

[AS REPORTED FROM THE ROAD SAFETY COMMITTEE]

*House of Representatives, 3 July 1985.*

**Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.**

*Hon. Richard Prebble*

## TRANSPORT AMENDMENT (NO. 4)

### ANALYSIS

Title	70. Strict liability for offences involving insecure loads and loads falling from heavy vehicles
1. Short Title and commencement	70A. Traffic officer to order stopping of heavy motor vehicle until load is secured
2. Penalties for offences	5. Public inquiry where holder of goods-service licence convicted of offence relating to insecure load
3. Blood tests	
4. New sections inserted	

### A BILL INTITULED

### **An Act to amend the Transport Act 1962**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Transport Amendment Act (No. 4) 1985, and shall be read together with and deemed part of the Transport Act 1962\* (hereinafter referred to as the principal Act).

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*Struck Out*

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

\*Reprinted 1974, Vol. 3, p. 2489

Amendments: 1976, No. 4; 1976, No. 126; 1977, No. 3; 1978, Nos. 3, 4; 1979, No. 17; 1980, No. 96; 1982, Nos. 4, 10, 105; 1983, Nos. 2, 33, 35; 1984, No. 7; 1985, Nos. 50, 76

## New

(2) Except as provided in **sections 1A, (2), 4 (2), and 5 (2)** of this Act, this Act shall come into force on the 7th day after the date on which it receives the Governor-General's assent.

**1A. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “licensing year”, the following definition: 5

“ ‘Load’ includes any part of a load; and includes any covers, ropes, ties, blocks, tackle, barrows, or other equipment or object used in the securing or 10 containing of loads on vehicles or the loading or unloading of vehicles, whether or not any other load is on the vehicle:”.

(2) This section shall come into force on the **1st day of February 1986.** 15

**2. Penalties for offences**—(1) Section 30 of the principal Act (as substituted by section 2 of the Transport Amendment Act 1970) is hereby amended by omitting from subsection (4) the expression “\$200”, and substituting the expression “\$500”.

(2) Section 196 (1) of the principal Act (as amended by section 20 3 (1) of the Transport Amendment Act 1970) is hereby amended by omitting the expression “not exceeding \$200”, and substituting the expression “not exceeding \$500”.

(3) Section 199 (1) (d) of the principal Act (as so amended) is hereby amended by omitting the expression “not exceeding 25 \$200”, and substituting the expression “not exceeding \$500”.

(4) The Transport Amendment Act 1970 is hereby consequentially amended by repealing so much of the Schedule as relates to sections 196 and 199 of the principal Act.

**3. Blood tests**—Section 58B (2) of the principal Act (as 30 substituted by section 7 of the Transport Amendment Act (No. 3) 1978) is hereby amended by omitting the word “forthwith” where it first occurs.

**4. New sections inserted**—(1) The principal Act is hereby amended by inserting, after section 69D (as inserted by 35 section 23 of the Transport Amendment Act 1968), the following sections:

**“70. Strict liability for offences involving insecure loads and loads falling from heavy vehicles—**

(1) The operator of every heavy motor vehicle shall ensure that any load carried in or on the vehicle or any vehicle being towed by a heavy  
5 vehicle operated by him is secured or contained in such a manner that it cannot fall or escape from the vehicle.

“(2) Every operator of a heavy motor vehicle who fails to comply with **subsection (1)** of this section commits an offence and is liable on conviction to a fine not exceeding \$2,000, and,  
10 if that person was the driver of that vehicle or any vehicle towing that vehicle, the Court may order that he be disqualified from holding or obtaining a licence to drive a motor vehicle for such period as the Court thinks fit.

“(3) In any proceedings for the offence specified in  
15 **subsection (2)** of this section,—

“(a) It shall not be necessary for the prosecution to prove that the defendant knew or should have known that the load was not secured or contained in such a  
20 manner that it could not fall or escape from the vehicle:

“(b) It shall not be necessary for the prosecution to allege or prove that any load (*or part of the load*) did fall or escape from the vehicle:

“(c) It shall not be a defence that the defendant’s conduct was not materially different from that of other  
25 operators of heavy motor vehicles:

“(d) It shall not be a defence that the defendant took some steps to ensure that the load was secured or contained unless the Court is satisfied that those  
30 steps were such that no fault could be attributed to the defendant:

“(e) It shall not be a defence that the defendant believed that the weight or nature of the load was such that it was not necessary to secure or contain it.

