



Speech By  
**Hon. Mark Bailey**


**MEMBER FOR MILLER**

---

Record of Proceedings, 15 February 2018

## **HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL**

### **Message from Governor**

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (3.19 pm): I present a message from His Excellency the Governor.

**Mr DEPUTY SPEAKER** (Mr Stewart): The message from His Excellency recommends the Heavy Vehicle National Law and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL 2018

*Constitution of Queensland 2001, section 68*

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intitled—

A Bill for an Act to amend the Duties Act 2001, the Heavy Vehicle National Law Act 2012, the State Penalties Enforcement Regulation 2014, the Transport Operations (Road Use Management) Act 1995, the Transport Operations (Road Use Management—Road Rules) Regulation 2009, the Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010 and the Transport Planning and Coordination Act 1994 for particular purposes

(sgd)

GOVERNOR

Date: 14 February 2018

*Tabled paper:* Message, dated 14 February 2018, from His Excellency the Governor recommending the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018 [[179](#)].

### **Introduction**

**Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (3.20 pm): I present a bill for an act to amend the Duties Act 2001, the Heavy Vehicle National Law Act 2012, the State Penalties Enforcement Regulation 2014, the Transport Operations (Road Use Management) Act 1995, the Transport Operations (Road Use Management—Road Rules) Regulation 2009, the Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010 and the Transport Planning and Coordination Act 1994 for particular purposes. I table the bill and the explanatory notes. I nominate the Transport and Public Works Committee to consider the bill.

*Tabled paper:* Heavy Vehicle National Law and Other Legislation Amendment Bill 2018 [[180](#)].

*Tabled paper:* Heavy Vehicle National Law and Other Legislation Amendment Bill 2018, explanatory notes [[181](#)].

I am pleased to introduce the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018. This bill will amend the Heavy Vehicle National Law Act 2012, the Transport Operations (Road Use Management) Act 1995, the Transport Planning and Coordination Act 1994 and the Queensland

Duties Act 2001. The purpose of this bill is to introduce a range of initiatives that will contribute to improvements in safety outcomes in the road transport sector by aligning the Heavy Vehicle National Law, commonly known as the HVNL, more closely with national safety legislation and introduce road safety amendments aimed at helping achieve this government's target of reducing death and serious injury on our roads by 30 per cent by 2020, in particular, through an increase in penalties for driving offences involving death and grievous bodily harm. The Palaszczuk government is committed to making our roads safer for all those who travel on them and for those who make their living in the road transport industry.

The HVNL provides a single national law for the consistent regulation of heavy vehicle operations across most of Australia. All Australian states and territories, except for Western Australia and the Northern Territory, are participating jurisdictions and have applied the HVNL as a law of their jurisdiction. The HVNL regulates matters relating to the operation of heavy vehicles such as mass and dimensions, vehicle safety standards, fatigue management, heavy vehicle accreditation and the use of intelligent transport systems. The HVNL also established the National Heavy Vehicle Regulator to administer the law. The HVNL was developed to improve productivity and safety, and to streamline the regulatory environment for the heavy vehicle industry so that industry could operate across state borders without conflicting regulatory requirements. It was this level of regulatory consistency that the heavy vehicle industry had sought for years and the introduction of the HVNL into this parliament in 2012 went a long way to achieving that goal. However, an ambitious reform of this nature benefits from continual review and improvement.

HVNL amendments are jointly developed by the National Transport Commission, the NTC, and the National Heavy Vehicle Regulator in consultation with state and territory transport authorities, enforcement agencies and heavy vehicle industry associations. While Western Australia and the Northern Territory are not participating jurisdictions at this time, they were consulted during development of the policy amendments. The HVNL changes proposed in this bill were supported by all jurisdictions at the May 2017 Transport and Infrastructure Council meeting.

