

Departmental Disclosure Statement

Land Transport (Clean Vehicle Standard) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Transport.

The Ministry of Transport certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

15 May 2024.

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Part One: General Policy Statement

The Land Transport Act 1998 (the principal Act) applies a clean vehicle standard (the **CVS**) to importers of new and used light vehicles. The CVS seeks to increase the supply and variety of zero-emission and low-emission light vehicles in New Zealand.

The CVS requires vehicle importers to meet annual carbon dioxide (**CO₂**) emissions targets. Vehicle importers must meet these targets, on average, across all the vehicles they import in a year. This enables high-emission vehicles to be imported if their emissions are offset by the importation of zero-emission or low-emission vehicles.

The annual targets for 2023 to 2027 are set out in section 175 of the principal Act and progressively strengthen. For the year beginning 1 January 2028 and future years, the targets can be set and amended by Order in Council under section 167C(1)(j)(iv) of the principal Act.

Review and amendment of the CVS

Section 175A(1) of the principal Act requires the Minister of Transport to initiate a review of the targets set out in section 175 of the principal Act before 30 June 2024. The Ministry of Transport has commenced this review and it may result in changes to the targets currently set under section 175 of the principal Act.

The CVS targets for the years 2023 to 2027 are set in the principal Act, which means that these targets can only be amended by amending section 175 of the principal Act. Enabling targets to be amended through secondary legislation will streamline the implementation of Cabinet decisions on the targets. This is critical to ensure that any changes to targets can be made quickly to increase certainty for the vehicle industry.

Recovery of the costs of administering the CVS

Administration of the CVS is currently Crown-funded. Analysis of the benefits of the CVS using the Treasury's Guidelines for Setting Charges in the Public Sector has found that the majority of benefits of the CVS accrue to importers of vehicles and consumers. These benefits include—

- access to greater numbers of low-emission and fuel-efficient vehicles from overseas manufacturers;
- fuel savings;
- reduction in maintenance spending;
- reduction in vehicle ownership costs;
- reduction in the social cost of CO₂ emissions.

The Government has decided that, because the benefits of the CVS are realised by the vehicle industry and consumers, continued Crown funding of the CVS is not desirable. As a result, the principal Act needs a mechanism to enable recovery of the costs of administering the CVS.

The Land Transport (Clean Vehicle Standard) Amendment Bill—

- enables the CVS targets for reducing CO₂ emissions for 2025 onwards (currently set in the principal Act) to be set in secondary legislation;
- empowers a cost recovery scheme, which involves the collection of fees to contribute to the costs of administering the CVS, to be set in secondary legislation.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
Stage 1 Cost Recovery Impact Statement: Cost Recovery for Administration of the Clean Vehicle Standard. Authored by the Ministry of Transport and can be accessed here: https://www.transport.govt.nz/assets/Uploads/cost-recovery-for-administration-of-the-clean-vehicle-standard.pdf	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
This Cost Recovery Impact Statement (CRIS) has been reviewed by a panel of representatives from Ministry of Transport Te Manatū Waka. It has been given a 'partially meets' rating against the quality assurance criteria for the purpose of informing Cabinet decisions. The rating reflects the limited consultation and lack of available information due to time constraints on the process. The Panel expects these deficits will be further addressed in the Stage 2 CRIS. The Treasury delegated this CRIS to a Ministry of Transport Te Manatū Waka panel.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
The CRIS developed for this Bill did not address the aspects of the Bill relating to the modification of the Clean Car Standard's emission targets. The Ministry of Transport Te Manatū Waka was given an exemption from the requirement to analyse this aspect of the Bill. The Treasury's Regulatory Impact Analysis team has determined that the proposal to enable emissions targets to be set by secondary legislation is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>The CRIS developed for this Bill considers the size of the potential costs and benefits and can be accessed here: https://www.transport.govt.nz/assets/Uploads/cost-recovery-for-administration-of-the-clean-vehicle-standard.pdf</p> <p>As discussed in the CRIS, the Ministry of Transport Te Manatū Waka is currently updating cost-benefit analyses relating to the Clean Car Standard. This will inform the stage two regulatory impact analysis.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>Analysis to answer these questions cannot occur until consultation with the vehicle importer sector has been undertaken. The fee paid per vehicle by importers has yet to be designed, which will occur after consultation and a greater understanding of the costs of delivering the Standard is gained. Consultation on creating a cost-recovery scheme for the Standard will allow the Ministry to gain a greater understanding of the potential costs and benefits that could accrue to vehicle importers. Administering a charge per vehicle will also impact on the cost of administering the statement. The Bill is in part designed to encourage compliance by removing the ability of a vehicle importer to import a vehicle if they do not pay the per vehicle fee charged.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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Officials have investigated whether the policy to be given effect by the Bill is consistent with New Zealand's international obligations and concluded that the proposal is consistent because the Bill enables secondary legislation to be made, rather than directly implementing any policy details.

It is possible that secondary legislation made as a consequence of the Bill may impact international obligations, and the Ministry of Transport intends to work with the Ministry of Foreign Affairs and Trade when developing secondary legislation.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Officials investigated any interaction the Bill would have with the Treaty of Waitangi and concluded that there were no interactions because the Bill enables secondary legislation to be made, rather than directly implementing any policy details. It is possible that secondary legislation made as a consequence of the Bill may interact with the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Ministry of Justice is undertaking an assessment of whether the Bill is consistent with the New Zealand Bill of Rights Act 1990 and will provide advice to the Attorney-General.

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Officials have not consulted with private sector organisations or the public on the Bill, since the proposal is Budget Sensitive.</p> <p>The following agencies were consulted on the policy to be given effect by the Bill, and the draft Bill: the New Zealand Transport Agency, Ministry of Business, Innovation and Employment, Treasury, Ministry of Justice, Parliamentary Counsel Office, Ministry for the Environment, Ministry of Foreign Affairs and Trade, and the Department of Inland Revenue. The Department of Prime Minister and Cabinet has been informed.</p> <p>The New Zealand Transport Agency was consulted on multiple versions of the draft Bill.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p>Section 5 inserts section 167BA to the Land Transport Act 1998. This new provision allows regulations to be made that prescribe or fix fees and charges payable by vehicle importers and people buying newly imported vehicles to meet, or assist in meeting, the costs and expenses incurred by the New Zealand Transport Agency in exercising functions or powers, performing duties or providing services relating to the Clean Vehicle Standard.</p> <p>The Government has decided that, because the benefits of the CVS are realised by the vehicle industry and consumers, continued Crown funding of the CVS is not desirable. As a result, the principal Act needs a mechanism to enable recovery of the costs of administering the CVS.</p> <p>This power is constrained by who can be charged the fees and charges, and what fee and charge revenue may be used for. Regulations made under this provision will also require a Stage 2 Cost Recovery Impact Statement.</p> <p>Further to this, sections 6 and 7 of the Bill amend the section 167C(1)(j)(iv) and 175(1)(f) power to make regulations setting targets for the purpose of the Clean Vehicle Standard, so that this power can be used from the end of 2024, rather than the end of 2027.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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