



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT AND CITY SERVICES

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Submission No 23 - Mr Jeff Ibbotson

Inquiry into the Road Transport (Safety and Traffic

Management) Amendment Bill 2021 (No 2)

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Standing Committee on Planning, Transport and City Services

Dear Committee Members

I support the purpose of the Bill as stated in its Explanatory Statement: 'to improve road safety and... to bring penalties closer to meeting community expectations.'

In my 20 years of cycling to work in Canberra and another 10 years of general riding around town I have experienced many near misses due to careless and aggressive behaviour on the part of people driving cars. Any increase in penalty for drivers who negligently or aggressively harm vulnerable road users such as myself is most welcome.

I regard the Bill as a worthwhile first step and ask the committee to recommend its passage. However, it is not perfect for reasons I discuss below, so I suggest at least one amendment – an increase from three to four demerit points.

A high fine

The proposed \$1600 penalty is quite appropriate. It sends the right message to the community that this is more serious than negligently damaging another vehicle.

If a person has genuine difficulty in paying the fine, they can apply online for an Infringement Notice Management Plan. The legislation permits an extension of time to pay, payment by instalments, or alternatives of community work or a social development program

Significant loss of points

However, a high-level fine is not enough. In a city with high average income, some will regard the current negligent driving garden fine as merely a cost of doing business. More is needed to emphasise the seriousness with which the legislature regards the offence, and the message of deterrence it wishes to send to the community. The risk to accumulating points more rapidly and losing one's licence is a much more potent reminder of a driver's responsibility to more vulnerable people who are on our roads.

The current traffic infringement notice for negligent driving includes the loss of three licence points.

Two offences trigger four points:

- Exceeding the speed limit by 30 km/h but less than 45 km/h
- Driver using mobile phone for messaging, social networking, mobile application or accessing internet

I suggest the proposed offence is at least as dangerous and as warranting deterrence as these two offences. An additional licence point is necessary to distinguish the increased seriousness and consequences of the offence compared to common or garden negligent driving.

A licence suspension by points accumulation has several safeguards. Drivers are given a warning once they accumulate seven or more points. There is a discretion not to issue a suspension notice by having regard to when the relevant offences were committed over the three-year period. The minimum suspension period (for 12 – 15 points) is not very long – three months. A

person may elect to be of good behaviour for 12 months in lieu of suspension.

In light of these safeguards, I ask the Committee to recommend the penalty include four demerit points rather than three.

Infringement notice or court?

The infringement notice approach is a practical application of the maxim 'justice delayed is justice denied'. It enables the matter to be dealt with expeditiously. The victim can be reassured that the legal system has dealt with the offender. The offender need not incur the time and expense of court appearances, but retains the safeguard of contesting the offence before a court if desired.

A significant practical advantage of an infringement notice is that it enables court time to be allocated to the most serious and pressing cases and enables them to be dealt with more expeditiously.

The infringement notice approach also overcomes the various factors that work against securing a successful prosecution. The victim must be willing to give evidence and prove to be a reliable and accepted witness. The DPP has to be satisfied that prosecution is in the public interest. The attending police officer should be available to give evidence of their investigation (which can delay or adjourn a hearing). Defence counsel might show sufficient doubt about an element of the offence. While these factors help contribute to a fair justice system, one can understand a victim's perception that police are too reluctant to lay charges.

More is needed

This offence requires harm to be done to the victim. This still leaves a gap in the legislation. As I mentioned above I have experienced many near misses, some frightening. Many of my friends have had similar experiences. I hear people say that they wouldn't ride on particular roads that are otherwise suitable for cycling because of fear of being hit by inattentive drivers. Some have said they have stopped cycling altogether because of these fears.

An offence is needed to deter negligent or aggressive behaviour that frightens vulnerable road users without actually physically harming them. An offence of negligent driving involving a vulnerable road user with a fine in between that for the current and proposed offences would be appropriate.

Conclusion

To better achieve the purpose of the Bill, I ask the Committee to take into account matters I have raised and recommend the Bill to the Assembly with an amendment to increase the demerit points to four.

I also ask the Committee to recommend that road safety officials consider an infringement notice offence to deter conduct which frightens or adversely affects vulnerable road users but does not involve physical harm.

Jeff Ibbotson

