OVERVIEW

What changes is the Land Transport Amendment Bill 2016 proposing?

The Land Transport Amendment Bill (the Bill) is part of the government's ongoing efforts to create better, more effective regulation.

The Bill has six parts and will:

- enable innovative small passenger services to operate and deliver benefits to consumers while managing safety risks
- create opportunities to increase the productivity of heavy freight and passenger vehicles
- introduce mandatory alcohol interlock sentences for first time drink-drive offenders with high alcohol levels and those with repeat convictions
- introduce more effective deterrents to reduce the number of fleeing drivers
- strengthen the framework for managing public transport fare evasion, and
- make a range of minor amendments to make sure that the Land Transport Act is clear and operating as intended.

Will the public have an opportunity to have a say on the Bill?

Yes.

The Minister of Transport introduced the Bill to Parliament on 12 September 2016 and the Bill will be referred to the Transport and Industrial Relations Committee. The public and interested groups will have the opportunity to make submissions to the Committee.

The Committee will advise on Parliament's website when it is ready to receive public submissions.

SMALL PASSENGER SERVICES

What are the changes proposed regarding small passenger services?

Currently there are separate categories and rules for taxis, shuttles, private hire, and dial-a-driver services. The Bill and associated changes to land transport rules (particularly the Operator Licensing Rule) will regulate these services under the single category of a small passenger service.

What prompted the proposals for change?

The Government is a strong supporter of innovations that enable all New Zealanders and businesses in New Zealand, traditional or otherwise, to enjoy the benefits of new technology.

In 2015, the Ministry of Transport undertook a review of the Small Passenger Services to ensure that New Zealand's regulatory environment for small passenger services continues to be fit for purpose and flexible enough to accommodate new technologies.

Further details about the review, public consultation, and government decisions can be found here: http://www.transport.govt.nz/land/small-passenger-services-review/

What are the benefits expected by the proposals for change?

The revised system will deliver benefits through increased competition, more flexibility to accommodate new technologies, and will enable transport operators to make their own business decisions on a range of issues, while the system will regulate to provide the fundamental safety requirements.

What are small passenger services?

Anyone carrying passengers for hire or reward, in a vehicle designed to carry twelve or fewer people (including the driver) is operating a small passenger service. There is a list of special exceptions to this, such as car-pooling.

What rules currently apply to small passenger services?

Most of the rules that apply to small passenger services are outlined in the Land Transport Rule: Operator Licensing 2007, which can be found at: https://www.nzta.govt.nz/resources/rules/operator-licensing-2007/.

The rules in the Land Transport Rule: Work Time and Logbooks 2007 also apply, and can be found at: https://www.nzta.govt.nz/resources/rules/work-time-and-logbooks-2007/.

What rules will apply to small passenger services under the new system?

The NZ Transport Agency is in the process of revising the Operator Licensing Rule and the associated Work Time and Logbook Rule 2007 to reflect the Government's proposals for the sector. These revised Rules will be consulted on in a separate process to consultation on the Bill. This consultation is expected to begin after the select committee has received public submissions on the the Bill.

Some changes to rules and regulations affecting the small passenger services sector are being made via the Bill as consequential amendments. These include the removal of the requirement to undertake a passenger endorsement course, and extending the current exemptions relating to child restraints and seat belts for taxis to include small passenger services.

The rules and regulations that will be consequentially amended via the Bill are:

- Accident Compensation (Ancillary Services) Regulations 2002
- Jury Rules 1990
- Land Transport (Driver Licensing) Rule 1999
- Land Transport (Road User) Rule 2004
- Witnesses and Interpreters Fees Regulations 1974.

What will the new rules provide?

A person or organisation that carries on a small passenger service must have a small passenger service licence.

The new rules remove a number of regulatory requirements that impose costs on operators, but no longer offer any significant benefits, including:

For a small passenger service vehicle:

- removal of mandatory signage requirements (including information about fares, mandatory branding, information supplied in Braille)

For a driver — removal of the following requirements:

- an Area Knowledge Certificate
- a full licence test in the preceding five years
- completion of a Passenger (P) endorsement course.

For an operator or company — removal of the following requirements:

- belong to an approved taxi organisation
- provide small passenger services on a 24/7 basis
- have a certificate of knowledge of law and practice
- ensure driver panic alarms, monitored 24/7 from a fixed location.

