

**ROAD TRAFFIC AMENDMENT (DRUGS) BILL 2006**

*Second Reading*

Resumed from 4 April.

**HON MURRAY CRIDDLE (Agricultural)** [11.20 am]: Last night I was making some preliminary remarks on this bill; I will not speak for a long time today. I pointed out last night that the whole drugs issue, as was outlined by Hon Donna Faragher and Hon Giz Watson, is very complex. The business of getting a justified result out of this legislation concerns me, because some drugs, and the opiates, which are often prescribed drugs, will not be covered by this legislation. Therefore, I immediately have some real concerns. Codeine, heroin, dexamphetamine and benzodiazepines, which are obviously the opiates, are the ones that perhaps cause a lot of trouble, and we are not really getting to the bottom of the issue.

The other thing that I mentioned yesterday was the degree of the effect that these drugs have on drivers themselves. We are actually giving the police the ability to carry out random drug tests of drivers by requiring drivers to take an oral fluid or blood test to analyse whether they have cannabis - I will use the conventional name - speed or ecstasy in their systems. They are the drugs that are covered by this bill. Those drugs seem to influence people's driving skills, particularly when they are combined with alcohol, which is the biggest problem on our roads. They seem to make people less capable of driving in a reasonable manner.

This bill will give the police the ability to detect and successfully prosecute drivers who are visually impaired by drugs and those who are driving with an illicit drug present in their systems. Those issues are the ones for which it will be difficult, in the end, to bring prosecutions if there are some challenges. I will be very interested to see how this legislation goes when it is in operation in the wider community and what effect it will have on driving statistics. I am of the view that, with many of the issues to do with driving, it is more about the attitude of the person behind the wheel. I am not sure what it is in a person's psyche that makes him drive up to 150 kilometres an hour on the road, because one thing will certainly happen to him in the long run, and that is that he will have a serious accident and be badly maimed or killed. I well remember instances when I was Minister for Transport of young people having accidents when driving at 150 or 160 kilometres an hour and killing their friends or their relations. That is just a tragedy. However, I am not sure whether drugs played a part in that.

Another issue is: is it ethical to take body fluids from a person? Perhaps we have got over that, and we want to try to protect people from themselves as much as anything. Although there are some ethical issues involved, we need to overcome that issue, because not only could the driver be badly injured, but also the rest of the people who drive on the roads are put at risk. There is no doubt at all, from the point of view of the general community, that we need to take all the steps that are available to us to make our roads safe.

However, I return to the issue of the drugs themselves and identifying the people who are distributing drugs in society. Just recently in Geraldton, we had an issue with various groups in the community fighting one another. It came back to me that it was about ice. I do not know anything about drugs at all, so I plead ignorance in most of these matters. However, if we are reaching a situation in which people in the community are fighting because of a drug trade or a drug issue, we really must do something about fixing the problem. Maybe we need a drug-busters unit to go into some of these hot spots to sort things out. Then we would not have to go through the process of putting in place a lot of legislation to take people off the road if they are drug offenders and drug-drivers.

I am really concerned about drugs in the community and the influence of drugs on driving capability. I was very interested to hear the outline of the debate by the two previous speakers. Many reports that have been released state that drugs are bad for our society and that they affect families and the general community in many ways. If this legislation goes just a small way towards overcoming a problem with the way people drive on the roads, we should have it. However, we need to look at the problem at the source, and that is those people who distribute the drugs, grow them or manufacture them and get them into society. We would all be far better off if that did not happen.

**HON BRUCE DONALDSON (Agricultural)** [11.26 am]: I rise to speak on the Road Traffic Amendment (Drugs) Bill 2006. I think one of the tragedies about people taking drugs is that many of those drugs are often referred to as recreational drugs. The word "recreational" conjures up a lot of things in a person's mind, whether it is someone running around an oval, kicking a football or maybe going fishing. However, recreational drugs are illegal, and that is a simple fact of life. I believe there is enough evidence to suggest that some of those illegal drugs have a very dramatic effect on a person later in life. I think the effects of the use of cannabis are now well known and well documented. Eventually, cannabis affects the mind.

