



Speech By  
**Hon. Mark Bailey**


**MEMBER FOR MILLER**

---

Record of Proceedings, 12 June 2018

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

**Second Reading**

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (12.49 pm): I move—  
That the bill be now read a second time.

This bill proposes amendments to four acts: the Heavy Vehicle National Law Act 2012, the Transport Operations (Road Use Management) Act 1995, the Transport Planning and Coordination Act 1994 and the Duties Act Queensland 2001. In addition, for the benefit of the House, I intend to bring in an amendment during consideration in detail and I will speak to that amendment in more detail later in this speech.

The Transport and Public Works Committee considered the bill and I thank the committee for its report. The report recommended that the bill be passed and included two recommendations for consideration. I now table the government's response to the committee's recommendations.

*Tabled paper:* Transport and Public Works Committee: Report No. 4, 56th Parliament—Heavy Vehicle National Law and Other Legislation Amendment Bill 2018, government response [\[803\]](#).

I note that there were a significant number of submissions made to the committee in relation to this bill, and I would like to thank the members of the committee and industry representatives who took the time to comment on the bill. I would also like to thank those who appeared before the committee during the public hearing process.

This bill includes various important amendments and I will begin with those concerning the heavy vehicle national law—or HVNL as it is commonly known. The more significant heavy vehicle related amendments relate to the implementation of the nationally agreed position on arrangements for heavy vehicle registration and chain-of-responsibility improvements. Considerable consultation and engagement with the industry was undertaken to arrive at the proposed amendments. I would like to thank industry members for providing their considered feedback on the bill as it was developed by the National Transport Commission. The industry's ongoing commitment to heavy vehicle law reform ensures that the HVNL remains contemporary and fit for purpose. I would like to thank the National Transport Commission and the National Heavy Vehicle Regulator for managing the HVNL maintenance process.

At this point I would like to note the committee's second recommendation that, in consultation with the Transport and Infrastructure Council, I consider stakeholder support for a timely review of the HVNL. I am aware of widespread support for a review of the law within the heavy vehicle industry. With the national legislation and the National Heavy Vehicle Regulator well established and having been operating for a number of years, there is a sense in the industry that we need not wait until the original proposed review date and the time is right for the review to be brought forward.

I am pleased to advise that a comprehensive review of the HVNL is included in the National Transport Commission's work program for 2018 to 2022, which was endorsed at the recent Transport and Infrastructure Council meeting in May, which I attended. This work program brings forward the commencement of the HVNL review from 2020-21 to 2018-19 with the terms of reference for the review to be agreed prior to the commencement of the review.

I also note the statement of reservation from the member for Traeger regarding concerns about the impact of the chain-of-responsibility amendments on primary producers. In response, I can reassure the member for Traeger that the chain-of-responsibility changes proposed in this bill are positive for farmers. Since the late 1990s, chain of responsibility has been present in transport legislation in one form or another. Since that time, farmers have been parties in the chain of responsibility, as well as having to meet workplace health and safety requirements.

These amendments will not change farmers' obligations, as they will still need to manage their risks in the same way as they did before. However, the positive duty imposed by these chain-of-responsibility changes will improve consistency between the HVNL and workplace health and safety and, as a result, is likely to reduce a farmer's regulatory burden. I have been assured that the National Heavy Vehicle Regulator has been working closely with the agricultural sector through awareness sessions and providing guidance material to ensure that farmers are prepared for the changes ahead.

In keeping with the proactive primary duty approach being introduced into the HVNL, chain-of-responsibility reforms have reformulated offence provisions from a reverse onus of proof to a positive obligation. That means that the prosecution will bear a greater evidentiary burden to prove liability in chain-of-responsibility offences. Before this bill, if there were a prosecution, the party was deemed liable for any breach of a safety obligation and the burden was on the responsible party to prove that they had taken reasonable steps to prevent the offence to avoid being found guilty. Under the changes proposed in this bill, the prosecution will have the responsibility of showing that the party did not do everything that was reasonably practical to avoid the offence. The changes remove the current reverse onus of proof, which will remove the level of burden for farmers rather than adding to it.

