

Transport Legislation Amendment Bill 2007

Amendments agreed to during Consideration

1 **Clause 44 (Insertion of new ss 35A–35C)—**

At page 53, line 15, ‘enter a’—

omit, insert—

‘, to enable the officer to effectively exercise a power under this Act in relation to a heavy vehicle, enter the’.

2 **Clause 51 (Insertion of new s 48A)—**

At page 68, lines 17 to 22—

omit, insert—

‘**heavy vehicle offence** means an offence against a transport Act that involves or relates to a heavy vehicle, other than an offence against—

- (a) the Queensland Road Rules; or
- (b) a regulation made under this Act applying to the transport of dangerous goods.’.

3 **Clause 66 (Amendment of s 60 (Evidentiary aids))—**

At page 89, after line 19—

insert—

- ‘(la) a specified report or specified information required to be given to the chief executive under a transport Act was received on a specified day or has not been received;
- (lb) no report or information of a specified type required to be given to the chief executive under a transport Act has been received by a specified day;’.

4 Clause 66 (Amendment of s 60 (Evidentiary aids))—

At page 90, line 5, ‘safely.’.—

omit, insert—

‘safely;

- (u) a specified mathematical or statistical procedure was carried out in relation to specified information generated, recorded, stored, displayed, analysed, transmitted or reported by an approved intelligent transport system and the results of the procedure being carried out.’.

5 Clause 66 (Amendment of s 60 (Evidentiary aids))—

At page 90, after line 7—

insert—

- ‘(3A) A procedure specified in a certificate under subsection (2)(u) is presumed, unless the contrary is proved—
 - (a) to be valid and reliable for the purpose for which it was used; and
 - (b) to have been carried out correctly.’.

6 After clause 67 (Insertion of new ss 61A–61C)—

At page 91, after line 25—

insert—

‘67A Insertion of new ss 61D–61G

‘Before section 62—

insert—

‘61D Certificates of TCA

- ‘(1) A certificate purporting to be signed by a person on behalf of TCA stating any of the following matters is evidence of the matter—
 - (a) a specified map in electronic form is or is not an intelligent access map issued by TCA for a specified date or for a specified period;

- (b) a specified document is or is not a copy of an intelligent access map, or a specified part of an intelligent access map, issued by TCA for a specified date or for a specified period.
- ‘(2) A certificate purporting to be signed by a person on behalf of TCA stating any of the following matters is evidence of the matter—
- (a) a specified intelligent transport system was or was not an approved intelligent transport system on a specified date or during a specified period;
 - (b) a specified person was or was not an IAP service provider on a specified date or during a specified period;
 - (c) a specified person was or was not an IAP auditor on a specified date or during a specified period.
- ‘(3) A person who purportedly signs a certificate of a type mentioned in subsection (1) or (2) on behalf of TCA is presumed, unless the contrary is proved, to have been authorised by TCA to sign the certificate on TCA’s behalf.
- ‘(4) In this section—

IAP auditor means a person engaged by TCA to be an auditor for the intelligent access program.

IAP service provider means a person certified by TCA as a service provider for the intelligent access program.

‘61E Intelligent access map

- ‘(1) An intelligent access map, or a document that is a copy of an intelligent access map or a specified part of an intelligent access map, issued by TCA for a specified date or for a specified period—
- (a) is admissible in a proceeding under a transport Act relating to a heavy vehicle; and
 - (b) is presumed, unless the contrary is proved, to be a correct representation of the national road network or the specified part of the national road network shown on the map or document, on the specified date or for the specified period.

- ‘(2) If a defendant for a charge of an offence against a transport Act intends to challenge the correctness of the representation of the national road network or the specified part of the national road network shown on a map or document mentioned in subsection (1) on the specified date or for the specified period, the defendant must give the chief executive written notice of the intention to challenge.
- ‘(3) The notice must—
 - (a) be signed by the defendant or the defendant’s lawyer; and
 - (b) state the grounds on which the defendant intends to rely to challenge the matter mentioned in subsection (2); and
 - (c) be given at least 14 days before the day fixed for the hearing of the charge.

‘61F Approved intelligent transport system

- ‘(1) An approved intelligent transport system, including all the equipment and software that makes up the system, is presumed, unless the contrary is proved, to have operated properly on any particular occasion.
- ‘(2) Without limiting subsection (1), information generated, recorded, stored, displayed, analysed, transmitted and reported by an approved intelligent transport system is presumed, unless the contrary is proved, to have been correctly generated, recorded, stored, displayed, analysed, transmitted and reported by the system.
- ‘(3) Without limiting subsection (1) or (2), information generated by an approved intelligent transport system is presumed, unless the contrary is proved, not to have been changed by being recorded, stored, displayed, analysed, transmitted or reported by the system.
- ‘(4) If in a proceeding it is established by contrary evidence that particular information recorded or stored by an approved intelligent transport system is not a correct representation of the information generated by the system, the presumption mentioned in subsection (3) continues to apply to the remaining information recorded or stored by the system despite that contrary evidence.

