LEGISLATIVE RESEARCH SERVICE  
DEPARTMENT OF THE PARLIAMENTARY LIBRARY  

INTERSTATE ROAD TRANSPORT BILL 1985

Date introduced: 11 September 1985  
House: House of Representatives  
Presented by: Hon. Peter Morris, MHR, Minister for Transport

DIGEST OF BILL

Purpose

To introduce uniform schemes for the registration of vehicles and the licensing of operators engaged in interstate trade.

Background

The Commonwealth's power to regulate interstate trade stems from sub-section 51(i) of the Constitution (which allows the Commonwealth to make laws with respect to trade among the States) and sub-section 51(xx) (the power to make laws with respect to Australian corporations). However, both powers are subject to section 92 of the Constitution which requires that trade, commerce and intercourse among the States be 'absolutely free'. In a series of decisions, the High Court has ruled that this provision is not to be interpreted literally and that reasonable regulation of interstate trade will be allowed. For example, it was held in Armstrong v Victoria (No. 2)[1] that a charge based on the wear and tear caused to the highways could be imposed. Although the full extent of the Commonwealth's power in this area is uncertain, it is unlikely that uniform systems would succeed without the States' co-operation.

Regulation of the trucking industry began in the 1930s and was principally aimed at protecting the railways. The States had invested considerable sums in railway construction and saw the growing road transport industry as a threat to their income. Entry restriction controls were imposed separately by each State and this action led to the development of many differing standards and restrictions. However, after a series of High Court and Privy Council
decisions,[2] virtually all legislative control of the industry was withdrawn, and many operators entered the interstate trucking business.

From these beginnings, the industry has now grown to be one of the largest in Australia. However, the ease of entry into the industry has resulted in an oversupply of capacity and drivers. Of the various categories of operators, the owner-drivers have borne the brunt of this oversupply. Such operators have very little bargaining power and face intense price competition. These forces have resulted in very low returns to owner-drivers. One recent survey estimated their return to be $4.64 per hour in 1982-83.[3] The pressure on operators has increased in recent years as their return remained constant while prices increased. As an example, it has been calculated that of the total charge of $8.00 for contract users (or $41.55 for casual users) for the transport of a 10 kg parcel from Sydney to Melbourne the long distance owner driver will receive 63c. The majority of the return ($5.92 at contract rates or $39.47 at casual rates) goes to the freight forwarders.[4]

The requirements for driver licensing and truck registration vary considerably from State to State. Some States have stringent requirements for both driver qualifications and truck condition, and require periodic inspections. These States generally have higher registration and licensing charges. Other States have low or nominal charges and do not require inspection before registration. In an industry where operators are trying to save costs, this procedure has led to a concentration of registrations and licensing in those States where charges are lowest and inspections are not required.

The lack of uniformity is not the only matter causing concern. With all States now operating a penalty points system for traffic infringements it is common practice for drivers to carry two or more licences in order to avoid accumulating sufficient points on the one licence which could lead to a suspension of the licence. The lack of a national co-ordination system makes it very difficult, if not impossible, to detect these drivers.

These and other problems led the Government to establish the National Road Freight Industry Inquiry, chaired by Mr Thomas May. The Inquiry examined the industry and delivered its report in September 1984. The general thrust of the report was endorsed by the Australian
Transport Advisory Council which comprises Federal, State and Territory Ministers responsible for transport. This Bill implements some of the recommendations of the Inquiry.

Outline

The Bill will require all vehicles carrying goods or passengers between States or Territories for the purpose of trade to be registered either under a State law or under this Bill. State registration will not satisfy this requirement if it is at a nominal rate or solely for intrastate use. The Bill will require Registration Authorities to register vehicles for the purpose of this Bill if the vehicle meets the criteria set by regulation and the prescribed charge is paid. The Bill also establishes the Interstate Road Transport Trust Fund and provides for the licensing of operators engaged in interstate trade.