Updates to the offences and penalties applicable to small passenger services are also proposed.

The reasons for these changes are set out in the *Future of small passenger services* consultation paper, which can be found at: http://www.transport.govt.nz/assets/Uploads/SPS-Review-Consultation-paper-14-December-2015.pdf.
Retained under the new system are provisions to ensure that passengers can feel safe, irrespective of the particular services they may be using; including:

For drivers:

- the requirement to hold a P endorsement and display a driver identification card remain — a fit and proper person check, including a police check, will continue to be undertaken before a P endorsement is granted

- the requirement to operate within their work time limits remain

- that they must operate as or under the appropriate licence holder – it will be an offence for a driver to drive a small passenger service vehicle if they are not doing so for a licence holder

(Note that drivers for third party facilitated cost sharing services are exempt from some of these requirements. These are specified under the heading *What are the requirements for operators of facilitated cost sharing arrangements?***)**

Vehicles:

- will continue to require a Certificate of Fitness

- that are operating within the 18 main urban areas must be fitted with an in-vehicle recording camera unless the service has alternative means of capturing and making available information about driver and passengers. Some specified services are excluded from meeting these requirements.

When won't an in-vehicle recording camera be required?

An in-vehicle recording camera will not be required if each of the following four criteria are met:

1. providing services to registered passengers only

2. driver and passenger information (e.g. names and photographs of both driver and passenger) is available

3. driver and passenger information is available before each trip

4. a record of each trip is available (e.g. GPS records).

The Government considers that an adequate level of safety is provided if these criteria are met, given exclusively pre-booked services have more information about their passenger's identities than non pre-booked services — thereby alleviating safety concerns. This flexible approach prevents a disproportionate impact on businesses that would otherwise face the considerable cost of installing in-car cameras.

Certain specified services will not have to meet the above mandatory requirements:

- a vehicle provided by a passenger in a dial-a-driver service
- a vehicle provided by a driver in a third party facilitated carpooling service
- special occasion vehicle hire services (for example, weddings, school balls)
- short duration package tour services (for example, three-day sightseeing tours)
- government services under a long-term contract.

What are the requirements for operators of facilitated cost sharing arrangements?

For third party facilitated cost sharing arrangements, the third party must hold a small passenger service licence.

However, their drivers do not need to hold a P endorsement or meet work time requirements, and their vehicles do not need to have a Certificate of Fitness or comply with the in-vehicle recording camera requirements.

A third party carpooling service is different from a normal small passenger service, as the driver cannot be recompensed for more than the cost-recovery of running the vehicle.

Under the new system, a third party facilitator may take a fee for its services.

Are traditional carpooling between people who known each other, or facilitated by local councils captured?

No, existing exemptions under the Operator Licensing Rule will continue, for example carpooling between people who know each other and specified council facilitated services.

What is a facilitated cost sharing arrangement?

These are services that connect drivers and passengers who are travelling from and to similar points, on a cost-sharing arrangement basis, by electronic app or other means. (However, it does not include the mere provision of an answering or call centre service.)

Why do third-party facilitated carpooling operators have different requirements?

Carpooling has the potential to contribute to reducing traffic congestion and vehicle emissions. A traditional barrier to carpooling has been the ability to easily match drivers and passengers - third parties that facilitate this process can potentially play a significant part in overcoming this barrier.

We want to ensure the small passenger services regulatory system provides the right incentives to make sure that carpooling remains an inexpensive and easy transport option. It is important that regulatory requirements therefore reflect the low cost nature of carpooling services.

How will current passenger service licence holders transition to the new system?

If you currently operate a service under a passenger service licence, then it will continue to be valid until that licence expires. You would then need to apply for the new small passenger service licence under the new system.

Any service that is not operating with a passenger service licence currently, will have 28 days once the Bill has been enacted to become licensed.

It is important to note that if someone apples for a passenger service licence before the new provisions start, then they will get a passenger service licence, rather than the new small passenger service licence.

Why has the term ‘approved transport operator’ been replaced with ‘small passenger service operator’?

Originally, the small passenger service decisions were announced using the term ‘approved transport operator’. However, it became apparent during drafting of the Bill that this term was too broad — it would potentially capture other services such as tow truck operations and large passenger services operations. In response, the Bill uses the term ‘small passenger service operator’.

