

TAXI DRIVERS LICENSING BILL 2013

Second Reading

Resumed from an earlier stage of the sitting.

HON SALLY TALBOT (South West) [5.08 pm]: Before question time I was remarking on the fact that a couple of weeks ago when I prepared my original notes for this debate, very much in the public mind at that time was the question of regular driving tests for older drivers. I was very interested in the comments made by a couple of major stakeholders to the effect that that regulation may need revisiting, in the sense that there is no compelling evidence that people become more dangerous drivers as they get older. In fact, the stakeholders I heard commenting on that issue said that people actually become safer drivers as they get older, largely because they tend to drive more slowly. I raise that example by way of pointing out to the government that we have to be very sure that the kind of regulations we introduce about public and private transport measures actually have the effect we want them to have and not some kind of unintended consequence.

I will come back to the bill under consideration. I guess there are three things that people really want from their taxi service. I will be interested to hear the comments from the parliamentary secretary on exactly how he sees these three major criteria being addressed by this bill. The first of course is availability. People want taxis to come when they call them. It is a constant source of frustration to me—I will go as far as to say puzzlement—that we seem to have completely lost the system for being able to pre-order a taxi. If I have to go to the airport at five o'clock in the morning, I do not want to get out of bed wondering whether my taxi will arrive. I can see that Hon Helen Morton has exactly the same questions in her mind as I do about this issue.

Hon Helen Morton: From Kalamunda, yes.

Hon SALLY TALBOT: We used to be able to order a taxi to arrive at a certain time. Now when we try to do that, the taxi companies warn us—presumably because they have to—that they will call the job only a few minutes before it is due, exactly the same as they do if we ring at quarter to five in the morning. I therefore cannot understand why we have had to walk away from that system. It cannot be, with all the modern communication techniques at our disposal, that it has become more difficult to do that. Commonsense tells me that it must have become easier. The whole question therefore about the availability of taxis is a problem. I think if we did a vox pop in Hay Street mall this afternoon, we would find that nine people out of 10 would identify the availability of taxis as a major problem.

Hon Ken Travers: You would be the tenth person!

Hon SALLY TALBOT: The tenth person perhaps never uses a taxi!

The second related issue is about reliability. This is a particular concern for older people who might use taxis because they do not want to drive anymore or because they do not want to park when they get to where they are going. As I said, the fact that we are no longer able to plan ahead and pre-order a taxi is a big problem. Added to availability and reliability is the question of safety. Years ago we in Western Australia started talking about improving safety and we were primarily focused on the safety of drivers. During the debate in WA on this issue I clearly remember going to Sydney, getting in a taxi at Sydney airport and seeing an extraordinary contraption. For those who may not have seen it, it is almost like getting inside a sort of space machine or a kind of Tardis. The whole driver compartment is plasticised with an enormous bubble around it, which of course is a way of keeping drivers safe from the aggression and violent behaviour of passengers. I note that there is a move—perhaps by the industry—to introduce into Western Australia a trial of London cabs. I think that will be very interesting. I understand that we are not talking about the old black London cabs; we are talking about white cabs in Western Australia. Did Hon Ken Travers know that about trial taxis?

Hon Ken Travers: Yes, I did; upgraded and air-conditioned.

Hon SALLY TALBOT: Yes, upgraded, air-conditioned and white, which will make them very distinctive.

Hon Helen Morton: And accessible.

Hon SALLY TALBOT: Yes, and accessible.

Hon Ken Travers: That's a good point. We can get to that detail at the committee stage.

Hon SALLY TALBOT: We will. Once we start dissecting the bill at the committee stage, we can have all that discussion about how we can increase reliability.

Having spent my formative years in a couple of other cities in the Northern Hemisphere, it has always been a source of wonder to me that we do not adopt the practice in WA of hailing taxis on the streets. We almost always phone from the place we are at rather than go out on the street and hail one. To me it has always seemed intrinsic

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to an efficient taxi service that enough of them be around to be able to go out on the streets and flag them down. Certainly we can do that in other major cities in our region. Hon Helen Morton is right that the white taxis will be highly visible on the streets. However, I was talking about the question of safety. Of course one aspect of the London cabs is the dividing section between the passenger and the driver. I am not sure therefore why we have not gone further with that move to fortify the driving area in taxis as taxidrivens in Sydney have done.