We often hear about recreational drugs. One had to bow one's head at a football match just recently when the West Coast Eagles came out onto the ground and their song was played. A part of that song is, "We're the Eagles, we're flying high".

**The PRESIDENT:** Order! I will not interject on Hon Bruce Donaldson because I am not allowed to, but I happen to know that he is not an Eagles supporter. However, he may continue.

**Hon BRUCE DONALDSON:** I am an Eagles supporter. I had all these Sydney Swans supporters sitting around me; I was surrounded by a sea of red. Of course, there were a lot of disparaging remarks about that song as the Eagles came out onto the ground, especially when it got to the part that says, "we're flying high". In one sense, we know the dangers of the use of these illegal substances, and yet we tend to be very sporting in our terminology by calling them recreational drugs.

Hon Giz Watson and Hon Donna Faragher certainly spelt out the whole spectrum of this legislation and what it is trying to achieve. One of the things that disappointed me was that if a person's first offence is driving with too much alcohol in his system, he is not tested for drugs. I note that in some other countries - Germany is one - it is mandatory to test for drugs. If a person is caught in Germany driving over the legal limit for alcohol, there is a mandatory blood test, and that blood is also checked for drugs. Mandatory drug testing has given the Germans an opportunity to determine whether the mixing of alcohol and illegal substances is widespread. It has also allowed them to determine what percentage of people are driving on the road after they have taken drugs. Alcohol affects people in different ways. The effects of alcohol can be determined by a person's body weight and metabolism and what he or she has eaten prior to drinking. Some people can drink a considerable amount of alcohol and not read .05. It is well known that after women have a couple of drinks, they are usually over .05. The same happens with drugs. Drugs affect people in different ways. The combination of the two in some people's system is a lethal cocktail. I am not sure whether one of the two has a more dangerous affect on a person's ability to drive on the road, because I am not an expert. Hon Giz Watson pointed to a number of reports that contradict certain findings. The problem is very real, and I am not sure whether the provisions in the bill go far enough. If a person is pulled up for drink-driving, it should be mandatory that he or she be drug tested. Anecdotal evidence suggests that an increasing number of people are driving on our roads after they have taken so-called recreational drugs. We all know that many people go to nightclubs, where the sale and distribution of illegal substances is prevalent. Those people may not be affected by alcohol. They may limit their alcohol consumption but partake in recreational drug use. We all know that occurs. Do the provisions of the bill go far enough? It seems to me that drug-driving will become a greater problem than drink-driving and that the mixing of the two creates a lethal cocktail.

I refer to some of the rules and regulations that affect mining company personnel. As the minister is probably aware, most of the mining companies in the north west conduct on-site random drug testing. Workers caught with illegal substances in their system are not given a second chance. If a person's blood reading indicates the presence of an illegal substance, he or she is put on the next plane back to Perth.

**Hon Jon Ford:** Many have a three-strikes policy.

**Hon BRUCE DONALDSON:** Some have a three-strikes policy; however, some sack their employees immediately.

**Hon Jon Ford:** It depends on the substance.

**Hon BRUCE DONALDSON:** Yes, there are a range of substances.

Alternatively, companies that are controlled by the unions, such as the Australian Workers' Union -

**Hon Graham Giffard** interjected.

**Hon BRUCE DONALDSON:** Rather than laughing, the member should hear me out.

Union opposition has meant that there is no random drug testing at Alcoa's Kwinana, Pinjarra and Wagerup sites. It is quite strange, because many people turn up for work on a Monday after having taken so-called recreational drugs over the weekend. A person working alongside a person who has taken recreational drugs over the weekend would not be aware of that fact. We do not know what that person would be capable of doing. The taking of recreational drugs may dull a person's response times. It is a fact of life that there is no random drug testing on those sites. I do not know of other companies, but there are probably others at which that does not occur. That is the result of companies and unions not being able to come to some sort of agreement. Random drug testing should be carried out on industrial sites, because of the danger of workplace accidents. People need to have control of their capabilities when working in that type of environment. I am surprised and staggered by the fact that there is no random drug testing at those sites. I thought that random drug testing at those types of sites was across the board. However, that is not the case because the unions will not agree to them.

