

Regulatory Impact Statement

Options to increase penalties for failing to stop and failing or refusing to provide information or providing false information

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the New Zealand Police (Police) and the Ministry of Transport.

It provides an analysis of options aimed at

- reducing the number of fleeing driver incidents and the social harm caused by these incidents, and
- increasing the number of people who provide information to police that may lead to the identification of fleeing drivers.

The RIS does not include the option of reviewing the Police Pursuits Policy. Increasing the perception of the risk of getting caught by introducing a more aggressive Police Pursuits Policy might marginally reduce or shorten fleeing driver incidents, but

- would not affect the amount of social harm caused by fleeing drivers, and
- would be out of step with the current direction of the policy, which requires the management of pursuits to balance the priorities of apprehending offenders with maintaining public safety.

Failure to stop represents a calculated and deliberate attempt to evade punishment for offending - both for the original offending and the failure to stop. When drivers attempt to flee police they are endangering the safety of their passengers, innocent road-using members of the public and police. All too frequently, fleeing police ends in crashes, serious injury or death.

There have been 29 deaths (all people in offenders' vehicles) and 582 injuries (comprising: 82 innocent bystanders, 51 police officers and 459 people in offenders' vehicles) over the last five financial years. During the same time period there were 1,969 fleeing driver related crashes – this equates to approximately 16% percent of fleeing driver incidents each year resulting in a crash. Police has estimated that the total social cost of fleeing driver related deaths, injuries and crashes over the last five years is estimated to be \$226 million (an average of \$45.2 million per year over the last five years)¹.

This RIS informs the regulatory decision to increase the current penalties in the Land Transport Act 1998 and Sentencing Act 2002 for:

¹ This is based on Ministry of Transport data published in Social Cost of Road Crashes and Injuries 2014 Update.

- drivers who fail to stop for enforcement officers when requested or signalled to do so
- people who fail or refuse to provide information requested from enforcement officers that may lead to the identification of a fleeing driver or who provide false information.

Introducing stronger and more targeted penalties will send a strong message from Government that failing to stop is a dangerous action that puts public safety at risk and will not be tolerated, and act as a stronger deterrent to this type of offending.

The analysis in this statement includes an examination of the likely costs, benefits and risks of the proposed increases. It also outlines the alternative options that were examined, but not recommended to Cabinet.

It is acknowledged that the costs are highly dependent on the assumptions made. The assumptions used are:

- increasing penalties may result in general deterrence, e.g. a larger group of potential fleeing drivers are deterred from fleeing police due to fear of apprehension and resulting penalties
- increasing penalties for repeat offending, may result in specific deterrence for potential repeat fleeing drivers, e.g. fleeing drivers are deterred through fear of apprehension and the more severe penalties
- putting more emphasis on non-monetary penalties, .e.g. custodial sentences and mandatory vehicle confiscation, is a deterrent to this type of offender
- increasing penalties for failing to provide or providing false information offences will encourage more people to provide information for fear of tough sanctions, particularly when the person is not the actual failing to stop offender
- increasing penalties will lead to judges giving higher sentences over time.

A conservative approach has been taken to modelling costs on the basis that increasing penalties for failing to stop may have only a small deterrent effect on failing to stop offending, as achieving a deterrence effect relies on the offender believing that it is likely that they will be caught. Currently offenders 'chance their luck' on not getting caught because they know police have to abandon pursuits once there are public safety concerns. However, increasing penalties for failing stop in combination with increasing penalties for failing to provide information is likely to incentivise more people to provide information, particularly those people who were not the actual offender (ie, they are protecting someone they know). This, in turn, may lead to an increased number of charges being laid for failing to stop offences.

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[Date]

Current situation

Number of fleeing driver incidents not reducing

1. The number of fleeing driver incidents has remained relatively steady at approximately 2,300 per annum over the last five financial years. However, in 2014/15 there were 371 more fleeing driver incidents when compared with the previous year.

Table 1: Fleeing drivers incidents 2010/11 – 2014/15

Year	Number of pursuits
2010/2011	2236
2011/2012	2404
2012/2013	2229
2013/2014	2364
2014/2015	2735

2. The number of offenders charged with failing to stop has been generally been declining gradually but is still high and involves less than 60% of fleeing driver incidents.

Table 2: Number of charges under section 52 of the Land Transport Act 1998 – failing to stop 2010 to 2014 (calendar year)

Year	Number of charges
2009/2010	2,030
2010/2011	1,954
2011/2012	1,887
2012/2013	1,689
2013/2014	1,739

3. The number of offenders charged with their third or subsequent offence² for failing to stop is increasing. This is particularly concerning as it means that these offenders have been through the court process on more than one occasion and are still refusing to stop for police.

Table 3: Number of charges for third or subsequent failing to stop offences

Year	Number of charges
2009/2010	7
2010/2011	40
2011/2012	60
2012/2013	55
2013/2014	106

4. In cases where pursuits are abandoned, police are often not able to identify the fleeing driver. As approximately 55 percent of police pursuits are abandoned each year (almost all for safety reasons) there is a clear need for police to be able to identify fleeing drivers after the incident through vehicle registration details. Furthermore, in recent years the number of people being charged for failing or refusing to provide information or providing false

² Records are only kept for first and third of subsequent offences. As a result no date is available for second offences.

information has generally decreased. The number of abandoned pursuits is not declining so this decrease in charges may be related to the penalties available to the courts for this offending, or the difficulty faced in prosecuting such charges, which creates a disincentive for police to pursue charges.

Table 4: Number of charges³ for refusing or failing to provide information

Year	Number of charges
2010/2011	605
2011/2012	622
2012/2013	558
2013/2014	330

Fleeing drivers are causing significant harm

5. Police routinely signal drivers to stop for all sorts of purposes⁴ 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 then engaging 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.

6. There have been 29 deaths (all people in offenders’ vehicles) and 582 injuries (comprising: 82 innocent bystanders, 51 police officers and 459 people in offenders’ vehicles) over the last five financial years. During the same time period there were 1,969 fleeing driver related crashes – this equates to approximately 16% percent of fleeing driver incidents each year involving a crash. The total social cost of fleeing driver-related deaths, injuries and crashes over the last five years is estimated to be \$226 million (an average of \$45.2 million per year over the last five years).

³ The majority of these offences are believed to relate to fleeing driver incidents. Currently section 118 offences are records under one offence code so it is not possible to separate out those that apply only to fleeing driver incidents.

⁴ The *New Zealand Police Review of Pursuits April 2004 – May 2007* found that the main reasons for initially signalling for the driver to stop included: speeding (29.7 percent of pursuits); suspected criminal offending (17 percent); dangerous /careless driving (16.6 percent); suspicious vehicle behaviour (7.7 percent); fault on vehicle (7.2 percent); road rules breach (6.9 percent); suspected drink driving (3.1 percent); avoiding checkpoint (2.8 percent); and random breath test (2.4 percent).

Table 5: Harm caused by fleeing driver incidents 2010/11 – 2014 /15

Category	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015
Number of police pursuits	2236	2404	2229	2364	2735
Number of people killed in the offender vehicle	11	3	10	2	3
Number of people killed in Police vehicle	0	0	0	0	0
Number of people killed in innocent party's vehicle	0	0	0	0	0
Number of people injured in the offender vehicle	93	76	97	93	100
Number of people injured in Police vehicle	10	6	7	10	18
Number of people injured in innocent party's vehicle	14	18	13	18	19
Number of crashes	374	383	376	376	460

Current approach to deter fleeing drivers

7. Police may request or signal a vehicle to stop under section 114 of the Land Transport Act 1998. If a vehicle is signalled or requested to stop and makes a deliberate decision not to, police may lawfully initiate a pursuit. The practice and policy for vehicle pursuits is set out in Police's Pursuit Policy. This policy requires police to balance two competing demands, that is, the duty to apprehend those who break the law against the preservation of public safety.