Hon Ken Travers: It is mainly because the drivers don't like it in normal circumstances.

Hon SALLY TALBOT: Yes, I can imagine that. As I said, the first time I got in one of those taxis it was quite disconcerting—it felt as though half the taxi was covered in a plastic bubble—but I guess it had the desired effect.

I am not so sure that those three aspects—availability, reliability and safety—will be improved by this bill. I am sure, though, that we do not know an awful lot about the actual mechanics of these provisions. As I said at the beginning of my remarks, we have at last got a draft version of the code of conduct. However, we got that only today, so we have had to do a bit of speed reading. I hope that during the committee stage we can get some more information from the parliamentary secretary about the content of the code of conduct.

I note from reading the second reading debate in the other place that the minister referred to this bill as a high-level conceptual framework. I am sorry, Madam Deputy President (Hon Adele Farina), but it is an extraordinary development that the government is now referring in that way to bills that it has brought into this place and that have presumably been through the cabinet process and the party room. Yet when the government is challenged about the lack of detail in the bill, we are told that it is just a high-level conceptual framework and we have to wait for all the i's to be dotted and the t's to be crossed—presumably when the regulations are released. We do not have any regulations relating to this bill, other than a draft code of conduct that is in a highly draft form. We therefore do not know any detail about the regulations. We do not really know how the code of conduct, the subject of clause 29, will work. We do not really know how the two types of offences potentially committed by taxidrivens and involving disqualification and penalty points will work.

On reading the bill, one question that occurred to me was whether passengers will know about the penalty points. We have a demerit system that currently relates to a driver's licence. I can quite understand that we would not expect a taxidriver to disclose the number of demerit points on their licence. Everybody on this side of the house—except perhaps Hon Stephen Dawson who is far too new a driver to have any demerit points—has had experience of the demerit point system. We know that we can accumulate them slowly over a period of years and that they might relate to a relatively minor offence, such as the low-level speeding offence of driving nine kilometres an hour over the speed limit. However, will passengers know how many penalty points a taxidriver has accrued that relate to the driver's behaviour? I ask this question very seriously in the sense that if a driver is accumulating penalty points, passengers have a right to know that in a sense a yellow card has been waved at that driver. Imagine, for example, a similar system applying to airline pilots. We would have a serious reservation about flying with an airline pilot who has had the metaphorical yellow card waved at them. We would want to know either that they were absolutely delivering the service with all the integrity that we expect from the provider of a public service or that they were unable to comply with those high standards. I am open to persuasion on this issue, but I think there is an argument for such disclosure. I can understand that every penalty point on a driver's licence need not be disclosed. However, I wonder whether there is some merit in at least flagging the fact that a taxidriver has accumulated penalty points that relate to the driver's behaviour. We do not know any of this from reading the bill.

In the little time that remains to me I want to go into a couple of the details in part 5 of the bill. I recognise that we will be able to pursue this in much more detail when we get to the committee stage. Part 5 for me raises some quite serious concerns. Part 5, entitled "Suspension, cancellation and disqualification", refers to the driver being a fit and proper person. There are references in part 5 to physical impairments that a driver might have, and I assume that that would relate to things that would, in any case, be disclosed as part of the driving licence provisions. The thing that concerns me is that a mental illness is also referred to as one of the things that the CEO has to be notified about and must take into consideration. Clause 30(1) in part 5 states —

The CEO may make an order (a *suspension order*) suspending a licence if —

...

(b) the CEO suspects on reasonable grounds that the licensee —

...

(iii) is mentally or physically unfit to drive a vehicle as a taxi;

I am happy to take this issue up during the committee stage if it is more appropriate. If somebody is mentally unfit to drive a vehicle as a taxi, exactly what are we talking about? Might we be talking about somebody who

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has an episodic mental illness; for example, somebody who has been diagnosed with schizophrenia? Any mental health provider will tell us that a lot of mental illnesses are regarded as episodic, and mental illnesses that are episodic will be regarded as not existing when the person is not going through an episode of that illness. Schizophrenia is often cited as an example of that kind of episodic mental illness. If a person is diagnosed with schizophrenia, there is no reason why, in six or 12 months, sometimes with medication and sometimes without, they should not be able to claim to be free of that mental illness. I am concerned that when we start talking about people being mentally unfit to drive a vehicle as a taxi, we are in danger of getting into some fairly precarious territory. Related to that, one of the things that the CEO can do is outlined in clause 30(2), which states —

A suspension order made under subsection (1)(a) or (b) may include a requirement that the licensee undertake remedial action.

