without seatbelts, which we expect will be a very much larger group, do not have the same ready access to an irrefutable defence – the *proof to the contrary* mentioned in the proposed legislation.

We also find it incongruous that operators of vehicles that do not and are not required to have seatbelts will need to provide proof that they have not breached a law that does not apply to them.

Based on information provided to us by DTMR early in 2019, we believe there to be more than 30,000 Queensland vehicles registered under the Special Interest Vehicle Scheme, as well as an unknown number of older vehicles that are covered by normal registration. We do not know how many of these are not fitted with seatbelts, though we believe the number will be significant.

Ideally, screening of images prior to the issue of infringements would identify if the vehicle involved had seatbelts fitted, however based on the trial images we've seen we believe this would not be possible. Not issuing infringements to any vehicle built before 1969 would certainly resolve the issue but would also likely let some operators who deserve an infringement slip through the net.

A self-declaration by the vehicle owner may be a solution, however this relies entirely on the honesty of the person involved. Given that penalties for failing to wear a seatbelt are substantial, (\$400 fine and 3 demerit points per offence, and double demerit points for a second offence in a 12 month period) there is incentive for the vehicle owner to misrepresent the presence of seatbelts in the vehicle.

As infringements will be issued by QPS, we believe it vital that this legislation, its interpretation, and application, be unambiguous to ensure innocent members of the public are not unduly disadvantaged.

RACQ believes the Queensland public has a reasonable expectation that innocent motorists will not be issued with infringement notices, and were this to occur, they should be afforded every opportunity to prove their innocence without being subjected to onerous and/or inconvenient requirements.

We also believe that the administrative processes for contesting camera detected offences needs to be reassessed to allow the public to request a review of an infringement notice in other ways, not just in writing, as outlined in the Explanatory Notes. The arrangement outlined has the potential to disadvantage those with low or limited literacy skills and can result in the process taking longer than expected or necessary, when other communication options are available for a motorist to raise an issue with QPS about an infringement notice they have received.

Additionally, the proposed Section 113A (4) amendment to the *Transport Operations (Road Use Management) Act 1995* states that it may provide information about how the device or system provides for the deletion of an image or video that does not detect a prescribed offence. However there appears to be no time frame specified for the deletion of such images or video.

While we accept TMR's view that such images will be deleted once it has been determined that they do not depict an offence under this legislation, and in fact this will become essential due to the volume of data collected, it would seem reasonable to include a time frame for deletion, if for no other reason than to allay public concerns.

We urge the Queensland Government to properly address these issues before the modified legislation is adopted.

Should you require further information please contact Russell Manning on [REDACTED] or [REDACTED]