8. The requirement for police to abandon pursuits as soon as there are concerns for public safety and the resulting lack of offender apprehension has created an incentive for offenders to flee from police, as there is a belief that by doing so they may avoid law enforcement action.

9. This is reinforced by the fact that if a driver successfully evades police by driving so dangerously that police have to pull out of the pursuit, they can avoid all penalties - both for the original offending and the failure to stop - if they cannot be identified after the incident. This lack of subsequent detection creates a further incentive for offenders to flee police to avoid law enforcement action.

10. To deter and punish this type of offending the Land Transport Act and the Sentencing Act contain penalties for both failing to stop and failing or refusing to provide information and providing false information. The current penalties for failing to stop and failing or refusing to provide information or providing false information (with the exception of maximum \$10,000

finer for failing to stop and failing to provide information) were enacted in December 2009 via the Land Transport (Enforcement Powers) Amendment Act 2009.

11. Annex A provides detailed information about the current penalties and police impoundment powers.

Problem definition

Current failing to stop penalties are not deterring offending or repeat offending

12. Despite the 2009 changes to increase penalties for failing to stop, the number of fleeing driver incidents continues to remain high. The current failing to stop penalties for a first offence do not reflect the serious nature of failing to stop and are not providing sufficient deterrence to discourage drivers fleeing from police. The current approach is resulting in:

- low fines being imposed for first failing to stop offences
- prison sentences only being able to be imposed for third or subsequent offences
- poor data on the number of offences where failing to stop is considered as an aggravating factor at sentencing
- very few fleeing vehicles being confiscated.

13. The principal course of action courts can currently take for a first failing to stop offence (aside from mandatory licence disqualification in certain circumstances) is ordering the offender to pay a monetary fine. While the maximum penalty the courts can impose is \$10,000, in reality offenders are regularly receiving considerably lower fines. For example, in 2013/2014 183 offenders received an average fine of \$383 for a first offence for failing to stop for red and blue flashing lights. These low fines are likely to be indicative of the judiciary's assessment of the offenders' ability to pay higher fines.

14. The imprisonment sanction is currently only available for third and subsequent failing to stop offences. However, all failing to stop incidents have the potential to end in crashes, serious injury or death, including first and second incidents.

15. The 2009 Land Transport Act amendments made failing to stop when directed by an enforcement officer an aggravating factor which must be taken into account at sentencing for dangerous and/or reckless driving offences. Owing to the low penalties generally ordered by the courts for a separate charge of failing to stop, often the only charge pursued is that of dangerous and/or reckless driving (knowing that the offence of failing to stop must be considered at sentencing). This means that for failing to stop offences that take this route the tiered penalty system for repeat failing to stop offences is not being triggered. This reflects the current policy regime, which places emphasis on the offending accompanying the failing to stop offending rather than the failing to stop offence.

16. Only one car has been confiscated in the last five years under section 128 of the Sentencing Act 2002 for a failing to stop offence. This is because of the discretionary nature of this order and the high threshold required to be met by the court when making an order. The court must not make an order for the confiscation of the vehicle if:

- the vehicle is owned completely or in part by another person who did not know, and could not reasonably have known, that the offender would commit the offence(s); or

- the owner took all reasonable steps to prevent the offender from committing the offence(s).

17. The court must also have regard to any undue hardship that the order would cause to the offender or any other person who might use the vehicle.

18. Tables 1–3 at Annex B of the RIS provide more detailed information about the number of offenders charged for failing to stop offences, the number and average amount of fines imposed and how many offenders have received a prison sentence for third and subsequent failing to stop offences.

Current penalties for failing or refusing to provide information or providing false information is not leading to the identification of offenders and not incentivising the provision of information

19. The current regime is not encouraging vehicle owners to provide information to police that can assist identify and apprehend fleeing drivers. The current approach is resulting in:

- a low and decreasing number of offenders being charged and low fines being imposed
- police not being able to identify a large number of offenders where pursuits are abandoned.

20. In recent years the number of people being charged for failing or refusing to provide information or providing false information has decreased (refer Table 3). This decline in charges is thought to relate to the low penalties (an average of between \$497-\$627 between 2010/11 and 2013/14) ordered by the court for this offending, which creates a disincentive for police to pursue charges. In addition, there are no non-monetary penalties such as imprisonment or vehicle confiscation available.

21. The current penalty for failing or refusing to provide information or providing false information is not encouraging vehicle owners to provide information to police that can assist identifying and apprehending fleeing drivers. Information from the last five financial years shows that on average 933 fleeing drivers per year from an average of 2,300 police pursuits per year are never identified.

Table 6: Number of fleeing drivers not identified 2010/11 – 2014/15

Category	2010/11	2011/12	2012/13	2013/14	2014/15
Number of police pursuits	2236	2404	2229	2364	2735
Number of fleeing driver incidents abandoned	971	1156	1104	1304	1485
Offender never identified	787	931	837	949	1160

22. The current regime also means that when the offender is the vehicle owner they can simply refuse to answer police’s request for information knowing that they are likely to face a

relatively small fine. This effectively provides ‘an escape route’ for offenders who manage to flee police, or owners of vehicles who choose to protect the driver. By refusing to answer the request, the driver may be avoiding disqualification or possible imprisonment for another offence, such as a dangerous or reckless driving. The current regime therefore provides a strong disincentive for offenders to provide information.

23. Tables 4 – 5 at Annex B of this RIS provide more detailed information about the number of offenders charged for failing to provide or refusing to provide information or providing false information, the number and average amount of fines imposed.

Penalties in other jurisdictions

24. Penalties in other jurisdictions for failing to stop vary, but are generally stronger than the current penalties available in New Zealand. For example, in Canada if a person is found guilty of fleeing a peace officer it can be an indictable offence and liable to an imprisonment term not exceeding five years, or a summary offence liable to a six month imprisonment term or a \$5,000 fine. In Western Australia, a failing to stop when pursued by Police offence carries a maximum imprisonment term of two years, a minimum fine of \$5,000 and a minimum disqualification period of two years.

25. Finding comparable information on failing or refusing to provide information or providing false information is more difficult, as not all jurisdictions have a similar offence. One jurisdiction that does is Queensland, Australia. Vehicle owners in Queensland must provide the name of the driver at the time of the offence or risk prosecution for the failure to stop offence themselves. The provisions provide the courts with the ability to impose a maximum penalty of \$20,000 or a three year imprisonment term.

26. Annex C contains more detail on penalties in other jurisdictions.

Objectives

27. A more effective approach is required to:

- *create greater awareness that failing to stop on request or signal from an enforcement officer is a serious criminal act* – stronger and more targeted penalties will highlight the seriousness of this type of offending
- *reduce the number of repeat fleeing driver offences* – this requires having a penalty structure with stronger upfront penalties such as an increased mandatory driver licence disqualification for first failing to stop offences
- *deter drivers from fleeing police* – the risk of stronger and more targeted penalties may deter offending
- *identify offenders where police pursuits have been abandoned* – stronger and more targeted penalties will encourage people, particularly those who were not the actual offender, to provide information that leads to the identification or apprehension of the offender.

28. If these objectives were achieved the number of fleeing driver incidents and social harm caused by fleeing drivers would be reduced and the number of fleeing drivers identified and apprehended would increase.

Criteria

29. To ensure the primary objectives are met, the following criteria have been identified to assess the options in this paper against. The criteria for penalties are:

- consistency with penalties in other legislation
- a proportionate response to offending
- substantial enough to hold people to account and promote a sense of responsibility
- likely to deter repeat offending
- procedurally simple and cost effective to administer.

