




Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

Record of Proceedings, 2 April 2019

HEAVY VEHICLE NATIONAL LAW AMENDMENT BILL

Introduction

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (11.38 am): I present a bill for an act to amend the Heavy Vehicle National Law Act 2012 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 Amendment Bill 2019 [484](#).

Tabled paper: Heavy Vehicle National Law Amendment Bill 2019, explanatory notes [485](#).

I am pleased to introduce the Heavy Vehicle National Law Amendment Bill 2019. The bill amends the Heavy Vehicle National Law Act 2012. The Heavy Vehicle National Law provides a single national law for the consistent regulation of heavy vehicle operations across most of Australia. Operational provisions of the national law commenced on 10 February 2014. The national law regulates matters about the operation of heavy vehicles such as prescribing vehicle mass and dimensions, vehicle standards, and measures designed to safely manage driver fatigue. The national law also established the National Heavy Vehicle Regulator to administer the law.

Part 2 of the bill sets out the consequential amendments that are required to the national law following commencement of the Commonwealth's Road Vehicle Standards Act 2018, which replaces the Motor Vehicle Standards Act 1989. In Part 3 of the bill, amendments are proposed to the national law to make a range of policy and maintenance amendments that reflect changes to the regulator's functions. These changes will better manage access for high-performance vehicles, improve roadside enforcement and the uniform application of national policy and safety objectives across participating jurisdictions.

These proposed amendments were endorsed by the Transport and Infrastructure Council in November 2018 and March 2019 after being developed by the National Transport Commission and the regulator in consultation with state and territory transport authorities, enforcement agencies and heavy vehicle industry associations. The approach taken to implement national heavy vehicle reform is through adoption of national scheme legislation enacted first by Queensland as host jurisdiction and then applied by participating jurisdictions. All Australian states and territories, except for Western Australia and the Northern Territory, participate in the reform and have applied the national law as a law of their jurisdiction. While Western Australia and the Northern Territory are not participating jurisdictions, they were consulted during the amendment process.

Consequential amendments are required to the national law following assent of the Commonwealth's Road Vehicle Standards Act 2018, or RVSA, which replaces the Motor Vehicle Standards Act 1989. The RVSA was assented to on 10 December 2018 and will commence on 10 December 2019. The RVSA related amendments make changes to definitions and references to vehicle standards in the national law to ensure they correctly reference the new RVSA and continue to recognise older standards made under the Motor Vehicle Standards Act. Members may recall that new primary duties provisions in the national law commenced on 1 October last year.

Every party in the heavy vehicle transport supply chain now has a duty to ensure the safety of their transport activities. Current powers and functions of the regulator set out in the national law do not expressly provide for the giving of advice to duty holders, such as parties in the chain of responsibility.

This bill proposes to amend the regulator's functions under the national law to specify that the regulator and its authorised officers can give advice, information and education to a person about complying with their duty or an obligation under the national law. This amendment is modelled on existing workplace health and safety laws and will align the national law more closely with those laws.

Jurisdictions agreed to a range of policy measures to provide improved access for certain specified semitrailer combinations up to 4.6 metres high where mass is not a constraint. An amendment will extend the current 4.3 metre height limit for specified semitrailers to a 4.6 metre height limit, but only to combinations that meet certain criteria. This amendment will reduce the administrative burden for industry and road managers, as specified semitrailers will be able to operate on the road network at 4.6 metres in height without additional authorisation, such as a notice or individual permit.

An amendment to the national law is required to fully implement certain provisions of the Heavy Vehicle National Law Amendment Act 2018, which commenced on 1 October last year. That act allows greater access to the road network for category 1 performance based standards vehicles operating at general mass limits. The proposed amendments will harmonise penalty provisions to ensure that a PBS vehicle travelling 'off route'—that is, on a road without authorisation under the national law—is treated the same for enforcement purposes as other overmass or overdimension vehicles on that road, as they pose the same risks to infrastructure and safety.

A further set of amendments in the bill seeks to improve consistency between vehicle defect notices and self-clearing defect notices. Each jurisdiction uses their own regulator approved defect notice forms, but in most cases jurisdictions have combined requirements for vehicle defect notices and self-clearing notices into the one form. However, inconsistencies exist between the requirements for issuing these notices, which makes using a single form confusing. Amendments in the bill will ensure the same requirements must be addressed when issuing a vehicle defect notice or a self-clearing defect notice.

Another issue addressed by the amendments in this bill is that vehicle modifications approved in non-participating jurisdictions are not currently recognised under the national law. Under a proposed amendment, modifications approved by a non-participating jurisdiction that complies with the regulator's Code of Practice for the Approval of Heavy Vehicle Modifications will be deemed to have been approved under the national law. This will remove the need for an operator from Western Australia or the Northern Territory to have the modification reassessed and approved under the national law.

The national law currently requires a statement of reasons to be issued automatically by the regulator for access and vehicle standards exemption permits that are issued subject to conditions, or for a period less than that sought by the applicant. The proposed amendment will instead require the regulator to notify the applicant of their right to request a statement of reasons within 28 days, and if a request is made the regulator must provide the statement within 28 days. This reduces an unnecessary administrative burden on the regulator and industry as all permits are issued with at least one condition and, in general, the rationale for the permit condition is well understood. The regulator will still issue a statement of reasons where an access or vehicle standards exemption permit is refused. A related amendment will provide for applicants to request a statement of reasons up to 28 days from the date of the decision.

A range of minor or technical amendments that are administrative or machinery in nature will also be made to add clarity to the national law. I am confident that the proposed amendments to the national law will clarify existing requirements, improve consistency with national health and safety laws and further improve national laws and standards that apply to heavy vehicles. I commend the bill to the House.

First Reading

Hon. MC BAILEY (Miller—ALP) (Minister for Transport and Main Roads) (11.45 am): 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): In accordance with standing order 131, the bill is now referred to the Transport and Public Works Committee.