

## “ANTI-HOONING” DRIVING LAWS

The Victoria Police Major Collision Investigation Unit revealed that during the period of January 2003 to November 2004, “hoon” driving was a contributing element to 41 serious crashes, in which 28 people were killed. This prompted the Bracks government to introduce new laws to combat “hoon” driving in an attempt to minimise the fatalities and trauma resulting from dangerous “hoon” driving acts.

The new laws target drivers who perform burnouts, doughnuts, drag racing, excessive speeding and other such road offences. Amendments have been made to the *Road Safety Act 1986* which gives Victorian police the power to impound, immobilise or forfeit the vehicle driven by a person whom they believe, on reasonable grounds, has committed a “hoon-related” offence. Penalties for repeat offenders are more severe. “Anti-hooning” laws have been implemented in Tasmania, Western Australia, Queensland and New South Wales. Although the legislation does vary between states, a common punishment is the seizure of the offender’s car.

### What is “hoon” driving?

#### “Hoon- related” offences are:

- Improper use of a motor vehicle, where the driver has intentionally caused one or more tyres to lose traction.
- Exceeding the speed limit by 45kmph or more (or travelling at over 145 kmph in a 110 kmph zone).
- Engaging in an unauthorised race or speed trial on a road or spaces near a road that are open to the public.
- Repeat incidents of driving whilst disqualified.

#### The following will also be considered “hoon-related” offences if they are committed in circumstances involving the improper use of a motor vehicle:

- dangerous driving;
- careless driving;
- failure to have proper control of the vehicle; and
- causing the vehicle to make excessive noise or smoke.

### What are the consequences of “hoon” driving?

If you commit a “hoon-related” offence, the legislation permits authorities to impound, immobilise or forfeit the vehicle involved, regardless of who owns it.

#### **FIRST OFFENCE: Vehicle impounded or immobilised for 48 hours**

If Victoria Police reasonably believes you have committed a “hoon-related” offence, the vehicle may be seized through impoundment or immobilised on-site for 48 hours. Impoundment means that the car is secured at premises under the authority of Victoria Police and Victorian courts. Immobilisation involves wheel clamps being fitted so that the vehicle cannot be driven. For a first offence, police may confiscate the vehicle on the spot or up to two days after the offence. Alternatively, they may serve a notice of surrender up to 10 days after the offence demanding that the vehicle be surrendered at a

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specified location. If not surrendered voluntarily, police may obtain a warrant from a court to search and seize the vehicle from private property. If the 48 hour period ends on a Saturday, Sunday or public holiday, the vehicle may remain impounded or immobilised until 9am on the next business day. It can also stay impounded or immobilised until a person entitled to the vehicle pays all designated costs.

### **SECOND OFFENCE: Vehicle impounded for up to 3 months**

If a court finds an individual guilty of their second “hoon-related” offence within three years, their vehicle may be impounded for up to 3 months. This seizure needs to be ordered by the Court and police must provide you with 28 days notice before they seek a Magistrate's order to impound or immobilise your vehicle for three months. The Magistrate must hear the views of all parties served with such notice.

### **THIRD OFFENCE: Permanent forfeiture of vehicle**

If an individual is charged with three “hoon-related” offences within a three year period, their vehicle may be permanently forfeited by the Court. Permanent forfeiture means that State Government authorities may take the vehicle, sell it and keep the proceeds. In this case, police must provide the individual with 28 days notice before seeking such an order and the Magistrate must hear the views of all parties served with such notice.

## **Can I get my car back before the impoundment or immobilisation period ends?**

### **A vehicle may be released if:**

- A Victoria Police senior officer (of or above the rank of Inspector) has reviewed the circumstances of the offence and determines that there are not reasonable grounds for the impoundment or immobilisation, or considers it reasonable or necessary to release the motor vehicle. Any decision made by a police officer to take away a vehicle for “hoon” driving is promptly reviewed by a senior officer.
- Victoria Police are satisfied the vehicle involved in the “hooning” offence is either stolen or hired. A vehicle is deemed to be hired if it belongs to a fleet owned by a person or company operating a short-term vehicle hire business. In such cases, the vehicle will be released as soon as practicable to the registered operator or person entitled to possession. Victoria Police may ask the Court to substitute the vehicle for one registered to the driver for the three month impoundment or forfeiture order.
- A person severely affected by their car’s three month impoundment, immobilisation or permanent forfeiture has successfully applied to a Magistrate to have the vehicle released on grounds of exceptional hardship to themselves or somebody else.
- Victoria Police do not proceed with charges for the “hoon-related” offence or the driver has been found not guilty of the “hoon-related” charge or offence for which their vehicle was impounded, immobilised or forfeited. The driver must have their payment to recover the vehicle reimbursed and where the vehicle is still impounded or immobilised, it must be released quickly without any recovery cost to the driver or registered owner.

## **Further information**

For further information about the amendments to the *Road Safety Act 1986* concerning “hoon” driving, visit [www.justice.vic.gov.au/roadsafety](http://www.justice.vic.gov.au/roadsafety).

If you are a young person in need of free legal advice, drop in and see us at Youthlaw, Monday to Friday, 2pm to 5pm, 19 King Street, Melbourne, 3000.

Or for information by phone or email, contact: 9611 2412, [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au).