



THE NEW ZEALAND  
AUTOMOBILE  
ASSOCIATION  
INCORPORATED

342-352 Lambton Quay  
Wellington  
New Zealand  
PO Box 1  
Wellington  
New Zealand

02/June/2023

T. +64 4 931 9999

Committee Secretariat  
Justice Committee  
Parliament Buildings  
Wellington

### **Submission from the NZAA on the Land Transport (Road Safety) Amendment Bill**

1. The NZ Automobile Association (NZAA) appreciates the opportunity to comment on the Land Transport (Road Safety) Amendment Bill. The NZAA has over 1.8 million Members.
2. The NZAA would appreciate the opportunity to speak in support of this submission. We are willing to make a presentation to the Justice Committee at a suitable time.

### **Comment**

3. The NZAA notes that this Bill is subject to a truncated process so that it is implemented to complement the work of the police and allow them to implement their new policy on fleeing drivers. However, the NZAA has had only 10 working days to make a submission to the Justice Committee on the Land Transport (Road Safety) Amendment Bill. In comparison officials are allowed up to 20 working days to reply to an Official Information Request.
4. In the case of an Official Information Request the information already exists. This submission contains original content that required detailed analysis of the Bill and related legislation. It also includes our considerations and suggestions to improve the Bill for better safety outcomes.
5. The NZAA considers short or compressed consultation timeframes to be a poor policy practice when drafting legislation. Although we understand the shortened time frame is to align with the recently announced change to the Police pursuit policy we note that short time frames for public consultation are not conducive to good law making.

### **Executive Summary**

6. This submission concentrates on three matters that we believe if addressed will result in better safety outcomes which is a main objective of this Bill. These three matters are summarised in points 7 to 10 below, and then we provide more detail on each matter (titled 1 to 3) from point 11 onwards.
7. The NZAA has concerns about the draft wording of clause 10 that seeks to amend S96 of the Land Transport Act 1998 regarding the possible interpretation of words. Some wording is confusing, open to interpretation and in its current form could lead to unintended perverse outcomes. We

have made recommendations to clarify this clause and hopefully allow for better enforcement of the provisions.

8. The NZAA is one of the leading road safety campaigners in New Zealand with over 1.8 million members and we support the introduction and use of point-to-point average speed cameras to reduce speeding. We believe that average speed cameras will be more effective if they have warning signs alerting drivers to their presence as they approach them.
9. Our view is that warning drivers, so they have every opportunity to modify their speeding behaviours and slowdown would mean these devices truly achieve their purpose- being to increase safety on a particular section of road. Sending a ticket to a driver through the post up to two weeks later is like bolting the door once the horse has fled. It hasn't slowed the driver down on the stretch of road where they should have been driving slower. The primary objective should be to get people to comply with speed limits in the present moment rather than give drivers retroactive penalties.
10. The NZAA has concerns about the release process for vehicles that have been impounded which currently allows them to be driven away from the storage yard and onto the road regardless of their condition. The NZAA would like to see more rigorous requirements introduced that would prevent this from occurring and ensure that only road-worthy, safe vehicles are permitted to be driven away from an impoundment lot.

#### **Submission Detail**

##### **Issue 1-Clause 10: *New sections 96AAA and 96AAB after section 96***

96AAA Impoundment of motor vehicle used in fleeing driver offence

(1)

An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 6 months if the officer believes on reasonable grounds that—

(a)

the person driving the vehicle has failed to stop (or remain stopped) as signalled, requested, or required under section 114 (*see* section 52A(1)(a) and (b) for the offence); and

(b)

the vehicle—

(i)

is not a stolen vehicle; and

(ii)

has not been converted; and

(iii)

is not a write-off; and

(iv)

has not suffered severe damage.

11. The NZAA is strongly opposed to parts of this clause. It is easy to understand why a stolen vehicle would not be subject to seizure and impoundment as the vehicle owner would not have control over the behaviour of the driver and should not suffer further by the denied use of their vehicle by seizure and impoundment.

12. The use of the term converted (under point 1.b.ii) is confusing because the term has different meanings, so the intent of this point is currently ambiguous. What this term means is not defined in the interpretation section of the principal Act, the Land Transport Act 1998. In the absence of a clear meaning, the term could be interpreted as either 'to appropriate without right' or 'to make different or change in form or character'.
13. If the first interpretation is meant, then this would seem a responsible exemption as the driver has possession of the vehicle without right. However, the possible latter interpretations gravely concern the NZAA. Minor or major modifications to vehicles are common in the NZ light fleet. This is especially so amongst the boy racer community who fit aftermarket exhausts, turbo or superchargers, non-standard wheels, flare kits and chopped suspension springs to name just a few possible modifications.
14. These modifications are a change in form and character and make a difference to the vehicle that departs from its manufactured version. Due to a lack of legislative interpretation the very vehicles used by drivers more likely to flee from Police could have their vehicles exempt from seizure and impoundment. This is completely opposite to what the Bill intends to achieve.
15. The NZAA recommends that the term converted be explicitly defined in the interpretation section of the Transport (Road Safety) Amendment Bill. If the interpretation is "possession of the vehicle without right" then the NZAA agrees with the provision. If it is intended to mean to modify or change its form, then the NZAA opposes the provision and seeks its removal.
16. The NZAA also has concerns about the term "severe damage". Severe damage is subject to interpretation with different people having different opinions as to what constitutes severe damage. Also, if a vehicle fleeing from Police is involved in an accident, possibly from being tyre spiked and damaged then the way the Act and Bill is drafted could allow the driver to claim that the vehicle has been severely damaged and therefore not subject to seizure and impoundment. The driver then could dispose of the vehicle and retain any financial benefit from doing so.
17. The NZAA recommends that the exemption for severe damage be removed from the Land Transport Act 1998 and the Transport (Road Safety) Amendment Bill.

