

Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003

Public Act 2003 No 11
Date of assent 4 April 2003

Contents

		Page
1	Title	2
	Part 1	
	Preliminary provisions	
2	Commencement	2
3	Purpose	2
	Part 2	
	Substantive amendments to Land Transport Act 1998 and consequential amendments	
4	Drivers and other road users to comply with directions of enforcement officers, etc	3
5	New section 22A inserted	3
	22A Persons not to engage in unauthorised street or drag racing, or other related prohibited activities on roads	3
6	New section 36A inserted	4
	36A Contravention of section 22A	4
7	Contravening notices, requirements, etc, given or imposed by enforcement officers	5
8	Vehicle to be seized and impounded for 28 days in certain circumstances	5

s 1	Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003	2003 No 11
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9	Appeal to police against impoundment of vehicle	6
10	Appeal against refusal of police to direct release of impounded vehicle	7
11	Consequential amendments	7
	Schedule	8
	Consequential amendments to other enactments	
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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Land Transport (Unauthorised Street and Drag Racing) Amendment Act 2003.
- (2) In this Act, the Land Transport Act 1998 is called “the principal Act”.

Part 1

Preliminary provisions

2 Commencement

This Act comes into force on the 28th day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to amend the principal Act-

- (a) to include in that Act additional provisions aimed at combating the problem of unauthorised street racing, drag racing, wheel spinning, and other stunts involving motor vehicles on roads, and the spillage of lubricants on roads without reasonable excuse; and
- (b) to extend the motor vehicle seizure and impoundment regime under Part 7 of the principal Act in order to give enforcement officers additional tools to combat the problem of unauthorised street racing, drag racing, wheel spinning, and other stunts involving motor vehicles on roads; and
- (c) to extend the appeal provisions in Part 8 of the principal Act in order to provide rights of appeal in respect of the

seizure and impoundment of motor vehicles under the new provisions.

Part 2

Substantive amendments to Land Transport Act 1998 and consequential amendments

4 Drivers and other road users to comply with directions of enforcement officers, etc

Section 13(4)(a) of the principal Act is amended by inserting, after the words “for the vehicle”, the words “or (if the notice was given under section 96(1B)) the direction requiring the vehicle not to be driven on a road has been cancelled under section 102(3)(b) or section 110(3)(a)(ii)”.

5 New section 22A inserted

The principal Act is amended by inserting in Part 3, after section 22, the following section:

“22A Persons not to engage in unauthorised street or drag racing, or other related prohibited activities on roads

- “(1) A person must not operate a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road unless the operation of the vehicle in that manner is authorised by law.
- “(2) A person must not, without reasonable excuse, intentionally pour onto, place on, or allow to spill onto a road—
- “(a) any petrol, oil, or diesel fuel; or
 - “(b) any other substance likely to cause a vehicle to undergo loss of traction.
- “(3) A person must not, without reasonable excuse, operate a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction unless the operation of the vehicle in that manner is authorised by law.
- “(4) In this section and in section 96(9), the operation of a motor vehicle in a particular manner is authorised by law if,—
- “(a) in the case of a race or an exhibition of speed or acceleration,—

- “(i) the speed of the vehicle is within the applicable speed limit or speed limits; and
- “(ii) the vehicle operator does not contravene any enactment other than this section that applies in relation to the operation of the vehicle; or
- “(b) the operation is conducted on a road that is closed for the purpose under section 319(h) or section 342 of the Local Government Act 1974, and is conducted in accordance with the conditions (if any) imposed under Schedule 10 of that Act; or
- “(c) the operation is otherwise authorised by or under an enactment other than this section.”

6 New section 36A inserted

The principal Act is amended by inserting, after section 36, the following section:

“36A Contravention of section 22A

- “(1) A person commits an offence if the person—
 - “(a) operates a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1); or
 - “(b) without reasonable excuse, intentionally pours onto, places on, or allows to spill onto a road
 - “(i) any petrol, oil, or diesel fuel; or
 - “(ii) any other substance likely to cause a vehicle to undergo loss of traction; or
 - “(c) without reasonable excuse, operates a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction in contravention of section 22A(3).
- “(2) A person commits an indictable offence if the person commits an offence against subsection (1)(a) or (c), and by that act or omission causes an injury to or the death of another person.
- “(3) A person who commits an offence against subsection (1)(a) or (c) that is an indictable offence is liable to the penalties set out in section 36(2), and section 36(2) and (3) apply as if the offence were an offence against section 36(1)(a) (such as operating a motor vehicle recklessly on a road, and by that

act or omission causing an injury to or the death of another person).