How do large passenger services fit in?

Large passenger services were outside the scope of the Small Passenger Services Review. However, some changes to the requlation of large passenger services were required as a consequence of changes to the small passenger services regime. For example, there is now a separate large passenger service licence.

Will there be a complaints register in the new regulatory system?

The current small passenger services system requires that operators of small passenger services have a complaints register and report serious allegations to the NZTA. The Government agreed that in the future, operators would be required to report allegations of serious improper behaviour to the NZTA and cooperate with any investigation or audit that NZTA or the Police might perform. To support that, operators will also be required to maintain a record of complaints.

Why has the Passenger (P) endorsement course been removed?

One of the aims of the small passenger services review was to lower the compliance burden. The P endorsement course was one of the requirements that imposed costs on an operator, but no longer provided any significant benefit. The course involves two components and typically costs between $400 and $700. The changes to the small passenger services system, particularly the removal of a number of rules the course refers to, means it will add little value in the future. Other relevant information provided by the course can be provided in other ways.

What about those operating outside the law?

In the future, as is current practice, the sector will be regulated by the NZ Transport Agency and Police, and those who don't comply with the regulatory requirements will be subject to similar sanctions as currently exist (conviction and subsequent court imposed fines, infringement fees, suspension, revocation of licence, and further disqualification from applying for a transport service licence).

What about the new Ministry of Education Special Education School Transport Assistance (SESTA) requirements?

The Ministry consulted with Ministry of Education representatives throughout the development of the small passenger services review. The SESTA requirements reflect Ministry of Education specific requirements.

HEAVY VEHICLES

What changes are proposed in relation to heavy vehicles?

The main amendments proposed in the Bill aim to improve enforcement of rules which govern the loads heavy vehicles can carry.

These include:

- providing better-targeted enforcement activity by allowing for more selective stopping of heavy vehicles for enforcement checks

- reducing the weight threshold for off-loading of overloaded vehicles

    - At present the Act requires that when vehicles are found to be overloaded by more than 10 percent they cannot continue their journey until the load has been reduced. This allows a vehicle with a 50 tonne permit to be overloaded by 5 tonnes without having to offload. The amendment will cap the extent of overloading allowed before offloading is required at 2 tonnes.

- providing ability for Police to divert vehicles for a total of up to 10 kilometres in order to be weighed, if the location where they have been stopped initially is unsuitable for weighing. At present diversion is usually limited to a total of 5 kilometres

- increasing the maximum possible infringement fine for overloading, from $10,000 to $15,000. This maximum has not been adjusted since 1998

- strengthening requirements for operators to stay within the maximum design weights specified by vehicle manufacturers

- providing a specific offence for operating a vehicle that exceeds limits on length, width or height.

Why are the changes being made, and what are the benefits?

In recent years, changes to rules have enabled the introduction of more productive freight and passenger service vehicles, using high productivity vehicle permits. Changes proposed in a current review of the rule will result in further increases in allowable maximum weights for many vehicles.

Tighter enforcement provisions will mitigate the risks associated with higher legal weight limits and help to protect compliant operators against unfair competition from those who deliberately overload.

At the same time, better targeting of enforcement activity will reduce compliance costs for operators who abide by the law.

MANDATORY ALCOHOL INTERLOCKS

What changes are proposed around alcohol interlock sentences?

The Bill proposes making alcohol interlock sentences mandatory for recidivist drink drivers, and first-time offenders with high alcohol levels.

Alcohol interlocks are very effective as a public safety measure because they physically prevent an offender driving after drinking.

However, the existing alcohol interlock sentence has not been used much by the courts since it became available in 2012. Only around 2 percent of eligible offenders have received the sentence.

Therefore, the proposed changes make it clear that an eligible offender must be given the sentence.

A mandatory alcohol interlock sentence will not prevent the courts from giving additional sentences, such as fines and imprisonment, should the circumstances of the repeat drink-driving offence merit it.

What is an alcohol interlock?

An alcohol interlock is a breath-testing device wired into a vehicle's starting system. Before the vehicle can start, the driver must blow into the device. The vehicle will not start if the interlock detects alcohol on the driver's breath.