I note that, of late, the issue of when the chain-of-responsibility reforms will commence has been canvassed quite broadly within the heavy vehicle industry. Last month, I wrote to the relevant minister of each Australian jurisdiction to advise that the chain-of-responsibility reforms, including those proposed in this bill, are planned to commence on 1 October this year. Some members of the industry have been advocating for an extension of the commencement date to allow for further consultation on the reforms.

The approach to these reforms was originally approved by the Transport and Infrastructure Council in November 2015 and consultation with the industry has been ongoing throughout that process. The first phase of amendments reformulated existing HVNL obligations on all current chain-of-responsibility parties as a positive due diligence obligation to ensure that chain parties comply with their primary duty of care consistent with the duty-of-care approach adopted in other national laws, such as the rail safety national law and the model Work Health and Safety Act 2011.

These amendments were debated and passed in this House on 1 December 2016 as part of the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016, but have not yet commenced. I referred to those original amendments to show that this package of reforms has been in the works for some time, allowing for a comprehensive consultation process led by the NHVR. There is no need to further delay the commencement of these reforms and I look forward to seeing the tangible benefits that they will no doubt provide to the industry.

Another significant amendment within this bill concerns heavy vehicle registration. Chapter 26 of the HVNL was intended to provide for the establishment of a national heavy vehicle registration scheme. In November 2016, the Transport and Infrastructure Council did not approve the NHVR's business case for a fully-fledged national heavy vehicle registration scheme and directed the NHVR to cease activities regarding this scheme. The Transport and Infrastructure Council also agreed that jurisdictions will continue to have responsibility for heavy vehicle registration under their respective state or territory legislation.

In May 2017, the Transport and Infrastructure Council approved the development of a national operator fleet dataset in lieu of a national heavy vehicle registration scheme. As a result, the council agreed that chapter 2—registration—was no longer fit for purpose and was to be removed from the HVNL, and so provisions within this bill will omit that chapter.

In recognition of the fact that jurisdictions will have ongoing responsibility to register all heavy vehicles, the federal interstate registration scheme is expected to be closed, commencing from 1 July 2018. Legislation to repeal the FIRS was introduced into the Australian parliament earlier this year and

is expected to be passed before 1 July 2018. The closure of the FIRS will require all heavy vehicles registered under the FIRS to transition to state and territory based registration systems during a transition window from 1 July this year to 30 June next year. Consequently, this bill also amends the Duties Act Queensland 2001 to provide a one-off exemption from vehicle registration duty for heavy vehicles transitioning from the FIRS to the Queensland registration scheme during the transition window.

The bill also makes some consequential changes throughout the remainder of the HVNL to reflect that the majority of registration matters are not dealt with under the HVNL but, rather, they are to be regulated under various jurisdictional laws. These amendments will ensure that jurisdictions can continue to perform registration related functions, but will allow the NHVR access to registration data to perform its functions. The national operator fleet dataset will comprise a single minimal dataset with common definitions and business rules populated by data provided by all jurisdictions. Jurisdictions will be responsible for submitting clean and consistent data that will allow the NHVR access to registration data to perform its functions. The NHVR will be given full access to the dataset on 1 July this year and will be responsible for its maintenance.

The heavy vehicle amendments in this bill represent the next step in the ongoing evolution and improvement of heavy vehicle regulation in Queensland and across our nation. They are a prime example of what can be achieved when jurisdictions and industry work together. I am pleased to progress these amendments.

In relation to road safety, this bill also includes a range of amendments that impact drivers in Queensland. These amendments focus on improving road safety and addressing new technologies. The bill allows the chief executive to notify the registered operator of a vehicle when an offence is committed in their vehicle by another driver. This will enable informed conversations between vehicle owners and the people they allow to use their vehicle leading to improved road safety outcomes. This particular reform may appear minor, but it has been sought by many in the heavy vehicle industry for quite some time.

As members may be aware, the Palaszczuk government has been conducting an Australian-first trial of a new high-tech, safety focused online test called PrepL, which will push learner drivers through an intensive interactive course, including driving simulation tasks and powerful real-life interviews. This bill contains amendments that relate to the retention of digital photos and signatures to support PrepL. This will give participants more flexibility to attend a customer service centre to provide their photo and signature within the 12-month PrepL enrolment period.