***Issue 2-Clause 28: relating to Point-to-Point Average Speed System***

18. The NZAA is a leading voice for improving road safety in New Zealand and we support the introduction and use of point-to-point cameras to reduce speeding. The NZAA is supportive of point-to-point or average speed cameras where this is the most appropriate option for speed management e.g. 110km/h expressways, tunnels and possibly long-term roadworks sites.
19. The NZAA has for many years called for fixed speed cameras to have warning signs alerting drivers to their presence as they approach them. This aligns with previous announcements from the Government of a no surprise policy in relation to speed camera use. The NZAA believes this no surprise policy needs to be explicitly included in clause 28 so that it is part of the legislation, because not a single warning sign has been installed near fixed speed cameras, three and a half years since the no surprise policy was first announced. The NZAA would like to use this opportunity to once again formally put on record our disappointment at the complete lack of progress on introducing fixed speed camera warning signs three and a half years since the no-surprise policy was first announced
20. A key point that needs to be understood is that the NZAA is calling only for signs ahead of fixed speed cameras including point-to-point average speed camera systems. We support the continued

use of mobile speed cameras without signage, such as vans on the side of the road, because we see safety benefit in random and unpredictable speed enforcement also being part of road policing. If a driver chooses to slow down for a signposted point-to-point average speed location and then speed up again, they can also be caught by the anytime, anywhere mobile cameras, and of course, they can be caught by police officers on patrol. Our submission is not about helping drivers avoid tickets, it's about getting drivers to check their speed and slowdown, if necessary, especially in high-risk areas.

21. The addition of point-to-point average speed camera, particularly over long distances, means that they focus on persistent or sustained speeding over distances, rather than the transitory speed of a vehicle at a particular point on the road.
22. Giving fair warning to drivers so they have every opportunity to modify their speeding behaviours and slowdown is the primary safety reason these devices are being introduced. Without warning signage drivers could claim that the introduction of average speed cameras is about revenue-gathering, not safety.
23. The NZAA want signs displayed to tell drivers then-and-there to check their speed. Sending a ticket to a driver through the post up to two weeks later is far from ideal in terms of maximising compliance with speed limits. In summary, put the average speed cameras where they are needed, sign them, and get people to slow down then and there.

### **Issue 3-An issue not addressed by the Bill: release process for impounded vehicles**

24. The NZAA is concerned about the lack of control over releasing vehicles from impoundment. Through our District Council structure who have close knowledge of the vehicle towage and storage industry. We have evidence of unsafe and unroadworthy vehicles being driven away from storage yards once any fees and charges for towage and storage have been paid.
25. The principal Act explicitly states that the storage provider must immediately comply with any direction given under the Act to release the vehicle to the owner. There is no advice on what to do if there are concerns about the state of roadworthiness or safety outcomes for other motorists if the vehicle is driven away.
26. Currently we are hearing stories of storage operators having to release vehicles with bald tyres (in some cases down to bare metal), faulty brakes, exhaust pipes protruding through the bonnet and with dangerous suspension only to see the driver hop into the vehicle and drive it away. In a known case, one vehicle was driven over 100km to its destination. The storage operator was aghast and powerless to stop this dangerous situation from occurring.
27. This issue is further compounded by the increased length of impoundment from 28 days to 6 months. Over a 6-month period a vehicles condition is more likely to deteriorate due to the lack of use. Depending on where the vehicle is stored structural rust may worsen, tyres could deflate or tyre pressure between the wheels may become unbalanced. Warrants Of Fitness may have expired, or moisture or other impacts may have affected the braking system. These are just some examples of the deterioration that can affect vehicles that are stored for long periods of time.
28. The NZAA strongly urges the Committee to recommend amendments to the Bill that would prohibit an unsafe, non-roadworthy vehicle from being driven away from an impoundment lot. Our suggestion is that the Bill require these types of unsafe vehicles to be transported to a suitable destination such as a workshop or the owner's property. Without this provision it is our fear that

one of these vehicles will be involved in a serious accident involving an innocent party when a suitable provision would have prevented the incident from occurring.

## **Conclusions**

29. The NZAA has appreciated the opportunity to provide input on the Land Transport (Road Safety) Amendment Bill. We hope the issues we have raised above are addressed in redrafting of the Bill. We would welcome the opportunity for further involvement in this process, as useful, to ensure a better outcome for all road users.
30. The NZAA would be keen to present our submission to the Justice Committee at the submitter's hearing and answer any questions Committee members may have.

Yours sincerely

Simon Douglas

**Chief Officer Policy and Advocacy**

**New Zealand Automobile Association**

[sdouglas@aa.co.nz](mailto:sdouglas@aa.co.nz)