

**Dissenting Report**  
**Opposition Senators**  
***Interstate Road Transport Charge Amendment Bill (No.2) 2008***  
**and the**  
***Road Charges Legislation Repeal and Amendment Bill 2008***

**Introduction**

1. On 15 October 2008 the Selection of Bills Committee referred the above bills to the Senate Standing Committee on Rural and Regional Affairs and Transport (the Committee) for inquiry and report by 21 November 2008.

**Background**

2. The above bills seek to implement the recommendations made by the National Transport Commission and agreed to by the Australian Transport Council in February 2008. These recommendations, called the 2007 Heavy Vehicle Charges Determination, establish a new heavy vehicle charging regime.
3. The first element, contained in the *Interstate Road Transport Charge Amendment Bill (No.2) 2008* will permit the making of regulations to apply new registration charges to the less than five percent of Australia's heavy vehicles that are registered under the Australian Government's Federal Interstate Registration Scheme (FIRS). The second element will amend the *Fuel Tax Act 2006* to reduce the amount business are permitted to recover from the excise tax paid on diesel and petrol. It will do so by increasing the Road User Charge from 19.633 cents per litre to 21 cents per litre. These changes are contained in the *Road Charges Legislation Repeal and Amendment Bill (No.2) 2008*. This bill will also allow the ACT Government to set its own heavy vehicle charges.
4. The Committee received several submissions, reflecting the fact that road charging is a divisive issue. Put simply, the trucking industry believes that it is paying its way and the rail industry considers that it is not. The submissions from the rail sector argued that the National Transport Commission has been unduly conservative in its Determination, its cost allocations are unduly restrictive and that trucks are treated favourably at the expense of rail as a result. This causes uneconomical and unfair distortions between the transport modes.
5. While the Opposition members of this Committee accept that arguments will always occur between various transport proponents, this inquiry is not the place

to review the relative charging treatments between rail and road. The Opposition members of this Committee will therefore confine their views on the particulars of this legislation – is charge-setting regime proposed by these bills appropriate and does it warrant support?

### **The bills**

6. The *Interstate Road Transport Charge Amendment Bill (No.2) 2008* applies the new registration charge to Federally-registered vehicles. This increased fee will affect approximately 21,500 trucks out of a total of 470,000. Most of Australia's vehicles are already subject to the charges agreed to by the Australian Transport Council, since the States have applied them. We accept the argument that the minority registrations that take place under the FIRS should be brought into line with these nationally agreed changes. We also note that this bill does not include an annual adjustment component.

### **Recommendation – the *Interstate Road Transport Charge Amendment Bill (No.2) 2008***

7. The Opposition Members of this Inquiry support the *Interstate Road Transport Charge Amendment Bill (No.2) 2008*.

### **The *Road Charges Legislation Repeal and Amendment Bill 2008* – ACT charge-setting**

8. The *Road Charges Legislation Repeal and Amendment Bill 2008* repeals the *Road Transport Charges (Australian Capital Territory) Act 1993* so that the ACT may set its own heavy vehicle charges. This means that the ACT will be able to align its charges with the nationally agreed schedule. We also note that ACT has a high proportion of rigid locally registered vehicles. This means that the majority of ACT-registered truck owners will see their registration fees go down if the ACT was able to apply the new registration charges.

### **Recommendation**

9. The Opposition Members of this Inquiry support this component of the bill.

### **The *Road Charges Legislation Repeal and Amendment Bill 2008* – Road User Charge**

10. The *Road Charges Legislation Repeal and Amendment Bill 2008* also increases the Road User Charge from 19.633 cents per litre to 21 cents per litre. This charge will raise approximately \$490 million over four years or, assuming an indexing rate of 7 percent per annum, around \$2.5 billion over ten years. This is a considerable sum and the issues surrounding this impost must be considered carefully.