“(4) Notwithstanding **subsection (3)** of this section, it shall be a defence to any proceedings for the offence specified in  
35 **subsection (2)** of this section if the defendant proves—

“(a) That the load was secured on or contained in the vehicle;  
and

40 “(b) That any failure to ensure that the securing or containing of the load was in such a manner that it could not fall or escape from the vehicle occurred without fault on his part.

“(5) Where the Court is satisfied that a load (or part of a load) has fallen or escaped from a heavy motor vehicle or a vehicle being towed by a heavy motor vehicle, it shall be presumed that the operator of the heavy motor vehicle has not ensured that the load was secured or contained in such a manner that it could not fall or escape from the vehicle, unless the operator proves that the falling or escaping of the load occurred without fault on his part. 5

“(6) In determining whether or not the falling or escaping of any load from a heavy motor vehicle occurred without fault on the part of the operator of that vehicle the Court may have regard to any code of practice issued by the Department (of which it), or any amendment or addition to any such code, of which the Court considers the operator was or should have been aware. 10 15

“(7) In this section—

*New*

“(a) The term ‘load’ does not include animal wastes discharged from animals being carried on the vehicle at the time: 20

“(b)

The term ‘operator’ in relation to any heavy motor vehicle means any person who uses or drives the vehicle on any road, or causes or permits it to be on any road or to be driven on any road, whether or not the person is present with the vehicle. 25

“70A. **Traffic officer to order stopping of heavy motor vehicle until load is secured**—(1) Where any traffic officer has good cause to suspect that the load or part of the load on any heavy motor vehicle or any vehicle being towed by a heavy motor vehicle on any road is not secured or contained in such a manner that it cannot fall or escape from the vehicle, the traffic officer shall, by direction given to the driver or person in charge of the vehicle, direct, if necessary, that the vehicle be stopped, and shall direct that— 30 35

“(a) The vehicle be kept stopped; or

“(b) The vehicle be moved to a place of safety approved by the traffic officer and be kept stopped at that place— until the load or part of the load is secured or contained in such a manner that it cannot fall or escape from the vehicle, or is removed from the vehicle. 40

“(2) Every person commits an offence and is liable on conviction to a fine not exceeding \$2,000 who—

5 “(a) Fails to comply with or does any act in breach of any direction given by a traffic officer under **subsection (1)** of this section:

“(b) Whether or not he is a person to whom any such direction is given, knowingly drives any heavy motor vehicle on any road in breach of any direction given under **subsection (1)** of this section.”

10 *New*

(2) This section shall come into force on the **1st day of February 1986.**

15 **5. Public inquiry where holder of goods-service licence convicted of offence relating to insecure load**—(1) Section 141 of the principal Act (as substituted by section 18 of the Transport Amendment Act (No. 2) 1983) is hereby amended by inserting in subsection (2), after the word “against”, the words “**section 70 or section 70A** of this Act or”.

*New*

20 (2) This section shall come into force on the **1st day of February 1986.**

25 **6. Speeding infringement fees increased**—(1) The Second Schedule to the principal Act (as inserted by section 8 (10) of the Transport Amendment Act 1980) is hereby amended by repealing Part II, and substituting the Part II set out in the Schedule to this Act.

30 (2) The increased infringement fees provided for in Part II of the Second Schedule to the principal Act (as substituted by **subsection (1)** of this section) shall apply only in respect of offences committed on or after the day on which this section comes into force.

*New***SCHEDULE**

Section 6 (1)

NEW PART II SUBSTITUTED IN SECOND SCHEDULE TO PRINCIPAL ACT

**"PART II****"SPEEDING OFFENCES**

Offence	Infringement fee
	<b>\$</b>
Any speeding offence, where the speed exceeds the speed limit by—	
Not more than 10 kilometres an hour . . . . .	20
More than 10 kilometres an hour but not more than 15 kilometres an hour . . . . .	40
More than 15 kilometres an hour but not more than 20 kilometres an hour . . . . .	60
More than 20 kilometres an hour but not more than 25 kilometres an hour . . . . .	90
More than 25 kilometres an hour but not more than 30 kilometres an hour . . . . .	120
More than 30 kilometres an hour but not more than 35 kilometres an hour . . . . .	160
More than 35 kilometres an hour but not more than 40 kilometres an hour . . . . .	200"