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HEAVY VEHICLE (ADOPTION OF NATIONAL LAW) AMENDMENT BILL 2013

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.21 p.m.]: I move:

That this bill be now read a second time.

This bill affirms the New South Wales Government's commitment to working with our State and Territory colleagues to cut red tape and reduce the regulatory burden on the heavy vehicle industry. The introduction of the Heavy Vehicle (Adoption of National Law) Amendment Bill 2013 will allow the National Heavy Vehicle Regulator to begin applying a more consistent set of rules for heavy vehicle drivers operating across participating State and Territory borders. In short, once commenced in New South Wales and all other participating jurisdictions, this bill will streamline safety and access regulation for heavy vehicles over 4.5 tonnes.

Some commentary since the introduction of this bill late last month has focused on the New South Wales variations to the Heavy Vehicle National Law. I will come to that in a moment and will explain that they are minimal and necessary to take into account the unique status of New South Wales as the "through State" and to ensure that safety standards are not compromised. Overall though, and in the vast majority of situations, this bill cements the commitment of New South Wales to national reform. This reform is a prime example of how we can work together to reduce the inconsistencies between States and Territories and better focus the energy of industries on improving safety and productivity.

The use of national systems and processes, which emerge from the national regulator's one-stop shop, will offer heavy vehicle operators, governments and the community better coordination of access decisions across all levels of government, especially "last mile" access decisions; improved compliance and enforcement strategies, which encourage industry participation in accreditation schemes in return for mass, dimension and load productivity benefits; information technology applications that will improve operator efficiencies such as better online fleet management capability; reductions in the time needed to train drivers given that there will be one nationally consistent set of rules; and the same outcome in the same circumstances across all jurisdictions given the common policies, procedures and processes that the National Heavy Vehicle Regulator will introduce. All of this should lead to a reduction in regulatory inconsistencies that currently plague operators and sufficiently add to the costs of doing business.

In terms of access applications, the national regulator will work on behalf of operators with cross-border businesses and local governments to ensure a single permit with a straightforward set of operating conditions to cover each applicable jurisdiction. This system will allow access permit applications to be sent simultaneously to decision-makers in councils and State road authorities facilitating the assessment tasks of road authorities and reducing the burden of operators which, under current arrangement, must contact road authorities themselves. The national regulator will introduce case managers to coordinate access applications across councils and State road authorities. The national regulator will also introduce, for the first time, centralised data on access applications, which will provide intelligence on infrastructure bottlenecks.

It is important to note that of the 185,000 kilometres of roads in New South Wales, 165,000 are owned and managed by local councils. The State Government owns and manages approximately 20,000 major roads such as key highways and motorways. The national regulator has a big job ahead in coordinating industry access applications across councils, but rest assured the NSW Government will assist in this process. Finally, the Heavy Vehicle National Law provides for ministerial guidelines that the national regulator will publish to assist road managers in applying consistent processes and criteria while assessing access applications and determining appropriate access to the road network. For the broader community, it will mean also that a single national regulatory body will be in place to undertake coordinated compliance and enforcement activities to encourage safe practice within the heavy vehicle industry.

Previously, management of compliance and enforcement has been handled by individual jurisdictions. This can result in inconsistent outcomes for the road freight industry, as well as lost opportunities for collaboration

between jurisdictional road transport agencies and police forces. Roads and Maritime Services-employed vehicle inspectors will continue to work with the NSW Police Force and the national regulator to undertake on-road enforcement of heavy vehicles under service agreements. Nationally consistent training, as well as on-road policy and procedure manuals, will allow New South Wales inspectors to adhere to consistent enforcement policies. It is also expected that oversight of compliance and enforcement by the national regulator will allow for the establishment of a national investigation and prosecution framework. This should deliver a more consistent approach and level of compliance and enforcement.

Under this bill the national regulator will oversee and monitor a new national database containing non-compliance data from jurisdiction audits and on-road intercepts across the country. This will allow a level of national regulatory understanding that has not previously been possible under the current system of State-based heavy vehicle regulation. Such oversights increase risk to drivers and the community, as well as providing a competitive disadvantage to the vast majority of transport operators who do their best to keep our roads safe for everyone. There is much to look forward to in terms of improved consistency and cross-border cooperation. However, the NSW Government has been working with the national regulator and the heavy vehicle industry to ensure that key productivity and safety initiatives currently in place will be retained in New South Wales following the passage of the Heavy Vehicle National Law.

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A key example is the retention in New South Wales of the speed limiter deeming provisions. Under New South Wales provisions, it is considered prima facie evidence that the vehicle was not speed limiter compliant if the vehicle was being driven at or above 115 kilometres per hour—that is self-evident. The New South Wales provision is directed at holding operators responsible for non-compliant speed limiters as these are the people best placed to influence the culture of the company and the conduct of its employees. Two weekends ago, three Victorian registered B-double trucks were caught doing speeds in excess of 120 kilometres per hour on the Newell Highway in Central West New South Wales. All were carrying fresh produce southbound on the heavily used Brisbane to Melbourne and Victoria freight route. With speeding still such an issue, it is understandable why the New South Wales bill has slightly different provisions to the national law. Let us not forget that New South Wales is the "through State" for the eastern seaboard of Australia.

While we are always looking for ways to increase flexibility and productivity, we are ever watchful also of needing to balance the safety risks for those who travel on roads such as the Newell Highway. I know the Hon. Mick Veitch and I are not alone in having children and grandchildren who travel on that road. Managing fatigue effectively is of central importance to the heavy vehicle industry and to all other road users. New South Wales communities and roads experience interstate truck traffic like no other jurisdiction in the country by carrying 60 per cent of national road freight. This presents some challenging road safety and infrastructure issues for New South Wales. The amendment to the bill which was agreed to by the Legislative Assembly last week makes how New South Wales deals with the transition from the current Advanced Fatigue Management [AFM] to the new Risk Classification Scheme more closely aligned with the national law. But at the same time it recognises that New South Wales—due to its geographic location as a "through State"—has a different and higher risk of fatigue when compared to other States where heavy vehicle journeys start.