Options and impact analysis

Failing to stop

30. The status quo and two additional options have been considered to address the problems identified above.

31. The RIS does not include the option of reviewing the Police Pursuits Policy. Introducing a more aggressive Police Pursuits Policy might marginally increase the perception of the risk of getting caught but is unlikely to reduce the amount of social harm caused by fleeing drivers and would be out of step with current direction of the policy, which requires the management of pursuits to balance the priorities of apprehending offenders with maintaining public safety.

32. The status quo and two additional options are set out in the table below:

Table 7: Status quo and options for increasing penalties for failing to stop

Current penalties	Option 1	Option 2
<p>1st offence</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000 • Mandatory disqualification from holding or obtaining a driver licence for 3 months (if the failing to stop also involved speeding or driving in a dangerous manner) • 35 demerit points • Discretionary vehicle confiscation and sale under 128 of the Sentencing Act 	<p>1st and 2nd offences</p> <ul style="list-style-type: none"> • Maximum fine of \$4,500 • Mandatory disqualification from holding or obtaining a driver licence for 3 months (if the failing to stop also involved speeding or driving in a dangerous manner) • 35 demerit points • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act • Mandatory vehicle confiscation and sale for second or subsequent convictions within 4 years under section 129 Sentencing Act t (unless there is 	<p>1st offence</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000 • Mandatory disqualification from holding or obtaining a driver licence for a minimum 12 months (if the failing to stop also involved speeding or driving in a dangerous manner) • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act
<p>2nd offence</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000 • Mandatory disqualification from 		<p>2nd offence</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000

<p>holding or obtaining a driver licence for 3 months</p> <ul style="list-style-type: none"> • 35 demerit points • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act 	<p>undue or extreme hardship)</p>	<ul style="list-style-type: none"> • Mandatory disqualification from holding or obtaining a driver licence for a minimum 24 months • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act or mandatory vehicle confiscation and sale for second or subsequent convictions within 4 years under 129 of the Sentencing Act (unless there is undue or extreme hardship)
<p>3rd and subsequent offence</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000 or imprisonment term not exceeding three months • Mandatory disqualification from holding or obtaining a driver licence for 12 months • 35 demerit points • Discretionary vehicle confiscation under section 128 of the Sentencing Act 	<p>3rd and subsequent offences</p> <ul style="list-style-type: none"> • Maximum fine of \$6,000 • Mandatory disqualification from holding or obtaining a driver licence for 12 months • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act or mandatory vehicle confiscation and sale for second or subsequent convictions within 4 years under section 129 of the Sentencing Act (unless there is undue or extreme hardship) 	<p>3rd and subsequent offences</p> <ul style="list-style-type: none"> • Maximum fine of \$10,000 or imprisonment term not exceeding three months • Mandatory disqualification from holding or obtaining a driver licence for a minimum 24 months • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act or mandatory vehicle confiscation and sale for second or subsequent convictions within 4 years under 129 of the Sentencing Act (unless there is undue or extreme hardship)

Option 1

33. This option reduces the maximum fine to \$4,500 for first and second offences, to bring them into line with similar offences in the Land Transport Act.

34. This option would apply the mandatory vehicle confiscation provisions in section 129 of the Sentencing Act 2002 to second and subsequent failing to stop convictions that occur within a four year period.

35. For third and subsequent offences the maximum fine would be reduced to \$6000.

Benefits

36. Introducing mandatory vehicle confiscation of section 129 of the Sentencing Act 2002, would remove the court's current discretion of confiscation, lower the threshold of

considerations, and most importantly would hinder reoffending by confiscating and selling the offender’s vehicle. Having mandatory confiscation for this offence is also consistent with the penalties for many other driving offences such as drink driving, driving while disqualified, and reckless driving. In addition, there are existing appeal processes in place around confiscated vehicles in the Sentencing Act that could also apply in these circumstances.

Costs

37. There will be additional costs associated with additional vehicle confiscation ordered by the courts arising from mandatory (rather than discretionary) vehicle confiscation for second and subsequent offences of failing to stop. Introducing mandatory vehicle confiscation for second and subsequent convictions within four years would result in administrative costs to the Ministry of Justice of approximately \$2,500 per annum based on 5 vehicle confiscations per annum. This is the outstanding costs after any proceeds from the sale of the confiscated vehicle have been deducted.

Table 8: Summary of Costs per annum: Option one

Summary of Costs per annum: Option one		
Proposal	Impact	Annual cost
Introducing mandatory vehicle confiscation for second or subsequent convictions within 4 years	5 vehicle confiscations	\$2,500 (based on \$500 net per vehicle)
Total cost:		\$2,500

Option 2

38. For first convictions this option would increase the mandatory disqualification period from holding or obtaining a driver licence from 3 months to 12 months.

39. For second offences this option would increase the mandatory disqualification from holding or obtaining a driver licence from 3 months to 24 months. This increase would also apply to third and subsequent offences.

40. This option would also apply the mandatory vehicle confiscation provisions in section 129 of the Sentencing Act 2002 to second and subsequent failing to stop convictions that occur within a four year period by requiring the courts to confiscate and sell vehicles.

Benefits

41. This option focuses on non-monetary penalties i.e. penalties such as vehicle confiscation and longer periods of mandatory disqualification from holding or obtaining a driver licence, which are likely to be more of a deterrent for these types of offenders (90 percent of fleeing drivers are male and half of all fleeing drivers are aged 24 or under).

42. As with option 1, introducing mandatory vehicle confiscation of section 129 of the Sentencing Act 2002, would remove the court’s current discretion of confiscation, lower the

threshold of considerations, and most importantly would hinder reoffending by confiscating and selling the offender’s vehicle. Having mandatory confiscation for this offence is also consistent with the penalties for many other driving offences such as drink driving, driving while disqualified, and reckless driving. In addition, there are existing appeal processes in place around confiscated vehicles in the Sentencing Act that could also apply in these circumstances.

Costs

43. Costs will arise from offenders driving while disqualified. Extending mandatory periods of disqualification increases the number of individuals getting caught driving while disqualified. Disqualified driving holds a possible imprisonment term of up to three months. This second order impact could result in approximately 0.6 of a prison bed per annum, based on the assumption that the longer term of disqualification for 220 offenders (approximate number currently receiving disqualification) will result in a 25% breach rate (double the current rate). Based on \$100,000 per prison bed this would result in an additional cost of \$60,000 per annum. It is also expected that the breaches would result in an additional 23.3 community sentences. Based on \$15,000 per community sentence this would result in an additional cost of \$350,000 per annum.

44. There is not expected the be any additional administrative cost associated with processing mandatory licence disqualifications as the proposal does not introduce mandatory licence disqualification rather it increases the length of disqualifications periods for first and second and subsequent convictions.

45. There will also be additional costs associated with additional vehicle confiscation ordered by the courts arising from mandatory (rather than discretionary) vehicle confiscation for second and subsequent offences of failing to stop. Introducing mandatory vehicle confiscation for second and subsequent convictions within four years would result in administrative costs to the Ministry of Justice of approximately \$2,500 per annum based on 5 vehicle confiscations per annum. This is the outstanding costs after any proceeds from the sale of the confiscated vehicle have been deducted.

46. The total cost of this option would be approximately \$412,500 per annum. To make this option cost neutral the increase in penalties would only need to have a deterrent effect of about 0.1 %. This would result in a decrease in social costs stemming from fleeing drivers that was approximately equivalent to additional costs for agencies.