**Hon Jon Ford:** That is a generalisation; that is not so in every case.

**Hon BRUCE DONALDSON:** I would like to know the other side of the story.

**Hon Jon Ford:** BHP conducts drug testing at its north-west sites. Half of its workforce at Port Hedland and Newman are union members who are drug tested. However, it has a three-strikes policy. Further, it gives workers who have been found guilty of substance abuse the opportunity for rehabilitation and counselling. That was negotiated through the agreements.

**Hon BRUCE DONALDSON:** I know that they are members of the union. They voted to be on workplace agreements. Of course half of BHP's workers are members of the unions. Many workers at the Alcoa sites are union members. What is the difference? Why have those unions not agreed to have random drug testing?

**Hon Jon Ford:** Many oil and gas sites are not unionised at all. The reason that one company that I worked for did not conduct drug testing was because of the same vexing question that we have been debating in this chamber; that is, would it stand up in law? There is no evidence to suggest that having a certain level of a particular substance in your body impairs you to a certain level. It decided not to go down that path, although it is very strict on alcohol.

**Hon BRUCE DONALDSON:** It seems hypocritical in a sense that testing goes on at some mines and industrial sites and not others. Something is wrong with the system.

Anecdotal evidence may suggest that an impairment is not sufficiently concerning. However, if it is not a concern on an industrial site, I do not see why it would be a problem on a mining site. There are different sets of rules and regulations. I have been told why it does not occur; however, that is beside the point. It is well known that many young people and others use so-called recreational drugs on weekends and that they tend to drive more often on the weekend.

As I said, the mix of alcohol and drugs is a lethal cocktail. I do not believe that if a person is found to be over the limit, that offence should take precedence and the person should not be tested for drugs. There should be mandatory drug testing so that we can get an idea of the prevalence of drug-driving. It is important for us as a society to determine what effect it is having. It has been well documented that some people are not affected by drugs as much as are others. It is the same with alcohol. In fact, studies have proved that some people with a .03 reading are far better drivers than when they drive stone-cold sober. Drinking to the level of .03 does not necessarily mean that a person is a bad driver. However, what happens when drugs are added to that alcohol is a different story.

I was interested to note the comments made about the tragic number of road accidents and fatalities that have occurred on our roads since 1 January 2007. Anecdotal evidence suggests that those accidents have occurred because people are allowing themselves to be more fatigued when they get behind the wheel of their car. The effects of the combination of alcohol and amphetamines, or some other illegal substance, can be compounded by fatigue. People are now asking about the number of road fatalities in the three months from January to March in previous years when we did not have daylight saving. People have commented on air and in the paper that although they supported daylight saving before the trial, they do not support it now. Generally, they just said that they were tired. I do not know how factual this point is, or whether people just do not like daylight saving and have thrown it into the ring. However, it would be interesting to determine whether fatigue, coupled with alcohol and illegal substances, has had some bearing on the increase in road fatalities in Western Australia in the first three months of this year. It would be interesting to look at the statistics from previous years.

