

TRANSPORT AMENDMENT BILL

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

THIS bill was formerly part of the Land Transport Law Reform Bill (No. 2) as reported from the Transport Committee. The committee of the whole House has divided the bill as follows:

- The Transport (Vehicle and Driver Registration and Licensing) Amendment Bill, comprising Part I
 - This bill, comprising Part II
 - The Land Transport Amendment Bill, comprising Part III
 - The Transport Services Licensing Amendment Bill, comprising Part IV
 - The Transit New Zealand Amendment Bill, comprising Part V
 - The Road User Charges Amendment Bill, comprising Part VI
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KEY TO SYMBOLS USED IN REPRINTED BILL

AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

((Subject to this Act,))

Words struck out

Subject to this Act,

Words inserted

Hon. Jenny Shipley

TRANSPORT AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Transport Act 1962

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the **Transport Amendment Act 1997**, and is part of the Transport Act 1962 ("the principal Act").

(2) Except as provided in **subsection (3)**, this Act comes into force on the day on which it receives the Royal assent.

10 (3) The provisions of **sections 14 (3), 15, 16, 17 (1), 22, 23, and 25** come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be appointed for different provisions.

14. Interpretation—(1) Section 2 (1) of the principal Act is *((hereby))* amended by inserting, after the definition of the term “Commissioner”, the following definition:

“‘Controlling authority’, in relation to any road, means the authority, body, or person having control of the road, whether under Part IV of the Transit New Zealand Act 1989 or Part XXI of the Local Government Act 1974 or under any other enactment or rule of law; and includes any person acting under and within the terms of any delegation or authorisation given by a controlling authority.”

(2) Section 2 (1) of the principal Act is *((hereby))* amended by inserting, after the definition of the term “farmer”, the following definition:

“‘Fire brigade’ includes a volunteer fire brigade, a defence fire brigade, and an industrial fire brigade (as those terms are defined in section 2 of the Fire Service Act 1975), and also includes an airport fire brigade.”

(3) Section 2 (1) of the principal Act is *((hereby))* amended by repealing the definition of the term “speeding offence”, and substituting the following definition:

“‘Speeding offence’ means an offence which consists solely of exceeding any limit of speed fixed by or under—

“(a) This Act or any regulations made under this Act; or

“(b) Any bylaw made under section 72 of this Act; or

“(c) Any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993.”

15. Owner liability for stationary vehicle offences—

(1) Section 41A (1) of the principal Act (as inserted by section 8 of the Transport Amendment Act (No. 3) 1992) is *((hereby))* amended by repealing subparagraphs (i) to (iv) of paragraph (b) of the definition of the term “stationary vehicle offence”.

(2) Section 41A (1) of the principal Act (as so inserted) is *((hereby))* amended by adding to the definition of the term “stationary vehicle offence” the following paragraph:

“(c) Any offence against any regulations made under this Act or the Transport (Vehicle and Driver Registration and Licensing) Act 1986 that is declared by such regulations to be a stationary vehicle offence for the purposes of this definition.”

16. New sections substituted—(1) The principal Act is ~~((hereby))~~ amended by repealing sections 52 and 52A (as inserted by section 9(1) of the Transport Amendment Act 1989), and substituting the following sections:

5 “52. **Speed limits**—Subject to section 53 of this Act, no person may drive any motor vehicle at a speed exceeding that fixed for the relevant circumstances and locality—

10 “(a) By a controlling authority in accordance with any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993; or

“(b) By the Director under any such rule; or

“(c) By a Minister of the Crown by bylaw made under section 72(1)(j) of this Act; or

15 “(d) By or under any provision of this Act (including **section 52A**) or any other Act or any rule or regulation relating to temporary speed limits.

20 “52A. **Saving of existing speed limits**—(1) All speed limits fixed by any Act, regulation, bylaw, or notice in the *Gazette* before the date on which **section 16 of the Land Transport Law Reform Act (No. 2) 1995** comes into force continue to have effect in relation to any road or locality to which they applied before that date until superseded in respect of that road or locality by a speed limit fixed on or after that date by—

25 “(a) A controlling authority in accordance with any ordinary rule or emergency rule made under Part II of the Land Transport Act 1993; or

“(b) The Director under any such rule; or

“(c) A Minister of the Crown by bylaw made under section 72(1)(j) of this Act.”

