



# NSW Legislative Assembly Hansard

## Road Transport Legislation (Speed Limiters) Amendment Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 8 December 2004.

### Second Reading

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [11.04 a.m.], on behalf of Mr Carl Scully: I move:

That this bill be now read a second time.

The purpose of the Road Transport Legislation (Speed Limiters) Amendment Bill is to allow the delivery of sanctions to persons who allow their heavy vehicles to travel at excessive speed due to speed limiters that are faulty or not functioning as they should. The community is concerned about speeding heavy vehicles in this State, and it rightly questions how a truck supposedly speed limited to 100 kilometres per hour can possibly overtake a car doing 110 kilometres per hour. Roads and Traffic Authority [RTA] speed surveys on major freight routes in New South Wales show that almost 4 per cent of heavy vehicles are travelling at over 115 kilometres per hour. In theory, these speeds should not be possible, but clearly they are for some trucks. Speed limiters were introduced in 1991 to limit the maximum speed of heavy vehicles. They form an important part of the heavy vehicle speed management strategy.

There is strong anecdotal evidence that speed limiters on some heavy vehicles are being tampered with to allow heavy vehicles to exceed 100 kilometres per hour. It is clear from the public's experience and RTA surveys that this is occurring. Responsible heavy vehicle operators must have policies and systems in place to monitor the speed of their vehicles. Operators who recklessly set unattainable timetables, encourage their drivers to speed, and allow their speed limiters to be tampered with, will no longer be able to do so with impunity. This forms part of the Government's overall heavy vehicle reform strategy, which will focus on ensuring that all parties along the chain of responsibility are held accountable for their actions. The legislative framework for the bill will provide the general power to make evidentiary regulations in relation to speed limiters. The responsible person for a vehicle will commit a speed limiter offence when a heavy vehicle, which is required by law to be speed limited to 100 kilometres per hour, travels at a speed in excess of 115 kilometres per hour.

Currently, under clause 140 of the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999 a person must not cause, permit, or allow a heavy vehicle which is required to be speed limited to be used, unless the speed at which it can be driven is limited to 100 kilometres per hour. As the law stands, however, the fact that a vehicle is detected travelling at more than 115 kilometres per hour is not sufficient evidence that the speed limiter is not functioning as required and that the responsible person has not met their duty. The passing of this bill will change this, so that it will be clear that heavy vehicles that speed in a manner that is impossible with a functioning speed limiter, will be deemed not to be speed limited, and that the responsible person is at fault.

The bill will apply to vehicles irrespective of whether they are registered in New South Wales, and to drivers of those vehicles and persons responsible for them. It is important that the sanction apply to interstate vehicles as well as those registered in New South Wales, as an estimated 80 per cent of interstate freight travels through New South Wales. The passing of this bill will provide for an offence by the responsible person when a heavy vehicle which is required by law to be speed limited to 100 kilometres per hour travels at a speed in excess of 115 kilometres per hour.

Two defences have been proposed. Firstly, it will be a defence to a prosecution for the new offence if the defendant proves that the vehicle was a stolen vehicle, or had been illegally taken or used; or, secondly, if the vehicle is speed limited as required but the circumstances in which it was travelling at the time meant that the speed limiter did not operate to limit the speed to 100 kilometres per hour. The latter defence recognises that the gradient of a length of road or road-related area may in certain circumstances affect the speed of a vehicle even if it is properly speed limited. The speed limiter offence will apply at the time the speeding over 115 kilometres per hour is detected, either by a police officer or by a speed camera. The Roads and Traffic Authority will provide NSW Police with information on the gradients of major freight routes in New South Wales so they will be able to apply this sanction at appropriate sites.

The traffic infringement notice to accompany the offence will impose a fine of \$1,550. This penalty will be on top of the appropriate speeding fine for the driver. If the responsible person elects to go to court, the offence is punishable by a maximum penalty of 30 penalty points, which is currently \$3,300, for an individual, or 150 penalty units, \$16,500, for a corporation. This bill sends a strong message to heavy vehicle operators that they must have policies and systems in place to monitor the speed of their vehicles and ensure they are appropriately speed limited at all times. I commend the bill to the House.