

CANNABIS LAW REFORM BILL 2009

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Peter Collier (Minister for Energy)**, read a first time.

Second Reading

HON PETER COLLIER (North Metropolitan — Minister for Energy) [10.10 pm]: I move —

That the bill be now read a second time.

During the 2008 election campaign, the Liberal Party released a policy document titled “Tackling Illicit Drugs in our Community: Law Enforcement”. The document outlined a number of law enforcement initiatives to tackle illicit drugs in Western Australia, the central planks of which were to: repeal Labor’s cannabis legislation, the Cannabis Control Act 2003, and reinstate the one-time cautioning system for possession only; introduce a new limit for possession of 10 grams of cannabis or less, down from the 30 grams allowed under Labor; require first-time offenders, juvenile and adult, found in possession of 10 grams of cannabis or less to attend a mandatory cannabis education program; prosecute subsequent possession offences; prosecute as criminal offences all cultivation offences; impose harsher sentences on dealers who sell or supply illegal drugs to children; provide offences for exposing children to harm from the manufacture of illegal drugs or cultivation of plants; and ban the sale of drug-use paraphernalia.

The Cannabis Law Reform Bill 2009 gives effect to the majority of these measures insofar as they relate to cannabis. The government is planning to bring further legislation to Parliament in the near future to address those other aspects.

Part 2 of the Cannabis Law Reform Bill 2009 provides for the repeal of the Cannabis Control Act. This is necessary as the existing cannabis infringement notice scheme established under that legislation is to be curtailed. Part 3 of the Cannabis Law Reform Bill 2009 contains the key elements of the cannabis intervention requirement scheme, which will operate under the Misuse of Drugs Act. Cannabis offenders, both adults and juveniles, will be eligible for a cannabis intervention requirement if they are found in possession of not more than 10 grams of cannabis or are in possession of a smoking implement containing traces of cannabis. Juvenile offenders will be eligible for a cannabis intervention requirement on two separate occasions. Adults will have only one opportunity to be given one cannabis intervention requirement.

The requirement of a cannabis intervention requirement is to attend a cannabis intervention session within 28 days. The ability to pay a modified penalty will not be available under the new cannabis intervention requirement scheme. An offender who fails to attend the cannabis intervention session will be prosecuted by police for the original offence. It is acknowledged that juveniles present a unique situation in relation to low-end possession of cannabis and in that regard juveniles cannot currently be given a cannabis infringement notice. Under the Misuse of Drugs Act juveniles will be able to be given a cannabis intervention requirement. Part 3 of the bill also contains some other provisions unique to juveniles. A police officer who issues a juvenile with a cannabis intervention requirement must give a copy of the order to a responsible adult as soon as practicable unless the whereabouts of a responsible adult cannot be ascertained or it would be inappropriate to give a responsible adult a copy. Also, the bill provides for juveniles who would otherwise be eligible to be given a cannabis intervention requirement but cannot because of their previous convictions et cetera, or juveniles who have not attended the required cannabis intervention session. It is desirable to have both those categories of juveniles considered by a juvenile justice team under the Young Offenders Act, rather than having them charged and appearing in court.

Part 3 of the bill also contains a range of ancillary matters necessary to give effect to the new cannabis intervention requirement scheme. It is worth noting that, as with other infringement-type schemes in operation, the offender will retain the right to have the matters dealt with in court instead of attending the cannabis intervention session.

The bill also proposes to insert a new section 19A into the Misuse of Drugs Act to create offences of selling or displaying for sale et cetera cannabis smoking paraphernalia. This new offence is modelled on the offence contained in section 24 of the Cannabis Control Act 2003, but sale is now prohibited across the board, not just in relation to young people. The proposed penalty for sale to a young person is \$10 000, which is double the penalty under the Cannabis Control Act 2003.

Division 2 of proposed part VII of the Misuse of Drugs Act contains transitional provisions. Proposed new section 47 provides that if a cannabis infringement notice has resulted in a licence suspension order issued under the Fines, Penalties and Infringement Notices Enforcement Act 1994, the modified penalty under the cannabis infringement notice is deemed paid on the commencement of the Cannabis Law Reform Act 2009 or 12 months after the licence suspension order was made. This is so that WA Police can dispose of the cannabis that had been

seized when the cannabis infringement notice was issued. At present, WA Police is holding hundreds of seized cannabis materials while awaiting the completion of payment of cannabis infringement notices. Until this occurs, a person can still elect to have the matter dealt with in court, which could be years after the alleged offence was committed. WA Police does not propose to prosecute in these cases, but, until the modified penalty is paid, WA Police cannot dispose of the seized cannabis. The provision in proposed section 47 will effectively deem the modified penalty to be paid after 12 months so as to enable WA Police to dispose of the seized cannabis.

Part 4 of the Cannabis Law Reform Bill 2009 contains an amendment to section 11 of the Spent Convictions Act. Section 11 of the Spent Convictions Act provides that the period of time a person must wait before a conviction can be spent, or before that person can apply to have a conviction spent, is 10 years. It is proposed to amend section 11 of the Spent Convictions Act to provide that if the offence was a minor cannabis offence, then the time period is three years instead of 10 years. This change in qualifying period is not retrospective and will apply only to convictions imposed after the Cannabis Law Reform Bill 2009 comes into effect.

Finally, part 5 of the Cannabis Law Reform Bill 2009 contains some consequential amendments to the Young Offenders Act that are necessary to give effect to the new cannabis intervention requirement scheme.

I commend the bill to the house.

Debate adjourned, pursuant to standing orders.

House adjourned at 10.16 pm