Table 9: Summary of Costs per annum: Option two

Summary of Costs per annum: Option two		
Proposal	Impact	Cost
Increasing mandatory disqualification periods	0.6 prison beds (imprisonment following breach of disqualification)	\$60,000 (based on \$100,000 per bed)

	23.3 community sentences (community sentence following breach of disqualification)	\$350,000 (based on \$15,000 per bed)
Introducing mandatory vehicle confiscation for second or subsequent convictions within 4 years	5 vehicle confiscations	\$2,500 (based on \$500 (net) per vehicle)
Total cost:		\$412,500

Assessment of options against criteria

47. The table below assess the status quo and two options against the criteria using a High Medium or Low score.

Table 10: Comparison of options against the criteria

Relevant criteria	Status quo	Option 1	Option 2
Consistency of penalties	<p>Low</p> <p>The current maximum fines to do not align with other similar offences in the Land Transport Act.</p>	<p>High</p> <p>This option reduces the maximum fine for each offence, to bring them into line with similar offences in the Land Transport Act and introduces and increases penalties, particularly mandatory licence disqualification periods, which are comparable with other Land Transport Act penalties.</p>	<p>Low</p> <p>This option increases penalties, particularly mandatory licence disqualification periods, which are higher than other comparable Land Transport Act penalties, such as dangerous driving.</p> <p>The maximum fines are also higher than apply to other similar offences in the Land Transport Act.</p>
Proportionate response	<p>Low</p> <p>The current penalties place too much emphasis on second and subsequent failing to stop offences rather than first offences and on the offences accompanying failing to stop.</p>	<p>Medium</p> <p>By introducing mandatory vehicle confiscation for second and subsequent offences within a 4 year period, this option introduces a penalty structure with stronger upfront penalties.</p>	<p>Medium</p> <p>By increasing the mandatory driver licence disqualification periods and introducing mandatory vehicle confiscation for second and subsequent offences within a 4 year period, this option introduces a penalty structure with stronger</p>

			<p>upfront penalties.</p> <p>The option makes failing to stop a serious offence in itself (not an offence that accompanies other offence, i.e. dangerous or reckless driving).</p> <p>This option would place more emphasis on non-financial penalties and be a more effective deterrent to the average fleeing driver (predominantly young and male).</p>
<p>Deters offending and incentivises people to provide information</p>	<p>Low</p> <p>The number of fleeing driver incidents are not reducing, current penalties are resulting in low fines being proposed, prison sentences only being imposed for third offences and a large number of unidentified fleeing drivers.</p>	<p>Medium</p> <p>This option includes an increased focus on non-monetary penalties, which are likely to be more of a deterrent for these types of offenders.</p>	<p>Medium to High</p> <p>This option includes an increased focus on non-monetary penalties, particularly mandatory disqualification, which are likely to be more of a deterrent for these types of offenders</p>
<p>Procedurally simple and cost effective</p>	<p>Medium</p> <p>There are some problems, low sentencing results, costly for outcomes.</p>	<p>Medium</p> <p>This option will increase the number of mandatory vehicle confiscations by approximately 5 per annum at a cost of \$2,500.</p>	<p>Medium</p> <p>Extending mandatory periods of disqualification will increase the likelihood of an individuals breaching disqualification. This could result in approximately 0.6 of a prison bed and 23.3 extra community sentences at an additional cost of \$410,000 per annum.</p> <p>It will also increase the number of mandatory vehicle confiscations by approximately 5 per</p>

			annum at a cost of \$2,500.
Deters repeat offending	Low The number of fleeing drivers facing charges for their third or subsequent offences for failing to stop is increasing and there are a large number of unidentified fleeing drivers.	Low/Medium This option retains a focus on third and subsequent failing to stop offending being more dangerous than first failing to stop offending.	Medium This option introduces stronger consequences for repeat failing to stop, particularly by increasing the mandatory disqualification periods.

Recommended option

48. We consider that option 2 is most likely to discourage non-compliance with police requests to drivers to stop their vehicles, and hence discourage fleeing driver incidents, and that the severity of the penalties can be justified because of the highly dangerous behaviour that they are addressing.

Alternative option considered but not progressed

49. Consideration was also given to applying a mandatory vehicle confiscation and destruction regime for a third failing to stop conviction within a four year period. This would have meant that confiscated vehicles would also have been destroyed, as is currently the case for illegal-street racing offences.

50. This option was not pursued because it was considered that applying the mandatory confiscation and sale provisions of section 129 of the Sentencing Act would be a sufficient deterrent for fleeing drivers. The confiscation and sale provision will result in the owner of the vehicle being permanently deprived of ownership of their vehicle.

51. In addition, fleeing drivers, unlike illegal street racers, are not as strongly attached to their vehicles. This is illustrated by the fact that in 2013/2014 20% of fleeing driver incidents involved stolen vehicles. Destroying the vehicles of illegal street racers specifically targets their attachment to their vehicles.

52. Another benefit of the mandatory confiscation and sale provision is that the sale of the confiscated vehicle provides for the costs associated with the vehicle confiscated to be recovered. Much less value is able to be recovered from vehicles that are destroyed.

Failing or refusing to provide information or providing false information

53. The status quo and two additional options have been considered to address the problems identified above. The status quo and two additional options are set out in the table below:

Table 11 Failing or refusing to provide information or providing false information – section 118(4) offences

	Current penalties	Option 1	Option 2
All offences	<ul style="list-style-type: none"> • Maximum fine of \$20,000 	<ul style="list-style-type: none"> • Maximum fine of \$6,000 • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act • Ability for enforcement officer to impound a vehicle involved in a failing to stop incident for up to 28 days where the enforcement officer has reasonable cause to suspect that the vehicle owner or person in legal possession of the vehicle was the driver or knows the driver's identity and has failed or refused to provide information 	<ul style="list-style-type: none"> • Maximum fine of \$20,000 • Discretionary vehicle confiscation and sale under section 128 of the Sentencing Act • Ability for enforcement officer to impound a vehicle involved in a failing to stop incident for up to 28 days where the enforcement officer has reasonable cause to suspect that the vehicle owner or person in legal possession of the vehicle was the driver or knows the driver's identity and has failed or refused to provide information

Option 1

54. The option reduces the maximum fine for the offence to \$6,000, to bring it into line with similar offences in other legislation.

55. The option would also apply the discretionary vehicle disqualification provisions in section 128 of the Sentencing Act 2002 giving the courts the option of confiscating and selling the vehicles of people who are charged for failing or refusing to provide information. It would also enable an enforcement officer to impound a vehicle involved in a failing to stop incident for up to 28 days where the enforcement officer has reasonable cause to suspect that the vehicle owner or person in legal possession of the vehicle was the driver or knows the identity of the driver and has failed or refused to provide information.

Benefits

56. Providing for the courts to confiscate vehicles for failing or refusing to provide information or providing false information sends a strong message about the seriousness of this type of offending. The aim of increasing the penalties is to encourage people to provide information that may lead to the identification of a fleeing driver and to disincentivise owners to lend their vehicles to those that may offend and increase owner responsibility.

57. Enabling enforcement officers to impound vehicles involved in failing to stop offences for up to 28 days is an immediate sanction that can be applied and is another means of encouraging owners not to lend their vehicles to those that may offend.

Costs

58. Introducing discretionary vehicle confiscation would also result in administrative costs of \$1,000 per annum to the Ministry of Justice based on 2 vehicle confiscations per annum. This is cost is the outstanding costs after any proceeds from the sale of the confiscated vehicle have been deducted.

59. Costs of impounding (towage and storage) would almost always be met by the vehicle owner. The proportion paid by Police would be very minimal; occurring only as the result of an error in law or good judgement by Police. If the owner does not pay to get the vehicle out of impound the current process of the storage provider selling the vehicle to recoup costs will apply. Accordingly, Police won't normally face any tow and storage costs.

