

HEAVY VEHICLE (ADOPTION OF NATIONAL LAW) AMENDMENT BILL 2013

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Bill received from the Legislative Council, introduced and read a first time.**Second Reading**

Mr STUART AYRES (Penrith—Parliamentary Secretary), on behalf of Ms Gladys Berejiklian, [12.15 p.m.]: I move:

That this bill be now read a second time.

The purpose of the Heavy Vehicle (Adoption of National Law) Amendment Bill 2013 is to amend the Heavy Vehicle (Adoption of National Law) Act 2013. The bill makes further provision in addition to the current Act for adopting the Heavy Vehicle National Law in New South Wales. It sets out the terms of the Heavy Vehicle (Adoption of National Law) Regulation 2013 and makes the necessary repeals and changes to existing legislation to give effect to the Heavy Vehicle National Law in New South Wales. This bill marks an historic moment in heavy vehicle transport and, by association, State and national road safety and freight productivity.

When the Heavy Vehicle National Law commences the same law will regulate heavy vehicles in all jurisdictions except Western Australia. In practical terms this will mean that truck drivers and operators will be much closer to a single rule book than ever before. There is a particular need for this reform in two key areas. The first is the long distance road transport sector—also called "line haulage"—where operators and drivers currently contend with the laws of several States in the movement of a single load. As Roads Minister Duncan Gay has repeatedly said from day one:

Truckies shouldn't have to carry a filing cabinet full of different jurisdictional permits and notices in their cab.

Indeed, one of the first things the Roads Minister did in office was to abolish the requirement for truck drivers—notably drivers of B-double and road train trucks—to carry half a dozen notices. In October last year, under a nationally agreed framework, Minister Gay also allowed safer and more efficient modular B-triples to operate on approved road train routes west of the Newell Highway. Just last month, he announced modular B-triple trucks will be allowed on the Newell Highway from Narrabri to the Queensland border. Under this particular reform, transport operators travelling from far western New South Wales—say on the Kamilaroi Highway—will be able to access the Newell at Narrabri to use the 225-kilometre stretch of highway to Goondiwindi and then beyond deep into western, southern or central Queensland.

Overall, modern modular B-triples are safer than some of the older and heavier road train combinations currently using these routes, especially in terms of their manoeuvrability and handling performance. Put simply, being articulated, B-triple trucks "track" better on the road. Industry research has shown that a semi-trailer operating at a higher mass limit takes approximately 37 trips to transport 1,000 tonnes of freight, whereas for the same tonnage a modular B-triple operating at a higher mass limit only requires about 17 trips. The bottom line is that modular B-triples—also referred to as high productivity vehicles—will provide a safer, more efficient way of carrying road freight; not to mention reducing truck movements and therefore wear and tear on our roads.

The stretch of the Newell Highway between Narrabri and Goondiwindi has been determined as having suitable infrastructure to accommodate these types of trucks. For example, last year as part of a record \$20 million funding package to fast-track improvements on the Newell, the New South Wales Government completed three additional overtaking lanes north of Narrabri, while construction on yet another passing lane north of Moree will commence in September this year. Such safe and sensible reforms, combined with long overdue road upgrades, are designed specifically to "tie-in" neatly with overall national heavy vehicle reforms. Make no mistake, since March 2011 the O'Farrell Government has helped advance national heavy vehicle reforms like no other New South Wales Government before it.

In the past, NSW Labor was considered a significant roadblock for change on the eastern seaboard of Australia. Seven NSW Labor roads Ministers in five years was a significant factor in stalling the process of harmonising heavy vehicle road rules across the nation, not to mention New South Wales Labor's total indifference to improving road freight productivity. Today, in direct contrast, the O'Farrell Government is considered a leader in national heavy vehicle reforms—an adult government that understands and appreciates the need to enhance road freight productivity for the sake of both the State and national economy. New South Wales is a State that relies heavily on road, rail, sea and air freight, worth approximately \$58 billion each year and employing 500,000 people.

As the geographic "through state", New South Wales carries more than 60 per cent of Australia's national road freight task, which is a staggering figure. Highways such as the Hume, Pacific, Princes, Newell and New England carry a huge proportion of the nation's products and, by association, its ultimate prosperity. Under the national law being supported by the O'Farrell Government, for the first time, a truck will be able to travel from far North Queensland, through New South Wales and on to Melbourne under the same Heavy Vehicle National Law. Over time—and hopefully much sooner rather than later—reams of red tape will be cut, unnecessary and confusing cross-border rules will be eradicated and road freight productivity will increase substantially.

