

TRANSPORT (ROAD PASSENGER SERVICES) BILL 2018

Introduction and First Reading

Bill introduced, on motion by **Ms R. Saffioti (Minister for Transport)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MS R. SAFFIOTI (West Swan — Minister for Transport) [12.37 pm]: I move —

That the bill be now read a second time.

The Transport (Road Passenger Services) Bill 2018 before us today represents the most significant overhaul of the taxi and on-demand transport industry in the state's history. Throughout its history, the taxi industry in Western Australia has been heavily regulated by government through a strict and complex legislative framework. Ultimately this approach has discouraged flexibility, stifled innovation and seen a limited focus on customer service standards. In recent years, we have seen the arrival of new entrants to the passenger transport market primarily through the use of technology. The now common term for this phenomenon is "digital disruption". This has occurred in many jurisdictions internationally, and governments in Australia and overseas have been grappling to deal with it. I will not go through the history of how the new entrants entered the WA market, but it is clear that by using new technology, they have been able to gain a market share and popularity with the public.

Now in Western Australia we have a divided taxi and on-demand industry. Taxis, which have both significant start-up and ongoing costs, remain heavily regulated compared with other forms of taxi-like services. Those are now referred to as on-demand. The challenge for this government was to recognise the changing nature of the market and create a level playing field for all participants for the future, while acknowledging the impact that deregulation has had, and will have, on owners of privately owned taxi plates. Many taxi plate owners are Western Australian small business owners, whose livelihoods have been significantly impacted by the changes in recent years.

As I have said, the issues that the bill seeks to address are not isolated to Western Australia; they are felt both nationally and globally, with varied responses across all jurisdictions. To that effect, prior to taking office I committed to developing an industry-funded taxi plate buyback scheme. Not only is a buyback of privately owned taxi plates a way to allow the taxi industry to move forward and modernise; importantly, it is the right thing for government to do.

After coming to government in March 2017, I engaged the member for Armadale, Dr Tony Buti, to conduct a fresh round of industry consultation to discuss the possible terms of the buyback and how the industry could be reformed. Throughout 2017 and 2018, over 50 hours of consultation took place with taxi plate owners, taxidivers, management companies, industry associations and booking services. I would like to thank the member for Armadale for his ongoing contribution in both the consultation and the formation of the reforms within the bill.

In November last year, I announced a new direction for reform, including the terms for a buyback of owned Perth taxi plates so that the entire industry could operate under similar rules for the first time. The current regulatory arrangement for the hire and reward passenger transport industry results in a variety of different arrangements for the licensing of passenger transport vehicles, leading to inconsistencies and confusion for both the industry and consumers alike. The Transport (Road Passenger Services) Bill before the house today brings these disparate and outdated pieces of legislation under a single framework for the first time. The bill articulates the regulatory measures needed to support and encourage innovation in the provision of safe and accessible services to the customer and has the capacity to accommodate changing transport demands.

In addition to simplifying the legislative environment, the bill formally enshrines a voluntary buyback scheme for owners of metropolitan taxi plates, many of whom purchased their taxi plates from the government in a regulated market. The bill also provides transition assistance for operators in the Mandurah and Murray districts to facilitate their introduction to the Perth taxi market. Much of the reform focuses on removing restrictions in the delivery of on-demand passenger transport services to the public whilst focusing on safety for passengers and drivers. The changes represent a major shift and aim to encourage new opportunities whilst providing a robust framework for the regulation of existing business models and future models yet to enter the passenger transport market.

On-demand transport: on-demand passenger transport services are those in which the times and destinations of travel are determined by the hirer or passenger, either for an immediate journey or for some time in the future. The most easily recognised form of on-demand passenger transport vehicle is the taxi. However, on-demand passenger vehicles are also those that can be chartered for specific purposes, such as smaller sedans for casual trips, limousines and luxury vehicles for more premium travel and special events, and buses for group travel.

Ridesharing, also known as ride-sourcing or ride-hailing, is the on-demand chartering of a vehicle through use of a computer application, whereby the driver uses the spare capacity to transport a passenger. The relatively recent emergence of ride-sourcing services have increased transport options for the people of WA. Some passenger transport services that are not considered on-demand are covered in this bill. These are services whereby the provider, not the hirer or passenger, determines where and when the vehicle will go. These include regular route and timetable services such as those offered by Transperth in the city and Transwa in the country, and organised tours with a publicly available itinerary. To attain greater efficiency and flexibility in the industry, whilst encouraging innovation and accountability for safety, the bill significantly simplifies the licensing regime for the entire hire and reward passenger transport industry.

