

1991

THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA

HOUSE OF REPRESENTATIVES

INTERSTATE ROAD TRANSPORT AMENDMENT BILL 1991

INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL 1991

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister
for Transport and Communications,
the Hon. Kim Beazley, MP)



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INTERSTATE ROAD TRANSPORT AMENDMENT BILL
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INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT
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Outline

The purpose of these Bills is to amend the *Interstate Road Transport Act 1985* and the *Interstate Road Transport Charge Act 1985*.

2. These Acts provide the legislative framework for the Federal Interstate Registration Scheme (FIRS) for vehicles solely engaged in interstate trade and commerce. The collection of registration charges from these vehicles helps to recover the cost of road wear caused by their operation. Registration charges are paid into the Interstate Road Transport Trust Fund and are distributed to the States and Territories for the maintenance and upkeep of roads used by Federally registered vehicles.

3. The amendments to the Interstate Road Transport Act provide for the registration and regulation of prime movers which are to be used as part of a B-double combination under FIRS. The amendments further provide for the regulation of FIRS and State registered trailers when operating as part of a Federal B-double combination. Operation of a B-double under FIRS will obviate the need to obtain State permits.

4. The amendments provide a head of power to make regulations covering roadworthiness, designation of routes and technical requirements.

5. The amendments also provide penalties for various offences, including that of overloading a B-double.

6. The amendments to the Interstate Road Transport Charge Act remove the provisions which permit only road maintenance costs to be taken into account in determining registration charges, and limit registration charges which can be imposed on vehicles registered under FIRS.

7. The amendments enable the determination of FIRS registration charges on the basis of full cost recovery taking into account construction and maintenance costs.

Financial Impact

8. The net budgetary impact of these amendments will be nil. All registration charges will be paid into the Interstate Road Transport Trust Fund and will continue to be fully distributed to the States and Territories.

9. All administrative costs incurred by the State and Territory authorities administering the scheme are met through the levying of fees. No additional staffing requirements or administration will arise for the Federal Department of Transport and Communications.

INTERSTATE ROAD TRANSPORT AMENDMENT BILL
1991

Clause 1 - Short title etc

1. This is the formal clause providing for the citation of the proposed Act, and defining "Principal Act" for the purposes of the proposed Act.

Clause 2 - Commencement

2. All provisions in the proposed Act will come into force on a date to be proclaimed; or, if not proclaimed within six months after receiving the Royal Assent, on the first day after the end of six months from the date of Royal Assent.

Clause 3 - Interpretation

3. This clause will amend Section 3 of the Principal Act to include a definition of a "federal route". The actual manner of defining a federal route will be by means of a determination under proposed new section 43A (see clause 7 of the Bill).

Clause 4 - B-doubles

4. This clause will insert a new Section 3A defining a B-double. For the purposes of the Bill and the proposed Act, a B-double will consist of a prime mover registered under FIRS, towing two trailers which could be registered either under FIRS or the law of a State or Territory. The prime mover must be connected to the leading trailer, and the leading trailer to the second trailer, by turntables.

Clause 5 - Insertion of new sections regarding regulation of the operation of B-doubles

5. Clause 5 provides for the inclusion of new sections 12B, 12C and 12D.

New section 12B will enable regulations to be made to make provision for the operation of B-doubles, including mass limits, designated routes, dimension limits, in service requirements and requiring B-doubles to be weighed, or unloaded for the purpose of weighing.

6. The reference to "prescribed places" is defined in the Principal Act to mean pairs of places:

- (1) of which one is in one State and the other in another State;
- (2) of which one is in a State and the other in a Territory;
or

(3) of which one is in one Territory and the other in another Territory.

7. Proposed new section 12C will have the effect of making it lawful to operate a B-double on a federal route in spite of any law of a State or Territory to the contrary, so long as the B-double is operated in accordance with the Principal Act and the regulations.

8. New section 12D will create two offences:--

firstly, of operating a B-double if the loaded mass of the B-double, or of any part of it, exceeds the maximum set by regulations made under the Principal Act as amended; and

secondly, of failing to comply with regulations requiring B-doubles to be weighed or unloaded to reduce their laden mass to the limit permitted by regulations.

The maximum fine for each of these offences is set at \$4,000.

9. Subsection 4B(3) of the *Crimes Act 1914* sets out a presumption that where a fine is specified in Commonwealth legislation as a penalty, the fine is to be taken as being applicable to an offender who is an individual, and that the fine for a body corporate is five times that for a natural person.

Clause 6 - Regulations may make further provision with respect to registered motor vehicles

10. This clause amends Section 13 of the Principal Act by excluding B-doubles from paragraph 1(aa). Paragraph 13(1)(aa) of the Principal Act presently permits mass limits for vehicles to be prescribed by regulation. Mass limits for B-doubles will be prescribed under new paragraph 12B(2)(a).

Clause 7 - Determination of federal routes for B-doubles

11. Clause 7 inserts proposed section 43A, which will enable the Minister to determine that certain roads are to be federal routes, on which the operation of B-doubles will be permitted. The Minister may also determine operating conditions to apply to those routes, if appropriate. Notice of such a determination must be published in the Gazette.

Clause 8 - Effect of this Act and regulations on State and Territory laws

12. Section 52 of the Principal Act presently provides that the Principal Act (except for section 12A) does not exclude the law of the States and Territories other than in respect of matters relating to vehicle registrations or requirements that are

directly inconsistent with requirements prescribed for the purposes of sections 13, 37 and 39. This clause will amend present section 52 by including the operation of a Federal B-double as an area where the Act applies to the exclusion of the law of a State or Territory.

Clause 9 - Regulations

13. Clause 9 will amend Section 56 of the Principal Act by including provision for penalties for offences against regulations relating to B-Doubles. Paragraph 56(2)(da) presently provides for penalties to be imposed by way of infringement notice as an alternative to prosecution. This clause will increase the penalty which can be imposed by an infringement notice for overloading to \$400 in the case of a natural person (or \$3,000 for a body corporate). It will increase the limit for penalties which can be imposed under the regulations for offences against other regulations (other than overloading offences) from \$500 to \$1000.

14. The reference in paragraph 9(d) of the Bill (repealing the present paragraph 56(2)(e) of the Principal Act and inserting a new paragraph 56(2)(e)) to "offences referred to in paragraph (d)" is intended to ensure that overloading offences created by the regulations remain subject to a maximum penalty of \$3,000 as at present, rather than the maximum of \$1,000 now to be set for all other offences created by the regulations. Overloading offences in respect of B-doubles will be set under new section 12D, as mentioned in the note on clause 5 of the Bill, above.

INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT
BILL 1991

Clause 1 - Short title etc

1. This is the formal clause providing for the citation of the proposed Act and the Principal Act.

Clause 2 - Commencement

2. All provisions in the proposed Act will come into force on a date to be proclaimed; or if not proclaimed within six months after receiving the Royal Assent, on the first day after the end of six months from the date of Royal Assent.

Clause 3 - Amount of charge

3. This clause amends section 5 of the Principal Act by deleting subsections (3), (4), (4A) and (5). These subsections at present limit the factors which can be taken into account by the Governor-General in Council in determining charges, and place a limit on the maximum level of charges for vehicles and trailers. The purpose of the amendment is to permit the costs of road construction to be taken into account in determining levels of charges.

Clause 4 - Repeal of present section 6

4. This clause will repeal section 6 of the Principal Act. Present section 6 relates to indexation of the amounts specified in present subsections 5(4) and 5(5), and will thus have no application after these subsections are repealed.