60. The fee to vehicle owner is the regulated Towage and Storage Fees as described in the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

Table 12: Summary of Costs per annum: Option one

Summary of Costs per annum: Option one		
Proposal	Impact	Cost
Introducing discretionary vehicle confiscation	2 vehicle confiscations	\$1,000 (based on \$500 (net) per vehicle)
Total cost:		\$1,000

Option 2 – Increased penalties for failing or refusing to provide information or providing false information

61. The option would apply the discretionary vehicle disqualification provisions in section 128 of the Sentencing Act 2002 giving the courts the option of confiscating and selling the vehicles of people who are charged for failing or refusing to provide information. It would also enable an enforcement officer to impound a vehicle involved in a failing to stop incident for up to 28 days where the enforcement officer has reasonable cause to suspect that the vehicle owner or person in legal possession of the vehicle was the driver or knows the identity of the driver and has failed or refused to provide information

Benefits

62. Providing for the courts to confiscate vehicles for failing or refusing to provide information or providing false information sends a strong message about the seriousness of this type of offending. The aim of increasing the penalties is to encourage people to provide information that may lead to the identification of a fleeing driver and to disincentivise owners to lend their vehicles to those that may offend and increase owner responsibility.

63. Enabling enforcement officers to impound vehicles involved in failing to stop offences for up to 28 days is an immediate sanction that can be applied and is another means of encouraging owners not to lend their vehicles to those that may offend.

64. Increasing the penalties also ensures that, if the owner, hirer, or person in legal possession of the vehicle is the failing to stop offender, a serious penalty may still result that is more aligned with the penalties proposed for a first conviction of failing to stop.

65. Strengthened legislation to allow for the identification of the fleeing driver away from apprehension at the roadside would also assist operational decisions to abandon a pursuit due to danger to public safety.

Costs

66. Introducing discretionary vehicle confiscation would also result in administrative costs of \$1,000 per annum to the Ministry of Justice based on 2 vehicle confiscations per annum. This is cost is the outstanding costs after any proceeds from the sale of the confiscated vehicle have been deducted.

67. As with option 1 above, costs of impounding (towage and storage) would almost always be met by the vehicle owner. The proportion paid by Police would be very minimal; only as the result of an error in law or good judgement by Police. If the owner does not pay to get the vehicle out of impound the current process of the storage provider selling the vehicle to recoup costs will apply. Accordingly, Police won't normally face any tow and storage costs.

68. The fee to vehicle owner is the regulated Towage and Storage Fees as described in the Land Transport (Storage and Towage Fees for Impounded Vehicles) Regulations 1999.

69. Increasing penalties does not address problems with the inaccuracies in vehicle owner details. If vehicle owner details are not up to date police cannot request information.

Table 13: Summary of Costs per annum: Option two

Summary of Costs per annum: Option two		
Proposal	Impact	Cost
Introducing discretionary vehicle confiscation	2 vehicle confiscations	\$1,000 (based on \$500 (net) per vehicle)
Total cost:		\$1,000

Assessment of options against criteria

70. The table below assess these options against the criteria using a High, Medium or Low score.

Table 14: Comparison of options against the criteria

Relevant criteria	Status quo	Option 1	Option 2
Consistency of penalties	Low This is a high fine when compared to other	Medium This option involves a lower fine that brings it	Low This high fine when compared to other

	<p>levels in the Act, e.g. the fine for failing or refusing to complete and alcohol impairment tests is \$4,500 (s60)</p> <p>Absolute liability offences are generally infringement offences where the penalty is a low level fine.</p>	<p>more in line comparable offending, although imprisonment is also an option.</p>	<p>levels in the Land Transport Act, e.g. the fine for failing or refusing to complete an alcohol impairment tests is \$4,500 (s60)</p> <p>Absolute liability offences are generally infringement offences where the penalty is a low level fine</p>
Proportionate response	<p>Low</p> <p>Current penalties are not proportionate with failing to stop offences</p>	<p>Medium</p> <p>These are heavier penalties for those not at fault but in line with the proposed penalties for a second and subsequent conviction of failing to stop which removes the 'escape route' for offenders who are not caught in police pursuits.</p>	<p>Medium</p> <p>These are heavier penalties for those not at fault but in line with the penalties for second and subsequent convictions for failing to stop which removes the 'escape route' for offenders who are not caught in police pursuits.</p>
Deters offending and incentivises people to provide information	<p>Low</p> <p>The current regime is not providing a strong incentive for offenders to provide information</p> <p>Current penalties effectively providing 'an escape route' for offenders who manage to flee police, by refusing to answer the request they are avoiding the fleeing driver penalties and potentially penalties for other driving offences knowing that they are likely to face a relatively small fine</p>	<p>Medium</p> <p>The additional penalties will provide more incentives for people to provide information and lead to the identification and apprehension of more fleeing drivers but not to the extent of option 2</p>	<p>High</p> <p>The additional penalties (along with the current fine level of fine) may incentive people to provide information and lead to the identification and apprehension of more fleeing drivers which may in turn deter failing to stop offending</p>

Procedurally simple and cost effective	Low Low prosecution numbers would indicate that the current penalties are not effective	Medium Introduces more costs on the justice sector but if more fleeing drivers are indentified and apprehended could reduce social harm costs	Medium Introduces more costs on the justice sector but if more fleeing drivers are indentified and apprehended could reduce social harm costs
Deters repeat offending	Low Low prosecution numbers Not enabling the identification or apprehension of large number of fleeing drivers where police pursuits are abandoned	Medium May lead to more prosecutions for failing to stop offences May provide a disincentive to owners to lend their vehicles to those that may offend although not to the extent of option 2	Medium to High May lead to more prosecutions for failing to stop offences May provide a disincentive to owners to lend their vehicles to those that may offend

Recommended option

71. We consider that option 2, despite having a higher than usual fine for this sort of offending (which is the current fine), is most likely to discourage non-compliance with police requests for information that will resolve, and hence discourage, fleeing driver incidents, and that the severity of the penalties can be justified because of the critical nature of this information needed to address highly dangerous behaviour.

Alternative option considered but not progressed

72. Consideration was also given to introducing an owner onus provision similar to that under the Queensland Police Powers and Responsibilities Act 2000. This would have meant that if the owner of a vehicle failed or refused to provide information that may identify the driver he or she would become liable for the failing to stop offence. The vehicle owner would then need to prove on the balance of probabilities that they were not in fact the driver. This option was not pursued as there was insufficient information about the effectiveness of the provisions and the Queensland Police Service is currently considering further legislative changes to improve how the provision operate in practice.

Consultation

73. The following government agencies were consulted on the development of this RIS and the accompanying Cabinet paper: Ministry of Justice, Department of Corrections, the New Zealand Transport Agency, the Accident Compensation Corporation, Ministry for Women, Te Puni Kōkiri and the Treasury.

74. The Department of Prime Minister and Cabinet was informed.

Conclusions and recommendations

75. The current penalties for failing to stop or for failing or refusing to provide information or providing false information do not reflect the serious nature of fleeing driver incidents. The penalties also fail to provide sufficient deterrence to discourage drivers from fleeing police or encourage people to provide information that may lead to the identification or apprehension of fleeing drivers.

76. Cabinet agreement is sought to increase penalties for:
- a. drivers who fail to stop, and remain stopped, for enforcement officers when requested or signalled
 - b. people who fail or refuse to provide information to enforcement officers that may lead to the identification of fleeing drivers or provide false information.

77. Police and the Ministry of Transport recommend the following set of amendments be made (involving amendments to the Land Transport Act and the Sentencing Act):

Increased penalties for failing to stop
Mandatory disqualification for a minimum of 12 months for first offences
Mandatory disqualification for a minimum of 24 months for second offences
Mandatory disqualification for a minimum of 24 months for third and subsequent offences
Mandatory vehicle confiscation and sale for second and subsequent failing to stop offences within four years under section 129 of the Sentencing Act
Increased penalties for failing to provide information or providing false information
Discretionary vehicle confiscation under section 128 of the Sentencing Act
Ability for enforcement officer to impound a vehicle involved in a failing to stop incident for up to 28 days where the enforcement officer has reasonable cause to suspect that the vehicle owner or person in legal possession of the vehicle was the driver or knows the identity of the driver and has failed or refused to provide information.

