

**ROAD TRAFFIC AMENDMENT BILL 2001**

*Second Reading*

Resumed from 28 June.

**MRS HODSON-THOMAS** (Carine) [1.16 pm]: I point out that I am not the lead speaker on this Bill. I will deal with the next Bill as the lead speaker. The member for Ningaloo, the opposition spokesperson on regional transport, will deal with this Bill as the lead speaker, given his broad background and experience in the heavy vehicle industry, something on which I am trying to get a good handle. The member for Ningaloo has personal experiences from which he can draw and I am certain they will be valued in this debate. Nevertheless, I shall make a few remarks about the Bill.

The Bill contains minor amendments to the Road Traffic Act that are necessary to support the making of regulations to accommodate two national road transport reforms in Western Australia. The Bill provides the framework for these regulations to be implemented and to enable the carrying out of these two reforms. The first reform will enable the implementation of national standards on matters such as vehicle design, construction, equipment, maintenance and loading, and noise and exhaust emissions from vehicles. Given that the existing regulations have been in force in this State for some 23 years, I accept readily the need to update them to ensure that Western Australia's vehicle standards align with international vehicle standards. I am sure most members would accept that as a reality, especially given the number of advances in technology.

I understand also, from discussions I have had with the heavy vehicle industry, that it supports the Bill. The industry has been widely consulted, particularly on the load restraint guide that was developed by the Office of Road Safety. I am aware that this legislation is in essence uniform insofar as it provides a level playing field for the industry. The passage of the legislation is required as it links to the national competition policy payments. The Opposition will not oppose the Bill. We understand fully that the national competition policy payments are essential to the State's finances.

The minister stated during her second reading speech that there are a number of minor jurisdictional differences in vehicle standards and that a vehicle which complies with Western Australian requirements may become technically non-compliant when it crosses the borders of other States and Territories. The Opposition agrees that matter must be addressed and I am pleased it will be accommodated with the passage of the Bill.

The second reform relates to the implementation of national operating standards for heavy vehicles. I am aware that the proposed regulations will define the framework for heavy vehicles to operate on public roads to ensure safe interaction between heavy vehicles, other road users and the general public, as well as balance the need for heavy-vehicle access to the road network while caring for the amenity of residential areas. The member for Ningaloo will deal with this issue in greater detail to allay some of the concerns raised by opposition members at yesterday's departmental briefing. I understand that the minister has foreshadowed two amendments, and the Opposition will not oppose them. However, it will seek further clarification of the amendments during the consideration in detail stage of the Bill.

**MR SWEETMAN** (Ningaloo) [1.21 pm]: I appreciate that the minister was able to organise a briefing for members of the Opposition. It gave us a better understanding of the issues addressed in the various pieces of legislation and, in particular, in the Road Traffic Amendment Bill. I had concerns when I first saw the explanatory memorandum and read the second reading speech. Some of those concerns have been completely dispelled, but I have lingering doubts about how this minister or some future minister might uphold or prescribe regulations. Regulation of vehicles operating on private property or on mining leases is a sensitive issue. It is an extreme scenario, albeit possible, but a future minister could misuse this power for what he or she believes are good reasons. It could have a nuisance value for a business or operation being conducted on private property or a private road that could be prescribed as involving a public component.

The second reading speech referred to imposing more appropriate exhaust emission standards on heavy vehicles in Western Australia. It was interesting to hear some of the arguments presented during the parliamentary debate on fuel prices in this State. Shortly after that debate, two large independent fuel retailers stated that they would need to buy fuel at a cheaper price than that available at the BP refinery at Kwinana. They implied that they would like to resume importing fuel from Singapore. It is well understood that fuel imported from Singapore does not meet the standard of that produced at the BP refinery. Fuel produced locally has been modified to ensure that it complies with Australian standards, so it produces fewer emissions. We are confronted with a double-edged sword: strong community pressure is being applied to reduce fuel prices, but this legislation will tighten up emission controls applying to one section of the community. I acknowledge that these measures apply only to manufacturers - they cannot be imposed on vehicles already on the road and, at this stage, on mining operations or operations on private property. However, in an extreme situation nothing stops them being applied to operations on private property if the minister has a mind to do something about emissions from dump trucks,

haulpaks, excavators, dozers or graders operating on mine sites. The legislation does not seem to imply that, but that does not alter the fact that it could be included by notice at a future date.

Western Australia seems to go kicking and screaming into these arrangements. Perhaps our conservatism has meant that we are the last to agree to some aspects of the national competition policy. We were the last to agree to federation and we have been last to embrace the national competition policy as it affects some industries and our way of living.

I will make some further comments that may not immediately attach themselves to this legislation. I was reassured somewhat in the briefing last night that the Department of Transport or those dealing with this Bill acknowledge the difficulties being created by the implementation of the national competition policy. We have many things foisted on us from time to time, particularly in business and industry. The compliance costs associated with these moves are now more than they have ever been. It was reassuring that the agencies involved are taking that into consideration.

Permits are a very important issue in the road transport industry. Some permits are issued on a per-trip basis; that is, a haulier might want to move a piece of equipment from point A to point B and the trip might take only one or two hours, but he will still require a permit. Obtaining some permits is as simple as applying for a drivers licence, which can be for six months, 12 months and so on. Hauliers must also obtain out-of-gauge and road-train permits, which allow them to move their prime mover, trailer, dolly or whatever over gazetted routes. Departmental officers assured me that moves were being made to allow part of the annual licensing procedure to include some of those permits.