I would like some clarification of exactly what that remedial action might be. If we were talking about somebody with a mental illness who was refusing treatment, the CEO might need to know about that. I wonder about the phrase “remedial action”. Who will make the determination? I cannot seriously believe that the government is suggesting that the CEO of the Department of Transport will determine whether a person with schizophrenia is being medicated sufficiently to be a fit and proper person to drive a taxi. That cannot be the case.

Hon Dave Grills interjected.

Hon SALLY TALBOT: As the member contributed to the debate by interjection earlier, the authorised person is an officer authorised by the Department of Transport. Who is that person? Is it a police officer? I do not know that I want police officers making that determination.

Several members interjected.

Hon SALLY TALBOT: I am asking specifically about clause 30(1)(b)(iii).

Several members interjected.

The DEPUTY PRESIDENT: Order, members! Hon Sally Talbot has the call.

Hon SALLY TALBOT: I am not quite sure why we seem to be degenerating slightly. It is a reasonable question to ask.

Hon Dave Grills interjected.

Hon SALLY TALBOT: That sounds great. I was going to raise the working with children card. I know that Hon Ken Travers mentioned it. It seems to be slightly odd that the provisions applying to taxidrivers would be different from the provisions applying to a worker who, as a condition of their employment, must have a working with children card. I am absolutely at one with Hon Ken Travers in suggesting that the working with children card is a useful instrument that we ought to look at.

Hon Ken Travers: It is a potential starting point; you might go even further.

Hon SALLY TALBOT: I am happy with that suggestion.

I also draw the attention of honourable members to another provision in part 5 about the remedial training, which was referred to in the second reading speech. It is all there in part 5. I would like to know what remedial training might entail. I know that there is a clause towards the end of the bill that refers to the CEO being able to accredit training courses. Will that include the provision of what has been called remedial training in the bill? What might be entailed in remedial training? I would like to know who will provide remedial training. I am talking very specifically about remedial training as opposed to the kind of training that a trainee taxidriver might undertake. Somebody is referred for remedial training if they have in some sense contravened one of the provisions of the licensing regulations; either they have accrued penalty points or they have been disqualified and have applied to come back or some question has been raised about whether they are mentally fit to drive a taxi. I want to know how remedial training will be applied to somebody if the question hanging over their head is whether they are mentally fit to drive a taxi. My specific question is: who will do that remedial assessment? Also, who will do the assessment of the provider of the remedial training? Will this all come back to the CEO of the Department of Transport, who will have to become the expert on not only the kinds of problems that somebody who is mentally unfit might exhibit, but also the kind of remedial training that that person needs to make them fit and whether that training has worked and they will be granted an unrestricted licence? Who will provide that remedial assessment?

Several members interjected.

Hon SALLY TALBOT: I will not take any more interjections because I am running out of time. My further question is: who will pay for that assessment?

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Several members interjected.

Hon SALLY TALBOT: I am reading the legislation; that is why I am asking the questions.

Who will pay for that assessment? Will it be the driver? I am not aware that this is covered anywhere. Hon Dave Grills, it is very smart to interject on another member's speech, but, remember, the minister himself has said that the details are not in the bill because this is the high-level conceptual framework. I put to you, Madam Deputy President, that all these questions are perfectly legitimate. Who will pay for both the assessment and the training?

I would also like some more clarification about the types of offences that come under disqualification offences and penalty points. A clause of the bill—I do not have time to refer to it now, but we will get to it during the committee stage—makes it very clear that one set of provisions does not apply to the other sort of offence. What is the link with the accrual of points and what is the connection between those two different systems? I know that ultimately there is an appeal to the State Administrative Tribunal, but also there is an appeal before that to the CEO. Are these supposed to be sequential appeals and will any costs be awarded in an appeal to the CEO? I understand that the appeal to the CEO has to be in writing. Could a driver, for example, bring an advocate with him or her when making that appeal to the CEO; and, if that is the case and the person's appeal is upheld, would the department then meet the cost of the provision of that advocate? I ask this question because the place in which I live when I am in town is right opposite the taxi licensing centre in East Perth. I can tell members that for most of the working day, it is like living across from the United Nations. That is largely because of all the taxidrivers who are going into the licensing centre to make various kinds of inquiries or take various kinds of tests. Many of those people do not speak English as their first language. I wonder what sort of training and assistance will be given to these people when they are confronted with a new set of regulations—I must say often written in quite high language—and have to come to terms with how they can work within the provisions of those regulations. So I would like to know something about the appeal rights.

