

# ***ROAD TRAFFIC AMENDMENT BILL 2001***

## **EXPLANATORY MEMORANDUM**

This Bill contains amendments to the *Road Traffic Act 1974* that will facilitate the adoption of national heavy and light vehicle standards and heavy vehicle operating standards in Western Australia.

The proposed standards are to be promulgated in regulation and will replace existing vehicle standards regulations. Their adoption in Western Australia will secure essentially uniform vehicle and heavy vehicle operating standards nationally, providing ease of compliance for vehicles operated across State and Territory borders.

### **CLAUSE 1**

#### **Short title**

This clause provides the formal title of this Bill.

### **CLAUSE 2**

#### **Commencement**

The amendments contained in this Bill will commence on a date to be proclaimed in the *Government Gazette*.

### **CLAUSE 3**

#### **The Act amended**

The clauses contained in this Bill will amend the *Road Traffic Act 1974*.

### **CLAUSE 4**

#### **Section 5 amended**

This amendment is necessary as a result of clause 5, which provides for the insertion of new section 103A into the *Road Traffic Act 1974*.

At present, regulations made under the *Road Traffic Act 1974* apply only to vehicles used on Western Australian “roads” as defined in the Act. The Act currently defines a “road” as “any highway, road or street open to, or used by, the public”.

Clause 5 provides for the insertion of proposed section 103A in the Act. The proposed section will enable the Minister, if necessary for reasons of public safety and/or the regulation of traffic, to specify that certain regulations apply to an area or areas in Western Australia other than “roads”. For example, it may be necessary to provide that

the regulations apply to a road on private property such as a mine site or private port or to an area in which a special event involving vehicles is to be held.

Clause 4 therefore provides that the definition of “road” contained in the Act will also include any other area which the Minister has ordered pursuant to section 103A to be an area to which the regulations apply.

## **CLAUSE 5**

### **Section 103A and 103B inserted**

At present, regulations made under the *Road Traffic Act 1974* apply only to vehicles used on Western Australian “roads” as defined in the Act. The Act currently defines a “road” as “any highway, road or street open to, or used by, the public”.

The proposed section 103A will enable the Minister, if necessary for reasons of public safety and/or the regulation of traffic, to specify that certain regulations apply to an area or areas in Western Australia other than “roads”. For example, it may be necessary to provide that the regulations apply to a road on private property such as a mine site or private port or to an area in which a special event involving vehicles is to be held.

A declaration will take effect immediately it is signed by the Minister and published in the *Government Gazette*, as required under section 41 of the *Interpretation Act 1984* (WA), enabling prompt action to secure the safety of road users and the public generally. Declarations will be subject to Parliamentary scrutiny and disallowance as provided by section 42 of the *Interpretation Act 1984*.

An exemption contemplated by the proposed section 103B may be required because, owing to the nature or special usage of a vehicle, compliance with the proposed vehicle standards regulations may not be possible or may be inappropriate.

Although some vehicles, such as those operated for or by government departments or municipalities for the purposes of road maintenance or construction, will be exempt from the requirement to comply with the proposed vehicle standards regulations, the need to exempt other vehicles or persons undertaking a particular occupation may arise.

A declaration will take effect immediately it is signed by the Minister and published in the *Government Gazette*, as required under section 41 of the *Interpretation Act 1984* (WA). This mechanism will enable exemptions to be granted promptly, as appropriate, however declarations will be subject to Parliamentary scrutiny and disallowance as provided by section 42 of the *Interpretation Act 1984*.

## **CLAUSE 6**

### **Section 111 amended**

Section 111 of the *Road Traffic Act 1974* provides its regulation-making powers. Existing subregulation 111(2)(d) empowers the making of regulations relating to vehicle standards.

The proposed replacement subsection 111(2)(d) will remove any doubt as to the scope of those regulation-making powers including all matters necessary for prescribing appropriate standards for vehicle design, construction, maintenance, loading and noise and exhaust emissions.

The proposed subsection 111(2)(daa) mirrors a similar power provided in section 49A(1) of the *Acts Interpretation Act 1901* (Cth) which is not contained in the *Interpretation Act 1984* (WA). It will enable regulations made under the *Road Traffic Act 1974* to apply, adopt or incorporate other relevant technical or administrative documents by reference, rather than requiring them to be reproduced in full in the text of the regulations.

For example, it is intended that the new vehicle standards and heavy vehicle operating standards regulations will refer to, and apply in Western Australia, standards contained in the *Load Restraint Guide*. This *Guide* was developed by the Federal Office of Road Safety in consultation with Transport agencies in all jurisdictions, relevant community and industry stakeholder groups and other affected State, Territory and Federal Government agencies.

## **CLAUSE 7**

### **Section 111A inserted**

The Australian Design Rules (“ADRs”) prescribe standards for the design and construction of vehicles. Like the existing vehicle standards regulations, the proposed vehicle standards regulations will require vehicles to continue to comply with the ADRs which applied to their construction, while those vehicles are registered for use and being used on Western Australian roads. The existing vehicle standards regulations provide for the adoption of the ADRs by reference, rather than requiring them to be reproduced in full in the text of the new regulations. This approach will be maintained in the proposed vehicle standards regulations, however with one significant improvement in respect of which proposed subsection 111A(2) refers.

Proposed subsection 111A(2) will enable the adoption of the ADRs “as in force from time to time”, so that amendments to existing ADRs and new ADRs will flow on without any delay and without amendment to the new regulations being required. This will ensure genuine inter-jurisdictional uniformity of vehicle standards legislation is maintained, which is the chief purpose of the proposed vehicle standards regulations. At present, owing to minor jurisdictional differences in vehicle standards, a vehicle which is compliant in Western Australia may become technically non-compliant when it crosses a State or Territory border.

No requirement will be imposed upon any vehicle, with which that vehicle does not already have to comply. Vehicles must meet relevant ADR standards at the time of their manufacture or importation, and will merely be required to maintain the ADR standards which applied to them at the time of that manufacture or importation.