30 (2) Section 9(1) of the Transport Amendment Act 1989 is hereby consequentially repealed.

17. Exemption from speed limits of Police, traffic officers, and ambulance and fire brigade drivers—

35 (1) Section 53 of the principal Act is ~~((hereby))~~ amended by inserting, before the word “bylaw”, the words “rule or”.

(2) Section 53 of the principal Act is ~~((hereby))~~ amended by inserting in paragraph (c), after the word ~~((“fire”))~~ “fires”, the words “or other emergencies”.

18. Definition of “hazardous substance”, etc.—

40 (1) Section 70E(1) of the principal Act is ~~((hereby))~~ amended by omitting the expression “sections 70F to 70H”, and substituting the expression “sections 70f to 70k”.

(2) Section 70E (1) of the principal Act is ~~((hereby))~~ amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Hazardous substance enforcement officer’, or ‘enforcement officer’, means a person appointed by warrant under **section 70K**: 5

New (Unanimous)

“ ‘Operator’ has the same meaning as in section 2 of this Act, but also includes—

“(a) Any rail service operator (as defined in section 2 of the Transport Services Licensing Act 1989): Any driver of a rail service vehicle: 10

“ ‘Premises’ includes any vehicle, carriage, box, or receptacle, but does not include a dwelling or any Maori reservation constituted by or under the Maori Affairs Act 1953 or Part XVII of Te Ture Whenua Maori Act 1993: 15

“ ‘Rail service operator’ has the same meaning as in section 2 (1) of the Transport Services Licensing Act 1989.” 20

19. Drivers to have licence with hazardous substance endorsement—Section 70H of the principal Act (as inserted by section 16 (1) of the Transport Amendment Act 1989) is ~~((hereby))~~ amended by inserting, after subsection (2), the following subsections: 25

Struck Out (Unanimous)

“(2A) Where a person is convicted of the offence specified in subsection (1) of this section,

New (Unanimous)

“(2A) Where a person—

“(a) Is convicted of the offence specified in subsection (1); or
“(b) Is convicted, in that person’s capacity as driver of the relevant vehicle, of an offence against section 70F (2),— 30

the Court may, whether or not it imposes any other penalty or makes any other order in respect of the offence, order that person to attend and complete a hazardous substances course approved by the Director under section 48 (2) (e) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986 within such time and on such conditions as may be specified in the order.

“(2B) A person who attends a hazardous substances course pursuant to an order under **subsection (2A)** of this section is liable to pay the same fees as the person would pay if he or she attended and completed the course otherwise than pursuant to the order.”

New (Unanimous)

19A. Power to stop road vehicles for breach of hazardous substances provision—(1) Section 70I (1) of the principal Act (as inserted by section 33 of the Transport Amendment Act (No. 3) 1992) is *((hereby))* amended by inserting, after the words “traffic officer is satisfied that”, the words “there is no breach or that”.

(2) Section 70I of the principal Act (as so inserted) is *((hereby))* amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of subsection (1), a constable or traffic officer may—

“(a) Take samples of any substance; and

“(b) Open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

“(c) Take measurements and sketches; and

“(d) Inspect any documents or other records relating to the obligations imposed under sections 70F to 70H; and

“(e) Require the production of any documents relevant to the purpose of the inspection.”

(3) Section 70I of the principal Act (as so inserted) is *((hereby))* amended by adding the following subsection:

“(3) Nothing in this section applies to any rail service vehicle or the driver of a rail service vehicle.”

20. New sections inserted—The principal Act is *((hereby))* amended by inserting, after section 70I (as inserted by section 33 of the Transport Amendment Act (No. 3) 1992), the following sections:

“70IA. **Power to inspect rail service vehicles**—(1) Any hazardous substance enforcement officer may at any reasonable time go on, into, under, and over any premises (*except a dwelling*) for the purpose of inspection to determine whether or not the requirements of sections 70F (*and 70G*) to 70H are being complied with in relation to any rail service vehicle or any railway line. 5

“(2) For the purposes of **subsection (1)** of this section, an enforcement officer (or any person assisting the enforcement officer) may— 10

“(a) Take samples of any substance; and

“(b) Open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

Struck Out (Unanimous) 15

“(c) Inspect any documents or other records relating to the obligations imposed under this Act.