As Hon Donna Faragher said, of course the opposition supports this legislation wholeheartedly. I would like to think that perhaps down the track, greater emphasis will be placed on detecting and recording the number of road offences as a result of the use of illegal substances, because we need to know that information. Does the use of illegal substances have a more significant effect on a person's driving than does the consumption of alcohol, or is alcohol still the leading factor? I do not know. Hon Giz Watson obviously investigated the approach taken in a number of countries and has read the science papers published on the issue. Perhaps we should have gone down the path taken by Germany, whereby a person who has admitted a drink-driving offence is automatically given a blood test, and it is mandatory for that blood to be tested for drugs. Germany has determined some accident ratios on whether the people involved in accidents had both drugs and alcohol in their system. That is where this bill fails. If a person is picked up for drink-driving, it should be a major offence. However, the other offence of a person having illegal substances in his system is not addressed. I think that is a mistake, but I will wait and see what happens. However, it is a move in the right direction. The problem has been around for a long time. A lot of people have spoken about the use of drugs. I am very sorry to see that society has drifted towards the situation in which illegal substances are called recreational drugs. There is no such thing as a recreational drug; it is an illegal substance. If it is made legal, that is fine; it can be a recreational drug. However, it is not a recreational drug when it is illegal. It is an affront to people who engage in recreational pursuits. The minister would know that many people enjoy a bit of recreational fishing. It is not illegal to fish, except in the areas determined by the minister. The way we are going, we probably will not be able to fish at all, but that is another issue. I certainly add my support for the bill.

**HON JON FORD (Mining and Pastoral - Minister for Regional Development)** [11.43 am]: I thank members for their contributions and for their indicated support for the bill. The Road Traffic Amendment (Drugs) Bill 2006 seeks to amend the Road Traffic Act 1974 because section 63 of that act does not address drug-impaired driving when the impairment falls short of driving under the influence. Accordingly, one of the core offences in the proposed amendments is an offence of driving while impaired by a drug, as provided for in proposed new section 64AB. The other core offence makes it an offence for a person to drive or attempt to drive if he has a prescribed illicit drug in his oral fluid or blood, as provided for in proposed section 64AC. I am sure that we will go into a bit more detail during the committee stage.

Everyone who has spoken on this bill has made some good points. That reflects the discussion about, and the vexing issues associated with, polydrug use; that is, mixing drugs with other socially acceptable substances, such as alcohol and some prescribed drugs. What should we do, from a compliance perspective, to militate against the danger posed to society by the individuals who go down that route? The government is of the view - it is supported by the statistics - that alcohol is by far the most dangerous drug available in society. Indeed, it is dangerous from a driving perspective and it is dangerous from a social perspective. Young people, particularly young men, are getting involved in more violent assaults because their actions are fuelled by alcohol, and that can carry through into domestic violence in the home. It is certainly the major contributing factor to the maiming and killing that is occurring on the road. However, there is a growing recognition in society that drug use is becoming a significant contributor to impaired driving and road accidents.

As Hon Giz Watson mentioned, there are limits to technology and research giving us absolute confidence that consuming X amount of a substance will give X amount of impairment. Hon Giz Watson pointed out that since the 1930s, detailed research and clinical trials have led us to the point now at which we can speak with confidence in general terms about the measure of impairment so that that information can stand up in the courts. As Hon Bruce Donaldson pointed out, although there is a mean measurement, there are examples in which some people perform better and others perform not so well. Indeed, it was not that long ago that Australia had a real alcohol culture. People in certain forms of employment often drank at work. I can remember during my blue-collar days when it was nothing to go to the pub at lunchtime and have a number of beers, especially for those who were involved in heavy engineering or who worked on the waterside. Pubs used to send buses to pick up the workers and then take them back to work afterwards. Of course, some employers actually supplied alcohol. That is a big issue for society and we are moving away from that now. We are told that we are becoming a caffeine culture, which is another socially acceptable drug. I could never have imagined as a 17-year-old that society would have the number of cafes that it has now.

**Hon Simon O'Brien:** It was a very long time ago!

**Hon JON FORD:** Yes, that is right! Culturally, we have to move away from that way of thinking. It is very hard for people to talk to their children - in my case, to my grandchildren and nephews and nieces - about drug abuse when they are surrounded by adults who think that getting smashed on alcohol while watching the footy on television is an acceptable practice. It is all about responsible drinking, especially when the evidence indicates that excessive alcohol can be dangerous, and that it might not take too many drinks to reach that limit.