78. The amendments aim to reduce the numbers of first time fleeing driver offending and repeat offending of this nature, to hold accountable more offenders who continue to flee police, and improve road safety outcomes.

79. Table 12 below summarises the potential costs to government of these measures. These cost estimates are based on a number of assumptions, as outlined in the relevant sections of this paper and are the upper limit costings.

Table 15: Estimated increase in administration costs

Estimated increase in administration costs \$M				
	Year 1	Year 2	Year 3	Year 4
Police				
• Court costs	0.0	0.0	0.0	0.0
Courts				
• Court costs	0.0	0.0	0.0	0.0
• Confiscation costs	0.004	0.004	0.004	0.004
Corrections				
• Custodial costs	0.060	0.060	0.060	0.060
• Community-based sentences	0.350	0.350	0.350	0.350
Total cost (\$M):	0.414	0.414	0.414	0.414

80. It is estimated that the measures could produce savings in the social costs of road crashes of \$0.90million per annum.

Implementation plan

81. Any changes agreed to by Cabinet will require amendment to the Land Transport Act 1998. Some amendments may also be required to the Sentencing Act 2002. The Land Transport Amendment Bill 2016 is due for introduction in April 2016 and this may be a useful vehicle for the changes.

82. The New Zealand Transport Agency (NZTA) and Police will be responsible for ensuring the public is aware of the changes and the reasons for the changes. The NZTA will develop a public awareness campaign that will support and work with Police's enforcement effort. The Police and the NZTA will also revise all relevant material including in the Official New Zealand Road Code, fact sheets and website information.

Monitoring, evaluation and review

83. The effectiveness of the amendment will be monitored by the Ministry of Transport, NZTA, Police and the Ministry of Justice using the following indicators:

- number of prosecutions for failing to stop and failing to provide information
- nature and size of sentences
- reduction in number of fleeing driver incidents
- reduction in number of crashes from fleeing driver incidents
- reduction in number people injured in fleeing driver incidents
- reduction in number of people killed in fleeing driver incidents
- increase in the number of offenders identified and apprehended for a fleeing driver incident.

84. It is proposed that there be a review of the use of application of the new penalties and of failing to stop offences after 5 years to be conducted jointly by the Ministries of Justice and Transport and Police.

Annex A: Current penalties

Table 1: Failing to stop - current penalties and impoundment powers for

Land Transport Act 1998	
Section	Penalty
s52(2)	The court <i>may</i> award a fine not exceeding \$10,000.
s52(3)	The court <i>must</i> order the person to be disqualified from holding or obtaining a driver licence for three months if the person has received their second conviction for failing to stop, or if while failing to stop they exceeded the speed limit or operated the vehicle in a dangerous manner.
s52(4)	If a person is convicted for a third or subsequent offence of failing to stop the court <i>must</i> order the person to be disqualified from holding or obtaining a driver licence for one year, and <i>may</i> sentence the person to imprisonment for a term not exceeding three months.
s52(5)	<p>Mandatory disqualification periods are cumulative on any other disqualification period the court may order in respect of the same incident involving a failing to stop offence, e.g. reckless driving.</p> <p>The result is that, in the example of a driver who is convicted of reckless driving in breach of s35(1)(a) consequent upon failing to stop, the minimum disqualification period of 6 months for that offence is enlarged by the mandatory 3 month period under s52(3) or (as the case may be) by the mandatory 12 month period under s52(4). Similarly, if a reckless driver injures someone else and thereby commits an offence under s36(1)(a) (which receives 12 months disqualification), the cumulative disqualification period will be a mandatory minimum of 15 months under s52(3) or a mandatory minimum of 2 years under s52(4).</p>
s88	If a person is convicted of failing to stop, the New Zealand Transport Agency <i>must</i> record in respect of that person the demerit points prescribed. Schedule 2 of the <i>Land Transport (Offences and Penalties) Regulations 1999</i> sets out that 35 demerit points are attributed to the offence of failing to stop.
s36AB	<p>If a person commits an offence under s35 (reckless or dangerous driving with causing no injury) or s36 (reckless or dangerous driving causing injury), coupled with a failing to stop offence, the court <i>must</i> treat the failing to stop offence as an aggravating factor.</p> <p>This requires the court to take into account the failing to stop offence in the sentence given for s35 or s36 offences.</p>
Section	Impoundment power
s96(1AB)	An enforcement officer <i>may</i> seize and impound, or seize and authorise the impoundment of, a motor vehicle for 28 days if the officer believes on

	<p>reasonable grounds that the person driving the vehicle has committed an offence of failing to stop.</p> <p>Under section 96(6), an impounded vehicle must be released to the owner if Police has decided that proceedings will not be taken against the person who failed to stop, or such proceedings have been taken and the person is acquitted.</p>
s123	An enforcement officer may seize and impound a motor vehicle for up to 7 days to preserve evidence (or to enable a scientific examination of evidence) where the officer believes on reasonable grounds that the person driving the vehicle has committed an offence of failing to stop.
Sentencing Act 2002	
Section	Penalty
s128	<p>The court <i>may</i> confiscate and sell a vehicle in certain circumstances for failing to stop offences.</p> <p>The court <i>must</i> not make an order if the vehicle is owned completely or in part by another person who did not know, and could not reasonably have known, that the offender would commit the offence(s); or they took all reasonable steps to prevent the offender from committing the offence(s).</p> <p>The court <i>must</i> also have regard to any undue hardship that the order would cause for the offender or anyone else who might use the vehicle.</p>

Table 2: Failing to provide information - current penalties

Land Transport Act 1998	
Section	Penalty
s52(6)	The court <i>may</i> award a fine not exceeding \$20,000.

Annex B:

Failing to stop

Table 1: Number of charges under section 52 of the Land Transport Act 1998 – failing to stop 2009/2010 to 2013/2014 (financial year)

Offence	Total number of charges by financial year				
	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014
B108 Failed to stop when required – first offence	173	147	150	107	81
B110 Failing to stop when followed by red/blue flashing lights – first offence	1,636	1,589	1,533	1,240	1,064
B111 Failed to remain stopped for an enforcement officer	214	178	166	139	128
B193 Failed to stop when required – third or subsequent offence	1	5	2	7	12
B195 Failing to stop when followed by red/blue flashing lights – third or subsequent offence	6	33	33	41	82
B196 Failed to remain stopped for an enforcement officer – third or subsequent offence	-	2	3	7	12
B221 Failed to stop when required – aggravated or having had one previous offence	-	-	-	18	50
B223 Failing to stop when followed by red/blue flashing lights – aggravated or having had one previous offence	-	-	-	124	297

B224 Failed to remain stopped for an enforcement officer – aggravated or having had one previous offence	-	-	-	6	13
Total number of charges per year	2030	1,954	1,887	1,689	1,739

Table 2: Number of fines imposed and average amount of fine and by year under section 52 of the Land Transport Act 1998 – failing to stop – 2009/2010 to 2013/2014 (financial year)

