

TRANSPORT AMENDMENT BILL (NO. 4)

EXPLANATORY NOTE

THIS Bill inserts a new *section 66A* into the Transport Act 1962, giving constables and traffic officers who are officers of the Ministry of Transport powers of entry onto private property in certain circumstances for the purpose of exercising their powers under the breath-alcohol provisions of the Act.

This power of entry on premises may be exercised only where—

- (a) The constable or traffic officer has good cause to suspect that a person has committed an offence against section 66 (4) of the Act (which relates to the failure of a motorist to stop when requested or signalled to do so, or to remain stopped for as long as is reasonably necessary for the obtaining of particulars or the completion of the exercise of any power conferred on a constable or traffic officer by the Transport Act 1962); and
- (b) The constable or traffic officer is freshly pursuing the person.

The power of entry may be exercised only for one or both of the following purposes:

- (a) Determining whether or not any power should be exercised under section 58A or section 58B of the Act (which relate to the administration of breath screening tests and evidential breath tests); and
- (b) Exercising or completing the exercise of any such power.

It is the duty of constables and traffic officers entering on premises under the new section to identify themselves to the pursued person and the occupant of the premises, and to tell them that the entry is made pursuant to *section 66A* of the Transport Act 1962. Constables and traffic officers not in uniform are required on initial entry to produce evidence that they are a constable or traffic officer, and also on any subsequent request.

A constable or traffic officer entering on premises under this section may not exercise any power of arrest under the Transport Act 1962 other than those specified in sections 58A (4) and 58B (5) (a) and (b) (which relate to contraventions of the breath-alcohol provisions) and in section 62A (which relates to assaults on traffic officers).

Hon. W. P. Jeffries

TRANSPORT AMENDMENT (NO. 4)

ANALYSIS

Title 1. Short Title	2. Entry on premises for purpose of exercising powers in relation to breath-alcohol offences
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A BILL INTITULED

An Act to amend the Transport Act 1962

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title**—This Act may be cited as the Transport Amendment Act (No. 4) 1989, and shall be read together with and deemed part of the Transport Act 1962* (hereinafter referred to as the principal Act).

10 **2. Entry on premises for purpose of exercising powers in relation to breath-alcohol offences**—The principal Act is hereby amended by inserting, after section 66, the following section:

15 “66A. (1) Where a constable or a traffic officer who is an officer of the Department has good cause to suspect that any person has committed an offence against section 66 (4) of this Act and is freshly pursuing that person, the constable or traffic officer may, without warrant, in the course of the pursuit enter on any premises on which the person has entered, by force if necessary, for either or both of the following purposes:

20 “(a) Determining whether or not any power conferred on a constable or traffic officer by section 58A or section 58B of this Act should be exercised in respect of that person:

*R.S. Vol. 16, p. 659

Amendments: 1985, No. 126; 1985, No. 194; 1986, No. 49; 1987, No. 96; 1988, No. 139; 1988, No. 170; 1989, No. 77

“(b) Exercising or completing the exercise of any such power in respect of that person.

“(2) It is the duty of every constable and every traffic officer exercising any power conferred by subsection (1) of this section—

“(a) To identify himself or herself to the pursued person and to the occupant (if any) of the premises entered; and 5

“(b) To tell the pursued person and the occupant (if any) of the premises entered that the power of entry is being exercised under this section of this Act; and

“(c) If the constable or traffic officer is not in uniform, to produce on initial entry, and, if requested, at any subsequent time, evidence that he or she is a constable or traffic officer. 10

“(3) A constable or traffic officer who enters on any premises pursuant to this section shall not exercise on those premises any power of arrest conferred by this Act other than a power of arrest conferred by section 58A (4), paragraph (a) or paragraph (b) of section 58B (5), or section 62A of this Act.” 15