



Speech by

Phil Weightman

MEMBER FOR CLEVELAND

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TRANSPORT LEGISLATION AMENDMENT BILL

Mr WEIGHTMAN (Cleveland—ALP) (3.57 pm): I rise in support of the Transport Legislation Amendment Bill 2007. In particular, I would like to speak about some of the provisions in the bill that are aimed at improving compliance with heavy vehicle operational requirements. Queensland's economy is booming and with that comes an inevitable increase in road freight and heavy vehicles on the road. Without comprehensive management of the whole transport logistics chain, heavy vehicles may pose a concern to the safety of all road users. On a per vehicle basis, articulated heavy vehicles are already more likely than cars to be involved in fatal road crashes.

This bill contains provisions relating to the chain of responsibility. The aim of the chain of responsibility is to ensure that all parties who influence on-road behaviour are held accountable for breaches of heavy vehicle road transport laws. Under this concept, legal liability can reach beyond the driver and the road transport industry so that the real causes of noncompliance are targeted. As most members would be aware, Queensland has led the country on the chain of responsibility concept, having first introduced it into transport law back in 1998. Queensland was also very much at the forefront in developing the national compliance and enforcement reform package which is encapsulated in the bill before the House today.

Queensland's chain of responsibility provisions seek to identify not only heavy vehicle drivers and operators but also all those persons who have influence in the transport logistics chain. The chain of responsibility concept recognises that often the driver has little say in when and how they should make their delivery.

While the chain of responsibility already exists in Queensland legislation, this bill clearly identifies several additional classes of people who have a responsibility in relation to potential breaches of mass, dimension and load restraint requirements. The list of the persons who may now be held responsible for these types of offences includes owners of heavy vehicles, registered operators of heavy vehicles, other persons or people who control or directly influence the loading or operation of the heavy vehicle, consignors of any goods in the heavy vehicle, packers of any goods in the heavy vehicle, and loaders of any goods in the heavy vehicle. Consignees who receive goods in the heavy vehicle may also be held accountable in circumstances where it can be shown that they induced or rewarded a breach of these heavy vehicle operation requirements.

This bill not only clarifies responsibility of members of the transport chain but also clearly outlines what steps these persons can take to ensure they are operating legally and safely. The majority of people involved in the road freight industry are just trying to earn an honest dollar and we recognise that. The bill introduces these reasonable steps defences as protection for honest operators. Simply put, if a heavy vehicle offence occurs, parties in the chain of responsibility must demonstrate, firstly, that they did not know and could not reasonably be expected to know of the contravention and, secondly, that they took all reasonable steps to prevent the contravention or that there were no steps that the person could reasonably be expected to have taken to prevent it.

A person within the chain of responsibility simply cannot claim they did not know that the driver would break the law. They have to demonstrate that they took steps to ensure the driver did not break the

law. On the other hand, if any person in the chain knows that the driver might contravene the law and does nothing about it, or if they deliberately encourage the driver to commit the offence, the bill allows them to be penalised—and rightfully so. The bill also allows the court to make an order for the party to pay three times the profit earned from committing the offence as a commercial benefit penalty.

I would like to inform those present that national research has shown that the road safety freight industry wants these reforms. This industry is responsible and committed to removing or changing the behaviour of the minority of operators who use unsafe practices to reduce costs and undercut honest operators. Any reform that applies penalties that strip these minority operators of any commercial advantage arising from breaking a law is applauded by those in the industry doing the right thing. Doing the right thing in this case means making Queensland roads safer and lengthening the life span of valuable state infrastructure.

I referred earlier to Queensland's strong track record in improving heavy vehicle transport laws. Since the introduction of chain of responsibility legislation, Queensland Transport has prosecuted 529 offenders on 3,049 charges, with fines totalling more than \$1.5 million. Over \$1 million of those fines has come from an influencing person—that is, a party further up the chain of responsibility than just the truck driver. In May 2000, for example, Ladbroke Services Pty Ltd, in a test case for chain of responsibility, was fined \$18,000 over 168 mass related offences. Significantly, this was the first time an owner was prosecuted along with the drivers. More recently, in May 2005 the three owners and eight drivers of Geoff Richards Refrigerated Transport Pty Ltd were fined \$165,400 over 306 charges related to driving hours and logbooks.

Legislation that enhances chain of responsibility provisions can only be a good thing for a state that already has 82,500 heavy vehicles on the road. By 2020 the Bureau of Transport and Regional Economics estimates that one in four vehicles on Queensland roads will be a commercial vehicle. These amendments will play a significant role in regulating that ever-increasing sector of our economy. The bill also gives transport inspectors and police officers enhanced powers to ensure that breaches of transport law can be rapidly investigated. These officers are specialists who receive extensive training in the road rules, in the identification and collection of evidence relevant to transport legislation and in the preparation of court prosecutions.

We are talking about a group of highly trained individuals with a strong commitment to improving road safety. Some of the new powers to be introduced by the bill include warrantless entry and search powers. Importantly, however, this power can only be exercised in very limited circumstances. This includes entering premises in relation to a heavy vehicle that has been involved in a road crash causing death, injury or damage to property where the authorised officer suspects there is an imminent danger of evidence relating to the crash being destroyed. These warrantless entry provisions will not apply to residential premises. They will apply to business premises but only during business hours. These are vital powers, similar to those available for other special inspectorate groups within Queensland aimed at the preservation of valuable evidence.

A number of safeguards have been included in the bill to protect the rights of individuals. The main protection is the inclusion of the requirement of post entry approval to be obtained from a magistrate. These safeguard provisions, which are not contained in the national model legislation, will help to ensure that these powers are exercised in a responsible manner. The public has a right to expect that public roads can be travelled in safety and that these roads do not become a playground for a minority of operators whose only consideration is financial.

This bill provides the necessary powers, balanced with appropriate control, to ensure that all parties in the transport chain of responsibility are held accountable for the influence they have. I compliment the previous minister and his staff and the current minister and his staff for bringing this legislation before the House, and I commend the bill to the House.