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11. The *Road Charges Legislation Repeal and Amendment Bill 2008* allows the indexation of the Road User Charge. It does so by amending the *Fuel Tax Act 2006* to permit the making of a separate regulation. Section 43-10, clause 8 of the bill when defining that regulation states:
    - a. *The regulations may prescribe a method for indexing the 'road user charge'.*
  12. This means the Government may make a regulation that contains an indexing formula that defines subsequent increases in the Road User Charge. What follows is that the Government need not make such a regulation again. Should Parliament pass such a regulation, the Road User Charge would go up every year without the opportunity for Parliament to debate or disallow such an increase.
  13. We also note that the Australian Trucking Association and the Australian Livestock Transporters Association have expressed concerns about this issue. Their submissions point out that if the National Transport Commission's indexing model is applied, the Road User Charge could go up, without Parliamentary approval, every year at a rate of over seven percent per annum. This would occur without industry consultation until the National Transport Commission makes another Determination. This could be five years. The argument that defends an automatic indexing arrangement - administrative convenience - seems inadequate.
  14. The Opposition Members of the Inquiry regard the failure of this bill to preclude the prospect of automatic indexation as a significant weakness.
  15. The heavy vehicle sector argues that the National Transport Commission did not consult adequately in developing its Determination. The Australian Trucking Association maintains that the Commission refused to provide the raw data submitted by the States and Territories used to calculate the charges or the model to determine the charges. They also provided examples where the modelling assumptions used by the Commission did not reflect 'real world' results. We believe deliberations should be open and transparent at all times.
  16. While respecting the rebuttal of these claims by the National Transport Commission in its submission, the Opposition Members of this Inquiry are concerned that there appears to be a disconnect between the sector paying the charge and the organisation that develops the charge. Unfortunately this bill does nothing to mandate the levels of consultation that should occur between the Commission and industry in the Determination process.
  17. The failure of the bill to mandate adequate levels of consultation between the organisation calculating the Road User Charge and the industry paying it is the second major weakness of this bill.
  18. The *Road Charges Legislation Repeal and Amendment Bill 2008* does not address the extraordinary lack of heavy vehicle rest areas on Australia's highway system. The Government has promised a \$70 million Heavy Vehicle Safety and

Productivity Package which, after deductions for the trials of monitoring technologies, will presumably be able to fund slightly more than 60 roadside rest areas.

19. Plainly, this is not enough. The Australian Trucking Association in their submission point out that Australia's national highway system is no where near compliant with the National Transport Commission's 2005 National Guidelines for the Provision of Rest Area Facilities. They note that the audit of 13,823 kilometres of Australia's major highways conducted by an independent government research organisation – Austroads – came to this conclusion. The Australian Trucking Association estimates that there needs to be another 900 rest areas on the 22,500 kilometres of the AusLink National Network.
20. The Opposition Members of the Inquiry are also concerned that with the implementation of the national fatigue laws introduced by Queensland, New South Wales, Victoria and South Australia on 29 September 2008, there is an even greater urgency for roadside rest areas. At the moment, truckies are faced with the absurd situation of facing legislated limits on driving times, but without places to park to be compliant with those times.
21. This bill does not mandate the construction of adequate numbers of roadside rest areas. This is its third significant weakness.
22. Finally, the Opposition members of the Committee note that the *Road Charges Legislation Repeal and Amendment Bill 2008* does not place any obligation upon the Commonwealth to push the States harder to harmonise road transport regulations. The most egregious example is the failure by the States to implement the national heavy vehicle driver fatigue reforms on a consistent basis. There are other absurd examples, such as contradictory treatments of weights and loads and the failure of some States to open up designated routes for B-triples and higher mass limit vehicles with road-friendly suspension. We also note the strong support by the Australian Trucking Association for national road transport laws.
23. This bill does not require the Commonwealth to encourage the States to harmonise contradictory heavy vehicle transport regulations. This is its fourth weakness.
24. The Opposition Members of the Inquiry are of the view that the *Road Charges Legislation Repeal and Amendment Bill 2008* is flawed. It fails to preclude automatic indexation, does not mandate adequate levels of consultation, fails to address the shortage of roadside rest areas and does nothing to deal with the problem of contradictory state transport regulations.
25. The amendments proposed by the Opposition deals with these matters. They specifically rule out automatic indexation, define the nature of consultation that must take place between the National Transport Commission and the industry that pays the Road User Charge, stipulate the number of roadside rest areas that

must be built and oblige the Commonwealth to push the States to harmonise regulations.

26. With regard to the roadside areas, the Opposition proposes that the Government be required to construct over a period of ten years 500 rest areas. This would bring Australia's national highway system broadly into compliance with the Guidelines stipulated by the National Transport Commission. The construction of such a number would cost approximately \$300 million – a modest sum given the large amount of money the Road User Charge will raise over this time.

27. The Australian Trucking Association has suggested amendments that address some of the concerns raised by the Opposition regarding this bill. They do not, however, deal with the failure by the States to harmonise inconsistent transport regulations. Their proposal that the Government should be required to build 900 rest areas, while desirable, is perhaps unrealistic. The fallback proposal by the Australian Trucking Association to extend the \$70 million Heavy Vehicle Safety and Productivity Package to \$100 million over four years and to require the States to provide matching funds is worthwhile. It is, however, only a partial solution.

### **Recommendation**

28. In light of the weaknesses of this bill, the Opposition members of the Committee recommend that the *Road Charges Legislation Repeal and Amendment Bill 2008* be rejected unless the Government accepts its amendments.



**Senator John Williams**

**Senator the Hon. Bill Heffernan**