

## **Labour's minority view**

The Labour members are extremely sympathetic to the communities and families who are subjected to the nuisance, intimidation, and unlawful behaviour associated with illegal street racing. We acknowledge that communities and citizens are suffering serious harm, particularly in those areas like Christchurch, and will support any workable measures to address the ongoing issues.

Labour is supporting the companion bill to this (the Land Transport (Enforcement Powers) Amendment Bill), because we believe that it has some useful powers that will enhance the ability of enforcement officers to deal with the menace of illegal street racing.

However, it is Labour's view that this bill actually weakens the powers of vehicle confiscation. Current legislation provides that after one offence a judge can, and after two offences over four years a judge must, confiscate the vehicle.

**Clarification - The essential issue is that the Bill does not weaken the current confiscation regime - it adds to it. The above confiscation provisions still apply to vehicles owned by offenders.**

This bill will amend that situation to one where after three separate offences over a four-year period, judges have the discretionary power to order the confiscation and destruction of a vehicle.

**Clarification - The Bill does not amend the current law whereby a vehicle owned by an offender can be confiscated after one specified offence. After two offences within four years the court MUST confiscate unless this would cause extreme hardship to the offender.**

**The Bill adds a third stage to the current law, allowing the court to order that a vehicle be confiscated and destroyed for a third illegal street racing offence within four years.**

**The Bill also allows the court to confiscate or confiscate and destroy vehicles owned by third parties (substitute for the offender). However, unlike situations where the offender owns the vehicle, the decision to confiscate is always discretionary with third party vehicles - there is no mandatory confiscation.**

Given the Minister has said that perhaps only nine or ten cars a year will be crushed under the weakened provisions for confiscation in this bill, there are likely to be even fewer vehicles confiscated.

**Clarification - This Bill closes loopholes relating to sham sales before confiscation and offenders using another person's car. Therefore, there are likely to be more cars confiscated. The only reason that there would be fewer confiscations would be if driving behaviour changed.**

**Snapshot of past confiscation data indicates that:**

- **Approximately 1/2 of all offenders did not commit the offence in a vehicle licensed to them.**
- **Approximately 1 in 5 vehicles have changes in ownership between offence and sentencing dates.**
- **Put together, these suggest that only 20 – 36% of mandatory confiscation convictions, or a maximum of 1 in 3, could legally result in confiscation.**
- **This is before any consideration of “extreme hardship” is taken into account.**

**This Bill, in conjunction with the Land Transport (Enforcement Powers) Amendment Bill will close these loopholes by:**

- **Enabling the courts to address offending when individuals are committing an offence in another person's car; and**
- **Enabling Police to issue a "sale prohibition notice" that prevents someone charged with an offence punishable by vehicle confiscation from selling their vehicle before appearing before court.**

Labour cannot support these measures. Labour believes the destruction orders introduced in this bill are counterproductive because destruction of a vehicle makes it less likely that fines owed by the offender will be able to be recovered.

**Clarification - The Bill specifically provides that the vehicle must be stripped of all saleable parts before it is destroyed.**

The destruction orders will not go any further towards reducing the harm and nuisance to communities caused by illegal street racers because confiscation of a vehicle achieves the same purpose.

**Clarification - A vehicle confiscated is required to be resold if it is saleable and roadworthy. Cars modified for illegal street racing purposes may be purchased by another illegal street racer, thus perpetuating the problem.**

Labour would have liked to have seen much stronger examination of why so few cars are confiscated under the current legislation (which is one of the reasons given for introducing this bill) and efforts made to address those issues, rather than introducing another weaker piece of legislation.

**Clarification - The Bill specifically addresses the reasons why so few cars are confiscated. See statistics at the top of the page.**

During the committee of the whole stages of the bill in the House, Labour will be proposing amendments to reinstate mandatory confiscation of vehicles on the second offence.

Labour supports the provisions in this bill that extend confiscation to vehicles that are owned by a third party who allows an offender to use his or her vehicle; however

Labour believes those provisions can be introduced without the need to weaken the current confiscation provisions.

**Clarification - Existing confiscation provisions are not weakened. An amendment to reinstate mandatory confiscation at second offence is not necessary as the Bill does not alter this provision.**

We therefore intend to propose an amendment to require a written caution to be sent to all those with an interest in the vehicle on a first offence, and mandatory confiscation on a second offence.

**Clarification - The Bill currently provides that a written caution is to be sent to all those with an interest in the vehicle on a first offence.**

**The Bill does not alter mandatory confiscation on a second offence when the offender is the owner of the vehicle.**

Labour members are concerned that proposed cuts to Police resources will impact negatively on the ability to effectively deal with problems arising from illegal street racing.

**Clarification - The new legislation will assist Police to deal with illegal street racing more effectively.**