New (Unanimous)

“(c) Take measurements and sketches; and

“(d) Inspect any documents or other records relating to the obligations imposed under sections 70F to 70H; and 20

“(e) Require the production of any documents relevant to the purpose of the inspection.

“(3) Where a hazardous substance enforcement officer has good cause to suspect that, in respect of any rail service vehicle or the driver of any rail service vehicle, there has been a breach of section 70F, the enforcement officer may, by direction given to the driver or person in charge of the vehicle, direct that— 25

“(a) The vehicle not be moved; or 30

“(b) The vehicle be moved to a place of safety approved by the enforcement officer in consultation with the rail service operator and kept stopped at that place— until the enforcement officer is satisfied that the breach has been rectified. 35

“(4) Nothing in **subsection (3)** authorises an enforcement officer to (*stop a train in motion.*)—

New (Unanimous)

5 “(a) Stop a train in motion; or
 “(b) Direct that a vehicle not be moved if it would be unsafe
 or unnecessarily disruptive for the vehicle to remain
 in that place.

 “(5) Every person commits an offence and is liable on
conviction to a fine not exceeding \$5,000 who—

10 “(a) Without reasonable excuse, obstructs an enforcement
 officer in the exercise of the officer’s powers under
 subsection (2); or

 “(b) Fails to comply with or does any act in breach of a
 direction given by an enforcement officer under
 section (3); or

15 “(c) Whether or not he or she is a person to whom the
 direction is given, knowingly moves any rail service
 vehicle in breach of any direction given under
 subsection (3).

20 “(6) Every enforcement officer exercising any of the powers
 conferred under this section shall, at the time of exercising that
 power, and thereafter on request, produce—

 “(a) Evidence of that person’s appointment as an
 enforcement officer; and

 “(b) Evidence of that person’s identity.

25 “(7) An enforcement officer may, if specifically authorised to
 do so by the Director or the Commissioner, take any person
 onto the premises to assist the officer with the inspection.

 “(8) Nothing in this section limits or affects the privilege
 against self incrimination.

New (Unanimous)

30 “70IB. **Power to inspect premises used for loading—**

 (1) Any hazardous substance enforcement officer may, at any
reasonable time, go into, under, and over—

35 “(a) Any premises on or at or in which the operator of a
 transport service vehicle loads or unloads the
 vehicle; or

 “(b) Any premises on or at or in which goods are loaded
 onto or unloaded from a transport service vehicle,
 or are packed with a view to being loaded onto a
 transport service vehicle, by a person other than the

New (Unanimous)

- operator of the vehicle, if the enforcement officer has reason to believe that any of those goods may be a hazardous substance—
- for the purpose of inspection to ensure that all persons involved in the transport of hazardous substances comply with the requirements of sections 70F to 70H and otherwise to ensure the safe transportation of hazardous substances. 5
- “(2) For the purposes of **subsection (1)**, an enforcement officer (or any person assisting an enforcement officer) may— 10
- “(a) Take samples of any substance; and
- “(b) Open containers or packages (including secured or sealed containers or packages) to inspect the contents; and
- “(c) Take measurements and sketches; and 15
- “(d) Inspect any documents or other records relating to the obligations imposed under sections 70F to 70H; and
- “(e) Require the production of any documents or information relevant to the purpose of the inspection; and 20
- “(f) Take copies of the documents or information or extracts from those documents or information.
- “(3) The enforcement officer may give such reasonable directions as are necessary in relation to the loading or unloading of any vehicle or the packing or unpacking of any thing to ensure compliance with sections 70F to 70H or otherwise to ensure safety in relation to the transportation of hazardous substances. 25
- “(4) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who— 30
- “(a) Without reasonable excuse, obstructs an enforcement officer in the exercise of the officer’s powers under **subsection (2)**; or
- “(b) Fails to comply with or does any act in breach of a direction given by an enforcement officer under **subsection (3)**. 35
- “(5) Every enforcement officer exercising any of the powers conferred under this section must, at the time of exercising that power, and thereafter on request, produce—
- “(a) Evidence of that person’s appointment as an enforcement officer; and 40
- “(b) Evidence of that person’s identity.