The interlock prevents the driver from driving the vehicle, rather than relying on a driver, while drink driving, being caught by Police. This keeps the driver, their passengers and other road users safe.

Is this is a new type of sentence?

No, alcohol interlock sentences have been available as a sentencing option since September 2012 for repeat offenders and offenders with high alcohol levels. The sentence is one of a range of sentences available to the courts for people convicted of drink-drive offences. However, the Bill proposes that the courts will have to impose this sentence for eligible offenders.

How many injuries and deaths are caused by drink drivers every year?

Drink driving contributes significantly to vehicle crashes in New Zealand. It causes an average of 77 road deaths, 436 serious injuries and 1252 minor injuries each year.

For the five years from 2011 to 2015, the estimated social costs associated with drink-driving average $704 million per year.

Which offences are eligible for the alcohol interlock sentence?

Alcohol interlocks will become mandatory for those offenders who are currently eligible for the alcohol interlock sentence. The Government also proposes to include offenders who are currently subject to compulsory alcohol assessments and indefinite disqualification. As well as the normal criteria that apply for removing an interlock, these offenders will also need a satisfactory alcohol assessment.

The full eligibility criteria are provided in the table below.

Proposed eligibility criteria	**Qualifying Offences**	**Who**
First offenders (existing)	1 high alcohol level conviction in which: - the blood alcohol level was at or exceeded 160 milligrams (mg) of alcohol per 100 millilitres (ml) of blood (3.2 x the current blood alcohol limit of 50 mg) or - the breath alcohol level was at or exceeded 800 micrograms of alcohol per litre of breath (3.2 x the current breath alcohol limit of 250 micrograms)	First offenders (existing)
Repeat offenders (existing)	2 or more convictions for drink-drive offences within 5 years	Repeat offenders (existing)
Drink-drive offenders who are subject to mandatory alcohol and drug assessments and indefinite disqualification under section 65 of the Land Transport Act 1998 (additional)	<u>Either</u> 2 or more drink or drug-driving convictions within 5 years where at least one of the alcohol offences has: - a blood alcohol level exceeding 200 mg of alcohol per 100 ml of blood (4 x the current blood alcohol limit) or - a breath alcohol level exceeding 1,000 micrograms of alcohol per litre of breath (4 x the current breath alcohol limit) or - the offender refused to comply with the alcohol testing procedure <u>Or</u> 3 or more drink or drug driving convictions within 5 years where at least one of the convictions is for a drink-drive offence	Drink-drive offenders who are subject to mandatory alcohol and drug assessments and indefinite disqualification under section 65 of the Land Transport Act 1998 (additional)

What does the mandatory alcohol interlock sentence involve?

Once an offender has received the mandatory alcohol interlock sentence, they need to apply to the NZ Transport Agency for an alcohol interlock licence. Once they have an interlock licence, they will then need to have an interlock fitted to a vehicle and used for at least 12 months.

The interlock can only be removed if the offender has had six months free of violations. A violation is earned, for example, when an offender attempts to start the vehicle with alcohol on their breath or they attempt to tamper with the interlock. The six-month violation free period can be reduced to three months if the offender obtains a satisfactory alcohol assessment.

The offender must apply for a zero-alcohol licence once the interlock is removed. The zero-alcohol licence must be held for three years. This means that the licence holder cannot drive with any alcohol in their breath or blood.

Currently, an offender must serve a three-month disqualification before an interlock can be fitted. This disqualification will be reduced to 28 days. International research suggests that interlocks work best if they are fitted as soon as possible after the offender is sentenced. However, there will be some situations where the court will still be able to impose a period of disqualification that must be served before the interlock is fitted.

Are alcohol interlocks an effective sentence for drink-drivers?

Interlocks force a person to change their behaviour in relation to drink and driving. People with an ingrained pattern of drink-driving behaviour are likely to find the behaviour changes required very challenging.

Interlocks identify a person as a convicted drink-driver, and are inconvenient to use. As well as needing to pass a breath test to start the vehicle, the device will require the driver to undergo further breath tests at random intervals while they are driving. The interlock must be serviced monthly by an interlock service centre.

To have the interlock removed from the vehicle, the offender must meet tough exit criteria. If they fail to meet these criteria, they remain on their alcohol interlock licence.

