



Road Transport (Vehicle Registration) Amendment Bill

Second Reading

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ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT BILL

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Second Reading

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.12 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

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 at least \$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.

The Hon. JENNIFER GARDINER [5.12 p.m.]: The primary purpose of the Road Transport (Vehicle Registration) Amendment Bill is to stop the rorting of vehicle registration that is taking place when a vehicle that is used primarily in New South Wales is registered interstate. The second reading speech refers to the \$800,000 per year in lost revenue for the Roads and Traffic Authority [RTA] from unpaid registration charges, but that reference was qualified by the statement that it is almost impossible to determine the exact amount. The Opposition believes that the amount of lost revenue is actually much higher than that.

The bill makes it an offence for a licensed motor dealer to affix interstate plates to a vehicle in New South Wales without the approval of the RTA. That is to prevent New South Wales motor dealers who import cars through Sydney ports from registering the vehicles in another State, but then operating the fleet primarily in New South Wales. The bill provides for a fine of \$11,000 for such behaviour and empowers the Department of Fair Trading to revoke the licence of a person or persons found guilty of such an offence.

The bill also makes it an offence for a corporation to cause, permit or allow an interstate registered vehicle owned by a corporation to be used on New South Wales roads unless the corporation can show that the vehicle is less than 90 days old, or 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 rental car company, the vehicle was rented to the same person for the whole of the 90-day period immediately before the offence. There are fines and other sanctions in the bill covering those offences.

The bill also enables the RTA or NSW Police to direct the production of documents for the purposes of ascertaining whether a corporation has committed an offence, and provides for certain prima facie offences for people who may be caught by the provisions of the bill. A certain amount of guilt until innocence is proved is attached to such offences, and the person under investigation will have to produce a number of documents to prove he or she was using a vehicle in accordance with the prevailing laws. At present in New South Wales, and indeed in the other States, there is a requirement that vehicles be registered in the State where they are effectively housed or garaged once a certain period has expired.

The Opposition has a number of concerns about this bill. We believe that the Government must crack down on the problem of interstate registrations, but there is the question of why this practice is occurring in the first place. Why do people want to register their vehicles in another State? The reason of course is that people seek to register vehicles outside New South Wales to avoid the higher registration premiums that are applicable in New South Wales, which has higher registration fees than most other States, including Queensland, Western Australia and South Australia. A person registering a new car must also pay the licence plates fee introduced by the Government to prop up the failing roads budget presided over by the Minister who has virtually bankrupted the RTA. A comparison of registration fees shows that the fee in Queensland is \$36.90, in Western Australia it is \$15.75, and in South Australia—we see many vehicles, particularly hire vehicles, in New South Wales that have been registered in South Australia—renewal of registration is only \$6 and a new registration is \$21. So New South Wales has higher registration charges than any other State, and that is why people have their vehicles registered in States other than New South Wales.

As we all know, New South Wales is the highest taxing State in Australia, and that, of course, is one reason why people seek to reduce their costs and register their vehicles elsewhere. The latest figures of the Australian Bureau of Statistics and Research relating to State and local taxation for 2001 throughout Australia show that every person in New South Wales pays about \$2,373 in State and local taxes compared with \$2,083 in Victoria and \$1,517 in Queensland. This bill is just another example of higher taxes being imposed by the Carr Labor Government, which is driving people to register their vehicles in other States.

Another factor contributing to the cost burden on New South Wales road users is stamp duty that is payable on vehicles—another reason why people register their vehicles interstate. The stamp duty on motor vehicles in New South Wales is very high. Other States have practically no stamp duty on motor vehicles. Not surprisingly, car hire firms and other companies with a higher volume of vehicles or vehicle fleets seek to minimise costs by registering their vehicles in States in which more reasonable business tax rates apply. The extremely high tax rates in New South Wales are pushing businesses into other States. We need to look at not only vehicle registration fees but also stamp duty and other ancillary fees related to motor vehicle registration. Clearly the Carr Government's intention is to catch people who seek to minimise their motor vehicle outlays.