I would also like to know more about section 33(10), which deals with the postponement of a penalty. It worries me somewhat that it will be up to the CEO to decide whether penalties will be applied sequentially, because that would presumably keep a taxidriver out of the profession for much longer than would be the case if the penalties were applied at the same time. I also have a question about the provision in the bill that a person can be barred permanently from being a taxidriver. I wonder about a young woman or a young man who wanted to supplement their income by driving a taxi and who might reapply at the age of 55 to become a taxidriver. Are we seriously suggesting that the CEO would be able to bar that person permanently from driving a taxi?

HON DARREN WEST (Agricultural) [5.31 pm]: Like my colleagues before me, I rise to indicate my general support of the Taxi Drivers Licensing Bill 2013. I note that there are many unanswered questions about this bill. We become somewhat sceptical when there are so many unanswered questions from a government that is being tricky with every piece of legislation that it puts up and that is breaking many of the promises that it has made.

As has been mentioned by other members, I note that the framework of the bill—which seems to be all we have at the moment—has the general support of the Taxi Council of Western Australia. I would see that as a good thing. I have had calls from several taxidrivers asking me to have discussions with them about this bill, knowing that this bill would be coming up and that I might have the opportunity to speak on the bill.

One of those occasions was the week before last, when several colleagues of mine and I went on a trip around the state and had cause to ride in taxis on several occasions. It was pointed out to me by the Hansard reporter who came with us that Hansard dreads my speeches in this house, because they are so fast. So I have made a deliberate attempt to slow down my speaking for the benefit of Hansard.

Hon Peter Katsambanis: Like some taxidrivers may need to slow down!

Hon DARREN WEST: That is a very good point, Hon Peter Katsambanis; there are some taxidrivers who may need to slow down a little bit as well.

The DEPUTY PRESIDENT (Hon Adele Farina): Order, members! Hon Darren West has the call.

Hon DARREN WEST: I will endeavour to speak in a manner that will make things easier for Hansard—except for that cheeky Hansard reporter who made those remarks, because when she is taking down my words, I will speak even more quickly!

Taxidrivers provide a very important community service. As has been spoken of in this house, a typical taxidriver does in the order of 2 000 trips a year. That adds up to in the order of 10 million taxi fares and 10 million people ferried to work, to sporting events, to celebrations and to other occasions. Therefore, we cannot underestimate the value of the taxi industry and those who operate within it. Of course, as a Labor member of Parliament, I will always be concerned about any changes to the welfare of workers and their

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conditions. Taxidriviers are no different from many other workers. As has been mentioned by Hon Sally Talbot, taxidriviers often work in very unpredictable, and sometimes dangerous, environments. I liked the analogy that Hon Sally Talbot made to a political candidate who is doorknocking. I have had some experiences with doorknocking, as I am sure have other members on my side, and also members opposite. I refer to a very amusing article in *The West Australian* about how Rhonda Parker, who was then a Liberal minister, was doorknocking in Helena and was met by a naked family. I am sure she will always remember that house when she drives past it. Taxidriviers will often remember a house because of an unsavoury incident or a drunk and obnoxious person; or they will remember a house because the person was very courteous and polite, wished them well and inquired about their family, and gave them a nice tip. The experiences of a taxidriver are probably not dissimilar to those that we have when we go doorknocking at election time or throughout the year. Sometimes people are very unpredictable, especially when they have been drinking and especially when they are affected by drugs. Some people are naturally volatile. Some people are dangerous. I do not envy a taxidriver who is confronted with this type of situation.

