



Road Transport (Vehicle Registration) Amendment Bill

Second Reading

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ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT BILL

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Bill introduced and read a first time.

Second Reading

Mr STEWART (Bankstown—Parliamentary Secretary), on behalf of Mr Scully [4.58 p.m.]: I move:

That this bill be now read a second time.

The purpose of the bill before the House is to amend the Road Transport (Vehicle Registration) Act 1997 and the Motor Dealers Act 1974 to introduce measures to combat the practice of registering New South Wales based commercial vehicles in other States, to avoid the payment of New South Wales registration charges and New South Wales compulsory third party insurance premiums. Registration authorities in each Australian jurisdiction have the power to require a vehicle to be registered in their State/Territory if the vehicle is principally based or garaged in their jurisdiction. Currently, the Roads and Traffic Authority [RTA] relies on the person applying for an exemption from New South Wales vehicle registration to supply a valid interstate address indicating an interstate base of operation or garage.

The RTA and NSW Police work with interstate authorities to determine the validity of suspicious addresses, but this is time-consuming, costly and ineffective where the provision of a false address has nevertheless secured interstate registration. Insurers, motor traders, some car rental companies and the community have raised concerns with the RTA and Government about increased fraudulent activity to avoid registration and higher third party accident insurance premiums in New South Wales, such as the fixing of interstate plates on new business vehicles, and the falsification of interstate business addresses to comply with the exemption from registration for visiting vehicles.

It has become an increasingly common practice for a number of car rental, fleet management, trucking and coach companies to operate vehicle fleets in New South Wales although the vehicles are registered in Victoria, Queensland or Western Australia on the basis that the vehicle fleet is primarily based in those jurisdictions. In fact, Avis Rent a Car and Hertz Australia Pty Ltd have specifically made representations to the Government supporting changes to legislation to create a level commercial playing field for car rental companies. Mr George Proos, Managing Director of Avis, wrote to the Minister for Roads in the following terms:

The continued acceptance of this practice to register all rental cars out of the State of New South Wales by the Government results in these companies being given an unfair competitive advantage when doing business in this State.

This legislation ensures that cars primarily used by companies in this State are registered in this State, pay compulsory third party insurance in this State and do not result in the loss of stamp duty on sales and leases in this State. On the basis of those vehicles that can be identified, fraudulent activity of this kind is estimated to cost the Government \$800,000 per year in lost revenue from unpaid RTA registration charges. However, the total number of interstate registered business vehicles based in New South Wales is unknown and likely to be costing a significantly higher

amount in forgone revenue. Interstate registered vehicles based in New South Wales also cost the State and private sector lost revenue in third party insurance premiums, stamp duty on transactions and the sale/lease of motor vehicles. Let me outline the details of the legislation.

Firstly, this legislation is designed to target corporations—and not individuals—that circumvent New South Wales registration requirements in three ways. The first is by creating an offence for a licensed motor dealer to affix interstate plates to a vehicle in New South Wales without the approval of the RTA. This seeks to prevent organisations that import cars through Sydney's port, have them registered with interstate plates by a New South Wales motor dealer and then operate the fleet primarily here in New South Wales. The sanctions proposed are an \$11,000 fine and power for the Department of Fair Trading to revoke a licence.

The second way in which it will target corporations is by creating an offence for a corporation to "cause, permit or allow an interstate registered vehicle owned by the corporation to be used on a road" in New South Wales unless the corporation can show: that the vehicle was less than 90 days old; that during the 90 days prior to the offence the vehicle had been outside New South Wales for a continuous period of at least 48 hours; or that, in the case of a car rental company, the vehicle was rented to the same person for the whole of the 90-day period immediately before the offence. The sanction proposed is an \$11,000 fine per offence. Finally, the bill enables the RTA or police to direct the production of documents for the purposes of ascertaining whether a corporation has committed such an offence.

The rationale on which the Road Transport (Vehicle Registration) Act is based is that motor vehicles using New South Wales roads principally should be registered in New South Wales. Currently it is an offence under the Act to use a motor vehicle or a trailer on a road or road-related area without being registered in New South Wales. However, the Act recognises that the use of prescribed vehicles does not constitute such an offence. The regulation under the Act prescribes interstate registered vehicles temporarily visiting New South Wales. In a prosecution for using an interstate registered vehicle without being registered in New South Wales, to avoid conviction, the defendant has the burden of showing that the vehicle is temporarily in New South Wales. However, to satisfy that burden the defendant only has to present or point to evidence that suggests a reasonable possibility that the vehicle is a visiting vehicle. The easy availability of this defence has, in the absence of admissions by the defendant, deterred police prosecutions being launched.