As I have said, the Minister believes that the Roads and Traffic Authority loses revenue of about \$800, 000, but we think the figure is a lot higher given the ancillary charges and taxes the Government will reap when New South Wales vehicles registered interstate are registered in New South Wales. One can only hope that the additional revenue will go back into the Roads budget. The pathetic Minister for Roads, Mr Scully, has been unable to obtain sufficient funds to ensure that New South Wales has a proper, safe road network. By his own admission he has declared that the State's roads have reached "a critical point". However, I suggest they are beyond that.

After seven, nearly eight, long years of neglect by the Carr Labor Government much of the New South Wales road network is in a disgraceful state of repair, much as they were at the end of the Wran era. In 1988 the condition of our roads was a critical factor in the defeat of the Wran-Unsworth Government and the election of the Greiner-Murray Government. At best, roads crisscrossing New

South Wales were built in the 1970s and at worst well before that, which makes them more than 30 years old and well past their use-by date. New South Wales has a greedy Treasurer, who continues to overspend his budget, then props it up by imposing more and more taxes. Figures show that New South Wales is by far the highest taxing State with a per capita tax rate of \$2,373.

The Hon. Amanda Fazio: Point of order: My point of order relates to relevance. The bill deals with the registration of motor vehicles. The honourable member is attempting to steer clear of referring to vehicles that are registered interstate, such as hire car businesses, to avoid paying registration in New South Wales. The Hon. Jennifer Gardiner might be interested in giving somebody a history lesson on road funding in New South Wales over the last couple of decades, but it is not relevant to the bill.

The Hon. Tony Kelly: To the point of order: The real reason they are registered in Victoria is that registrations do not have to be checked every year, only every alternate year. The bill has nothing to do with Victoria.

The Hon. John Jobling: To the point of order: As you have often said, debate is generally allowed to be fair and wide ranging. My colleague is dealing with examples of road transport and road transport registration within this State by way of comparison. I contend that the honourable member is in order.

The Hon. Richard Jones: To the point of order: The legislation quite clearly says, using the Government's briefing, that we will save something like \$800,000 a year. How that \$800,000 is spent is relevant. The honourable member could talk about any matter dealing with road funding and it would be relevant.

The PRESIDENT: Order! As I have ruled previously, it is a convention in this House that, when contributing to debate on a bill, members may speak fairly generally about aspects of the bill.

The Hon. JENNIFER GARDINER: Thank you. I was on the straight and narrow. I appreciate your ruling. However, I can understand the incredible sensitivity of Labor members about the State tax burden, particularly as it affects drivers in New South Wales. They do not like the fact that road funding became a big issue towards the end of the Wran and Unsworth governments. It was a major campaign item in the 1988 election and it contributed to the defeat of the Labor Government and the election of a Coalition Government. Now that members on the Government side of the House have indicated their sensitivity about the pathetic state of Mr Scully's roads in New South Wales I will recommend to our campaign committee that we rev it.

The Hon. Richard Jones: What about the Silver City Highway? It hasn't even been sealed.

The Hon. JENNIFER GARDINER: The Hon. Richard Jones has raised an incredibly good point. I will put that even higher up on our list.

Ms Lee Rhiannon: Be careful, Richard. They will remember you for roads rather than other things.

The Hon. JENNIFER GARDINER: He has always been multidimensional. He has very broad-ranging interests. I thank members of the Labor Party for their interjections. They have certainly helped to clarify their election sensitivities. The poor arrangement in New South Wales is necessary for the Treasurer to collect even more money. Standard and Poor's report on its review of the New South Wales triple-A credit rating stated:

The strong property market has delivered the Government enough, though unexpected, extra stamp duty revenue to offset its difficulty of keeping costs within budget.

As all honourable members know, that difficulty has run to \$5.5 billion between 1996 and 2002. The 2001-02 financial year was Labor's worst yet. Its expenditure was over budget by more than \$1.6 billion. Additional stamp duty paid on vehicles that will be required to be registered in this State will

enable the Hon. Michael Egan, in the unfortunate event that he continues as Treasurer of this State, to continue to prop up the budget, although he has already run up a deficit of more than \$5.5 billion. Registration fees will go into the Roads and Traffic Authority budget.

