



Speech By  
**Hon. Mark Bailey**


**MEMBER FOR MILLER**

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## **HEAVY VEHICLE NATIONAL LAW AMENDMENT BILL**

### **Second Reading**

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (12.05 pm): I move—  
That the bill be now read a second time.

I am pleased to bring this bill before the House to ensure the ongoing maintenance of nationally important heavy vehicle legislation. The Heavy Vehicle National Law Amendment Bill 2018 amends the Heavy Vehicle National Law Act 2012 for a number of matters and, importantly, delivers the third phase of chain-of-responsibility reforms. In addition, I note for the benefit of the House that I intend to bring amendments during consideration in detail on this bill. I will speak to this in more detail later in the speech.

Firstly, I would like to thank the members of the Transport and Public Works Committee, including the chair, the member for Kurwongbah, for their time considering the matters contained in this bill and for providing industry stakeholders with the opportunity to make comment on the bill. The committee has delivered its report after considering the bill and has recommended that the bill be passed. The report has also included one further recommendation for consideration. I now table the government response to the committee recommendation.

*Tabled paper:* Transport and Public Works Committee: Report No. 7, 56th Parliament—Heavy Vehicle National Law Amendment Bill 2018, government response [[1292](#)].

The government supports in principle the recommendation to amend the heavy vehicle national law to include a more definitive definition of performance based standards, or PBS. I will write to the National Transport Commission recommending that the definition of PBS in the national law is reviewed as part of the next maintenance process. This review will ensure that any proposed new definition for PBS will be consistent with the treatment of other acronyms within the national law and that any unintended consequences are avoided that could limit the meaning of performance based standards found elsewhere in the legislation.

This bill addresses a range of nationally agreed policy reforms that seek to improve safety and reduce the regulatory burden for industry. This is no more evident than with the third and final phase of chain-of-responsibility reforms, also known as CoR. CoR is about ensuring all parts of the transport and logistics supply chain contribute to safer roads. In order to achieve this, the national law includes obligations on drivers, on-road parties and off-road parties, in the transport and logistic supply chain such as operators and consignors.

The first two phases of the chain-of-responsibility reform were contained within the Heavy Vehicle National Law and Other Legislation Amendment Act 2016 and the Heavy Vehicle National Law and Other Legislation Amendment Act 2018. Phase 1 reformulated existing 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. This will more closely align the national law with existing work health and safety obligations. The second phase of chain-of-responsibility reforms brought this positive due

diligence approach to executive officer liability obligations by including non-chain-of-responsibility offences for which executive officers are currently liable. The third phase in chain-of-responsibility amendments before the House today concern the investigative and enforcement powers of authorised officers.

The implementation of these provisions will help support a modern, best practice legislative approach to safety duties. These changes are required as the pending chain-of-responsibility reforms have revised offence provisions from a reverse onus of proof to a positive due diligence obligation. This means the executive officers are no longer required to disprove a presumption of their guilt and the prosecution will now bear the burden to prove all elements of the charge. As a result, there will be a heavier burden of proof on the prosecution to prove liability in chain-of-responsibility offences.

In order to mitigate this heavier burden of proof, authorised officers will be given additional powers to gather information from a person who is not an executive officer. This power has been expressly limited to information that is relevant to chain-of-responsibility offences. The purpose and intent behind these amendments is to ensure that there is an appropriate level of investigative and enforcement powers available to officers enforcing the heavy vehicle national law.

Further amendments within the bill provide for authorised officers to issue prohibition notices and for courts to issue injunctions. A prohibition notice requires a person to cease an activity until they have remedied an immediate or imminent serious risk to a person's health or safety—there is a nice bit of iteration there. A person who fails to comply with a prohibition notice is guilty of an offence and may also be restrained from contravening the prohibition notice by way of a court imposed injunction. These new provisions will complement compliance tools already available and provide authorised officers with additional alternatives to prosecution that are designed to improve compliance and better achieve the objectives of the heavy vehicle national law.

In addition to chain-of-responsibility reforms, amendments in this bill will clarify load restraint obligations for drivers, operators and other participants in the transport chain of responsibility. The current load restraint guides include enforceable load restraint performance standards that operators are currently required to comply with, which are then referenced in the heavy vehicle national law. These performance standards ensure that a load, when travelling under expected driving conditions, will not be dislodged or move in such a way as to be unsafe. Load restraint amendments in the bill will reduce industry confusion about precisely what is a load restraint obligation by moving the load restraint performance standards into the national law. This will ensure the load restraint guide is exclusively guidance only, as intended.

The bill also provides amendments that will provide productivity benefits and improved road access to industry by granting increased volumetric load capacity to heavy vehicles, without increasing mass. Industry will benefit from the use of more productive vehicles with greater road network access, but without the regulatory burden of applying for permits in other authorisations. The bill implements the ability to grant as-of-right access to specified PBS vehicles. This will allow those vehicles to access the same road network as heavy vehicles operating under general mass limits, but without the need for an individual permit. There will be no adverse road safety or road infrastructure impacts associated with this initiative.

A further amendment supports improved access for industry. Currently, if a road manager is unable to provide consent for an access permit application due to the proposed mass or dimension limits being unacceptable for a particular road network, the consent is simply refused. The amendment in this bill provides for road managers to nominate the mass or dimension limits at which a heavy vehicle could operate and not cause damage to road infrastructure.

The bill also inserts a new section into the Queensland application provisions of the heavy vehicle national law. This provision will allow proceedings for fatigue related offences to be commenced in a Magistrates Court district where an offence was detected or in a district in which an offence occurred. Currently, if a person has committed multiple fatigue related offences in different court districts, charges must be brought and the defendant is obliged to appear at courts in each of those districts. This issue is unique to fatigue offences, because the offences are, in effect, continuing offences, with each single journey potentially giving rise to multiple offences that may be committed in multiple court jurisdictions. The proposed amendment will mean that multiple offences can be heard in a single Magistrates Court. This will reduce unnecessary burdens for defendants. It will also mean that Queensland has a similar approach to that in other jurisdictions where courts have a greater discretion to determine the location of proceedings.

The bill also proposes a number of minor maintenance amendments to the heavy vehicle national law. Their intent is to clarify some existing provisions or better aid interpretation of the national law, such as ensuring annual indexation penalties operate as intended and removing the NHVR's obligation

to advertise in national newspapers when amending notices. As I noted earlier, I intend to move amendments during consideration in detail. Those amendments are minor and technical, and include addressing draft anomalies that were identified by the Office the Queensland Parliamentary Counsel during the drafting of the bill. The amendments will ensure that the legislation functions correctly. I commend the bill to the House.