The second reason for the vital importance of these national reforms relates to key rural and regional economic hubs in the State, such as Albury in the south and Moree and the Tweed in the north. In these border towns and cities people do not confine their lives or businesses to just one side of a State border. Trucks delivering to supermarkets in Albury often also service Wodonga. Likewise, Tweed Heads and Coolangatta are only separated by a dotted line on a map. Similarly, thousands of ex-gin cotton bales are delivered by road from north-west New South Wales to the Port of Brisbane each year.

Thankfully, upon the commencement of the Heavy Vehicle National Law, there will no longer be different legislation in place on either side of the border. By way of some background, the Council of Australian Governments first agreed to establish the National Heavy Vehicle Regulator in June 2009. The creation of national regulators for rail, maritime and heavy vehicles was seen as a key element of creating a single national seamless economy. As such, these reforms are part of the National Partnership Agreement to Deliver a Seamless National Economy which aims to reduce costs incurred by business in complying with unnecessary and inconsistent regulation across State jurisdictions; enhance Australia's longer-term growth, improving workforce participation and overall labour mobility; and expand Australia's productive capacity over the medium term through competition reform to enable stronger economic growth.

In addition, the Council of Australian Governments saw the need for a single national law for each transport mode to ensure that business was unencumbered by conflicting regulatory requirements from State to State. The National Heavy Vehicle Regulator, and the Heavy Vehicle National Law which supports it, is the final piece in the creation of a harmonised national system of transport regulation that has been underway for many years under previous model law reforms. The passage of this legislation delivers on New South Wales' commitment under the Intergovernmental Agreement on Heavy Vehicle Regulatory Reform to adopt the Heavy Vehicle National Law. New South Wales has pursued this reform with vigour since Premier O'Farrell agreed to the Intergovernmental Agreement on Heavy Vehicle Regulatory Reform in 2011. Since the commencement of this reform, the New South Wales Government has provided more than \$5 million to the national project office to complete project work to build the National Heavy Vehicle Regulator. In addition, NSW has provided \$5.2 million to the recently established National Heavy Vehicle Regulator to assist with funding its first year of full operations in the 2013-14 financial year.

In summary, this bill adopts the Heavy Vehicle National Law as the law that regulates heavy vehicles in New South Wales, while Queensland is the host of the Heavy Vehicle National Law. In future any amendment to the Heavy Vehicle National Law will require several steps. First, any proposed changes will require the unanimous approval of the national transport Ministers council, which is currently called the Standing Council on Transport and Infrastructure—or SCOTI for short. The Queensland Parliament would then be asked to pass the changes agreed to by the national transport Ministers council. Those changes would then be automatically made to the law as adopted in New South Wales and updated on the relevant registers of current New South Wales legislation. An identical process will be in place for all other participating jurisdictions.

This process will allow the regulation of heavy vehicles to remain harmonised and at the same time permit the Heavy Vehicle National Law to be updated and modernised as needed for the sake of road safety, not to mention the national road freight task. The Heavy Vehicle National Law creates the National Heavy Vehicle Regulator and describes its functions, powers and objectives. The main function of the regulator is to achieve the objective of the Heavy Vehicle National Law which includes promoting public safety; managing the impact of heavy vehicles on the environment, road infrastructure and public amenity; promoting industry productivity and efficiency in the road transport of goods and passengers by heavy vehicles, including buses; and encouraging and promoting productive, efficient, innovative and safe business practices.

In order to achieve those objectives the Heavy Vehicle National Law: prescribes vehicle standards, mass and dimension limits, load restraint requirements, speeding compliance and fatigue management requirements; imposes duties and obligations on operators, drivers and other persons whose activities may influence whether the vehicles or drivers comply with requirements in relation to the standards, mass, dimension, loading and speed of a heavy vehicle, as well as a driver's fatigue; includes measures to allow improved access to roads in certain circumstances; and provides for accreditation schemes for best practice. It also provides for the national registration of heavy vehicles; however this function has been deferred until the creation of a national registration scheme some time in 2015.

While the promotion of consistency and harmonisation has been a driving factor in the development of the Heavy Vehicle National Law, this bill also recognises the importance of retaining certain safety and productivity initiatives within New South Wales. As previously

mentioned, New South Wales is the geographic "through State" for the eastern seaboard of Australia. As such, our communities and our roads experience interstate truck traffic like no other jurisdiction in the country.