As host jurisdiction for the HVNL, the Queensland parliament must first consider and pass amendments to the national law before it can be applied by participating jurisdictions. While recent amendments to the HVNL, including those within this bill, will lead to improvements in productivity and less conflicts in the regulatory environment across the country, there has also been a particular focus on improving safety. The amendments before the House today will contribute to improvements in safety outcomes in the heavy vehicle industry by aligning the responsibilities of executive officers in the HVNL more closely with national safety legislation, such as the Work Health and Safety Act 2011, and reduce the requirements and costs associated with enforcing and prosecuting breaches of the HVNL.

The HVNL places obligations on drivers and also on off-road parties involved in the transport and logistics chain or chain of responsibility, known as CoR, and includes a range of enforcement powers. In November 2015, the council approved a three-phase approach to reform chain of responsibility and executive officer liability provisions within the HVNL. The first phase of amendments reformulated existing obligations on all current chain of responsibility parties as a positive due diligence obligation to ensure they comply with their primary duty of care. This brought the HVNL in line with the model Work Health and Safety Act. Those amendments were passed by this parliament on 1 December 2016 within the Heavy Vehicle National Law and Other Legislation Amendment Act 2016.

The second phase of amendments, contained within this bill, extends those positive due diligence requirements to include non-chain-of-responsibility safety related offences for which executive officers are currently liable. These amendments will improve safety by requiring that executive officers take positive steps to ensure their organisation meets its safety obligations under the HVNL. Amendments arising from the third phase of chain-of-responsibility reform, a National Transport Commission review of investigative and enforcement powers, were approved at the November 2017 council meeting. Those amendments will come before the Queensland parliament later this year.

This bill also includes a range of amendments related to how heavy vehicles will be registered in future. At the November 2016 council meeting, ministers decided that jurisdictions would continue to have ongoing responsibility for registering heavy vehicles. As a result, a proposed national heavy vehicle registration scheme is no longer required. That decision requires the removal of 'Chapter 2 Registration' from the HVNL, which provides for the establishment of a national heavy vehicle registration scheme. That chapter has not yet commenced, but was set to automatically commence on 1 July 2018. The bill will omit chapter 2 from the HVNL, as well as making a range of consequential amendments to the HVNL to reflect that registration matters are not dealt with under the HVNL. This will ensure jurisdictions can continue to perform registration related functions.

In lieu of a national heavy vehicle registration scheme and to allow the National Heavy Vehicle Regulator access to registration data to perform its functions, jurisdictions agreed to the development of a national operator fleet dataset. This dataset is to be maintained by the National Heavy Vehicle Regulator and will have common definitions, business rules and policies and is to be populated by clean and consistent data from all jurisdictions. The National Heavy Vehicle Regulator is to have full access to that resource by 1 July 2018.

In conjunction with proposed amendments to HVNL registration, the Federal Interstate Registration Scheme—FIRS, as it is known—will be closed. The closure of FIRS will require all heavy vehicles registered under FIRS to transition to state or territory based registration systems by 30 June 2019—that is, all registration functions for heavy vehicles will be administered directly by each state or territory based on a vehicle's garage address. FIRS was established under the Commonwealth's Interstate Road Transport Act 1985 and commenced in 1987 as an alternative to state based registration for heavy vehicles weighing more than 4.5 tonnes. FIRS provided uniform charges and operating conditions for heavy vehicles engaged solely in the interstate carriage of passengers or goods. Under FIRS, heavy vehicles were exempt from paying stamp duty.

Consequently, the proposed bill will also amend Queensland's Duties Act to provide a one-off exemption from vehicle registration duty for heavy vehicles transitioning from FIRS to the Queensland registration scheme. This exemption will cease on 30 June 2019. The bill also contains some minor maintenance amendments that will remove unnecessary administrative or regulatory requirements, or will clarify a range of existing provisions such as driver information recording and drivers giving information to a record keeper.

While much of this bill is dedicated to the regulation of heavy vehicles, the bill also contains some important road safety amendments with broader application. Road crashes can have devastating consequences for individuals, their family and friends, workplaces and communities. The Palaszczuk government is progressing a range of initiatives to address this, including important initiatives outlined in Queensland's road safety action plan, Safer Roads, Safer Queensland. Amendments in this bill are just one part, but an important part, of our efforts towards achieving our vision of zero fatalities.

