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ROAD TRANSPORT BILL 2013

ROAD TRANSPORT (REPEAL AND AMENDMENT) BILL 2013

ROAD TRANSPORT (STATUTORY RULES) BILL 2013

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [3.25 p.m.]: I move:

That these bills be now read a second time.

The Government is pleased to introduce the Road Transport Bill 2013, the Road Transport (Repeal and Amendment) Bill 2013 and the Road Transport (Statutory Rules) Bill 2013. These bills consolidate New South Wales road transport legislation and prepare for the eventual adoption of the Heavy Vehicle National Law in this State. The consolidation of road transport legislation is an important step in realising the New South Wales Liberals and Nationals Government's commitment to reducing red tape by cutting the number of principal regulatory instruments. These bills not only cut the number and reduce the volume of statutes but also remove anomalies, inconsistency and a degree of complexity in the legislation that impact on every citizen in New South Wales.

Before 1999, road transport legislation in New South Wales was primarily located in the former Traffic Act 1909, which began as a simple statute to identify vehicles and licensed drivers and prevent "furious" or "reckless" driving. With the growth in vehicle usage, the volume of traffic and the impact of technology, road transport legislation exploded in breadth and detail in each jurisdiction. It was also parochial and consequently inefficient, and even unsafe. As early as 1933 the president of the NRMA had complained:

At the moment a motorist passing from one State into another has to unlearn much of what he has learned in his own State and to learn a lot that is strange to him. This produces irritation—or worse—in the motor owner and motor driver, and tends to unnecessary costs of traffic administration (which the motorist usually has to pay for). It also adds to traffic dangers through ignorance or unfamiliarity with local conditions or practices on the part of drivers.

It was not until the 1990s that the newly formed National Transport Commission developed a series of modules for national model road transport legislation to create a consistent and uniform regulatory environment, including heavy vehicle charges, driver licensing, vehicle registration and compliance and enforcement. These modules were progressively adopted by enacting the following new Acts in New South Wales: the Road Transport (Heavy Vehicle Registration Charges) Act 1995, the Road Transport (Vehicle Registration) Act 1997, the Road Transport (Driver Licensing) Act 1998, the Road Transport (Safety and Traffic Management) Act 1999 and the Road Transport (General) Act 2005.

Members will be aware that road transport legislation impacts on all citizens, either directly or indirectly. There are 5.5 million licence holders in New South Wales and 5.7 million registered vehicles. These drivers and their vehicles—mostly cars—travelled 66 billion kilometres on New South Wales roads in 2011-12.

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The legislation which regulates road transport is complex, regulating all aspects of the road environment from licensing drivers and registering vehicles to road rules, vehicle standards, traffic management, drug and alcohol testing, motorcycle rider training, compliance and enforcement, and "chain of responsibility" for heavy vehicles. That complexity was unintentionally magnified by the creation of five new Acts and 10 regulations. For example, provisions relating to alcohol breath interlock devices are found in three Acts and two regulations. Provisions relating to demerit points are similarly scattered, and it is difficult for road users to understand what applies to them.

Moreover, there are areas of duplication, repetition and extensive cross-referencing. There are different definitions for "drive", "driver", "vehicle", "traffic", "garage address", "heavy motor vehicle", and "foreign driver licence". Some of the key terms remain undefined. Over time the number of Acts and regulations has declined slightly. Two regulations relating to New South Wales and Australian road rules were merged to make a single set of road rules in 2008. In 2009 the Road Transport (Heavy Vehicle Registration Charges) Act, and its

regulation, were repealed and its provisions were included in vehicle registration legislation. However, much more remains to be done.

There are three bills before the House today: the Road Transport Bill 2013; the Road Transport (Repeal and Amendment) Bill 2013; and the Road Transport (Statutory Rules) Bill 2013. The first, the Road Transport Bill, represents a simplification of the structure of legislation without major changes in policy. It amalgamates into one Act the Road Transport Driver Licensing, Vehicle Registration, Safety and Traffic Management Acts and the compliance and enforcement provisions of the Road Transport (General) Act applicable to road transport legislation generally. It is intended to enhance New South Wales road users' understanding of their legal rights and responsibilities.

The changes include the removal of inconsistency, repetition, anomalies and redundancy. In addition, the bill provides for advances in technology, such as traffic management devices, and standardisation of processes for drug and alcohol testing. In addition, some provisions that are currently found in regulations, such as those relating to appeals, have been elevated to the Act for consistency and ease of navigation. There are also some modifications. For example, an unrestricted driver licence is defined to mean a driver licence other than a learner licence or provisional licence. The term "threshold number of demerit points" is defined in relation to the accumulation of a certain number of points by learner, provisional P1 or P2 licence holders.