Is New South Wales different from Queensland, Victoria and South Australia? You bet. Carrying 60 per cent of the national road freight task presents some challenging road safety and infrastructure issues for New South Wales. Here is a compelling fact. Interstate drivers of heavy articulated trucks account for one-quarter of all involvements in fatal crashes in New South Wales. Of the interstate drivers of heavy trucks involved in fatal crashes, nearly half were Queenslanders, while Victorians accounted for 40 per cent. That is why in conjunction with our fine colleagues in the NSW Police we have the largest, best equipped and most active heavy vehicle inspection force in the country. For instance, we have nearly 300 heavy vehicle inspectors within Roads and Maritime Services alone. That is why we spend more than \$70 million each year on heavy vehicle enforcement and compliance—the largest annual funding commitment of any State in the country.

We make no apologies for these activities; in fact our efforts in this vital area of road safety increase and become more targeted each and every day. That is why, since November 2011, the New South Wales Government has conducted 78 days of heavy vehicle enforcement and compliance, including four targeted and sustained campaigns in and around Australia's second largest container terminal at Port Botany and numerous campaigns on our major highways; notably the Hume. In 2012-13 we inspected more than two million heavy vehicles, intercepted more than 206,000 heavy vehicles and identified more than 36,000 defects.

As the "through State" we must remain ever watchful. Today, if you speed in a truck in New South Wales you will be caught and you will face the full force of the law. In some cases your truck will be grounded on the spot. The people and Government of New South Wales have zero tolerance for transport operators who tamper with speed limiters. We also have zero tolerance for companies and their directors further up the supply chain who impose unrealistic and dangerous delivery schedules on transport operators and by extension their drivers. Unrealistic delivery schedules and timetables directly lead to speeding trucks and fatigued drivers. This in turn can lead to dangerous drug use on the road.

As a clear indication that our campaigns are having a positive effect, in February this year, the roads Minister, Duncan Gay, and the police Minister, Mike Gallacher, announced a 79 per cent reduction in the past year in the number of trucks detected speeding at more than 105 kilometres per hour. Our point-to-point heavy vehicle monitoring system is also the most sophisticated and extensive in the country, helping to identify, track and capture speeding trucks at 21 major lengths of road across the State. Three more lengths are planned in the future.

We are also tough on monitoring and managing heavy vehicle fatigue issues via 27 Safe-T-Cam cameras located at 24 sites across New South Wales. Our State also led the pilot of electronic work diaries as a potential alternative to the written work diaries that are currently the key tool for implementing heavy vehicle driver fatigue rules. The pilot found that the electronic diaries are feasible from technical, operational and regulatory perspectives, and have the potential to generate safety and productivity benefits. In May this year the Standing Council on Transport and Infrastructure agreed that an approach to national adoption of the electronic diaries be developed by the National Heavy Vehicle Regulator and the National Transport Commission for consideration by the council later this year.

Yes, we agree with and support national heavy vehicle reforms; but we must also protect the people and roads of this great State. For that reason this bill contains the following differences from the national law as applied in other jurisdictions First, the current provision in New South Wales which holds operators accountable for non-compliant speed limiters will be maintained. The reasons for this I have just clearly explained above. Another provision which requires the fitting of vehicle monitoring devices to heavy vehicles, including buses and coaches, is also being retained in New South Wales law. This allows the regulator and police to access information about a vehicle's performance prior to any incident as part of any investigation. Again, this represents a safe and sensible approach.

In order to maintain parity with a number of light vehicle offences, the bill retains a number of demerit point penalties. Examples include trucks with defective brakes, steering and seating or fitted with dangerous bullbars. Again, this provision in the bill represents a safe and sensible approach to heavy vehicle road rules in New South Wales. The continued ability to issue a defect notice for an improperly displayed or damaged number plate will be retained to ensure the continued effectiveness of compliance systems such as Safe-T-Cam and traffic enforcement cameras.

Finally, the effective management of fatigue is of crucial importance not only to the heavy vehicle industry but to all road users as well as the broader community—especially in New South Wales, which is the State through which a majority of the nation's freight originates or transits. As part of the development of the Heavy Vehicle National Law, a new approach for managing fatigue has been proposed to potentially replace the current Advanced Fatigue Management [AFM] scheme. This new approach is known as the Risk Classification Scheme. The Risk Classification Scheme allows operators to balance their risks. For example, a longer evening rest could permit more work time during the day. New South Wales supports this concept and recognises the productivity benefits it could bring to industry through increased flexibility, notably for rural and regional transport operators such as livestock and grain carriers. As opposed to "line haulage" operators who run on clearly defined routes between major cities and regional centres, livestock and grain carriers are more affected by the vagaries of weather and/or harvesting operations. Hence, some added flexibility may be appropriate.

