

TAXI DRIVERS LICENSING BILL 2013

Introduction and First Reading

Bill introduced, on motion by **Mr T.R. Buswell (Minister for Transport)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR T.R. BUSWELL (Vasse — Minister for Transport) [10.34 am]: I move —

That the bill be now read a second time.

The purpose of this bill is to provide a single, comprehensive act to cover the occupational licensing of all taxidrivers in Western Australia. The current licensing and regulation of taxidrivers in WA is fragmented between the Taxi Act 1994, the Transport Co-ordination Act 1966 and the Road Traffic Act 1974, and subsidiary legislation made under it—namely, the Road Traffic (Authorisation to Drive) Regulations 2008.

People who undertake the occupation of taxidriver are currently authorised to do so by the director general under provisions of the Road Traffic Act 1974. The key focus of this act, however, is the regulation of drivers and vehicles for road safety purposes. Although this is sufficient to address the general conduct of taxidrivers as motorists, and provide appropriate penalties for typical traffic violations, it does not cover the conduct of taxidrivers as professional drivers. The Taxi Act 1994 and Transport Co-ordination Act 1966, along with supporting regulations, make some effort to regulate the conduct of taxidrivers, but these acts focus more on authorising persons to operate vehicles, such as taxis, and where those vehicles may be operated. The regulation of taxidrivers is almost incidental to their prime purpose—that is, determining who can have a taxi plate. Although a variety of acts and regulations in some way apply to taxidrivers, nowhere is there a comprehensive set of provisions applying to the occupational licensing of taxidrivers statewide. For this reason alone, this bill will create a far better framework for the regulation of taxidrivers in Western Australia.

Back in February 2011, when I had just been appointed Minister for Transport, I held a forum for taxidrivers at Ascot Racecourse and sought their views on how the industry might be improved. Perhaps the strongest message they gave me that day, and subsequently in other meetings with industry representatives, was that the government needs to take steps to deal with some “bad apples” in the industry. The bad apples that I refer to are those taxidrivers who give the industry a bad name through dodgy practices, poor customer service or offensive personal conduct. The new bill will provide an objective, structured means whereby taxidrivers who persistently fail to provide honest and courteous service to their customers can be managed out of the industry.

The taxi sector in WA is structured such that the majority of taxidrivers operate as independent small businesses and are not subject to the direct supervision or disciplinary sanctions that are the norm in a direct employment situation. Given that the average taxidriver in Perth completes around 2 000 trips a year, it is not hard to imagine how much damage can be done to the industry by just one bad taxidriver giving poor service. A few drivers giving poor service can bring the entire sector into disrepute and undermine the good work done by the vast majority of WA’s taxidrivers who continually provide great customer service in very difficult circumstances. Driving a taxi is not an easy job. Although lateness is almost never their fault, taxidrivers are the ones left to deal with irate and disappointed passengers as best they can, and many late-night customers are so inebriated that they cannot stand or even articulate their destination. Again, all too frequently, at the end of the journey taxidrivers are confronted with passengers who refuse to pay, or who run off without paying. Some passengers frequently become aggressive and sometimes they even become violent.

It is high time that we all stopped defining the whole taxi industry by the actions of a handful of rogue drivers, and recognise the vast majority of taxidrivers for the unique role they play in WA’s public transport system—in Perth alone the taxi industry provides around 10 million door-to-door journeys a year—and for the professional way in which they conduct themselves in difficult circumstances. It is with these reputable taxidrivers uppermost in my mind that I present this bill to the house. On their behalf, I want to make it clear that the real purpose of this bill is to set the standards by which a highly reputable, professional occupation can be built and maintained. The philosophy embodied by this bill is that all taxidrivers in WA should hold their licence in high regard and demonstrate, at all times, personal conduct of the highest standard. Taxidrivers who fall short of this standard will have their licence cancelled and will find it difficult to return to the industry. The first consideration of this is to ensure that both the public and the industry is protected by making it a serious offence for anyone who is not a licensed taxidriver to drive a taxi, or for anyone causing or permitting an unlicensed person to drive a taxi. This would, of course, include former taxidrivers who have had their licence cancelled.

Following on from this, I refer members to part 5 of the bill, which deals with taxidriver licence suspension, cancellation and disqualification. In particular, this part of the bill provides both the power and the processes whereby the CEO may cancel a taxidriver’s licence. There are also provisions covering the immediate

cancellation of a taxidriver's licence in the event that the licensee is convicted of a disqualification offence. An offence of driving a vehicle as a taxi while not authorised to do so will be a disqualification offence. Other offences may be prescribed as disqualification offences. For example, a sexual assault committed against a passenger may be prescribed as a disqualification offence. The bill allows for the making of regulations that will prescribe differing periods of disqualification, determined in accordance with the severity of a disqualification offence and whether it is a first, second or subsequent offence of that kind. In some circumstances, a permanent disqualification will be imposed.