Offence	Number of fines imposed and average amount of fine and by financial year									
	2009/2010		2010/2011		2011/2012		2012/2013		2013/2014	
B108 – Failed to stop when required	33	\$276	32	\$308	22	\$368	25	\$291	26	\$355
B110 - Failing to stop when followed by red/blue flashing lights – first offences	217	\$305	218	\$345	205	\$343	208	\$361	183	\$383
B111 – Failed to remain stopped for an enforcement officer	40	\$308	26	\$265	39	\$299	32	\$288	26	\$348
B193 – Failed to stop when required – third or subsequent offence	-	-	-	-	-	-	-	-	-	-
B195 - Failing to stop when followed by red/blue flashing lights – third or subsequent offence	-	-	-	-	1	\$250	-	-	1	\$400
B196 – Failed to remain stopped for an enforcement officer – third and subsequent offence	-	-	-	-	-	-	-	-	-	-
B221 – Failed to stop when required – aggravated or having had one previous offence	-	-	-	-	-	-	2	\$400	3	\$467

B223 - Failing to stop when followed by red/blue flashing lights - aggravated and having had one previous offence	-	-	-	-	-	-	17	\$529	38	\$464
B224 – Failed to remain stopped for an enforcement officer – aggravated or having had one previous offence	-	-	-	-	-	-	-	-	1	\$1000

Table 3: Number of people sentenced to prison under section 52 of the Land Transport Act 1998 – failing to stop – 2010/2011 to 2013/2014 (financial year)

Offence	Number of people sentenced to imprisonment by financial year			
	2010/2011	2011/2012	2012/2013	2013/2014
B193 Failed to stop when required – third or subsequent offence	-	-	2	3
B195 Failing to stop when followed by red/blue flashing lights – third or subsequent offence	6	8	9	19
B196 Failed to remain stopped for an enforcement officer – third or subsequent offence	-	-	1	-
Total number of prison sentences	6	8	12	22

Failing or refusing to provide information or providing false information

Table 4: Number of charges under section 52 of the Land Transport Act 1998 – failing to provide or refusing to provide information or providing false information – 2010/2011 to 2013/2014 (financial year)

Offence	Average number of charges by financial year			
	2010/2011	2011/2012	2012/2013	2013/2014
B107 Gave false details as to drivers identity	176	140	117	84
B301 Owner or hirer gave false details	9	36	47	51
B305 Owner or hirer failed to give information	420	446	394	196
Total number of charges per year	605	622	558	330

Table 5: Number and average amount of fines between 2010/11 and 2013/14 for charges under section 118 of the Land Transport Act 1998⁵ – failing or refusing to provide information or providing false information

Offence	Number of fines imposed and average amount of fine and per financial year							
	2010/2011		2011/2012		2012/2013		2013/2014	
B107 Gave false details as to drivers identity	3	\$200	4	\$313	7	\$321	11	\$568
B301 Owner or hirer gave false details	3	\$317	1	\$250	1	\$300	7	\$614
B305 Owner or hirer failed to give information	171	\$506	186	\$512	242	\$608	171	\$632

⁵ The majority of these offences are believed to relate to fleeing driver incidents. Currently section 118 offences are records under once offence code so it is not possible to separate out those that apply only to fleeing driver incidents.

Annex C Penalties in other jurisdictions

Jurisdiction / Legislation	Offence	Penalty
<p>Queensland, Australia</p> <p><i>Police Powers and Responsibilities Act 2000,</i></p>	<p><u>Failing to stop</u></p> <p>It is an offence for the driver of the motor vehicle to evade police.</p> <p>This section applies if, in the exercise of a power under an Act, a police officer using a police service motor vehicle gives the driver of another motor vehicle a direction to stop the motor vehicle the driver is driving.</p> <p>(2) The driver of the motor vehicle must stop the motor vehicle as soon as reasonably practicable if a reasonable person would stop the motor vehicle in the circumstances.</p> <p>For subsection (2), it is sufficient evidence of the commission of the offence if the evidence is that the driver, in failing to stop, took action to avoid being intercepted by a police officer. (s754)</p>	<p><u>Failing to stop</u></p> <p><i>Minimum penalty:</i></p> <p>(a) if the driver is a participant in a criminal organisation within the meaning of the Criminal Code, section 60A 100 penalty units or 100 days imprisonment served wholly in a corrective services facility; or</p> <p>(b) otherwise 50 penalty units or 50 days imprisonment served wholly in a corrective services facility.</p> <p><i>Maximum penalty:</i></p> <p>200 penalty units or 3 years imprisonment. (s754)</p> <p>The Court <i>must</i> also disqualify the person from holding or obtaining a Queensland driver licence for 2 years. (s754)</p> <p>A police officer may impound a motor vehicle for 90 days if the driver of the motor vehicle is charged with failing to stop. (s74)</p> <p>A police officer may impound a motor vehicle until the end of proceedings where a person has a previous conviction or has a charge pending for failing to stop within three years. (s74A)</p> <p>If a person has been found guilty of a second OR subsequent offence within three years, the court can order the vehicle used in the offence forfeit to the state.</p> <p>The impounding or forfeiture of a motor vehicle under this chapter arising out of the</p>

		<p>commission of an evasion offence is in addition to any other penalty that may be imposed on the person for the evasion offence. (s751)</p> <p>NB: Currently each penalty unit is \$117.80, so this equates to a fine of \$5,890(50 penalty units) or \$11,780 (100 penalty units) or \$23,560 (200 penalty units)</p>
	<p><u>Failing to provide information</u></p> <p>A police officer may give the owner of a vehicle a notice (evasion offence notice) requiring the owner, within 4 business days, to give a ‘declaration’ providing details relating to the offence. Police then use this information to investigate the evasion offence.</p> <p>The notice must identify the motor vehicle involved in the evasion offence and state—</p> <p>(a) when and where the offence was committed; and</p> <p>(b) the name and address, when the offence was committed, of the person in whose name the motor vehicle was registered under a transport Act or a corresponding law; and</p> <p>(c) that the owner must comply with the requirement within 4 business days unless the owner has a reasonable excuse; and</p> <p>(d) the consequences if the owner does not comply with the requirement within the 4</p>	<p><u>Failing to provide information</u></p> <p>As above for the individuals deemed to be the driver.</p>

	<p>business days; and</p> <p>(e) the nature of the declarations the owner may give; and</p> <p>(f) that if the owner is a corporation the declaration must be signed by an executive officer of the corporation.</p> <p>If the owner of the vehicle given the notice does not give a declaration as required under that section within the time required they are taken to have been the driver even though the actual offender may have been someone else. It is a defence for the owner to prove, on the balance of probabilities that they were not the driver. (ss755 and 756)</p>	
<p>Tasmania, Australia</p> <p><i>The Police Powers (Vehicle Interception) Act 2000</i></p>	<p><u>Failing to stop</u></p> <p>It is an offence for a driver of a vehicle to avoid apprehension or interception by a police officer.</p> <p>A police officer may arrest, without warrant, any person that fails to stop for Police.</p> <p>It is a defence if the defendant proves that he or she had a lawful excuse for taking action to avoid the apprehension or interception. (s11A)</p>	<p><u>Failing to stop</u></p> <p>A fine not exceeding 50 penalty units or imprisonment for a period not exceeding 12 months or both.</p> <p>The Court <i>may</i> disqualify a person from driving for a period not exceeding 2 years.</p> <p>If a court disqualifies a person from driving under this section, it must suspend or cancel <i>any</i> Australian driver licence held by the person.</p> <p>NB: Currently each penalty unit is \$154, so this equates to a fine of \$7,700 (50 penalty units)</p>
<p>Victoria, Australia</p> <p><i>Road Safety Act 1986</i></p>	<p><u>Failure to stop offence</u></p> <p>A person must not drive a motor</p>	<p><u>Failure to stop offences</u></p> <p>First offence: 60 penalty units or imprisonment for 6 months, or</p>