- “(4) A person who commits an offence against subsection (1)(a) or (c) that is not an indictable offence is liable to the penalties set out in section 35(2), and section 35(2) and (3) apply as if the offence were an offence against section 35(1)(a) (operating a motor vehicle recklessly on a road).
- “(5) A person who commits an offence against subsection (1)(b) is liable to a fine not exceeding \$3,000.”

7 Contravening notices, requirements, etc, given or imposed by enforcement officers

Section 52(1) of the principal Act is amended—

- (a) by inserting in paragraph (a), after the words “for the vehicle”, the words “or (if the notice was given under section 96(1B)) the direction requiring the vehicle not to be driven on a road has been cancelled under section 102(3)(b) or section 110(3)(a)(ii)”;
- (b) by inserting in paragraph (b), after the words “subsection (5) of that section”, the words “or under section 96(1D)”.

8 Vehicle to be seized and impounded for 28 days in certain circumstances

- (1) The heading to section 96 of the principal Act is amended by omitting the words “to be”.
- (2) Section 96 of the principal Act is amended by inserting, after subsection (1), the following subsections:
- “(1A) An enforcement officer may seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on reasonable grounds that a person—
- “(a) operated the vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1); or
- “(b) without reasonable excuse, operated the vehicle on a road in a manner that caused the vehicle to undergo sustained loss of traction in contravention of section 22A(3).

- “(1B) An enforcement officer who seizes and impounds (or authorises the impoundment of) a motor vehicle under subsection (1A) must, by means of a notice in the form approved for the purposes of section 115(1), direct that the vehicle is not to be driven on a road.
- “(1C) For the purposes of this Act and any other enactment, a notice given under subsection (1B) has effect as a notice given under section 115(1).
- “(1D) A notice under subsection (1B) may include a condition to the effect that the vehicle may continue to be driven to reach a specified place for repair or may continue to be driven for a given time or under limitations as to speed or route or otherwise, unless the direction referred to in that subsection has been cancelled.”
- (3) Section 96(2)(a) of the principal Act is amended by inserting, after subparagraph (ii), the following subparagraph:
- “(ii) if subsection (1A) applies, the date and time of the alleged offence; and”.
- (4) Section 96(6)(a) of the principal Act is amended by inserting, after the expression “subsection (1)”, the words “or operated the vehicle in circumstances referred to in subsection (1A),”.
- (5) Section 96 of the principal Act is amended by adding the following subsection:
- “(9) Nothing in subsection (1A) applies to a person operating a motor vehicle in a manner that is authorised by law within the meaning of section 22A(4).”

9 Appeal to police against impoundment of vehicle

- (1) Section 102(1) of the principal Act is amended by adding the word “; or” and also adding the following paragraphs:
- “(f) if section 96(1A) applies, the owner did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 22A(1) or (3) (whichever applies); or
- “(g) if section 96(1A) applies, the owner took all reasonable steps to prevent the operator of the vehicle from contravening section 22A(1) or (3) (whichever applies).”

- (2) Section 102 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) An enforcement officer authorised for the purpose by the Commissioner may hear and determine the appeal, and, if satisfied that a ground referred to in subsection (1) has been established,-
- “(a) the authorised officer must direct that the vehicle be released immediately to the owner or a person authorised by the owner; and
 - “(b) if a direction in respect of the vehicle has been given under section 96(1B), the authorised officer must cancel the direction unless he or she believes on reasonable grounds that the vehicle does not comply with the provisions of the regulations or the rules.”

10 Appeal against refusal of police to direct release of impounded vehicle

- (1) Section 110(2) of the principal Act is amended by inserting, before the words “grounds set out”, the word “applicable”.
- (2) Section 110 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) The court may-
- “(a) make an order-
 - “(i) directing that the vehicle be released immediately to the person, in which case that direction has effect as if it had been made under section 102 by the authorised enforcement officer; and
 - “(ii) if an enforcement officer has given a direction in respect of the vehicle under section 96(1B), cancelling that direction unless the court is satisfied that the vehicle does not comply with the provisions of the regulations or the rules; or
 - “(b) dismiss the appeal.”