Booking services: unlike previous legislation, it clearly defines the role of the person connecting the potential passenger with the driver and vehicle for the trip from the person who has responsibility for the vehicle and the person who drives. Until now, the only obvious recognition of the critical role the booking provider or dispatcher plays in the provision of service to the customer has been in the taxi space in which the Taxi Act required the registration of companies that dispatch customer requests for a taxi pickup to their driver networks. Apart from the inconsistent treatment of players in the same industry, a lack of regulatory oversight limits our ability to ensure that those interacting with the public for the provision of safe passenger services can be held accountable for their actions or even take responsibility for what they do. The bill therefore brings all those who take, facilitate or communicate a customer's booking for an on-demand trip into regulation for the first time. This includes the likes of Uber, Ola and Shofer, which have emerged as operators in the casual on-demand charter market, as well as traditional Perth and country taxi dispatchers and small and bus charter vehicle operators.

Safety of the services being provided to customers is the primary focus of the bill. The current legislation provides little incentive for people who are dispatching or booking vehicles to see the potential crash risks posed by driver suitability and vehicle roadworthiness as their responsibility or to work with drivers and vehicle owners towards delivering higher safety standards. Similarly, the requirement for taxi dispatchers to refer serious criminal matters to the Department of Transport for investigation, and the lack of requirement for anyone else booking trips for passengers to do anything at all, abrogates their responsibility to manage appropriately the risks to their drivers and the passengers who are paying for the service. This bill changes that. It establishes clear accountabilities for all those involved in the provision of on-demand and other passenger transport services to the paying public for the safety of services they provide, similar to that already in existence for the management of health and safety risks in the workplace.

The bill imposes safety duties and standards on all those in the chain of service provision and gives authorised officers a range of compliance tools, including audit, improvement notices, infringements and prosecutions, to develop and maintain an industry culture of safety. The department will use information and communication technologies to monitor and address noncompliance with safety duties and requirements by industry. The bill allows for the exchange of information with on-demand booking services on driver and vehicle hire and reward authorisation status, which will support the booking services in their identification and management of risks.

Penalties for breaching safety duties will be high. A category 1 offence—when someone has knowingly engaged in an unsafe practice that has exposed a passenger, driver or other person to the risk of death or serious injury—is to be considered a crime and is associated with a fine of \$3 million for a corporation and two years' imprisonment and a fine of \$300 000 for an individual. Once again, community safety has been of paramount importance in formulating these reforms.

The bill introduces a new requirement for all providers of on-demand passenger transport booking services to be authorised. The definition of "on-demand booking service" captures not just the traditional taxi dispatcher and new ride-sourcing companies, but also operators of small and bus charter vehicles that take bookings directly from a customer. It also allows for other types of booking arrangements to be captured in the future, as the industry continues to evolve. Drivers who take bookings directly from a customer, either as a private book of clients or at the roadside through taxi rank and hail, will not need to be authorised as an on-demand booking service if they have an association arrangement with a booking service that is authorised. This allows the continuation of standard practice in the taxi industry whereby drivers can associate with one or more dispatchers without being registered as a dispatcher, and it gives the taxi booking service a means for more formal oversight of private jobs undertaken under their company brand.

To ensure that those involved with the provision of the booking service and interaction with the public are fit and proper people, authorisation requires the directors and managers of the operation, together with their senior people who are responsible for the day-to-day management of the business in this state, and any close associates that the business might have to be checked and continually monitored for convictions of serious, disqualifying offences. Authorised booking services will be required to not only manage their safety risks within the chain of accountability, but also have a process for dealing with complaints and queries about the services that are delivered to the customer. They will also have to report serious safety incidents to the department for notification and

potential investigation, as well as keep detailed records on the trips they deliver or facilitate. The department will publish a list of authorised on-demand booking services on its website so that the customer can have confidence that the people they are dealing with meet our minimum safety requirements. The government will also continue to have oversight over maximum taximeter fares and how fares generally are to be calculated and made known to the customer in advance; however, what these fares will be has been left to industry.