	<p>vehicle if—</p> <p>(a) he or she knows that he or she has been given a direction to stop; or</p> <p>(b) he or she ought reasonably to know that he or she has been given a direction to stop. (s 64A)</p> <p><u>Dangerous or negligent driving while pursued by police</u></p> <p>If a person drives a vehicle dangerously or negligently and fails to stop by fleeing police, they commit an offence. (s 64A)</p>	<p>both.</p> <p>For a subsequent offence: 120 penalty units or imprisonment for 12 months or both.</p> <p>If a person is found guilty of failing to stop, then a court must:</p> <p><i>On a first offence:</i></p> <p>If the offender holds a driver licence - cancel the driver licence, Whether or not the offender holds a driver licence, the offender must be disqualified from obtaining a licence for a period not less than 6 months.</p> <p><i>On a second offence:</i></p> <p>If the offender holds a driver licence - cancel the driver licence, Whether or not the offender holds a driver licence, disqualify the offender from obtaining a licence for a period not less than 12 months.</p> <p>NB: Currently each penalty unit is \$151.67, so this equates to a fine of \$9,100.20 (60 penalty units), or \$18,200.40</p> <p><u>Dangerous or negligent driving while pursued by police</u></p> <p>Penalty: 3 years imprisonment</p> <p>If a person is found guilty of driving a vehicle dangerously or negligently and then fails to stop by fleeing police the court must:</p>
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		If the offender holds a driver licence cancel the driver licence. Disqualify the offender from obtaining a licence for a period not less than 12 months.
<p>Western Australia</p> <p><i>Road Traffic (Miscellaneous Amendments) Bill 2012</i></p>	<p><u>Failure to stop (aggravated)</u></p> <p>Refuses or fails to stop a vehicle when called upon to do so by a member of the Police Force in circumstances of aggravation.</p> <p><u>Failure to stop (not aggravated)</u></p> <p>Refuses or fails to stop when called upon to do so by a member of the police</p> <p><u>Dangerous driving whilst seeking to evade police</u></p> <p>Dangerous driving whilst seeking to escape pursuit by police</p>	<p><u>Failure to stop (aggravated)</u></p> <p>2 years imprisonment Minimum penalty: 100 penalty units (\$5,000) Minimum disqualification: 2 years</p> <p><u>Failure to stop (not aggravated)</u></p> <p>First offence - 6 penalty units (\$1,200) Subsequent offence - 12 penalty units (\$2,400)</p> <p><u>Dangerous driving whilst seeking to evade police</u></p> <p>A fine of up to \$36,000, Minimum 2 year licence disqualification and, Maximum of 3 years imprisonment</p>
<p>Northern Territory, Australia</p> <p><i>Criminal Code</i></p> <p><i>Road Traffic Act 1974</i></p>	<p><u>Failure to stop</u></p> <p>The driver of a vehicle commits an offence if:</p> <p>(a) a police officer gives the driver a direction to stop the vehicle under a law in force in the Territory; and</p> <p>(b) the driver fails to comply with the direction; and</p> <p>(c) a police officer pursues the vehicle; and</p> <p>(d) the driver drives the vehicle dangerously while it is being pursued.</p>	<p><u>Failure to stop</u></p> <p>Maximum penalty: imprisonment for 5 years.</p> <p><u>Failure to stop (aggravated)</u></p> <p>A person convicted on indictment of an offence against s 49AB is liable —</p> <p>(a) if the offence is committed in circumstances of aggravation, to a fine of any amount and to imprisonment for —</p> <p>(i) 20 years, if the person has caused the death of another</p>

	<p>It is irrelevant that the officer's pursuit is suspended or ends before the vehicle being pursued stops. (Criminal Code, 174F)</p> <p><u>Failure to stop (aggravated)</u></p> <p>A person commits an offence in circumstances of aggravation if at the time of the alleged offence:</p> <p>(a) the person was unlawfully driving the vehicle concerned without the consent of the owner or person in charge of the vehicle; or</p> <p>(b) the person was driving the vehicle concerned on a road at a speed that exceeded the speed limit applicable to the vehicle, or the length of road where the driving occurred, by 45 km/h or more; or</p> <p>(c) the person was driving the vehicle concerned to escape pursuit by a police officer (<i>Road Traffic Act 1974, 49AB</i>)</p>	<p>person; or</p> <p>(ii) 14 years, if the person has caused grievous bodily harm to another person</p>
<p>South Australia</p> <p><i>Criminal Law Consolidation Act 1935</i></p>	<p><u>Dangerous driving to escape Police pursuit</u></p> <p>A person is guilty of an offence who, intends to:</p> <p>(a) escape pursuit by a police officer; or</p> <p>(b) cause a police officer to engage in a pursuit,</p> <p>And drives a motor vehicle in a culpably negligent or reckless manner (s 19AC).</p> <p>For the purposes of this section, an aggravated offence is an offence committed in 1 or more of the following circumstances:</p> <p>(a) the offender was driving a</p>	<p><u>Dangerous driving to escape Police pursuit</u></p> <p>Maximum penalty:</p> <p>(a) for a basic offence - imprisonment for 3 years;</p> <p>(b) for an aggravated offence - imprisonment for 5 years.</p> <p>Where a court convicts a person of this offence the following provisions apply:</p> <p>(a) the court must order that the person be disqualified from holding or obtaining a driver's licence for a minimum period of 2 years, as the court thinks fit;</p>

	<p>stolen vehicle,</p> <p>(b) was driving a vehicle without the consent of the owner,</p> <p>(c) the offender knew, or was reckless as</p> <ul style="list-style-type: none"> - he or she was disqualified, - there was a concentration of .08 grams or more of alcohol in 100 millilitres of blood; <p>(d) the offender was, at the time of the offence, driving a motor vehicle in contravention of section 47 or 47BA of the Road Traffic Act 1961.</p>	<p>(b) the disqualification prescribed by paragraph (a) may not be reduced or mitigated in any way or be substituted by any other penalty or sentence;</p> <p>(c) the disqualification operates to cancel any driver's licence held by the convicted person as at the commencement of the period of disqualification.</p>
<p>New South Wales, Australia</p> <p><i>Road Transport Act 2013</i></p>	<p><u>Failure to stop</u></p> <p>Any light vehicle on any road, or in any public place or on any premises occupied or owned by the Authority or any other public authority may, for the purpose of or in connection with exercising other powers under the road transport legislation, be directed by an authorised officer (orally or by means of a sign or signal (electronic or otherwise), or in any other manner:</p> <ul style="list-style-type: none"> (a) to stop the vehicle (b) not to move the vehicle; interfere with it or any equipment in or on it; interfere with its load (c) a direction to stop a light vehicle or light combination may require that it be stopped without delay, or that it be stopped at the nearest place for it to be safely stopped as indicated by the officer (s 169A) 	<p><u>Failure to stop</u></p> <p>60 penalty units</p> <p>Currently one penalty unit is \$110 so this equates to a fine of \$2200 (20 penalty units).</p> <p>General offences disqualification rules (S204)</p> <p>(1) A Court <i>may</i> disqualify driver for offences against road transport legislation. A court may order the disqualification of the person from holding a driver licence for such period as the court specifies.</p> <p>(2) Any disqualification under this section is in addition to any penalty imposed for the offence</p>
<p>Canada</p> <p><i>Canadian Criminal Code</i></p>	<p><u>Flight from Police</u></p> <p>Every one commits an offence who, operating a motor vehicle while being pursued by a peace</p>	<p><u>Flight from Police</u></p> <p>Everyone who commits an offence under subsection 249.1:</p> <p>(a) is guilty of an indictable</p>

	officer operating a motor vehicle, fails, without reasonable excuse and in order to evade the peace officer, to stop the vehicle as soon as is reasonable in the circumstances. (s249.1)	offence and liable to imprisonment for a term not exceeding five years; or (b) is guilty of an offence punishable on summary conviction.
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