Currently, interlock users take an average of 18 months to meet the exit criteria to have the interlock removed from their vehicle. This is 6 months longer than the mandatory minimum 12 month period they must hold an alcohol interlock licence. Once the interlock is removed, an offender must hold a zero-alcohol licence for three years.

Do mandatory alcohol interlocks prevent drink driving?

International research shows that interlocks are effective in protecting the safety of the public, and reduce reoffending rates by an average of 60% while the devices are fitted.

Coupled with other interventions like drug and alcohol assessments there is the potential for on-going residual benefits once the device is removed.

What benefits would mandatory interlocks bring?

Mandatory alcohol interlocks for specified offenders would save an estimated 8 lives, 43 serious injuries and 126 minor injuries a year.

Information provided by one of New Zealand's interlock providers suggests that the 556 interlocks fitted over the past three years prevented around 2,200 drink-drive events.

Making the interlock sentence mandatory would result in around 4,250 interlocks being fitted each year – which at the same rate of prevention would mean at least 6,000 drink drive events being prevented annually.

How much would the proposals for mandatory interlocks cost?

While there will be costs in moving to the mandatory alcohol interlock sentence, reduced drink-drive reoffending will result in net cost savings. These estimates are set out in the Regulatory Impact Statement accompanying these proposals.

Who pays for alcohol interlocks?

To date, interlocks have been funded by offenders themselves. Interlocks cost around $2,400 and $2,800 for a 12-month interlock sentence. This cost comprises driver licensing fees, interlock installation and removal fees, and monthly rental costs.

This overall cost could mean that some offenders would not be able to afford to fit the interlock and complete the alcohol interlock sentence. As a result, the Government proposes establishing a financial assistance scheme of up to $4 million per annum (GST exclusive). Officials are working through the details of the scheme.

Why should the taxpayer contribute to the cost of alcohol interlocks for some drink drivers?

Alcohol interlocks are a very effective method for preventing drink-drive reoffending. Providing some financial assistance will mean that more alcohol interlocks can be fitted, and the public made safer as a result. The road safety and other benefits from alcohol interlocks rely entirely on offenders getting interlocks fitted and using them.

Most importantly, increasing the use of interlocks will help to significantly reduce drink-drive offences, contributing to making our roads safer for all road users.

What is to stop someone getting a friend to start their interlocked car, then taking over the driving?

International research shows that offenders tend to use interlocks once they are fitted.

There are procedures for blowing into the interlock that make it difficult to operate an interlock without the necessary training. The device also requests random re-tests once an offender has started driving. Interlocks can also be fitted with cameras should this prove necessary in the future.

Data from the interlock must be downloaded monthly and this can quickly show any tampering attempts, for example, disconnecting the device. Tampering is treated as a violation. Generally, there needs to be six months free of violations before an interlock can be removed at the end of the minimum 12 month period an interlock must be fitted.

What is to stop someone subject to an interlock sentence from driving another vehicle without an interlock?

Offenders who drive vehicles in contravention of their alcohol interlock sentence are subject to serious penalties and may extend the period that they need to have an alcohol interlock on their vehicle. Also a vehicle owner who lends their vehicle to a repeat drink-driver who breaches the terms of their interlock sentence faces the risk of their vehicle being seized and impounded by the Police for 28 days.

What would happen if a drink driver received another drink-drive conviction while subject to a mandatory alcohol interlock sentence?

If a drink driver received another drink-drive conviction while subject to a mandatory alcohol interlock sentence, the mandatory interlock sentence would be cancelled and a new interlock sentence imposed. The offender would not receive any benefit for any previous time spent with an interlock fitted.

What would happen if a drink driver is convicted of other offences that carry mandatory disqualifications?

An offender sentenced to a mandatory alcohol interlock would need to serve any existing disqualifications before they could have the interlock fitted.

If they were being sentenced at the same time for other offences that involved mandatory disqualifications, the court would have the discretion to make the offender serve a disqualification longer than 28 days before the interlock could be fitted.

However, there would be no discretion if the offence, or any other offence, involved causing injury or death. The alcohol interlock sentence would apply but the offender would have to serve the mandatory disqualification relating to the offence involving injury or death before fitting the alcohol interlock. The court may also impose other available penalties, including a prison sentence.