This bill introduces a strategy to eliminate, or at least minimise, the unscrupulous evasion by certain dishonest operators of motor vehicles used for business purposes. For too long these operators have been using the New South Wales road network without contributing to road funding in this State. It should be remembered that the major portion of the total registration charge for light motor vehicles in New South Wales is motor vehicle tax, which, for light vehicles, is calculated according to the weight of the vehicle and pays for maintenance of the road network. Motor vehicle tax in New South Wales is allocated entirely to road funding, which funds the building and maintenance of road services and facilities, and in particular is also used to fund road safety initiatives. Let me provide some further detail on the four parts of the legislation.

First, the bill inserts new clause 22, creating a new offence of a licensed motor dealer causing or permitting the fixing of interstate registration plates to vehicles within New South Wales without the approval of the Roads and Traffic Authority. This provision is aimed at some motor dealers who fix interstate number plates to vehicles destined to be based in New South Wales to avoid the cost of New South Wales registration and third party insurance premiums. Of course, the fixing of interstate registration plates for proper purposes will be permitted. For example, in border areas the RTA will be able to authorise certain dealers to fix interstate plates—that makes good sense. This will permit dealers in border areas to fix interstate plates to new vehicles purchased by customers who live across the border. If the RTA has not approved the fixing of interstate plates, there will be a defence where a defendant satisfies the court that there was a reasonable explanation for fixing the plates in New South Wales, and it was not done with the intent to evade New South Wales registration requirements.

Second, new clause 22A creates a new offence of a corporation causing or permitting the

use on a road or road-related area of an interstate registered vehicle without New South Wales registration. The defendant corporation will not be guilty of the offence if it establishes any one of a number of defences. The primary defence is that during the previous 90 days the interstate registered vehicle was outside New South Wales for a continuous period of 48 hours. The maximum fine for this offence will be 100 penalty units, or \$11,000. This level of penalty is consistent with the level of penalty in relation to a corporation in the national road transport law. Essentially, it is proposed that the legislation will contain two classes of offence. For individuals the existing offence and penalty currently in the legislation will be retained, that is, 20 penalty units or \$2,200, and the existing burden of proof will also be retained.

For corporations, a new offence will be created which increases the burden of proof, and a maximum penalty of 100 penalty units will apply. Effectively, if prosecuted, a defendant corporation will have to satisfy a court that a vehicle has been outside the State for two days in the past 90 days. This requirement is not seen as onerous for corporations, given that a vehicle used principally within New South Wales should be registered here. The actual geographic base of vehicles used for business purposes, including hire vehicles and their movements into and out of the State, are facts peculiarly within the knowledge of the business. It is considered that imposing the burden of proof on a defendant corporation will be the most effective measure to prevent, and expose, the improper use of interstate registration. The increase in the burden of proof should not involve any undue hardship on the defendant corporation, which is in the best position to provide the relevant information to a court.

Thirdly, the bill inserts new clause 22B, empowering the police and authorised RTA officers to demand the production of documents relating to the operation of interstate registered vehicles apparently used for business purposes in New South Wales. This power does not apply to vehicles apparently used for private or domestic purposes, because it is recognised that private individuals would be unlikely to have the appropriate evidence to document their vehicles' past movements, whereas business organisations would be expected to keep that information as part of their normal business practice.

Finally, this bill also proposes to amend the Motor Dealers Act 1974 to allow the suspension or cancellation of a motor dealers licence where a dealer is guilty of the offence of fixing or permitting the fixing of interstate registration plates to vehicles within New South Wales without the approval of the RTA. The arrangements proposed in this bill will not impact unduly on law-abiding business operators. In fact, I anticipate that this bill will be enthusiastically welcomed by honest business operators. I commend the bill to the House.

Debate adjourned on motion by Mr Fraser.

Mr DEPUTY-SPEAKER: Order! It being shortly before 5.15 p.m., business is interrupted for the taking of private members' statements.

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