One can only hope that that money will be properly applied to funding better roads in this State. Certainly, that would be the position of the Liberal and National parties coming into government. In the other place the honourable member for Wagga Wagga referred to military personnel transferring from one military base to another. Interstate personnel who are transferred to bases in New South Wales, such as Wagga Wagga, Singleton and Williamtown, are reluctant, because of their postings, to change the registrations of their motor vehicles from their home States.

The Hon. John Jobling: It is a real problem.

The Hon. JENNIFER GARDINER: As the Hon. John Jobling said, it is a problem. The bill does not deal with special dispensation for such personnel, although I understand from the Hon. Duncan Gay that special dispensation applies to the registration of animals that belong to service personnel. The registration of such animals brought from interstate to a New South Wales base is considered sufficient for the purposes of the Companion Animals Act or any other ancillary Act that applies to such animals. There is an inconsistency. Although members of the Opposition do not oppose the bill, we are concerned that it is another straight out grab for money. The Minister for Transport, and Minister for Roads is cash strapped. He has blown his budget.

An analysis by the Opposition of the RTA Pacific Highway project costs obtained from the RTA annual reports over the past five years revealed startling results. The estimated cost of every single one of the Pacific Highway projects listed in the 2001 RTA annual report is significantly higher than estimated. Mr Scully has overseen cost blow-outs on Pacific Highway projects totalling in excess of \$660 million. As we all know, he has shown extremely poor management of the M5 East project. In November 1996 the Minister for Roads, Mr Scully, informed Parliament that the M5 East was a \$520 million project. However, by the time it was opened in December 2001 the cost of the project had blown out to almost \$800 million. The Government has presided over an M5 East project that has ended up 54 per cent over original budget estimates, which, in dollar terms, is a massive \$280 million.

The Hon. Richard Jones: It is still not filtered.

The Hon. JENNIFER GARDINER: As the Hon. Richard Jones said, it is still causing grave concern to many citizens of this State, some of whom visited the Parliament last evening. One can only commend them for their fortitude and tenacity. I look forward to seeing them in the next few months on the election campaign trail. Blow-outs on such projects total almost \$1 billion. It is little wonder that the Minister is desperate to get his hands on every cent he can. We understand that the existing laws of New South Wales require people with motor vehicles registered in another State to register them in this State. The bill is an extension of that practice. With those reservations, I support the bill.

The Hon. RICHARD JONES [5.28 p.m.]: I support the bill. When I was hiring cars up north while my car was not functioning properly, I noticed that more often than not they were registered interstate. I thought that was rather curious. Clearly, at least the smaller hire car companies are rorting the system. But that is fair enough, because they are trying to save money—and that is what business is about. They are trying to maximise profits and returns, and to reduce expenditure. Nevertheless, they are engaged in a rort. I am pleased that legislation has been introduced to put a stop to such activity. Large companies like Avis and Hertz have tried to stop the rorting because the practice has unfair consequences for them. The Silver City Highway from Broken Hill to Tibooburra is only half sealed. The highway goes from sealed to unsealed; it does not make sense.

In times of hardship and drought such as this, we should facilitate vehicles moving north and south, particularly from Victoria and South Australia, because many tourists travel up to Tibooburra and Broken Hill. We should ensure that the tourist trade develops quickly, because it will provide a supplementary income for many land-holders and farmers in New South Wales who are doing it very

hard. Clearly, tourism is the most sustainable long-term business proposition for these people. I hope that happens and that the Government progresses the sealing of that highway and other major tourist routes in the west as soon as possible to increase the opportunities for interstate and overseas tourists to enjoy our natural wonders, particularly our kangaroos, emus and birds.

A number of national parks have been established in the area that will attract tourists from throughout the world. I hope that the Government will provide the necessary infrastructure to facilitate the development of tourism in those regions. I am sure it will look at that issue shortly. I would not normally raise it in this debate, but I cannot conclude my contribution without mentioning the M5 East. It is shocking that the Roads and Traffic Authority is oblivious of the fact that 40-odd tunnels in Japan are filtered. The RTA officers who appeared before the committee knew of only one filtered tunnel in that country. Committee members found that extraordinary.

The Hon. John Jobling: They found a few in the bush.

The Hon. RICHARD JONES: They had no idea and had not done any research. They knew about two or three filtered tunnels in Norway, but they did not know that two-thirds of the long tunnels in Japan were filtered.