As I have mentioned previously, I spent a year in America. I remember arriving in Los Angeles, and we decided that the best way to get around the big city of Los Angeles was to chip in and hire a cab. We spent a day with a Californian taxidriver by the name of Marvin. He picked us up at nine o'clock in the morning, and he took us to all the tourist sites in Los Angeles, of which there are many. We struck up quite a conversation with Marvin. It turned out that he was fascinated by this group of Australian people in his cab, and we spent the day chatting about his life and about things in Australia. He invited us to his house that night, and we met his family and friends. There were about 20 or 30 people at this taxidriver's house, and we were the guests of honour. That made me realise that taxidriviers are people, too. It is important to remember when we are drafting a new piece of legislation that we are talking about people's lives. We are talking about the person in the taxidriver's seat and about the person in the passenger seat who is paying the fare.

It would be no great surprise to members to know that in the taxi industry, like most industries, there is a supply and demand situation. Drivers often find themselves with queues of jobs that they have difficulty keeping, and they often find themselves, through no fault of their own, arriving late because they are looking for an address that may not have been given correctly, and they then have to deal with an angry passenger who needs to get to the airport or to an important function at a certain time. Supply and demand is a big issue for the taxi industry, especially on weekends. However, that needs to be offset by the fact that anyone who invests in a taxi or in the taxi industry, or who takes the time to get a taxidriver's licence, has invested serious capital and personal time into the business. Therefore, it is important that we maintain a balance between the two. I hope this bill will go some way towards helping to maintain that balance.

I also need to point out the strange and unusual hours that are worked by taxidriviers. Taxidriviers often make significant sacrifices with their time, when they would like to be at home with their families like the rest of us and to be doing the things that the rest of us are doing. They make those sacrifices in order to earn a living, and often as a second income. I have met many taxidriviers who are former refugees. They have come to Australia seeking a better life, looking for an alternative income while they study or find their way in a professional or a blue-collar career. When we are drafting legislation such as this, we always need to be mindful of those who work in the cabs.

I did a little research before my contribution today. Of course, there are, as mentioned, often complaints by the public about taxidriviers; not all taxidriviers are lily white when it comes to doing the right thing. I noted that between 2010 and 2012 there has been a 34 per cent rise in complaints about taxidriviers. Various complaints include such things as verbal abuse of patrons, smoking and eating in cabs. Sometimes people complain about the way taxidriviers dress; some of them are sloppily dressed and some wear cultural dress—there are complaints about that. Some taxidriviers have complaints made against them about the fare, which some customers think is too high. Sometimes taxidriviers have complaints about refusing disabled passengers or people with guide dogs. Complaints also include taxidriviers displaying confrontational behaviour, and who are often late, sometimes not even turning up. Complaints have been made about passengers being injured by taxidriviers in some of these situations. There is one that I did note; namely, complaints against taxidriviers for inappropriate or lewd behaviour. Under this legislation I would presume that taxidriviers would be dismissed from their post for displaying inappropriate or lewd behaviour. The hypocrisy of this is that the Minister for Transport still has his job. I think that what is a good example for taxidriviers should also be set by those who create the legislation. I think that the Minister for Transport would probably fail under some of these criteria that we see —

Hon Liz Behjat: What are you suggesting?

Hon DARREN WEST: I am suggesting that if complaints have been made about taxidriviers displaying inappropriate or lewd behaviour in a taxi —

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Hon Liz Behjat: Are you talking about the minister's character?

Hon DARREN WEST: I am saying that complaints have been made.

Hon Liz Behjat: You need to be careful with where you are going.

Hon DARREN WEST: I will —

Hon Sue Ellery: It is a matter of public record; he needs to be careful. He is not!

Hon Liz Behjat: You need to be very careful with where you're going!

The DEPUTY PRESIDENT (Hon Adele Farina): Order! Order, members!

Hon DARREN WEST: I am simply making the point that if the minister is overseeing the draft of legislation about one group of people who work under his jurisdiction, I think that he should set an example befitting of that legislation. I do not think that is the case. I do not need to tell members what those examples are; I am sure they are well aware of them.

In 2012, complaints against taxidrivers totalled 838. I accept that some of these complaints may be vexatious by nature from dissatisfied customers who, after feeling they had been wronged, may have initiated some sort of confrontation as a result of being drunk. Nonetheless, there were 838 complaints. As I mentioned before, there are 10 million taxi trips or fares a year. As an industry, I do not think it is doing too bad. Clearly, in the main, I think those figures would represent somewhere in the order of 99.9 per cent of honest, hard-working, decent taxidrivers who do their best in trying to satisfy their customers by looking after their needs, picking them up and getting them to where they want to go on time—generally, doing a good day's work for a fair day's pay, and I do not see any problem with that at all. I think, in the main, patrons of the taxi industry are generally satisfied. I would suggest the level of satisfaction is supported by the figure I have just quoted.

