




Speech By
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MEMBER FOR CHATSWORTH

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HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

 **Mr MINNIKIN** (Chatsworth—LNP) (11.28 am): I rise to contribute to the debate on the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018. In particular, I want to lend my support to the introduction of a range of measures that have been designed to contribute to improvements in safety outcomes for the road transport sector. There is no doubt it is incumbent on each and every one of us in this chamber to do what we can do to ensure that these hardworking people in the transport industry arrive home safely after fulfilling their driving duties, and the proposed amendments have this aim the mind.

Just as importantly, I am looking for these measures to also deliver safety enhancements for all those who travel on our roads. Road safety is indeed a shared responsibility. Any initiative aimed at reducing the road toll is deserving of our careful examination, and where assessment of the measure proves positive then we get in and support it. I do not believe in opposition merely for the sake of opposition. To this end, although this bill is predominantly dedicated to the regulation of heavy vehicles, as mentioned previously, there are a number of road safety amendments with much broader application that are also contained in this bill and they, too, are worthy of our support.

Sadly, in 2016 just over 250 people were killed on our roads and an estimated 6,400 were seriously injured. Death and serious injuries on Queensland's roads continue to cause significant devastation for individuals, families and the broader community. On this point, I would like to acknowledge the fine advocacy work the member for Burnett has undertaken with members of his local community in and around Bundaberg who have experienced tragedy within their own families and with whom this bill has significant personal interest. It goes without saying that improving safety on our roads must be a priority.

The bill amends the Transport Operations (Road Use Management) Act 1995, referred to as the TORUM Act, and the Transport Planning and Coordination Act to improve road safety by: increasing penalties for driving offences involving death or grievous bodily harm; allowing a registered operator of a vehicle to be notified of offences committed in their vehicle by another person; and allowing a police officer who conducts a roadside test for drug driving to also conduct any subsequent saliva analysis.

While recognising road safety education plays a key role in communicating the dangers involved when negotiating our roads, the use of penalties to deter drivers from potentially endangering the lives of other road users—as well as their own life, of course—can also play a pivotal role in discouraging dangerous driving behaviour. As already stated, in this regard the bill looks to increase the penalties for driving offences involving death and grievous bodily harm and seeks to make the penalties for these areas even more of a deterrent. Whilst this is to be welcomed, I am of the view—as are many members on this side of the chamber—that there is potentially further scope to revisit these penalties down the track to make sure the courts have more scope to apply penalties for dangerous driving offences that are appropriate to the circumstances.

I would like to refer to the coroner's report into the findings of the tragic death of Audrey Anne Dow, and this report was also referred to by the minister in his earlier speech. The coroner's report contains 60 paragraphs and I would like to quote from two paragraphs. The first is paragraph 53, which states—

In addition Counsel Assisting pointed out an anomaly that the lower offence of driving without due care and attention is contained within the TORUM Act ... and is regulated by the Department of Transport, under the Minister for Transport's direction, whereas the higher offence of dangerous driving is contained in the Criminal Code, under the responsibility of the Minister for Justice and Attorney General.

The coroner went on to state—

It was pointed out to me that any mid-range offence dealing as it does, with causing death, would best be contained within the Criminal Code, so it is under the responsibility of the Minister for Justice and Attorney General, and can sit as an alternate charge for a jury to consider whenever the prosecution proceeds with a charge of dangerous driving.

In paragraph 59 of the coroner's report, he went on to say—

Accordingly the Recommendation I make is:

a. That the issue of a new mid-range driving offence be referred to the Attorney General to consider changing the law to introduce a new mid-range driving offence between the existing Criminal Code s.328A Dangerous Driving offence, and the TORUM s.83 Driving without Due Care and Attention offence, and in that review to consider whether it is appropriate:-

i. to include a circumstance of aggravation for offending drivers—

At the end of the coroner's report, he went on to state—

... whether any recommended new mid-range offence, if any, should be legislated in the Criminal Code or the TORUM legislation.

