




Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

Record of Proceedings, 16 June 2021

**DEFAMATION (MODEL PROVISIONS) AND OTHER LEGISLATION
AMENDMENT BILL**

 **Hon. MC BAILEY** (Miller—ALP) (Minister for Transport and Main Roads) (2.29 pm): I thank the Attorney-General for giving me the opportunity to speak to matters in the bill that are related to my portfolio. I wish to acknowledge the Legal Affairs and Safety Committee for its careful consideration of the bill. I also extend my sincere thanks to the member for Toohey, as chair of the committee, and to all committee members and staff.

By way of background, operational provisions of the Heavy Vehicle National Law Act 2012 commenced on 10 February 2014. The act provides a single national law for the consistent regulation of heavy vehicle operations across most of Australia. The act also establishes the National Heavy Vehicle Regulator to administer the heavy vehicle national law, contained in a schedule to the act. Queensland, as the host jurisdiction, must first pass national law amendments before they can be applied nationally by other participating jurisdictions. I commend the National Transport Commission and national regulator for their management of the national law maintenance process as well as community and industry members for providing their valuable input during consideration of the national law amendments.

The bill is introducing amendments to repeal two uncommenced provisions of the Heavy Vehicle National Law and Other Legislation Amendment Act 2019. Sections 10 and 11 of that act are due to commence on 27 September 2021. These provisions amend sections 96 and 102 of the national law which deal with mass and dimension requirements. The amendments were intended to harmonise penalty provisions within the law to ensure that performance based standards, PBS, vehicles travelling on general access roads do not breach general mass or dimension limits. Although intended to create parity, it was determined that these amendments would result in unintended adverse and inconsistent enforcement for PBS vehicles found off route compared with other heavy vehicle classes.

The PBS scheme offers the heavy vehicle industry the potential to achieve higher productivity and safety outcomes through innovative vehicle design by focusing on how well the vehicle behaves on the road rather than prescriptive vehicle mass and dimension limits. This allows PBS vehicles on route to be loaded to exceed prescribed mass limits, sometimes by many tonnes. The effect of these amendments would be that a PBS vehicle detected operating off route on a road without authorisation under the national law and where not otherwise permitted would lose its PBS vehicle approved mass and dimension limits. The prescribed and lower mass and dimension limits under the national regulation for mass, dimension and loading would apply to the vehicle instead, as happens with other heavy vehicles.

Further, the off-route PBS vehicle would be in breach of prescribed mass limits, and their excess mass would put them into a more serious offence category when compared to other heavy vehicle classes. These offences attract higher penalties and require court attendance, instead of payment of an infringement notice penalty. These PBS vehicles would also be subjected to additional enforcement powers such as a direction to not move the vehicle until the breach has been rectified or to move it to a

safe location. As PBS vehicles pose the same risks to infrastructure as any non-PBS vehicle when travelling on roads not assessed and approved for their use, the same penalties for breach of general mass and dimension requirements should apply.

Due to the complexity of the access arrangements in the national law, it was determined there was insufficient time before sections 10 and 11 commenced to develop a nationally agreed policy and the necessary legislative amendments that would ensure that further unintended consequences were not created. The repeal of sections 10 and 11 is strongly supported by both industry and jurisdictions. It is agreed that, to prevent significant unfair and disproportionate consequences for heavy vehicle operators, the status quo should be retained until a suitable resolution is achieved. Given the heavy vehicle national law review is currently underway, it is more appropriate for these matters to be considered in a more fundamental and holistic way as part of this review. I look forward to continuing our engagement with industry as part of the review. I commend the bill to the House.