Several people have contacted me over the past 12 months because they have been fined for not carrying the relevant permit in their prime mover. They had the permit, but they did not have it on them. That presents a difficulty when the movement involves a contractor working for a haulage company. Often the haulage company is responsible for obtaining the permit, and it is held in the company's office. These trucks are back in the yard often for only one day a fortnight - it depends on the haulage route. It makes sense that the licence sticker on the windscreen of the truck should carry that additional licence information, such as relevant permits. Such a system would be less cumbersome and more user friendly. In some ways it would offset the problems resulting from implementation of the national competition policy.

Main Roads WA and shires have been the key agencies in issuing endorsements or approvals to use certain sections of roads, particularly in built-up areas. I know that the new Government was elected on a platform of ensuring greater safety in communities and protection against heavy-haulage vehicles. However, so far, it has slowed down the process. A shire or Main Roads can issue an endorsement, but it is now not valid until it has passed across the minister's desk. A haulier who won a contract in Port Hedland was faced with enormous difficulty in honouring that contract. He was permitted to go through the neighbourhood with a single trailer, but he could not use a road train, although he had previously had permission to do so. It was adding great cost to his contract and he lost money for the first five days of it because he had quoted to do the job on the basis that he would be reissued with an endorsement to haul down that road. Instead, he was running single down that road and he had twice as many movements down that road because the minister's office had said that all endorsements and permits had to pass across the minister's desk prior to a permit being issued. Things like that have to be streamlined; confidence has to be shown in the people who make the assessment about whether a permit is issued in a certain area.

I do not have a problem with the legislation as it is presented as long as the regulations give clear expression to the Bill once it passes into law. That is on the basis that we are told that the minister will have an enabling power that will be used with commonsense and consideration for existing businesses and businesses that may come into being. The Opposition supports the Road Traffic Amendment Bill.

**MR McNEE** (Moore) [1.31 pm]: The Opposition supports this Bill as it brings necessary finetuning to the Act. It is important that we maintain a strong, well-regulated transport industry. The industry is of vital importance to Western Australia and is responsible for the transport of goods in and out of the city. The industry needs to be well regulated. The amendments have been some time in coming and it is not before time that we have them. The Opposition looks forward to the implementation of this legislation.

**MRS ROBERTS** (Midland - Minister for Police and Emergency Services) [1.33 pm]: I thank members for their contribution, especially the support given by the member for Carine. I know this portfolio is new to her and I know she is working hard to get across the issues. I thank her for her contribution to the debate. I thank the member for Ningaloo for his support. I appreciate his interest in, and experience of, this area. I understand his concern about the provision contained in clause 5 that allows a minister to declare an area to which the regulations would apply that is not a road. The member should note that the declaration can apply only to an area "that is open to or used by the public". The Bill will not allow the minister to declare an area to which the general public has not got a right of access.

While these are minor amendments to the Road Traffic Act, there are, as I pointed out in the second reading speech, a couple of very important national road transport reforms. Western Australia is the last State to adopt these reforms. The delay has been due to a change of Government. The previous Government was looking at introducing these reforms.

Since the introduction of the Bill, I have received legal advice about two minor errors contained in it. During the consideration in detail stage I will move two amendments, notice of which has already been provided to the Clerk, and which appear on the Notice Paper. Members opposite have acknowledged that they have been briefed on the amendments. I thank all members for their contribution, including the member for Moore.

Question put and passed.

Bill read a second time.

*Consideration in Detail*

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 5 amended -**

Mrs ROBERTS: I will oppose clause 4. The clause would insert a replacement definition of “road” in the Road Traffic Act 1974. Legal advice received during the Bill’s drafting was that a replacement definition was required by virtue of clause 5. I have since received legal advice that the replacement definition is unnecessary for several reasons. As members are aware, clause 5 would insert new section 103A into the Act. That section is intended to enable the minister to declare that a regulation or regulations made under the Road Traffic Act 1974 apply to specified areas in Western Australia that are not roads, as defined by the Act. Such action may be necessary to regulate traffic flow or to protect the safety of the public using the particular area. The replacement definition will provide that a road also includes an area that the minister has ordered pursuant to new section 103A to be an area to which regulations apply. As proposed section 103A is to have application in respect of areas that are not roads, I am advised that it would be legally incorrect to amend the definition of a road to provide that such an area is a road. I therefore oppose clause 4.

Mrs HODSON-THOMAS: The Opposition supports the Government’s position on this clause.

**Clause put and negatived.**

**Clause 5: Sections 103A and 103B inserted -**

Mrs ROBERTS: As members are aware the insertion of proposed section 103B will enable the minister to declare that a regulation made under the Act does not apply to a specified person or vehicle. Such a power would commonly be required to be exercised in respect of vehicle standard matters. Owing to a vehicle’s usage, for example, it may be impossible or inappropriate for it to comply with certain vehicle standards. Similarly an application may be made to license a vehicle which has previously been modified in a manner that does not render it unsafe to be driven on a road, but which nevertheless makes it non-compliant with one or more vehicle standards. As exemptions of vehicle standard matters are required to be granted for minor technical and operational matters, however, it is proposed to insert a further subsection that will enable the drafting of regulations to empower the director general to grant such exemptions. This proposed subsection will restrict the director general’s powers to the granting of exemptions for vehicle standard matters only and will remove any doubt as to the director general’s powers in this regard. I am sure that members will agree it is appropriate for such operational decisions to be made by the licensing authority rather than by the minister of the day.

Mrs HODSON-THOMAS: I understand a number of those exemptions will relate to bushfire fighting trailers and telethon parade floats, for example. I have no problems supporting the clause.

Mrs ROBERTS: I understand that it will apply to parade floats such as those used in the Christmas parade. However, I think bushfire trucks will be provided for by way of exemption under this Bill.

**Clause put and passed.**

**Clauses 6 and 7 put and passed.**

**Title put and passed.**