There has been growing concern, including from coroners, about the appropriateness of penalties available to courts in matters where careless or dangerous driving results in someone being killed or suffering grievous bodily harm. This is further exacerbated where the offender has no licence or is suspended or disqualified from holding a licence at the time of the offence. Driving when unlicensed shows a fundamental disregard for the safety of other road users.

This bill outlines new increased maximum penalties to address these issues by giving the courts more scope to apply penalties appropriate to the circumstances they have before them. In instances where death or grievous bodily harm has occurred in a crash, this bill will also apply or increase mandatory minimum periods of licence disqualification for careless or dangerous driving.

To be more specific, in October last year the government announced that it is proposing to increase the mandatory minimum licence disqualification period to 12 months where a person is convicted of a dangerous driving offence that results in the death or grievous bodily harm of a person. This doubles the current minimum licence disqualification period for this offence and is in addition to the proposed changes to the penalties for offences of driving without due care and attention.

The penalties for careless driving offences will also be significantly increased in the event of the death or grievous bodily harm of a person, with a further increase to apply where at the time of the offence the offender was also unlicensed. In addition, a mandatory minimum licence disqualification of six months will apply in relation to careless driving offences that result in the death or grievous bodily harm of a person.

The bill also makes amendments to the obligations of drivers at the scene of an incident. There will be a significant increase to the maximum penalty where a driver leaves the scene of an incident where someone has been killed or seriously injured. In addition, the bill will introduce a mandatory driver licence disqualification period for a person who flees or otherwise leaves the scene of a serious crash.

The bill will also allow the Department of Transport and Main Roads to notify the registered operators of vehicles of traffic offences committed in their vehicle by other persons. This will enable parents and guardians of P-platers using the family car to better monitor their driving behaviour. I am sure that will be welcomed by many Queenslanders, particularly a number in this House.

This change will also provide employers and vehicle fleet operators with improved information about offences committed in their vehicles. For example, where a driver commits and is convicted of a heavy vehicle fatigue offence, the registered operator of the heavy vehicle can be notified by email once

the driver pays the fine, the fine is referred to the State Penalties Enforcement Registry for nonpayment or a court convicts them of the offence. This approach will place both parents and employers in a better position to influence driving behaviour for improved road safety outcomes.

Consistent with our road safety action plan, the bill also includes an amendment to make roadside drug testing enforcement more efficient. As a result of significant improvements in the accuracy of saliva-analysing instruments and the incorporation of memory functions into those instruments, it is now possible to allow the officer who does the initial roadside test to also conduct the subsequent saliva analysis. This will be of particular benefit to road safety in regional areas where there may only be one police officer deployed.

The bill also extends the period of time the department is able to retain a digital photo and signature of a PrepL applicant from six months to 12 months. PrepL is a new interactive online learning and assessment tool for learners that may be completed at their own pace over a 12 month period. At any time during that period the learner may attend a customer service centre to provide their digital photo and signature. The proposed amendment will ensure the department can use that photo and signature to issue the person's licence without the person having to revisit the customer service centre if they take more than six months to complete the PrepL training.

The bill before the House clearly demonstrates the importance this government places on road safety and its commitment to ensuring that all road users can travel more safely on our roads, and also its ongoing commitment to improving the regulatory environment for industry. I commend the bill to the House.

**Mr Bleijie** interjected.

**Mr BAILEY:** The still small voice from the past.

### **First Reading**

**Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (3.34 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

### **Referral to Transport and Public Works Committee**

**Mr DEPUTY SPEAKER** (Mr Stewart): Order! In accordance with standing order 131, the bill is now referred to the Transport and Public Works Committee.

### **Portfolio Committee, Reporting Date**

**Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (3.34 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Transport and Public Works Committee report to the House on the Heavy Vehicle National Law and Other Legislation Amendment Bill by 20 April 2018.

Question put—That the motion be agreed to.

Motion agreed to.