I note the minister's comments in his earlier contribution.

The Heavy Vehicle National Law Act 2012 commenced on 10 February 2014 and provides a single national law for the consistent regulation of heavy vehicle operations across most of Australia. The act also established the National Heavy Vehicle Regulator, the NHVR, to administer the heavy vehicle national law contained in the schedule of the act. In relation to the heavy vehicle matters, the proposed amendments seek to make improvements to the heavy vehicle national law, including from an administrative point of view and regulatory point of view. It is also noted that the amendments were primarily jointly developed by the National Transport Commission, the NTC, and the National Heavy Vehicle Regulator in consultation with state and territory transport authorities.

The bill contains amendments to implement a key heavy vehicle policy initiative relating to extending positive executive officer due diligence obligations to all major safety related duties in the HVNL as endorsed by the Transport and Infrastructure Council. These amendments will: bring executive officer liability under the HVNL more in line with the officers' duty provisions under the model Work Health and Safety Act by focusing the obligation of executive officers on safety related matters; encourage a more proactive approach to addressing heavy vehicle safety risks; reduce regulatory complexity and compliance costs associated with having two different approaches to executive officer liability in the WHSA and the HVNL; limit the obligations on executive officers to those that have a direct safety link; cover all major safety duties in the HVNL; and not increase the range of parties covered or the scope of executive liability.

The bill also addresses several operational, minor or technical drafting issues that will improve roadside enforcement, reduce the compliance burden for industry and reduce the administrative burden for the NHVR, including: clarifying what is a minor risk breach in relation to vehicle ground clearance requirements; allowing operators to make certain documents available electronically; clarifying certain record-keeping requirements for drivers and their record keepers; clarifying information-sharing provisions; and providing that new penalties in the HVNL are indexed in the same manner as existing penalties.

Notwithstanding this, while the bill is worthy of support, it should be noted that the overall approach still being advocated represents a continuation along the existing and well-worn legislative path. In fact, its origins date back many decades. The heavy vehicle industry is part of a highly competitive environment and contends with the challenge of digital disruption every single day. This means that as legislators we too should fundamentally challenge the traditional approach and develop a new legislative framework to bring a more agile suite of laws to the table.

It has been estimated that Australia's freight task will grow by 26 per cent over the next decade. This being the case, it is vital that we not only build on the work being done to date, as contained in this particular bill, but also look to construct a new, low-cost regulatory pathway that takes advantage of the disrupters in the market and helps to deliver significant improvements in productivity for many years to come.

One of the recommendations made by the Transport and Public Works Committee relates to the importance of continual improvement in the regulatory environment for the heavy vehicle industry. The recommendation supports this issue being considered further by the minister in consultation with the Transport and Infrastructure Council. I am keen to place on the record today that not only do I support a review of the heavy vehicle national law being undertaken within 12 months, but I strongly urge that this review be undertaken by an independent expert—someone who brings a whole new perspective and a fresh way of thinking about the freight task, which is vital to this nation's future.

Furthermore, it is essential that the operating impediments—such as the decision-making process and time taken by agencies to approve, or otherwise deal with, permits for heavy vehicles—are examined and that innovative measures, such as GPS tracking models, be considered for future application. As legislators, we need to be cognisant of advances in technology and keep this in mind when introducing legislation to try to make it robust and flexible in this fast paced and changing world. The technology exists today. We just need a fresh approach to take full advantage of it.

The bill also includes a range of amendments related to how heavy vehicles will be registered in the future. Fortunately, the intended closure of the Federal Interstate Registration Scheme does not represent a major setback, as the heavy vehicle registration functions will still be maintained and administered by each state and territory.