11 Consequential amendments

- (1) The Acts listed in Part 1 of the Schedule are amended in the manner set out in that schedule.

- (2) Schedule 4 of the Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99) is amended in the manner set out in Part 2 of the Schedule.
- (3) The Land Transport (Ordering a Vehicle off the Road) Notice 1999 (SR 1999/33) is amended in the manner set out in Part 3 of the Schedule.
- (4) If an enforcement officer issues a notice under section 96 of the principal Act in any case to which subsection (1) of that section applies and the notice does not contain any matter that is prescribed by subsection (2) of this section, that omission does not of itself invalidate the notice.

Schedule
Consequential amendments to other enactments

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1

Acts amended

Transport Act 1962 (1962 No 135)

Insert in Part 9 of Schedule 2, in the appropriate order and in the appropriate columns:

36A(1)(b)	Without reasonable excuse, intentionally pouring on, placing on, or allowing to spill onto a road any petrol, oil, or diesel fuel, etc	600
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Sentencing Act 2002 (2002 No 9)

Insert in section 128(1)(b), after the expression “35(1)(b),”, the expression “36A(1)(a) or (c),”.

Insert in section 128(2)(b), after the expression “36(1)(a),”, the expression “36A(1)(a) or (c),”.

Insert in section 129(1)(a), after the expression “36(1)”, the expression “36A(1)(a) or (c),”.

1—*continued*

Summary Proceedings Act 1957 (1957 No 87)

Insert in the item relating to the Land Transport Act 1998 in Part 2 of Schedule 1, in the appropriate order and in the appropriate columns:

- | | |
|-----------------------|---|
| 36A(1) (a) and
(2) | Operating a motor vehicle in a race or unnecessary exhibition of speed or acceleration in contravention of section 22A(1), and by that act or omission causing an injury to or the death of another person |
| 36A(1)(c) and
(2) | Without reasonable excuse, operating a motor vehicle in a manner that causes it to undergo sustained loss of traction in contravention of section 22A(3), and by that act or omission causing an injury to or the death of another person |

2

**Amendments to Schedule 4 of Land
Transport (Offences and Penalties)
Regulations 1999**

Insert in Part 1 of the form, after the word “Time”, the words “of seizure”.

Insert in Part 1 of the form, after the line containing the items “Street” and “Location”, the following items:

Time of offence:

Date:../../...

Insert in Part 1 of the form, after the words “ADVICE TO DRIVER”, the words “OR OPERATOR”.

2—continued

Insert in Part 1 of the form, after paragraph (c) (which appears after the heading “ADVICE TO DRIVER”:

“OR

“I am seizing and impounding, or seizing and authorising the impoundment of, the motor vehicle described below for 28 days because I believe, on reasonable grounds, that—
(Tick appropriate box)

- (a) you operated that vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1) of the Act; or
- (b) without reasonable excuse, you operated that vehicle on a road in a manner that caused the vehicle to undergo sustained loss of traction in contravention of section 22A(3) of the Act.”

Insert in Part 1 of the form, after after the words “THE VEHICLE DRIVEN”, the words “OR OPERATED”.

Add to clause 4 in Part 2 of the form the word “; or” and also:

“(g) if section 96(1A) of the Act applies, the owner did not know and could not reasonably be expected to know that the operator of the vehicle would contravene section 22A(1) or (3) of the Act (whichever applies); or

“(h) if section 96(1A) of the Act applies, the owner took all reasonable steps to prevent the operator of the vehicle from contravening section 22A(1) or (3) of the Act (whichever applies).”

Insert in clause 12 in Part 2 of the form, after the words “against the person who drove the vehicle”, the words “or operated the vehicle”.

3

Amendment to Land Transport (Ordering a
Vehicle off the Road) Notice 1999

Add to paragraph 1 of the form in Schedule 1:

“Note: if the vehicle is ordered off the road under section 96(1B) of that Act, state ‘a direction under section 96(1B) of that Act’ or words to that effect as the reason for non-compliance.”

Legislative history

14 May 2002	Introduction, first reading and referral to Law and Order Committee
29 November 2002	Reported from Law and Order Committee (Bill 216-2)
1 April 2003	Second reading, Committee of the whole House, third reading