New South Wales supports the concept of developing a risk classification approach to managing fatigue for accredited operators. But again, this has to be done in a safe and sensible way. As this scheme has not yet been tested in the real world in any jurisdiction or transport sector, New South Wales strongly advocated at the Standing Council on Transport and Infrastructure meeting earlier this year that the scheme is trialled first. A trial, for example, would allow testing in actual transport operations about how different risk parameters interact with other risk parameters and what types of suitable countermeasures are needed to ensure safe fatigue levels. In fact, the National Heavy Vehicle Regulator itself has recognised the Risk Classification Scheme's newness and has committed to evaluate the new scheme at 12-, 24- and 36-month intervals and report back to transport Ministers on any refinements that may be necessary.

New South Wales is willing to play an active role in testing the new scheme and to work with industry and the National Regulator to finalise the best, most flexible and safest scheme possible. However, this testing needs to occur in a controlled environment with suitable conditions in place. While any trial is taking place, therefore, the current New South Wales maximum work times and minimum rest times—for example, a maximum 15 hours in any 24 hour period—will be retained as a safety net. Outer hour limits which appear in legislation are not unusual as other sectors are also subject to similar requirements including, for example, aviation and train drivers in New South Wales. This surety is also needed for those current advanced fleet management operators who will

continue to operate under their existing arrangements. To make this trial work in New South Wales, I encourage operators who wish to participate to come forward to the National Regulator and make an application.

The regulator will then work with New South Wales officials to develop the parameters for operating outside the current prescribed limits—this explicitly means the possibility of up to 15.5 hours of work. The responsible Minister in New South Wales will then issue a notice in the *Government Gazette* to give legal effect to the specific accreditation. This final step is really meant as an administrative arrangement necessary only in this trial period because there is nothing in the national law which compels the National Regulator to take into account New South Wales's specific issues, notably in relation to operational expertise. I have asked New South Wales officials to promptly work closely with the industry and the National Regulator to quickly finalise the policies and procedures that will give effect to this trial in New South Wales. I look forward to the future development and refinement of the Risk Classification Scheme and to the day when the real-life evidence is available that the scheme effectively manages the risk to fatigue and therefore the current New South Wales safety net outer limits can be removed. Let there be no doubt that the New South Wales Government is listening to industry about the importance of productivity, flexibility and safety; and that is why New South Wales is handling the transition from the old scheme to the new scheme in a considered, systematic and methodical way.

Certain industry exemptions are also being preserved in the New South Wales adoption law because there is no clear head of power in the Heavy Vehicle National Law to retain these productivity initiatives. These include: the provision stating that time spent in the driver's seat of the vehicle while its engine is running and during certain personal activities can count as rest time if certain conditions are met; the provisions which provide that a person who is an officer or member of staff of an emergency service, as well as certain bus operators and private hire vehicles, is exempt from some speed compliance and fatigue management requirements; and the Livestock Loading Scheme, which was long overdue in New South Wales, is being retained, with Roads and Maritime Services fulfilling the role of regulator.

Finally, many current permits, notices and ministerial orders are being transitioned—those relating to higher mass limits, oversize and overmass vehicles, B-triples and AB-triples as well as performance-based standards vehicles, for example. However, the bill also outlines some further modifications including: retention of the status quo regarding the use of force against property by Roads and Maritime Services enforcement officers for compliance purposes; and a provision allowing road managers—Roads and Maritime Services and councils—to charge for route assessments which may be required to grant a heavy vehicle permit.

As drafted, chapter 2 of the Heavy Vehicle National Law establishes a scheme for the national registration of heavy vehicles. However, a single national registration system to support that scheme has not yet been completed. Accordingly, chapter 2 of the Heavy Vehicle National Law will be deferred by all participating jurisdictions. The Standing Council on Transport and Infrastructure has agreed that chapter 2 should commence in mid-2015. In the meantime, the bill provides for the current New South Wales heavy vehicle registration arrangements to continue.

Finally, I understand that there have been some recent concerns about how New South Wales is dealing with "prosecutions" under the Heavy Vehicle National Law. While the exact nature of these concerns is not clear, I can assure the House that New South Wales is not doing anything unusual. In fact the provisions that deal with commencing any proceedings were introduced as part of the first bill in May and no issue was raised at that time. Further, the New South Wales provisions reflect how Victoria has dealt with the same issue in its adoption law. There is, therefore, precedent and

consistency in what this bill proposes. This bill is an essential part of the national seamless economy. For New South Wales it is a final component of a nationally harmonised system of transport regulation. It will mean that road transport operators will need to comply with only one rule book; it will mean that red tape will be cut for transport operators, drivers and customers; and it will mean that lines on a map do not hamper the productivity of the State of New South Wales. I trust that members will lend their support to the bill and the proposed amendments. I commend the bill to the House.

Debate adjourned on motion by Mr Nathan Rees and set down as an order of the day for a future day.