However, 838 complaints, small as the number may be, often give a negative image of the industry. I have outlined things such as inappropriate or lewd behaviour, verbal abuse, smoking, eating, sloppy dress, dirty cabs, high fares, refusing disabled passengers, confrontational behaviour, being late or not turning up, and injuring passengers. All of those things attract significant media attention and get a good run in the newspapers when they occur. Sadly, the 0.1 per cent of adverse incidents are generally reported rather than the 99.9 per cent of positive incidents. However, that does not mean we cannot do better. I think this bill has the capacity to deal with that 0.1 per cent. It is often said, "Don't give up on perfection; you'll get there". We need to further pursue how we can always improve the taxi industry.

Another thing that has not helped the industry is the allowance of a \$9 fee for a taxi to arrive on time. As a user of a service, I would expect that if I pre-order that service for a particular time, that service would be available to me at that time. I think an agreement to take my fare for providing that service should not result in my paying that \$9 fee to arrive on time. This fee has also not helped the image of the industry; I think that provision is a regrettable decision. The public wants more taxis on weekends. I love a chat, and when I sit in the back of taxis, I will have a discussion with the drivers about the state of their industry. When I inquire about what they think people want, they say that it is always the same: they want more taxis. The cabbies want security of return on their investment. The issue of extra licences is a bittersweet proposal because on the one hand, extra taxis will be available at times of high requirement or high usage, but, on the other hand, there will also be extra taxis on the road at times when there is not so much work around. That could have an impact on those who are already in the industry, many of whom are not making a small fortune.

I have some concerns about how taxidrivers' contracts may be terminated. I want to skip over a bit of my notes here, because I do not want to speak forever, but I have concerns about how, under the proposed legislation, some taxidrivers may be terminated. I have pointed out before that one of the grounds for termination is very different from the example set by the minister. It would be an offence by a taxidriver to refuse to carry a passenger's assistance animal; that sounds great. That sounds as though it would be an offence if the taxidriver did not take a disabled person's guide dog, and I assume they would accrue points. I would hope that there is some detail about this because there are different sorts of assistance animals. Further, a fare may be refused, and this happens relatively regularly, because a taxidriver may be on their way home after a 12-hour shift. Given that their residence is in the northern suburbs, they may say, "Look, I don't really want to take a taxi fare to Kwinana, Gosnells or Armadale because I'm actually knocking off soon and I need to go back this way." There could be good reasons why the next taxi could take that fare-paying customer, and that taxidriver would seek an alternative fare.

As with life, it is not all black and white; there are a lot of grey areas. If a taxidriver chose not to accept a fare because they did not like the look of the person, or the taxidriver was rude, or a good explanation was not able to be provided about why the driver did not pick up a fare, there are grounds for a black mark against their name.

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Perhaps a strike against the driver could be imposed or they could accrue some points. The other point is the failure to take the passenger via the most economical route. Once again, that provision could be open to quite a bit of interpretation. It could be seen by some passengers that some drivers are charging higher fares by taking a longer route involving a section of road with several sets of traffic lights and roundabouts rather than the economical route along a freeway. However, in reality, the taxidriver may have it right. Once again, given the relatively scant information, I think there are some grey areas in this proposal that will be open to much debate and questioning as we move forward in the deliberation of this bill.

The points system sounds like a reasonable idea. It seems to work relatively well with demerit points. Although it gives an opportunity for the licensing organisation or the company in question to keep a tab on how its drivers are performing and which ones are doing the right thing and not accruing points, I do not think that the passenger, who is the ultimate customer of the service, seems to be able to have any idea about that. I am not sure how we might be able to provide for that. However, the points system will encourage improvement in errant drivers.

