



NSW Legislative Council Hansard Full Day Transcript

Extract from NSW Legislative Council Hansard and Papers Tuesday, 7 June 2005.

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [6.04 p.m.]: I move:

That this bill be now read a second time.

The purpose of the bill is to allow the delivery of sanctions to responsible 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 proposed amendment is sought to enable a status offence by the responsible person to be created when a heavy vehicle, which is required by law to be speed limited, travels at a speed in excess of 115 kilometres per hour. The legislative framework for the bill will provide the general power to make evidentiary regulations in relation to speed limiters. The bill will amend the relevant provisions of the Road Transport (Safety and Traffic Management) Act 1999 and the regulations made under that Act to make further provision with respect to compliance with, and enforcement of, requirements for the speed limiting of heavy vehicles.

The responsible person for a vehicle will commit a speed limiter offence when a heavy vehicle, that 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 responsible 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 the vehicle is detected travelling at over 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 his or her duty. The passing of this bill will change this situation, 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 whether or not they are registered in New South Wales, and to the drivers of, and persons responsible for, those vehicles. It is important that the sanction applies 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. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

There is community concern about speeding heavy vehicles in this State, and how trucks speed limited to 100 kmh can overtake cars legally doing 110 kph.

The Roads and Traffic Authority speed surveys on major freight routes in NSW show that almost 4 per cent of heavy vehicles are travelling over 115 kph—speeds that in theory should be impossible, but clearly are not.

It is time for the heavy vehicle industry to take responsibility for the impact of their activities on safety, both for the community and their employees. An operator must ultimately be responsible for not only the delivery of goods, but the manner in which they are delivered. This includes the speeds at which their vehicles travel. The passing of this bill will provide an offence by the responsible person when a heavy vehicle which is required by law to be speed limited to 100 kph travels at a speed in excess of 115 kph.

Two defences have been proposed, namely:

1. 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
2. That the vehicle is speed limited as required but that the circumstances in which it was travelling at the time meant that the speed limiter did not operate to limit the speed to 100 kph.

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 that the speeding over 115 kph is detected. The Roads and Traffic Authority will provide the NSW Police with information on the gradients of major freight routes in NSW so that they will be able to apply this sanction at appropriate sites.

The traffic infringement notice to accompany this offence will be \$1,550. If the responsible person elects to

go to Court the offence is punishable by a maximum penalty of 30 penalty points for an individual, currently \$3,300, and 150 penalty units or \$16,500 in the case of a corporation.

Heavy vehicle operators need to conduct their businesses in NSW in a way that is safe. Responsible operators need to have policies and systems in place to monitor the speeds of their vehicles, and ensure they are appropriately speed limited at all times.

Those operators, however, who set unattainable timetables, permit or even encourage their drivers to speed, and allow their speed limiters to be tampered with, must no longer be able to do so.

I commend the bill to the House.