The Hon. John Jobling: We have pushed them and they have now found 20.

The Hon. RICHARD JONES: I asked the head of the RTA, Paul Forward, whether the authority had an obligation to provide safe roads. Roads in Sydney are not safe if only because they are adding to the huge pollution burden. More people die from pollution than road accidents as a result of RTA inactivity. It does not require all diesel-powered vehicles more than three years old to be inspected every year to ensure that their emissions are clean. If they are not clean, they should not be reregistered. Evidence was presented to the committee that air pollution in Sydney could be reduced by 80 per cent if such a scheme were introduced. Particulate matter emitted by diesel-powered vehicles is more dangerous than that emitted by bushfires and wood stoves. The RTA is not doing its job; it is not looking after the people of Sydney. It is allowing people to die because of its neglect. It should have filtered the emissions from the tunnel from day one. It refuses to acknowledge what is happening in Japan, Korea and elsewhere.

In reply to the recommendations in the dissenting report, RTA officers said they would implement only voluntary testing of diesel-powered vehicles. The RTA should do its job and ensure that diesel-powered vehicles are tested every year. Removing faulty vehicles from the road could save hundreds of lives a year. The RTA has spent a huge amount trying to prevent accidents by reducing speeding, but if it spent a fraction of that money testing diesel-powered vehicles every year it could reduce emissions by 80 per cent and save hundreds of lives. That would be money well spent. The RTA should take its head out of the sand and start looking after the health of the people of Sydney. It should also ensure that the roads in the far west are sealed. It is not doing its job and it should be scrutinised after the next election.

Reverend the Hon. FRED NILE [5.33 p.m.]: The Christian Democrats support the Road Transport (Vehicle Registration) Amendment Bill 2002, which will prevent corporations circumventing New South Wales registration and green slip requirements by registering their fleet vehicles interstate. I was following a major hire company's vehicles this week and I noticed that some were registered in Victoria and some in Queensland. Obviously those corporations will be picked up by this legislation. It will target them by making it an offence for a licensed motor vehicle owner to affix interstate plates to a vehicle in New South Wales without the approval of the Roads and Traffic Authority [RTA]. That will prevent organisations importing cars through the port of Sydney and registering them interstate through a New South Wales motor dealer and then using them primarily in this State. The legislation imposes an \$11,000 fine and the Department of Fair Trading will have the power to revoke a licence.

The legislation also makes it an offence for a corporation to cause, permit or allow an interstate-registered vehicle owned by a 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-day

period prior to the offence the vehicle had been outside New South Wales for a continuous period of at least 48 hours, or, in the case of a car rental company, the vehicle was rented to the same person for the entire 90-day period immediately prior to the offence. The legislation imposes an \$11,000 fine per offence. I have been advised that individuals with privately owned vehicles are not subject to these provisions. One honourable member referred to soldiers being affected by the bill.

The Hon. John Jobling: All service people are moved around.

Reverend the Hon. FRED NILE: This legislation does not affect individuals.

The Hon. John Jobling: But it affects individual soldiers.

Reverend the Hon. FRED NILE: It cannot affect them if they are not corporations.

The Hon. John Jobling: It will.

Reverend the Hon. FRED NILE: The Government might provide advice on that. I have been advised that private individuals are not affected by this legislation.

Ms LEE RHIANNON [5.36 p.m.]: The Greens support this bill. We believe it is necessary to ensure that owners of licensed motor vehicles do not affix interstate number plates to those vehicles. These measures are necessary because clearly a scam is being perpetrated. Some commercial operators are hell-bent on avoiding paying New South Wales registration charges and compulsory third-party insurance premiums. That is clearly wrong. Like other members, I became aware of this activity when I hired a car and realised that I had never seen a rental car with a New South Wales number plate, so I started asking questions. This bill is timely. Law-abiding companies clearly will have no objections to this bill. In fact, they have a lot to look forward to because what they often request will come to fruition; that is, they will have a level playing field for their commercial endeavours.

The Hon. IAN MACDONALD (Parliamentary Secretary) [5.38 p.m.], in reply: I thank honourable members for their comments on this bill and commend it to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

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