New (Unanimous)

“(6) An enforcement officer may, if specifically authorised to do so by the Director or the Commissioner, take any person onto the premises to assist the officer with the inspection.

5 “(7) Nothing in this section limits or affects the privilege against self incrimination.”

21. Director and Commissioner of Police may appoint hazardous substance enforcement officers—The principal Act is ~~((hereby))~~ amended by inserting, after section 70J (as inserted by section 33 of the Transport Amendment Act (No. 3) 1992), the following section:

10 “70K. (1) The Director may, by warrant, appoint any person as an enforcement officer to enforce the requirements of sections 70F ~~(and 70G)~~ to 70H in respect of ~~(any rail service vehicle or any railway line.)~~—

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New (Unanimous)

“(a) Any rail service vehicle or any railway line:

“(b) Any premises referred to in **section 70B (1)** where goods are loaded or unloaded or packed.

20 “(2) The Commissioner of Police may, by warrant, appoint any person as an enforcement officer to enforce the requirements of sections 70F ~~(and 70G)~~ to 70H in respect of ~~(any rail service vehicle or any railway line.)~~—

New (Unanimous)

25 “(a) Any rail service vehicle or any railway line:

“(b) Any premises referred to in **section 70B (1)** where goods are loaded or unloaded or packed.

30 “(3) There may be appointed under this section only such persons as, in the opinion of the Director or the Commissioner (as the case may be), are qualified by knowledge or experience to undertake enforcement of the functions specified in the warrant of appointment.

35 “(4) Each enforcement officer is to be supplied by the Director or the Commissioner with a warrant which specifies the functions that the officer is required to undertake.

“(5) The Director or the Commissioner (as the case may be) may at any time revoke a warrant appointing a person as an enforcement officer.”

22. Bylaws as to use of roads—Section 72 (1) (j) of the principal Act is *((hereby))* amended by omitting the word “Fixing”, and substituting the words “In the case of Ministers of the Crown only, fixing”. 5

23. Regulations—Section 77 (1) (p) of the principal Act (as substituted by section 18 of the Transport Amendment Act 1966) is *((hereby))* amended by repealing subparagraphs (i) and (ii) (as inserted by section 26 (4) of the Transport Amendment Act 1987). 10

24. Schedules referring to offences may be amended by Order in Council—The principal Act is *((hereby))* amended by inserting, after section 199B, the following section: 15

“199C. (1) The Governor-General may from time to time, by Order in Council, amend the Second Schedule and Schedule 2A—

“(a) By omitting any reference to a regulation or bylaw that has been revoked, and, if appropriate, substituting a reference to the corresponding new regulation or bylaw: 20

“(b) By amending any reference to a regulation or bylaw for the purpose of updating that reference:

Struck Out (Unanimous) 25

“(c) By adding any reference to a new regulation or bylaw:

“(d) By omitting any Part of either of those Schedules that relates only to regulations or bylaws, and substituting a new Part or Parts:

“(e) By omitting the whole of either of those Schedules, or both, and substituting a new Schedule or Schedules, but only to the extent that any substantive differences between the new and former Schedules relate only to regulations or bylaws.” 30

New (Unanimous)

“(c) Subject to **subsection (2)**, by adding any new item that relates to a regulation or bylaw.
“(2) The amount of the infringement fee in respect of an
5 **subsection (1)** may not exceed 50 percent of the maximum fine to which a person is liable if convicted of the offence.
“(3) Any order made under **subsection (1)** may—
10 “(a) Omit any Part of the relevant Schedule that relates only to regulations or bylaws (or both) and substitute a new Part or Parts; or
“(b) Omit the whole of the relevant Schedule and substitute a new Schedule—
15 provided that any substantive differences between the new and former Parts or Schedules relate only to regulations or bylaws (or both) and are authorised by **subsections (1) and (2)**.”

Amendment to Public Works Act 1981

20 **25. Amendment to Public Works Act 1981**—Section 243 (1) of the Public Works Act 1981 is **((hereby))** amended by repealing paragraphs (a) and (c).