There are also provisions to cover the cancellation of a taxidriver's licence when the CEO considers that a driver is no longer a fit and proper person to hold a taxidriver licence. Although all these provisions exist under the current system, clause 29 will, for the first time, provide for a taxidrivers' code of conduct that has legislative force. The code will outline not only the desired behaviours of taxidrivers, but also those behaviours that are unacceptable. The CEO will be permitted to consider breaches of the code when determining whether a person is fit and proper to be a taxidriver.

Another first is the framework for the proposed new taxidriver penalty point system. I refer members to part 5, division 4 of the bill. Under this bill, conduct offences applying to taxidrivers will be created. For example, it will be an offence for a taxidriver to refuse to carry a passenger's guide dog; to refuse a fare, unless in particular circumstances such as a perceived threat to the safety of the taxidriver; and to fail to take a passenger via the most economical route. Other appropriate offences will also be created under the regulations. If a taxidriver commits a prescribed offence, and either pays the fine associated with the infringement notice or is convicted by a court of the offence, the offender will automatically incur a set number of penalty points. The penalty points will have a life of three years. If at any time a driver should accumulate more than the legislated threshold, their licence will be cancelled and they will be disqualified for the prescribed period. It is anticipated that the minimum period of disqualification will be 12 weeks.

When the bill takes effect for all current taxidrivers, the accrual of 12 penalty points will activate cancellation of their licence. As a form of probation for new drivers, in their first 12 months cancellation will be activated by the accrual of six penalty points. Unlike a driving disqualification, a return to the industry after the period of disqualification will not be automatic. A taxidriver wishing to return to the industry after the set period of disqualification will need to make a completely new application and may be required to undertake remedial training. More importantly, if they are accepted back into the industry, regardless of previous experience, they will be treated as a brand-new driver for their first 12 months and be subject to licence cancellation on the accrual of six penalty points. Should any taxidriver be foolish enough to continue to incur further penalty points at an unacceptable rate, they will be subject to ever-increasing periods of disqualification that will ultimately lead to permanent disqualification from the industry.

The primary benefit of this taxidriver penalty point system is that, for the first time, taxidrivers will be held accountable for ensuring their personal conduct is continuously maintained at a professional level. As their accrued penalty points get close to the cancellation threshold, the threat of loss of income during disqualification combined with the difficulties involved in re-entering the industry will be powerful incentives for them to moderate their behaviour. If a driver is not so motivated—one of the bad apples—their continuing failure to meet the required standard will ultimately result in their permanent expulsion from the industry. Either way, the outcome will be of great benefit for taxidrivers and patrons alike.

I hasten to add that the bill provides only the high-level conceptual framework for this penalty points system. Details such as the types of offences, the number of applicable penalty points for each offence and the length of the disqualification periods are all in draft form and will be the subject of extensive consultation with the industry prior to their release as part of the regulations that will support this bill.

I should also point out to the house that many aspects to the occupational licensing of taxidrivers will not change under this bill. For example, there are no significant changes to the current criteria for eligibility to obtain a taxidriver licence in either the Perth metropolitan area or regional WA. In the Perth metropolitan area it has long been departmental policy for taxidriver applicants to pass an aptitude test, complete a formal training course of approximately two weeks and, finally, pass the Department of Transport's on-road registration test. Further, their competency must be maintained by attending four hours of professional development training every two years. All these standards, which have been developed over the last decade and supported by the industry, have been provided for in this bill.

The bill also looks to the future by providing for the introduction of further training and testing of both new applicants and current drivers. For example, clause 30(2) permits the CEO to require a suspended driver to undertake remedial training. Similarly, clause 56(3)(b) specifically empowers the CEO to approve different training courses or tests to drivers who have previously been disqualified, giving consideration to the

circumstances of their disqualification. We shall consult with the key industry stakeholders on the content of such training.

I also draw members' attention to part 7 of the bill, which is concerned with the exchange of information between the director general of Transport and WA Police, as well as interstate regulatory bodies. The purpose of this part is, of course, to protect the personal confidentiality of current and aspiring taxidrivers. I assure the house that this bill does not represent a diminution of the current protections.

All members will be aware of Treasury's policy that, whenever appropriate, government departments should charge for their services on a cost-recovery basis. This bill allows the department to charge for a range of services that it will provide. The precise amount of each fee or charge will be determined with the use of a cost model, which is currently in the final stages of development, and a schedule of these will be published in the regulations

Approximately 10 000 individuals currently possess a T extension on their motor vehicle driver's licence. This entitles them to drive a taxi in regional WA, although in accordance with current policy they would need some additional training and testing to qualify as a taxidriver in the Perth metropolitan area. On the day the new act comes into effect, the concept of a T extension will become obsolete and be replaced by the new taxidriver licence. The transitional provisions describe how the department will undertake the massive job of handling the changeover from one licensing system to another over a six-month period. This is best achieved by all T extension holders going through a streamlined application process that will firstly confirm their bona fides and then provide them with a new taxidriver licence, suitably endorsed with a condition regarding the designated area in which they can operate a taxi. The new taxidriver licence document will be in the format of a highly secure ID card and will display the same photo as the holder's driver's licence.

I commend the bill to the house.

Debate adjourned, on motion by **Ms S.F. McGurk**.