Are there any exceptions to the mandatory alcohol interlock sentence?

There will be a limited number of situations where an exception to the mandatory interlock sentence will be available. The exceptions are specified in the Bill.

The main exceptions involve where an offender:

- does not have access to a vehicle
- does not live within a 30 kilometre radius of an interlock service centre or on an island
- has a verified medical condition that prevents them from using an interlock.

Exceptions are also necessary for some drivers who have had their licence revoked, or who have never held a license.

If an offender met the criteria for an exception, they would receive the alternative sentence of a mandatory disqualification, along with any other sentences such as fines or imprisonment that the court chose to impose.

Would mandatory alcohol interlocks reduce a judge's discretion to impose the best sentence to fit an offender's circumstance?

The Courts have used mandatory disqualifications for drink-driving and other serious offending for many years. Extending the use of interlocks from the current low level will have significant benefits, both in protecting the public and preventing reoffending.

When would these changes take effect?

The new mandatory sentence would be expected to start in 2017.

FLEEING DRIVERS

What changes are proposed for drivers who flee Police?

The Bill proposes increased penalties for drivers failing to stop for enforcement officers. Increased penalties for people failing or refusing to provide information to identify fleeing drivers, or providing false information, are also included.

What defines a 'fleeing driver?'

A driver who fails to stop and remain stopped when requested or signalled to do so by Police.

What are the penalties proposed for fleeing drivers?

The penalties for a first, second and third and subsequent offences proposed are:

- For a first offence:
  - the mandatory licence disqualification is increased from 3 months to 6 months (if the failing to stop also involves speeding or driving in a dangerous manner)
  - the existing maximum fine of $10,000 is retained
  - the court's discretion to order vehicle confiscation and sale is retained.

- For second offences:
  - the mandatory licence disqualification period is increased from 3 months to 12 months
  - the current discretionary vehicle confiscation and sale is retained for cases where the offences are more than 4 years apart
  - mandatory vehicle confiscation and sale is introduced upon second and subsequent convictions of failing to stop within four years unless there is extreme hardship to the offender or undue hardship to any other person
  - the existing maximum fine of $10,000 is retained.

- For third and subsequent offences:
  - the mandatory licence disqualification period is increased from 12 months to 24 months
  - the current discretionary vehicle confiscation and sale penalty for cases where the offences are more than 4 years apart is retained
  - mandatory vehicle confiscation upon second and subsequent convictions of failing to stop within four years applies unless there is extreme hardship for the offender or undue hardship to any other person
  - the existing maximum fine of $10,000 or 3 months imprisonment term is retained.

What are the proposed penalties be for failing or refusing to provide information, or providing false information, in response to information request about the identity of a fleeing driver?

The maximum fine of $20,000 will be retained.

However, under the Bill an enforcement officer will be permitted to impound a vehicle involved in a failing to stop incident for 28 days, where the officer has reasonable grounds to suspect that:
(i) the vehicle owner, or
(ii) the person in legal possession of the vehicle was the driver
knows the identity of the driver, and has failed or refused to provide that identifying information.

What is the difference between vehicle confiscation and vehicle impoundment?

The Police on detection of specified offences can impound a vehicle. Impounded vehicles are towed to a storage facility where they are held for 28 days. The vehicle's owner is liable for the towage and storage costs, incurred by the towage and storage provider at the end of the 28-day period.

Courts impose the confiscation of a vehicle following conviction if the qualifying criteria are met. Confiscation involves the permanent seizure of a vehicle used in the commission of an offence. Confiscated vehicles are seized by the courts and sold at public auction.

Why are the penalties for fleeing drivers increasing?

To introduce more effective deterrents to reduce the number of drivers who flee Police.

The penalties:

- send a clear message that a first failing to stop offence is serious
- highlight that failing to stop is a serious offence in itself (not just in combination with dangerous or reckless driving, or in addition to the offending which drew the driver to police attention in the first place)
- enabling a greater penalty to be imposed than would have been faced for the original offending that brought offender to the attention of police e.g. through dangerous or reckless driving.

The number of fleeing driver incidents has remained relatively steady at approximately 2,300 per annum over the years 2011 to 2014. However, in 2015 there were 606 more fleeing driver incidents than in the previous year.