Drivers: the safety of the vehicle used for hire and reward and the suitability of the driver will continue to be a focus of government regulation. The bill will ensure that anyone driving for hire and reward, including those driving vehicles for community and courtesy transport, will have to be annually authorised as a passenger transport driver. It amalgamates the current F and T driver licence endorsement categories into a single driver authorisation, with appropriate medical and character checks on those applying and ongoing monitoring of relevant police charges and medical suitability. The existing requirement for reports on medical assessment against the commercial fitness to drive standard to be supplied at intervals according to the person's age will be replaced with a requirement for medical reports every five years, unless it is the doctor's expert opinion that drivers should be assessed medically at more frequent intervals. The bill creates an offence for a driver to transport passengers for hire and reward without being authorised and extends this to the on-demand booking service or the provider of a passenger transport vehicle if they allow a driver without the appropriate authorisation to get behind the wheel. It also clearly sets out offences that disqualify a person from driving for hire or reward or from attaining a driver authorisation in the first place.

Vehicles: vehicles used for on-demand, regular passenger route and timetable services and tours will continue to be required to meet annual inspection requirements for roadworthiness. To encourage the uptake of new vehicles with modern safety features and high Australasian New Car Assessment Program safety ratings, regulations will allow inspections to be waived for most vehicles that are less than three years old. All vehicles will be required to have the appropriate hire and reward category of motor injury insurance to ensure that any third party victims of a road crash are appropriately covered. The bill makes it explicit that only suitably marked and equipped taxi vehicles will be authorised to accept unbooked jobs at the roadside, known as rank and hail. The penalty for engaging in rank and hail without being authorised to do so will be high, at \$12 000 for an individual and \$60 000 for a body corporate.

The regulations to be made under this bill will require all taxi vehicles statewide to be clearly identifiable as taxis and to display the regulated maximum metered fares so that the customer knows what potential charges to expect. The requirement for Perth taxis to have internal security cameras will also be extended throughout WA. Only vehicles carrying out rank and hail will be required under regulations to have these additional passenger safeguards. This recognises that other vehicles cannot be secured by the passenger unless they have made a prior arrangement with the booking service. In these cases, the customer has generally already been given the vehicle's registration and the name of the driver who will pick them up, or they have been liaising with the company for some time in relation to a group or special event journey. Bookings made in advance are generally pre-paid or pre-negotiated by credit card, so cash being exchanged in the vehicle at the time of journey, which can be a source of dispute, is less likely to occur outside rank and hail.

On-demand passenger vehicles not doing rank and hail will therefore not be required to install security cameras. This will be left to the operator involved if it suits their service offering. They will, however, need to be identified while operating for hire and reward. Like those in many other states in Australia and around the world, on-demand charter vehicles will have to display a small, visible sign in their windscreen to give customers greater assurance that this is their expected vehicle. The people owning or managing vehicles that are used to deliver on-demand, regular passenger or tourism passenger services for hire and reward will continue to require annual authorisation. Unlike previous legislative and administrative arrangements, however, authorisation for periods as short as one month will be permitted. This will allow for a much easier process for temporarily increasing a fleet to cover peak, special event or seasonal demand.

The number of vehicles that can be authorised to provide hire and reward passenger services will be unrestricted, including taxis. As such, the bill removes the current restrictions on who can have a taxi and country taxi-car licence, where they can go and what they are allowed to do with the vehicle. It removes the concept of the Perth taxi control area, which stops taxis offering services outside their defined boundaries, and eliminates conditions that force country operators in particular to make services available at all times. It does not, however, preclude operators offering a 24/7 service as a service distinction. The bill will therefore permit the holder of the vehicle authorisation to operate the vehicle at any time and anywhere in the state while the authorisation is valid. This makes taxis the same as charter vehicles, which have always operated without restrictions on numbers, and leaves it to the industry's own assessment how many vehicles are needed.

These overdue changes are achieved in the bill through the repeal of the Taxi Act 1994 and amendments to the Transport Coordination Act 1966 related to country taxi-cars and omnibuses, which will take place on commencement of part 6 of this bill. The bill continues to support the provision of on-demand transport options

for people with disability, with an unrestricted number of vehicles being able to be authorised to carry wheelchair passengers. Part 11 of the bill allows for the making of regulations to formalise the existing taxi user subsidy scheme, which provided almost 650 000 subsidised trips to participants in 2017. The government has committed to examining options for enhancing the TUSS to improve usability for members.

The government is aware that the changes embodied in this new legislation will bring about further transformation on top of that already brought about by the digital disruption seen in recent years. Accordingly, the bill brings in a targeted voluntary buyback scheme and adjustment assistance for those taxi-car licensees in Mandurah and Murray who operate in the competitive Perth on-demand market. A voluntary industry-funded buyback scheme has been developed for current owners and former eligible owners of metropolitan taxi plates in the context of ensuring that the transition to a post-reform market aligns with the best-practice transition assistance principles of efficiency, equity, fairness and legal liability.