The Bill is comprised of a number of separate parts, the more important ones being:

Part II which will require the registration of vehicles used in interstate trade.

Parts III and IV which provide for the collection of an interstate road transport charge and establish a trust fund for such money.

Part V which will require all operators in the trade to be licensed.

Main Provisions

In the interpretation clause (clause 3) "long distance interstate fleet operator" is defined to include those who carry on business involving the carriage of goods or people between places more than 100 km apart other than as carriers of the goods. This group will include the freight forwarders. The actual carriers of the goods or people (i.e. the drivers) are included in the definition of "long distance interstate haulage contractors". The clause also defines 'motor vehicle' as any vehicle powered by other than humans or animals.

Clause 6 allows for the making of agreements with the States (which are defined to include the Northern Territory) for the furtherance of the Bill.
Part II - Registration of Interstate Motor Vehicles

Under this Part, vehicles used to carry goods or passengers between prescribed places (i.e. between States or Territories - clause 4) for the purpose of trade will be required to be registered either under this Bill or a State law. State registration as an interstate vehicle (i.e. one that cannot engage in intrastate trade in that State) or at a discount rate will not satisfy this condition (clause 8). As well, to be effective, the registration must be for a maximum of 12 months and require inspection and insurance (clause 9). Clause 9 will also require Registration Authorities (see clause 7) to register motor vehicles if they satisfy the regulations and the prescribed fee is paid. It will be an offence to drive an unsafe, dangerous or an inappropriately uninsured vehicle (clause 10). As well, the registration of an unsafe or sub-standard vehicle may be cancelled or suspended (clause 11).

Parts III and IV - Collection of Charge and Establishment of the Interstate Road Transport Trust Fund

By clause 14 the owner of a vehicle registered under this Bill be required to pay a charge in respect of its registration. The charge will be based on the 'distance amount' which is to be calculated by reference to the distance travelled and other aspects of the vehicle (e.g. its weight) that relate to the damage the vehicle will cause to the roads. There are to be two methods for payment of the charge. If an approved monitoring device is fitted, the charge is payable at the end of the registration year on the actual distance covered. If such a device is not fitted an amount calculated by reference to the 'imputed distance amount' (i.e. the distance amount set by regulation). This sum is payable in advance. In both cases refunds are available for the distance travelled in intrastate trade so long as written records are kept (also see the digest for the Interstate Road Transport Charge Bill 1985 (No. 85/168). An amount equivalent to the charge will be appropriated from the Consolidated Revenue Fund and paid into the Interstate Road Transport Trust Fund which is to be established by clause 21. Monies from the Fund are payable to the States and the ACT for road maintenance (clause 23).

Part V - Licensing of Interstate Road Transport Operators

Under this Part, interstate operators (see the definition above) will be required to be licensed (clause 25). On application to a court by a Licensing Authority, a
person may be disqualified from holding a licence for a contravention, or attempted contravention of the relevant safety provisions, or if it is in the interests of public safety to do so (clause 27). Relevant safety provisions are defined to include State or Territory laws on road safety standards (clause 24).

Part VI deals with monitoring devices which record speed, time travelled without a break etc. Regulations may require vehicles used in interstate trade to be fitted with such a device (clause 37); may specify how the device is to be fitted (clause 38); and may require that such devices be properly maintained (clause 39). It will be an offence to damage or alter the recordings of such a device (clause 41).

The most important provisions in the Miscellaneous Part (Part VII) will allow vehicles to be stopped and searched when there are reasonable grounds to believe the vehicle contravenes this Bill or federal safety standards (clause 44); require persons to give information or produce records (clause 45); and require the regulatory authorities to conform to Ministerial directions (clause 48).

For further information, if required, contact the Economics and Commerce Group.
References

2. See Hughes and Vale Pty Ltd v New South Wales (No. 1) (1954) 93 CLR 1 and Hughes and Vale Pty Ltd v New South Wales (No. 2) 93 CLR 127.
4. Ibid., p.21.