The definition of "special category driver" in part 5.1 makes it clear that the holder of an expired learner or provisional licence will be treated as a special category of driver for alcohol and other drug use regardless of how long the licence has been expired. However, a person who holds any other kind of expired licence will not be treated as a special category driver unless the licence has expired for more than six months. This is to prevent higher blood alcohol limits prevailing. The bill adds to the definition of "approved traffic enforcement devices" to cover a variety of equipment including that used for speed measurement, photographing vehicles speeding or running red lights or driving on a public vehicle lane. This allows for standardisation of approval processes for changes in technology and for combinations of devices.

Members will appreciate that these modifications will assist in the smoother operation of road transport law. Importantly, in line with the New South Wales Liberal-Nationals Government commitment to red tape reduction, drafting of the Road Transport Bill has cut down the number of sections in the Act by about 30 per cent. In addition, the total number of regulations has been reduced with the repeal of the Road Transport (Safety and Traffic Management) Regulation and the inclusion of those provisions in a new Road Transport (General) Regulation. This does not represent the culmination of the reform process but it is an enabler of further reform. There may be some more opportunities for consolidation in the near future.

The second bill, the Road Transport (Repeal and Amendment) Bill, provides for the repeal of existing Acts and makes amendments to certain other Acts and statutory rules. In addition, it prepares for the eventual adoption of the Heavy Vehicle National Law in New South Wales by renaming the Road Transport (General) Act as the Road Transport (Vehicle and Driver Management) Act and confining its operation to mass, dimension and load restraint requirements for heavy vehicles and to the regulation of other matters relating to heavy vehicles such as driver fatigue management.

Members may be aware that on 19 August 2011 the Commonwealth and States and Territories signed the Intergovernmental Agreement on Heavy Vehicle Regulatory Reform. The adoption of Heavy Vehicle National Law and a heavy vehicle regulator is the latest initiative in the reform process and will place regulation of vehicles over 4.5 tonnes for matters relating to registrations, compliance and enforcement, access permits, vehicle standards, et cetera, under a national body. This decision was made in response to industry concerns that, despite a decade of reform, difficulties remain in doing business across State and Territory borders. In addition, the Productivity Commission report in 2006 identified potential net gains of \$7.5 billion from a national approach to heavy vehicle regulation. The Regulatory Impact Statement released with the draft Heavy Vehicle National Law in February 2011 projects potential gains of between \$5.6 billion and \$12.4 billion over 20 years.

Because of jurisdictional variations in the adoption of previous national model laws, the Heavy Vehicle National Law is template legislation which will be hosted by the Queensland Parliament and then applied or adopted in other jurisdictions. Queensland passed the first bill in August 2012 and this has allowed the establishment of the Office of the National Heavy Vehicle Regulator in Brisbane effective from 21 January 2013 with some limited administrative function. Following the passage of the second bill through the Queensland Parliament later this year the Heavy Vehicle National Law will be progressively adopted by other States and Territories. The separation of heavy vehicle road transport provisions in the Road Transport (Driver and Vehicle Management) Act paves the way for the application of Heavy Vehicle National Law in New South Wales. This Act and its two regulations will be repealed later in 2013. There will be no major amendments to the new Road Transport Act when that happens.

The third bill, the Road Transport (Statutory Rules) Bill 2013, makes amendments to certain regulations under existing road transport legislation that will continue under the new Road Transport Act 2013. It also sets out the terms of the proposed Road Transport (General) Regulation 2013, which will be a regulation made under the new Act and, among other things, will replace the Road Transport (Safety and Traffic Management) Regulation

1999. The bill also creates the Road Transport (Vehicle and Driver Management) Regulation 2005 under the Road Transport (Vehicle and Driver Management) Act as outlined above and confines its operation to heavy vehicle matters.

Road transport legislation regulates all aspects of driver behaviour and vehicle use on our roads. It is important that, despite its complexity and breadth, the law should be able to be accessed and understood by road users in order that they understand their rights and obligations.

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It is also important that the law should be logically organised and easy to reference by those who use it professionally, such as transport operators, police officers, lawyers, judges, magistrates, road safety experts, health professionals, public servants and politicians. The consolidation of road transport legislation, as provided for in these bills, achieves those aims. The bills also reduce the number of pieces of road transport law, cut red tape and prepare for the introduction of the Heavy Vehicle National Law in New South Wales, which will be another important piece of regulatory reform.

I also advise that the Government will seek an amendment in Committee to clause 9 of the bill. Clause 9 determines how an offence is to be treated for the purpose of whether the first offence penalty or the second or subsequent offence penalty is to apply. Since the passing of the bill unopposed in the other place, it has been identified that the wording in clause 9 may have the unintended consequence of introducing a harsher penalty regime in some cases. This was not the intent of the bill and the amendment that will be moved will clarify that the new provisions will continue the penalty structures found in the current provisions. The opportunity is also being taken through this amendment to correct two legislative references. Transport for NSW has spoken with the Chief Magistrate and the Law Society of New South Wales in relation to this amendment. I am advised that they are satisfied with the change. I thank them for their valuable assistance in progressing this matter. I trust that members will lend their support to the New South Wales Government's proposals. I commend the bills to the House.