

ROAD TRAFFIC (VEHICLES) AMENDMENT (OFFENSIVE ADVERTISING) BILL 2022

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) [12.27 pm]: I move —

That the bill be now read a second time.

The Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022 will implement necessary legislative measures to protect against offensive advertising on vehicles in Western Australia. The focus of the bill is to address offensive advertising on vehicles that put at risk vulnerable social groups such as minority groups, young people and victims of domestic violence. The Minister for Women's Interests and I have both received numerous complaints over the years asking the state government to stamp out this behaviour, and I thank the minister for helping us get the bill to this stage.

Advertising on vehicles is visible to all road users. Unlike other forms of advertising, you cannot switch it off, turn the page or unsubscribe to avoid it, or if you would rather your children were not exposed to it. It is true that the overwhelming majority of advertising on vehicles is perfectly acceptable and is a legitimate means to advertise a business. There has, however, been some longstanding community concern about sexually explicit, misogynistic or otherwise offensive advertising that has appeared on some vehicles, an example being Wicked Campers. Vehicles displaying advertising for this company featured spray-painted designs, often containing references and slogans that were of a derogatory or offensive nature. Many were simply disgusting. I have driven behind these vehicles with my young children in the car not knowing what to do to ensure that they do not see such offensive material.

The advertising industry in Australia is self-regulated. The Australian Association of National Advertisers administers the self-regulation of advertising through its Ad Standards branch. Ad Standards has received numerous complaints about vehicles displaying offensive advertising and, in July 2014, a petition opposing sexist and misogynist slogans depicted in vehicle advertising attracted over 100 000 signatures and protests in the Australian Senate. Since this time, all other Australian jurisdictions have introduced legislation or policies to protect against offensive advertising on vehicles. The government is concerned that failure to participate in the national approach may result in Western Australia becoming the jurisdiction of choice for licensing vehicles displaying offensive advertising. I think it is important to acknowledge the distinction between advertising and an individual's right to freedom of expression. This bill does not seek to erode an individual's right to express themselves freely and the powers introduced by this bill will be limited to vehicles displaying advertising that is deemed offensive.

Current Western Australian vehicle legislation is concerned with the licensing and safety standards of vehicles. It does not provide for the power to cancel a vehicle licence when advertising featured on the vehicle is deemed offensive. Amendments to the Road Traffic (Vehicles) Act 2012 will provide the CEO with the power to cancel, refuse to grant or transfer a vehicle licence if Ad Standards has determined that advertising on a vehicle is offensive.

Complaints about offensive advertising can be made to Ad Standards. Ad Standards applies an established process, based on international best practice, for considering and resolving those complaints. Three features of that process are notable. Firstly, advertising is assessed against the Australian Association of National Advertisers Code of Ethics, otherwise known as the advertising code. The advertising code has been established to ensure that advertisements are, amongst other things, decent and truthful. For example, the advertising code requires that advertising does not depict material in a way that is discriminatory. Sexual appeal should not be employed in a way that is degrading to any individual or group and sex; sexuality and nudity should be treated with sensitivity relative to the audience. Secondly, complaints made to Ad Standards are assessed by the Ad Standards community panel, which comprises members who are representative of the Australian community. Members of the panel are required to be independent of the advertising industry. Thirdly, the Ad Standards process provides procedural fairness. Advertisers are able to respond to any complaints made about their advertisement before the panel makes a final determination. The Ad Standards process also provides for an independent review if the advertiser or the complainant does not agree with the panel's determination. In the vast majority of cases, when the panel makes an adverse determination about a particular advertisement, the advertiser either withdraws the advertisement or modifies it to remove the offensive aspect.

This self-regulation model relies on cooperation and support from advertisers. If an advertiser chooses not to comply with an adverse determination, Ad Standards has no power to require an advertisement to be modified or removed. The bill I am introducing would allow further action to be taken when an advertiser ignores a determination made by Ad Standards. Specifically, the bill provides that Western Australian vehicle licence holders who fail to comply with an Ad Standards' final determination will face the prospect of having the licence of the offending vehicle cancelled.

The proposed objectives of this bill have received widespread support in the media, including from Ad Standards. The bill delivers the government's commitment in a measured, fair, and pragmatic way. The provisions allowing cancellation of a vehicle licence are only activated once the Ad Standards process, including any review, has been completed, and the Department of Transport has received notification that an adverse determination has been made against a Western Australian licensed vehicle. Even after Department of Transport is notified, the licence will not be automatically cancelled. Department of Transport will be required to provide written notification to the licence holder that the licence may be cancelled on a date stated in the notice. This will be at least 14 days from the date of the notice. Importantly, the cancellation of the licence will not proceed if the licence holder satisfies the Chief Executive Officer of Department of Transport that the offensive advertising has been removed prior to the date stated in the notice. The licence holder is given warning of the proposed cancellation of the vehicle licence and is given a further opportunity to remove the advertisement to ensure the vehicle can continue to be used. The provisions also provide discretion for the chief executive officer of the Department of Transport to delay the cancellation of a vehicle licence in extenuating circumstances, such as when a licence holder is unable to access the vehicle to remove an advertisement in the time given.

This bill is designed to achieve the removal of offensive advertising from vehicles. Ultimately, if a licence holder refuses to remove an offensive advertisement, the vehicle licence will be cancelled. Once a licence is cancelled, the vehicle cannot be re-licensed until the offensive advertising is removed.

To ensure that these provisions cannot be circumvented by the licence holder, the bill also includes provisions to ensure that, after Department of Transport has issued a licence warning notice, the vehicle licence cannot be transferred, unless the notice is subsequently withdrawn because the offensive advertisement has been removed. There will also be no refund of vehicle licence fees if the licence is cancelled. Underpinning these amendments is the commercial imperative of all businesses to keep their vehicles on the road and to avoid adverse public comments from their customers.

The Ad Standards process, together with the new process contained in this bill, ensures that there are multiple opportunities for offensive advertisements to be removed from vehicles. The bill provides considerable motivation for offensive advertising to be removed voluntarily but also provides concrete follow-up action when an advertiser refuses to remove an offensive advertisement. The legislation will not impact on the overwhelming majority of vehicle advertising but is targeted at only the worst examples that have no place whatsoever on our roads.

I commend this bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle**.