Another thing I noted is that the legislation does not seem to really change the criteria to get a taxi licence. If we are going to change the criteria that apply after drivers get their licence, why would we not look at the criteria that need to be met before drivers get a licence? I note that there are different criteria to get licences in the metropolitan area and in regional Western Australia. That is an area of interest for me, obviously, being a regional member, because it made me realise that one size certainly does not fit all when setting up some of these criteria around retaining and, indeed, getting a licence in the first place. So I started to think about the different types of taxi operations around the state. I refer to my trip with my colleagues to the north. We hopped in a taxi in Fitzroy Crossing. The taxidriver told us about his job and the fact that he had come from South Australia to Fitzroy Crossing. Even in Fitzroy Crossing he found that there were days of extremely high demand and times of less demand. Usually on weekends, when he liked to be home, he found himself very busy, but he was the only taxidriver in town at times. There were two taxis in Fitzroy Crossing, but at times he was the only one. I wondered when he would ever get some time off. If he was working harder than many other taxidrivers and acted out of a bit of frustration or tiredness, it does not seem fair to apply these criteria to him, given that he is perhaps working in a more challenging environment than someone who might work in the northern or western suburbs. Therefore, I think there needs to be a little more attention to detail about the different taxi operations. Another example is Geraldton. There are a couple of taxi companies in Geraldton. There is competition in Geraldton and it is more like the service in the metropolitan area. However, taxidrivers in country areas have to travel large distances. They have to work at different times; they might be ferrying people to mining operations or to the port at odd hours of the day. Country taxidrivers also might have the issues of dealing with people who are intoxicated or affected by other kinds of mind-altering substances. A little more thought needs to be given to how we might apply criteria for both obtaining a licence and retaining a licence in different areas. One-taxi towns are very different from the metro area, the larger regional cities and the south west. I could go on about that. Port Hedland, Wyndham and many of our northern towns have a different set of circumstances to deal with compared with Perth.

I like the idea of an identification card, but I think that that ID card needs to be very clear. A lot of people who take taxis are elderly and infirm and do not have terrific eyesight. Some people are disabled. I think that they should have the ability to see a bit about their taxidriver on that card. If they are unhappy and wish to make a complaint, this information will assist them in making a complaint. Perhaps we could have a system so that when people hop out of a taxi and get a receipt, it may have some details of their taxidriver and the taxi number, just in case there is an issue.

As was cited earlier, there seems to be no appetite to put cameras in country taxis. I do not see why. Country taxidrivers probably have the same circumstances in that regard as taxidrivers in the city have. Even though their situations are different, this would be of much help in sorting out and following up on complaints, vexatious or otherwise. I recently talked to a taxidriver in Northam who said that he thought it would be very beneficial to his operation.

I think that most of what I was going to say has been covered by previous speakers. We have only just seen the draft code of conduct, which I will refer to. There will be a lot of questions about the code of conduct. It is clearly a very important part of the Taxi Drivers Licensing Bill 2013, especially for taxidrivers. Their needs need to be put right at the front when discussing legislation such as this, as do the needs of the public. However, I find it a bit strange that the draft code of conduct has just been tabled, so we get to have a really good look at it only during the debate. I presume that the lower house debated this taxi bill without a lot of that information. I find that that is not really a very good way to organise the Parliament. I should not be surprised, but I do find that very unusual. I think that legislation should be fully prepared so that everyone can look at and assess it; the industry and customers can comment and people can perhaps put their views to their elected members. That

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should not be a foreign concept, but it seems to be missing in this debate. If we allowed more members of the community to have input, including individual taxidriviers, the taxi industry and the people who use the service, we would probably have a situation in which the number of complaints was decreasing, rather than increasing by 34 per cent over two years for the reasons that I mentioned before.

I will wind up my comments with those key points, Madam Deputy President. We need more detail on some issues that have been raised before we can fully deliberate on this bill. There seems to be a one-size-fits-all approach to this legislation that I do not think is right. Taxidriviers provide an iconic service. Many major cities in the world, such as New York and London, are renowned for their taxis. In my view, it is not the taxi—the piece of metal—that is iconic; it is the people who drive and use taxis who make them iconic. We need to have a little more focus on those people who get out of bed at three o'clock in the morning to get us to the airport. We need to consider those people fully. I do not think we need to point a gun at their head, metaphorically speaking, and say that if they get tired and have worked a long shift and get a cranky customer, they could be penalised as a result of what happens after that. We need some provisions and protections for those people who are quite prepared to ferry us around at all hours of the day and night.