The amendment means that New South Wales law will no longer explicitly mention any outer limit hours; instead the New South Wales Minister will be able to apply conditions, if considered necessary, to an Advanced Fatigue Management accreditation approved by the National Heavy Vehicle Regulator. In practice it is anticipated that on a day-to-day basis the regulator will work very closely with New South Wales officials to assess Advanced Fatigue Management applications as they are submitted. It is expected that the New South Wales Minister would exercise his or her ability to apply additional conditions only in those circumstances when an accreditation approved by the national regulator is considered to be inappropriate or unsafe. I am not expecting to have much work at all in this area—I am certainly hoping I do not. Roads and Maritime Services [RMS] heavy vehicle inspectors and the NSW Police Force have been working on joint enforcement and compliance operations for years; whereas the national regulator was established only this year.

Put simply, our people have a great deal of knowledge and experience in heavy vehicle enforcement and compliance—they have seen and heard it all—and hence have insights that others do not necessarily have yet; but will get. It would be irresponsible for me as the New South Wales Minister for Roads and Ports not to heed the expert in-field advice and operational experience of New South Wales vehicle inspectors and police. New South Wales wants to be at the forefront of trialling this new approach and is looking forward to working closely with the national regulator and industry to finalise the best, the most flexible and the safest scheme possible. The onus is now on the national regulator to come forward and advise how the Risk Classification Scheme will operate in practice. Once the evaluation of the new approach is complete in the next couple of years, and it has been demonstrated that it effectively manages fatigue, New South Wales will consider removing the ability of the New South Wales Minister to apply conditions. I would certainly be eager to do that. At that time this interim approach, which is providing New South Wales with some added assurance, given the increased fatigue risk exposure of New South Wales, may no longer be required.

It is also noted that there has been much industry commentary that New South Wales is seeking to keep an independent power to prosecute. This view is based on a misinterpretation of the intent of the clause. The actual

intent of the provision is to ensure that any proceedings are based on solid legal ground. Unless there is clear reference as to who can commence proceedings, relying solely on delegation instruments, which could have multiple layers and levels, is inherently riskier. Put simply, defendants may be more tempted to argue the soundness of the action rather than the facts of the case. This provision is therefore intended ultimately to assist the national regulator and not to diminish his or her ability to ensure consistent regulatory activity through services agreements with each participating State and Territory.

Given that the New South Wales provision is modelled exactly on one found in the Victorian application law and to assist in sorting out a national position, I have undertaken to raise the issue at the forthcoming national transport Ministers council meeting known as the Standing Council on Transport and Infrastructure [SCOTI]. Since March 2011 the New South Wales Government has implemented many reforms to benefit the heavy vehicle industry. One of these reforms includes delivering an extra 1,739 kilometres of roads in New South Wales for higher mass limits [HML] access since April 2011, with about 25 per cent of these being regional or local roads managed by councils. More than 21,270 kilometres of State, regional and local roads are now open to higher mass limits access. Other reforms include abolishing the requirement for transport operators to carry half a dozen truck notices; allowing performance-based standards [PBS] quad and quin dog trucks to operate on the approved B-double network in New South Wales; delivering modern road train access on select routes east of the Newell Highway; and delivering baled agricultural commodities with load width exemptions for wool, hay, straw and cotton.

Other reforms have included: allowing modular B-triples to operate in New South Wales, under a nationally agreed framework, on approved road train routes west of the Newell Highway; abolishing the requirement for New South Wales-based transport operators to pay stamp duty on the purchase of new truck trailers; delivering a new livestock loading scheme for New South Wales; and introducing concessional mass limit [CML] exemptions for the 2012-13 grain harvest. The Government has worked in partnership with the New South Wales Police Force and industry to deliver a 79 per cent drop in the past year in the number of trucks detected speeding at more than 105 kilometres per hour; delivered a two-axle bus-coach mass limit increase from 16.5 tonnes to 18 tonnes; and worked with Transport Certification Australia to deliver a new flexible pricing framework and entry options initiative to help reduce the cost of the Intelligent Access Program [IAP].

The National Heavy Vehicle Regulator is just another achievement to add to the long list, with New South Wales providing a funding commitment of more than \$10 million to establish the regulator. I suspect this is the largest funding contribution of any State in the country. Importantly, the positioning of New South Wales on the eastern seaboard makes our roads the most frequently travelled by interstate heavy vehicle transport. For this reason, New South Wales has traditionally led the country in safety initiatives and regulatory infrastructure. Therefore, experienced Roads and Maritime Services regulatory officers will work with the national regulator to ensure local expertise and knowledge are retained as well as to encourage best-practice regulation for the heavy vehicle industry. The passage of this bill will allow for the benefits of a safe and efficient new national regulator to be realised within New South Wales. I trust that members will lend their support to the implementation of the Heavy Vehicle (Adoption of National Law) Amendment Bill 2013. I pay tribute to Opposition members, both in the lower House and in this House, for their support for and help in constructing this bill and getting it through.

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I also congratulate former Minister for Infrastructure Anthony Albanese on his work at the helm of the Standing Council on Transport and Infrastructure. In a phone call the other day he was kind enough to indicate that without my work it would not have happened. That is a bit of mutual back patting but, given that he is heading probably for a different position, it might not hurt. In rationalising the rules between States this bill is important for the future of this State and the country—a bit like joining the rail line between Brisbane and Melbourne. I commend the bill to the House.