We must start trying to change society's views, and this is what this bill seeks to do. It does not seek to find that particular point at which impairment is measured. With this bill, the government is saying that, on the basis of plenty of anecdotal evidence, drugs impair our driving ability, and society does not find that acceptable, so those people who use drugs will be taken off the road. The essence of this bill is more about a deterrent, recognising that, outside speed, alcohol is the major contributor to road trauma. Indeed, the combination of speed and alcohol is the biggest killer.

Hon Donna Faragher talked about the evidence attached to polydrug use, and there is no argument about that. I have seen the statistics and read the newspaper articles on it. There is certainly statistical information to indicate that, out of a certain number of fatalities, tetrahydrocannabinol, the active ingredient in cannabis, combined with alcohol, is evident in an ever-increasing percentage of fatal accidents. However, there is not enough knowledge to show its effect, and by what ratio it causes that level of impairment. This can lead to discussion on the varying effects drugs can have on people because we all have different characteristics. Hon Bruce Donaldson referred to a common joke among non-supporters about the West Coast Eagles flying high. My personal experience with family and friends is that drug abuse has no relationship to flying high; it leads only to depression and all sorts of personal tragedy. Any family affected by drug use will tell us that nothing from drug use leads to people feeling high.

With this bill we are trying to strike a balance by sending out a deterrent message, albeit the capacity of which is dependent on the limits of technology. As our knowledge increases, it is the government's intention, within a year, to incorporate the lessons we have learnt and consider whether we can target other areas and assess what works and what does not work. There is an expectation that technology will move on.

The initial drug screening, before a blood test can be ordered, takes about 10 minutes. With proven technology, it is possible to detect in people levels of blood alcohol above the limits the law allows. However, if another level of testing is added to the process, other potential offenders may be left to continue driving past. We can argue about whether additional testing could be effective, and, as I said before, we are prepared to look at that in a year and assess whether the technology has improved or whether other practical methods will come from that experience that we can use. The initial foray of Victoria into random drug testing raised all sorts of problems, both from a practical compliance perspective and for prosecution purposes. This legislation represents a toe in the water, recognising there is an expectation in society that we do not wait forever, but that we actually start sending out a deterrent message.

That is the thrust of the bill. I am sure we will continue debating in this house the limitations of technology and what is or is not a socially acceptable drug, and the combinations of drugs available. We cannot imagine having this debate 20 years ago; in fact, not even 10 years ago. We hear much now about the increased use of amphetamines, and I understand that ecstasy is just another form of amphetamine. I expected the statistics on accidents involving the contribution of amphetamine use to be much higher. However, they are very low; alcohol is still the killer. Another example of the limitation of technology is that, as I understand it, technology can show that if an oral test reveals that the driver has levels of THC in his oral fluids, that is evidence that the driver has participated in smoking cannabis within, I think, the past seven hours. After that, although THC can be detected in the blood stream, it can remain in the system for days. It is a difficult issue.

Hon Bruce Donaldson talked about drug testing on work sites. I have heard all the arguments about that. It does not matter on many of the work sites that participate in drug tests whether a worker used it seven days ago or yesterday. That is why employers have the three-strikes policy; they give employees a second chance because they acknowledge that drugs can remain in the system for some time. Nevertheless, people who test positive must participate in counselling and some sort of rehabilitation program.

The government would like to pursue much more vigorously ways to eliminate the scourge of drugs and their ongoing effect on people's driving ability. In the debate on the recent Road Traffic Amendment Bill we talked about the privilege of driving a car being one of the privileges of society given to people that has the greatest capacity to kill. It is like a weapon of mass destruction; we can do all sorts of bad things with it. The extent of this drug testing is limited by technology and with this bill we are seeking to achieve a balance. We are seeking to tell people that it is unacceptable to take drugs and impair their level of competency behind a wheel, while dealing with the practical issues of compliance that lead to court cases. I am sure that there will be more debate during the committee stage, when advisers will be here from the agency who will be available to answer members' queries.

I thank members, particularly Hon Donna Faragher and Hon Giz Watson, for their substantive contribution to this debate. I commend the bill to the house.

Question put and passed.

Bill read a second time.