Police routinely signal drivers to stop for all sorts of reasons and the vast majority of motorists comply. However, there are a group of drivers, predominately, young males, who are failing to comply with their statutory obligations to stop for police when requested or signalled to do so, and who then engage in unsafe driving in their attempts to evade apprehension. This unsafe driving increases the risk of crashes as well as the possibility of injury or death.

Approximately 16.5 percent of fleeing driver incidents each year involve a crash. Over the five years from 2011 to 2015, there were 2,046 fleeing driver related crashes. These resulted in 21 deaths (all people in offenders' vehicles) and 592 injuries (comprising: 83 people in innocent parties' vehicles, 50 police officers and 459 people in offenders' vehicles). The total social cost of fleeing driver related deaths and injuries over those five years is estimated to be $205 million.

Why are the penalties for failing to provide information about fleeing drivers being increased?

To encourage people to provide information that may lead to the identification or apprehension of the offender.

The new penalties:

- signal the seriousness of this offence
- provide the court with flexibility to confiscate vehicles for the worst instances of this type of offending.

Approximately 55 percent of police pursuits are abandoned each year (almost all for safety reasons). Police must attempt to identify fleeing drivers after the incident. Police will, and do, follow up those they may not apprehend at the time.

Currently, under section 118(4) of the Act an enforcement officer can request information from the vehicle owner that may lead to the identification and apprehension of the driver.

If a person fails or refuses to provide information, or provides false information, they are committing an offence and subject to a maximum fine of $20,000.

In reality, offenders are receiving relatively small fines (an average of between $497-$627 was imposed between 2010/11 and 2013/14). This effectively provides 'an escape route' for offenders who manage to flee police, or those wanting to protect someone they know.

With the changes to penalties for failing to provide information, fleeing from police will bring less chance of escaping punishment and a much higher chance of further charges. Only approximately 20 percent of fleeing drivers are in stolen vehicles meaning the vast majority of drivers are either owners, or are known to the owner of the vehicle.

FARE EVASION

What are the changes proposed regarding public transport fare evasion?

The Bill will give enforcement officers new powers to require passengers to provide evidence they have paid a fare, provide their contact details when a valid ticket is not produced, and/or order a passenger to disembark the public transport service. It will be an offence for a person to fail to comply with an enforcement officer's directions.

What is fare evasion?

Fare evasion can involve travelling without a valid ticket, travelling on an incorrect fare (for example, fraudulently claiming a concession), or 'over riding' where a longer journey is taken than has been paid for.

Why are the changes required?

The Government continues to invest heavily in public transport and wants passenger growth to continue.

Electronic ticketing systems improve public transport efficiency – fewer staff are needed to issue tickets, and faster boarding times can be achieved. Electronic ticketing systems also reduce overall levels of fare evasion.

However, without effective enforcement, there is an increased risk of fare evasion on trains, particularly for travel between stations without physical barriers (i.e. gates).

While the existing legislation allows enforcement officers to issue infringement notices to fare evaders, it is currently very difficult for enforcement officers (other than the Police) to do this.

The new powers for enforcement officers will help prevent a culture of fare evasion.

Do enforcement officers have power of arrest?

No. Police would be called in the more difficult cases involving non-compliant passengers. Police would also continue to attend more serious cases involving antisocial behaviour

What are the powers enforcement officers will be given?

Section 79M of the Land Transport Act 1988 will be amended so that warranted public transport enforcement officers will be able to require passengers to:

- provide evidence they have paid a fare
- provide their name, address and date of birth details when a valid ticket or smart card is not produced; and/or
- disembark the public transport service.

What do these changes mean in practice?

The changes mean that public transport enforcement officers can get the necessary information (such as name and address) to issue infringement notices to fare evaders without police intervention.

It will be an offence for a person to fail to follow the directions of an enforcement officer – for example, to refuse to provide their name and address.

This will make it easier for Regional Councils and Auckland Transport to enforce the offence of fare evasion on their public transport networks.

Will enforcement officers be able to see if a person has 'tagged on' using a smartcard (eg AT HOP)?

Yes. A hand-held device will be used to check smartcards.

Who will warrant and oversee public transport enforcement officers?

Public transport enforcement officers will be warranted by the Commissioner of Police, and the Commissioner can withdraw or alter warrants if enforcement officers misuse them.

