

GOVERNMENT RAILWAYS AMENDMENT BILL 2021

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Samantha Rowe (Parliamentary Secretary)**, read a first time.

Second Reading

HON SAMANTHA ROWE (East Metropolitan — Parliamentary Secretary) [5.09 pm]: I move —

That the bill be now read a second time.

The purpose of this bill is to increase the maximum fine for trespass on the rail network from \$200 to \$5 000, to introduce a modified penalty provision and to delete the provision referencing a ticketing regime and classes of travel that were abolished in 2003. A bill to increase the fine for trespass was passed by the Legislative Assembly in 2019 following a train-surfing incident in which a man jumped off the top of a train crossing Fremantle Railway Bridge. The bill was introduced into the Legislative Council but was unable to be passed before the end of the fortieth Parliament.

Trespass on the rail network is a serious offence that impacts on the safety of the trespasser, the public and railway workers. The current maximum penalty under the Government Railways Act 1904 for trespass is a fine of \$200. An increase in the penalty for the offence of trespass reflects the seriousness of that offence. The increase in penalty is intended to discourage premeditated and deliberate acts of trespass and to reduce the risk of serious injury. The Public Transport Authority has implemented a range of initiatives to discourage and deter trespassing on railway land, including a targeted social media campaign highlighting to the public the dangers of trespassing, a media campaign to stop photographers taking pictures of wedding parties on the railway, deploying transit officers to build valuable relationships with high-risk youths through social activities to promote rail safety and the dangers of trespassing; providing ongoing support and delivery of the Right Track education program to encourage young people to become more responsible for their own safety while using the rail network and to alert young people to the dangers and consequences of trespassing in the rail corridor, and Transperth train operations working with the Western Australia Police Force to prevent graffiti-related trespass incidents at railcar depots at Nowergup, Claisebrook and Mandurah and at stations and sidings on the PTA rail network. Nevertheless, the number of trespass incidents on the rail network has continued to rise.

Under the Rail Safety National Law (WA) Act 2014, specific railway incidents must be reported to the Office of the National Rail Safety Regulator. These notifiable occurrences are defined in the Rail Safety National Law (WA) Regulations 2015 as either category A, which includes death, serious injury or significant property damage, or category B, which includes incidents that may have the potential to cause a serious accident. The number of notifiable occurrences of trespass has increased in recent years. In 2016–17, there were 328 category B notifiable occurrences of trespass, and in 2017–18, that number increased to 510. In 2018–19, the number of category B notifiable occurrences of trespass increased further to 885 incidents. In 2019–20, there was one category A notifiable occurrence of trespass and 742 category B notifiable occurrences of trespass. In 2020–21, there were no category A notifiable occurrences of trespass and 992 category B notifiable occurrences. Although this increase in the number of notifiable occurrences of trespass can be attributed to changes in the national rail safety reporting guidelines, it nevertheless demonstrates that the increase in the occurrence of this offence has corresponding adverse impacts on rail safety, railway operations, railway workers and the community as a whole.

Prosecutions for the offence of trespass under the act are conducted through the court system. The average cost to the PTA to prosecute trespass offences is between \$2 000 and \$3 000. This bill will increase the maximum fine to \$5 000, which reflects the actual cost of prosecuting an offence of trespass and ensures that the increased penalty is commensurate with the gravity of the offence. This bill will also introduce a modified penalty that may be prescribed for the offence of trespass that must not exceed 20 per cent of the maximum penalty that could be imposed for that offence by a court. The modified penalty provision is consistent with the modified penalty provision in the Public Transport Authority Act 2003.

Rail safety is a shared responsibility. This bill is one measure to manage a risk to the safety of the public associated with railway operations. By increasing the penalty for the offence of trespass, the bill will discourage the public from accessing parts of the railway where access by the public is not allowed by law.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper [1749](#).]

Debate adjourned, pursuant to standing orders.