Importantly, the amendments in the bill will establish a national heavy vehicle dataset and allow the NHVR immediate access to this information as required for enforcement purposes. The HVNL places certain obligations on drivers as well as off-road parties involved in the transport and logistics chain, known as CoR, and contains a range of enforcement powers. This is basically a positive due diligence obligation that is reflective of national workplace health and safety requirements. This bill contains amendments that extend the due diligence requirements to include non-chain of responsibility safety related offences for executive officers, thereby encouraging them to take the necessary steps to meet an organisation's safety obligations under the law.

I am sure a further measure contained in the bill will be welcomed by the industry. It will enable the Department of Transport and Main Roads to notify the registered operators of vehicles of offences that were committed in their vehicle by other persons. From a road safety point of view, this initiative will place both the parents and guardians of P-plates as well as employers and vehicle fleet operators in a much better position to influence driver behaviour for improved road safety outcomes.

As previously stated, I do not believe in opposing bills merely for the sake of opposing them. I support this bill and again acknowledge all families who have been touched by tragedy on our roads. I again acknowledge any members present in this chamber who, as part of the formulation of this bill before us today, have taken the time to reach out and meet with the families of those who have tragically been beset with the death of a loved one on the road. Although some might say this bill is dry in nature, some of it contains, I believe, amendments which will make our roads much safer for generations to come.

In closing, it would be remiss of me if I did not at least make some reference to the fact that even though this is the Heavy Vehicle National Law and Other Legislation Amendment Bill, we are unbelievably also looking at a waste reduction and recycling amendment which has been tacked onto this bill. If anything, this goes to the very fact that, whilst it might be noble for members in this august chamber to want to try to get real with family friendly hours—and there is certainly a thrust behind that that most people would actually support—at the end of the day, why do we actually come to this hallowed chamber? We are here as politicians to debate legislation. It behoves all of us to make sure, amongst everything, that we actually get real.

I thought that under normal consideration I would probably be speaking outside the long title of the bill. However, unbelievably, I am not because one of the amendments being tacked onto the Heavy Vehicle National Law and Other Legislation Amendment Bill is a waste reduction and recycling amendment, the objective of which is to amend the Waste Reduction and Recycling Amendment Act 2017 to defer the commencement date for the Container Refund Scheme from 1 July 2018 to 1 November 2018.

Normally one would think that if a member was on their feet talking about the Heavy Vehicle National Law and Other Legislation Amendment Bill the Speaker would stop them and say, 'Member, you are speaking outside the long title of the bill,' but I definitely am not. It was referred to by the minister—and it had to be because it is contained in one of his amendments. He must have received the phone call to say, 'Oops, sorry!'—I almost want to channel my inner Basil Fawlty—'We have actually mucked up the calendar. We have to get this one through. Someone has mucked up. Someone better go through those doors, go out there and say, "You know what, Minister Bailey? We have this little thing we have to add on as well. It is a little thing, but relax; it is very, very relevant to your heavy vehicle national law bill.'"

Ms Grace interjected.

Mr MINNIKIN: I hear the interjection from Minister Grace. Of all the people to try to interject here it is the minister who single-handedly holds the record for not reducing waste. The amount of paper that we have to stride through to fix up her mess on not one but two bills has been extraordinary.

Madam DEPUTY SPEAKER (Ms McMillan): Order! I ask the member to come back to the bill.

Mr MINNIKIN: With great relish, I will come back to the bill. The bill before me is the Heavy Vehicle National Law and Other Legislation Amendment Bill of 2018. I was merely making some comments in relation to the objectives of this amendment bill before I was distracted. It comes back at its very heart to the essence of time. When I studied at QUT literally a few hundred metres to my left as I am looking at you, Madam Deputy Speaker, time, quality and cost were part of Management 101. The leader of government business needs to do a much better job with time management. Why are we debating a waste reduction and recycling amendment? It is merely because they cannot get their time management together.

In the spirit of bipartisanship, I absolutely support the first part of the actual bill—in fact 95 per cent of the bill. I have to make the closing comment that the government needs to do a better job of getting on with the business and the management of proper government business in a timely and orderly manner.