Will there be any defences for not holding a valid ticket?

There are some legitimate reasons why a person may not hold a valid ticket, for example, if they boarded at a station where the ticket machine was inoperative. Enforcement officers will also have discretion not to issue a ticket, and/or give a warning.

What penalties will fare evaders face?

Fare evaders will face an infringement fee of $150 if a valid paper or electronic ticket cannot be produced, or a maximum fine of $500 on conviction.

Failure to comply with an enforcement officer's directions (to provide name, address and date of birth, or to disembark or not board the service) will have a $1,000 maximum penalty on conviction.

How do these differ from current penalties?

Fare evaders currently face the same penalties if they cannot produce a valid ticket, but police intervention will no longer be required to establish an evader's identity.

The penalty for failing to comply with an enforcement officer's directions is new.

How much does fare evasion cost the public transport system?

Auckland Transport is recording approximately 4–6 percent fare evasion on their rail system. The revenue loss is estimated to be up to $2 million per annum.

Why not introduce gates at stations on the rail network?

Auckland Transport has gated four stations, which will cover 80 percent of rail boardings. The Greater Wellington Regional Councils is likely to gate only the central Wellington Station, as 80 percent of train boardings pass through this central station.

Gating all rail stations would deter fare evasion by creating a physical barrier to entry for the rail network. However, gates need to be staffed to prevent people jumping over the barriers and it may be difficult to install effective gates at some open-air stations in Auckland and Wellington.

Gating of stations is also an expensive option. The capital cost for gating all 38 of Auckland's remaining ungated stations is estimated to be $52 million (an average cost of $1.4 million per station). The ongoing operational costs, including staffing, are estimated to be around $80,000 per annum for each station.

MINOR CHANGES

What other changes are proposed?

There are 13 changes to clarify interpretations or the intent of the existing Act, remove inconsistencies, and make minor technical adjustments.

The Bill will:

- Improve the safety and standard of road inspections, by allowing a person or animal to assist with dangerous goods related vehicle inspections. This provides consistency with the inspection approach for railway lines and rail vehicles, and premises used for loading and unloading dangerous goods.

- Rectify an oversight in the existing Act, by prescribing that the attachment of an infringement notice to a vehicle applies to all of the liable parties.

- Clarify that all demerit suspension notices created or served by either the NZ Transport Agency, or NZ Police, are valid.

- Simplify the requirement to include a summary of the procedure to transfer liability on a stationary vehicle infringement notice.

- Ensure the validity of a stationary vehicle notice served, when provided to the person who is apparently in charge of the vehicle at that time of issue.

- Allow justices of the peace and registrars to sign vehicle seizure and impoundment warrants, thereby correcting an error in the Act.

- Make electronic forms of displaying a vehicle license lawful. This change will help to facilitate the use of electronic licensing in the future.

- Allow recovery of bank charges associated with payments by credit card, to attribute costs (specifically those associated with using credit cards) to customers who incur them.

- Align the maximum fee for a breach of a bylaw made under the Act, with the infringement fees included in the Land Transport (Offences and Penalties) Regulations 1999. This removes inconsistency around the penalties applied for a breach of a bylaw, by increasing the maximum fine to the level of the infringement fee.

- Add failure to comply with two types of traffic signs — illuminated lane closure signs and variable messaging signs — to the definition of a “moving vehicle offence”. This will enable automated enforcement of the requirements specified by these signs through cameras. It recognises the role technology plays to manage enforcement on high volume roads where there are very limited areas to pull drivers over to issue an infringement fee.

- Clarify certain Police enforcement powers in the interests of public safety (including forbidding drivers to drive and immobilising vehicles by removing ignition keys). To correct a drafting error, an unsatisfactory performance on a Compulsory Impairment Test or a failure or refusal to undergo the Test will be enough to enable an enforcement officer to exercise those powers.

- Redefine ‘moped’ to enable three-wheeled moped to be registered for use on New Zealand’s roads. There appears to be no reason to disallow their use.

- Prevent unlicensed drivers, who qualify for mandatory 28-day licence suspension imposed by the Police, from obtaining or renewing their licence until they have served the full 28-day period. Without an Act change, unlicensed drivers who are holders of expired licenses would be able to renew their expired licences within the 28-day period and resume driving.