The move to an unrestricted and unlimited supply of taxi vehicle authorisations impacts on a metropolitan taxi plate owner's ability to derive an income from leasing the plates to vehicle managers and drivers. As such, the bill gives to those who have or have recently sold an ownership right to operate a taxi in Perth the opportunity to voluntarily sell their plates back to government. It details the calculations for determining the amount of the buyback to be apportioned to eligible plate owners and former owners. This is largely predicated on the date of plate purchase and the length of ownership prior to the date of the announcement of the buyback on 2 November 2017. Each conventional plate is to be subject to a minimum buyback offer of \$100 000 and a maximum of approximately \$250 000. The buyback amount recognises that plates held for many years have already allowed owners to derive an income against their investment. Buyback offers will therefore be higher for those who bought plates more recently at high market prices.

The costs of the voluntary buyback scheme will be covered by the imposition of an on-demand passenger levy that is expected to be in place for around four years. The Transport (Road Passenger Services) Amendment Bill 2018 included in this package is a separate instrument that will, at the time of its commencement, impose the temporary levy of 10 per cent or \$10—whichever is lowest—on fares for trips that are undertaken in vehicles with 12 seats or fewer and which begin or end in a defined levy area that includes Perth and the local government districts of Mandurah and Murray. The levy will be collected from on-demand booking services that facilitate or provide the relevant trips. I am hopeful that the new licensing arrangements for getting a vehicle on the road will reduce costs in the taxi sector in particular, and that large dispatchers and other booking services will absorb the cost of the passenger fare levy in their business models, rather than fully passing it on to their customers.

On-demand charter booking services that solely do special events such as weddings and school balls will be able to apply for an exemption from the levy. The fares associated with the chartering of buses with over 12 seats, and route bus and tourism passenger services that are not on-demand, will not be required to have the levy applied. The local districts of Mandurah and Murray have been included in the area defined for the levy. This means that the taxi-car operators in these districts will be required to pay the levy on their eligible trips, even though, as annually renewed country taxi-car licensees, they are not eligible for voluntary buyback payments. Consequently, the bill provides for the establishment of an adjustment assistance grant of \$10 000 per licence for eligible taxi-car licensees in these areas.

The grant is in recognition that taxi-car operators within these areas are at a competitive disadvantage due to the current restrictions limiting taxi-car jobs and the larger economies of scale for Perth taxi operators. In addition, there are unrestricted incursions of charter vehicles operating from Perth into these regions. The adjustment assistance grant will support the Mandurah and Murray district taxi-car operators whilst the industry is undergoing reform and will provide a practical injection of cash into these predominantly family-operated businesses.

As was previously mentioned, after engaging with the regional taxi industry and listening to its views and concerns, the state government's policy was refined so that the levy would not apply outside the defined area. Although not subject to the levy, regional taxis will have greater flexibility and autonomy to regional taxi businesses. The reforms will allow regional operators to compete with new market entrants if or when they arrive in their town. Recently, we have seen Uber expand into the south west region, and although on-demand operators are yet to arrive in more remote areas of Western Australia, it is important that these reforms are passed and in place for the future.

Regional taxi businesses will have easier access to authorisations, based on their own assessment of the local market. As previously mentioned, authorisations will be available for one, three, six or 12 months, providing flexibility for regional events and peak demand during the year. Additionally, the complicated processes for getting an extra or substitute vehicle on the road will be removed. Regional taxi businesses will also be able to operate anywhere they choose, providing them for the first time with the option to expand their businesses. For regional taxis, maximum metered rates will remain, along with the ability for regional operators to offer pre-agreed contract fares. Under the new reforms, they will also be able to set fixed fares between destinations, if advertised.

Although there may be challenges, we will continue to engage with stakeholders and monitor the industry as the reforms are implemented. This bill represents the most significant reforms to the taxi and on-demand industry in the state's history. They are necessary reforms that address both longstanding quality-of-service issues and more recent concerns surrounding fairness and competition—issues that have not been resolved by past governments. The bill provides a future view of an industry that is flexible, innovative, customer driven, accessible, safe and more efficient. It commits the McGowan Labor government to immediate, achievable actions to move the industry to a more level playing field and finally end the uncertainty for taxi plate owners.

I would again like to thank the member for Armadale, Dr Tony Buti, Mr David Hay-Hendry and Department of Transport staff for all of their work so far. I commend the bill to the house.

Debate adjourned, on motion by **Ms L. Mettam**.