

PUBLIC TRANSPORT AUTHORITY AMENDMENT BILL 2008

Receipt and First Reading

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

Second Reading

HON ADELE FARINA (South West — Parliamentary Secretary) [7.40 pm]: I move —

That the bill be now read a second time.

The purpose of this bill is to provide strong penalties to support the public transport banning orders that we introduced by way of regulation in February this year. Those regulations and this legislation are part of our ongoing program to combat violent behaviour and criminal damage to our public transport system and to target repeat offenders. Western Australians have every right to use their world-class public transport system without being assaulted, threatened or subjected to offensive behaviour. People who repeatedly deny them this right or wilfully damage an important community asset should not expect to be able to use it. Although repeat offenders are in the very small minority, we recognise that their actions of violent antisocial behaviour, graffiti and vandalism are regarded as serious issues by the community. Banning repeat offenders from using public transport is an extra deterrent and could contribute to changing that type of behaviour. Although the number of such offences is small when compared with the more than 35 million public transport journeys taken each year, the impact of these very few offenders on the perceptions and the actual experience of other customers is significant.

The chief executive officer of the Public Transport Authority is empowered by these changes to issue a banning notice—called a “prohibition order”—in the following circumstances: firstly, if an offender has been found guilty of or has pleaded guilty to two relevant offences relating to separate incidents that were committed within a 12-month period, the offender will be banned from using public transport for up to one month; and, secondly, if an offender has been found guilty of or has pleaded guilty to three relevant offences relating to separate incidents committed within an 18-month period, the offender will be banned from using public transport for up to three months.

Relevant offences: Under sections 313, 317 and 318(1)(d) of the Criminal Code, an offence is an assault committed on any PTA property, conveyance or facility, whether common assault, assault occasioning bodily harm or serious assaults, including assaults on public officers and drivers. Under section 444 of the Criminal Code, an offence is wilful and unlawful damage to PTA property, such as graffiti. Under section 43(5) of the Government Railways Act 1904, an offence is violent or offensive behaviour on a PTA railway to the annoyance of others. Under regulation 40 of the Public Transport Authority Regulations 2003, an offence is obstructing a PTA authorised person or security officer in the course of his or her duties in relation to any PTA function on a bus, train or ferry. Under regulation 42, together with regulation 41(g) of the PTA regulations, an offence is failing to comply with a refusal to travel direction by a PTA authorised officer in circumstances when the refusal is based on the reasonable belief that a person poses a threat to the safety of the driver or master of, or a passenger on, a PTA bus, train or ferry.

Penalties: Under section 69(5) of the Public Transport Authority Act 2003, the amended regulations, by their nature, were only able to impose a monetary penalty. This bill currently before Parliament mirrors the prohibition order regime contained in the amended regulations except that it changes the penalties for breaches of a prohibition order without reasonable excuse. The new penalties are a term of imprisonment of up to nine months as a maximum penalty instead of a monetary penalty of up to \$2 000 as currently provided in the amended PTA regulations; a minimum penalty of a community-based order, except that a further option is available in the case of juveniles; notwithstanding the Sentencing Act and the Young Offenders Act, the penalty of a fine would not be available; and, in the case of juveniles, referral to a juvenile justice team will be an option provided that the PTA is accorded the status of “victim” for the purposes of the proceedings. The government is aware that imposing a fine on offenders who are found guilty of or who plead guilty to offences is not always a sufficient deterrent. The courts predominantly impose monetary penalties, which may lead to loss of a driver’s licence or vehicle licence through the Fines Enforcement Registry process. However, the Public Transport Authority’s data shows that the majority of repeat offenders who have committed violent or destructive offences do not have a driver’s licence and do not have a vehicle registered in their name.

Safeguards: The bill contains certain safeguards to provide natural justice to the offender. Before a decision is made on a prohibition order, the PTA’s chief executive officer must send a repeat offender a notice to show cause why a prohibition order should not be issued to the offender; or, if it is to be issued, any exceptions to that prohibition order that the PTA’s chief executive officer should consider before issuing a prohibition order. The PTA’s chief executive officer will also be given discretion to take account of the person’s personal

circumstances before issuing a prohibition order and, if required, may issue the prohibition order subject to conditions; for example, allowing travel in restricted circumstances during the ban period.

If the bill is passed, the amended regulations dealing with the prohibition order regime will be repealed. This initiative has not, to our knowledge, been implemented in any other state public transport system. However, it should be noted that people in the position of, or similar to, a chief executive officer have been granted the power to issue banning orders under other Western Australian legislation, notably under the Casino Control Act 1984, to the Commissioner of Police and authorised persons of the casino licensee, and under the Alcohol and Drug Authority Regulations 1990, to the chief executive officer of that authority.

Our rail and bus facilities have extensive closed-circuit television coverage, much of which is monitored in real time at the CCTV control centre. The CCTV control centre has proved very effective in identifying specific individuals and alerting security officers and police to their location. The transit officers on the rail system are allocated to the same lines each day, rather than working throughout the system, so that they are familiar with the patrons on their lines. Together, these capabilities will enable us to effectively enforce the prohibition orders, particularly on the rail system. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.