- ‘(5) If a defendant for a charge of an offence against a transport Act intends to challenge any of the following matters, the defendant must give the chief executive written notice of the intention to challenge—
- (a) that an approved intelligent transport system has operated properly;
 - (b) that information generated, recorded, stored, displayed, analysed, transmitted or reported by an approved intelligent transport system has been correctly generated, recorded, stored, displayed, analysed, transmitted or reported by the system;
 - (c) that information generated by an approved intelligent transport system has not been changed by being recorded, stored, displayed, analysed, transmitted or reported by the system.
- ‘(6) The notice must—
- (a) be signed by the defendant or the defendant’s lawyer; and
 - (b) state the grounds on which the defendant intends to rely to challenge a matter mentioned in subsection (5)(a), (b) or (c); and
 - (c) be given at least 14 days before the day fixed for the hearing of the charge.
- ‘(7) This section does not limit section 60(6) or 61.

‘61G Reports and statements made by approved intelligent transport system

- ‘(1) A report purporting to be made by an approved intelligent transport system—
- (a) is presumed, unless the contrary is proved—
 - (i) to have been properly made by the system; and
 - (ii) to be a correct representation of the information generated, recorded, stored, displayed, analysed, transmitted and reported by the system; and

- (b) is admissible in a proceeding under a transport Act relating to a heavy vehicle; and
 - (c) is evidence of the matters stated in it.
- ‘(2) However, subsection (1)(c) does not apply to information stated in a report made by an approved intelligent transport system that has been manually entered into the system by an operator or driver of a heavy vehicle.

Example—

If a driver of a heavy vehicle enters the total mass of the vehicle into the intelligent transport system, the information about the total mass of the vehicle stated in a report made by the system is not evidence of the total mass of the vehicle.

- ‘(3) Also, if in a proceeding it is established by contrary evidence that a part of a report made by an approved intelligent transport system is not a correct representation of particular information generated, recorded, stored, displayed, analysed, transmitted or reported by the system, the presumption mentioned in subsection (1)(a) continues to apply to the remaining parts of the report despite that contrary evidence.
- ‘(4) If a defendant for a charge of an offence against a transport Act intends to challenge any of the following matters, the defendant must give the chief executive written notice of the intention to challenge—
- (a) that a report made by an approved intelligent transport system has been properly made;
 - (b) that a report made by an approved intelligent transport system is a correct representation of the information generated, recorded, stored, displayed, analysed, transmitted and reported by the system;
 - (c) the correctness of a statement of a vehicle’s position on the surface of the earth at a particular time that is made by an approved intelligent transport system.
- ‘(5) The notice must—
- (a) be signed by the defendant or the defendant’s lawyer; and

- (b) state the grounds on which the defendant intends to rely to challenge the matter mentioned in subsection (4)(a), (b) or (c); and
 - (c) be given at least 14 days before the day fixed for the hearing of the charge.
- ‘(6) This section does not limit section 60(6) or 61.’.

7 Clause 77 (Amendment of sch 4 (Dictionary))—

At page 104, after line 8—

insert—

‘ *approved intelligent transport system* means an intelligent transport system approved by TCA for use under the intelligent access program.’.

8 Clause 77 (Amendment of sch 4 (Dictionary))—

At page 109, after line 24—

insert—

‘*intelligent access map* means a map in electronic form issued by TCA showing the national road network.

intelligent access program means a program under this Act that allows particular heavy vehicles to have access, or improved access, to the road network in return for monitoring, by an approved intelligent transport system, of the vehicles’ compliance with conditions imposed on the access or improved access.’.

9 Clause 77 (Amendment of sch 4 (Dictionary))—

At page 109, line 28, ‘collect’—

omit, insert—

‘generate, record’.

- 10 Clause 77 (Amendment of sch 4 (Dictionary))—**
At page 116, line 28, ‘60mm’—
omit, insert—
‘600mm’.
- 11 Clause 77 (Amendment of sch 4 (Dictionary))—**
At page 117, line 29, ‘35mm’—
omit, insert—
‘350mm’.
- 12 Clause 77 (Amendment of sch 4 (Dictionary))—**
At page 118, after line 4—
insert—
‘*TCA* means Transport Certification Australia Limited ACN 113 379 936.’.
- 13 Clause 78 (Amendment of s 62 (Proceedings for offences))—**
At page 120, line 11, ‘3 years’—
omit, insert—
‘5 years’.
- 14 Clause 83 (Insertion of new s 124A)—**
At page 121, line 25, after ‘section’—
insert—
‘61E(2), 61F(5), 61G(4),’.
- 15 Clause 83 (Insertion of new s 124A)—**
At page 121, line 27, after ‘section’—
insert—
‘61E(3), 61F(6), 61G(5),’.

16 Clause 83 (Insertion of new s 124A)—

At page 122, line 7, after ‘section’—

insert—

‘61E(2), 61F(5), 61G(4),’.

17 Schedule (Minor amendments of Transport Operations (Road Use Management) Act 1995)—

At page 129, lines 18 and 19, from ‘37(2)(b)’ to ‘39(3)(b)’—

omit, insert—

‘37(2), penalty, paragraph (b), 37(3), penalty, paragraph (b), 38(3), penalty, paragraph (b), 39(3), penalty, paragraph (b)’.