

“ANTI-HOONING” DRIVING LAWS

‘Anti-hoon’ driving laws are designed to prevent drivers engaging in risky and/or dangerous behaviour on the road that endangers the lives of themselves and others, such as drag races, burn outs and similar behaviour.

Victoria’s ‘anit-hoon’ laws have changed significantly since July 1 2011. The most significant change is Victoria Police’s power to impound the cars of ‘hoon’ drivers for up to 30 days.

Most other Australian states have also implemented ‘anti-hooning’ laws. Whilst most states classify different types of driving as ‘hoon’ driving, all states allow for police to seize and impound the cars as punishment for offenders of these laws.

What is “hoon” driving?

From **July 1 2011**, a person can be charged with ‘hoon’ driving if they are found committing a “hoon-related” offence under the *Road Safety Act 1986* (Vic). These include:

- 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). n.B. there are harsher consequences for exceeding the speed limit by 70kmph or greater
- 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.
- Repeat incidents of drink driving with a blood alcohol concentration greater than 0.10
- Carrying more than the legal number of passengers in a car

There are also general driving offences that will be classified as “hoon-related” offences if they are carried out in circumstances that involve the improper use of a motor vehicle.

- Dangerous driving
- Careless driving
- Failure to have proper control of the vehicle
- Causing the vehicle to make excessive noise or smoke

For a full list of “hoon-related” offences see:

What are the consequences of “hoon” driving?

Police can automatically impound, immobilise or forfeit any vehicle they reasonably believe was involved in a “hoon-related” offence, even if the person who committed the offence does not own the

car. The length of time a car will be impounded depends on whether the driver has previously been charged with a “hoon-related” offence and how dangerous the driving was. Persons charged with “hoon driving.”

Action by Victoria Police	Effect of Actions	Duration
Impound the car(s)	The car(s) involved in the offence are held at secure premises under the authority of Victoria Police and the courts	<ul style="list-style-type: none"> ▪ 30 days for first offences ▪ 3 months for second offences
Immobilisation	Wheel clamps are fitted to the car(s) involved to prevent the car from being driven	
Notice of Surrender	Within 10 days of being charged with a “hoon related” offence, drivers can be required to surrender their car to a specified location. Failure to comply with the notice may lead the police to seize the car from private property under a warrant	

FIRST OFFENCE: Vehicle impounded or immobilised for up to 30 days

If Victoria Police reasonably believes you have committed a “hoon-related” offence, the vehicle may be seized through impoundment or immobilised on-site for up to 30 days. 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 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.

Note: The amendments made under the Road Safety Amendment (Hoon Driving and Other Matters) Bill 2011 only apply to offences on or after 1 July 2011.

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.

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.