Sitting suspended from 5.58 to 7.30 pm

HON STEPHEN DAWSON (Mining and Pastoral) [7.30 pm]: I rise to make some brief comments about the Taxi Drivers Licensing Bill 2013. At the outset I recognise the fine work of taxidriviers right around Western Australia in what is a difficult job. Like many other people in this place, particularly members from regional areas, when I am in Perth, I catch quite a lot of taxis. Those of us who have large electorates, such as members for the Mining and Pastoral Region, often catch a taxi when we travel to different towns and communities in which we do not have an office or a car. There is no doubt that some towns in Western Australia are much better serviced with taxidriviers than are others. Hedland, which has a fairly big population and hot weather for at least half the year, always has taxis on hand; whereas Esperance, which is where I was last week, has one or two taxis. Hon Dave Grills may be able to help me with this.

Hon Dave Grills: Two.

Hon STEPHEN DAWSON: Someone told me last week there were only two. Obviously, some communities are much better serviced than others, but certainly the metropolitan area is serviced a lot better than regional communities.

Hon Ken Travers: I think some country areas have a taxi licensing issue that comes up only at peak times. There are variations with how it operates.

Hon STEPHEN DAWSON: That could well be what Hon Dave Grills was talking about when he mentioned a third taxi in Esperance.

One of the issues raised with me last week in Esperance involved more than one person catching a taxi. In this case, I met with a constituent who had caught a taxi from Esperance Airport. Anyone who has been to Esperance knows that Esperance Airport is about 20-odd kilometres from the town centre. If there are only two or three taxis in town, as the case may be at certain times, there is not a multitude of taxis sitting at the rank outside the airport waiting to service people. In fact, on the way down to Esperance, the air stewards on what is now a Virgin Australia flight ask people whether they need to catch a taxi from Esperance Airport into town. If they do, they call for a taxi so that, hopefully, one will be waiting when people get off the plane. My constituent referred to being one of three people waiting for a taxi, having got off that plane. Given that there was only one taxi, the three decided to share a taxi from the airport essentially into the heart of town, with their different destinations maybe only a couple of streets apart. I was surprised when my constituent told me that each of the three people in the taxi paid the same taxi fare. Let us say that the taxi fare was \$40—each of them paid \$40. It was my understanding from having shared a taxi with other people, which has normally been from an airport—perhaps someone can give the house information about this later on when we are talking about it in further detail—that each person pays two-fifths of the price of the fare. We pay more than a third of it; it is roughly two-fifths of the fare. The taxidriver gets more than a full fare, which is fine, but in that case not everybody is paying full price. I was disturbed to hear that each person had to pay the full fare, so the fare was paid three times.

I talked to the member for Kimberley today. Like me, she catches a number of taxis from the airport. She told me that when she caught a taxi a couple of weeks ago with two other people from the airport—one of whom was briefing her the next day—she, too, paid a full fare. She thought the other passengers also paid a similar amount. I am keen to know exactly what the rule is. I hope that these are not cases of taxidriviers taking people for a ride—no pun intended. The majority of taxidriviers do the right thing; they take their job seriously and provide a very valuable service to their customers.

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Hon Ken Travers: Do you want the answer now? It is 75 per cent of the metered fare payable at each destination.

Hon STEPHEN DAWSON: There we go. If it is 75 per cent of the metered fare at each destination, the last person would pay more, but they certainly would not be paying the full fare. I thank Hon Ken Travers for that.

We hear horror stories from time to time about taxidrivers refusing to take passengers. There have been some high-profile cases over east involving Aboriginal artists and football players. In the case of the artists, they phoned for a taxi to pick them up from the theatre; however, when their taxi arrived, the taxidriver refused to take them and drove on. The bill refers to taxidrivers reasonably refusing to take passengers. I would like to know the definition of “reasonably”. I hope the parliamentary secretary can provide that information when he talks about this issue later.

In another horror story, the member for Kimberley told me that last night when she arrived in Perth, there was a queue at the taxi rank. It was a busy night at the airport, with a few flights arriving. The member for Albany was at the airport at the same time, so there was an Albany flight, a Broome flight and goodness knows what else! The member for Kimberley told me that the person in front of her in the queue at the airport—there were probably 50 to 100 people in the queue—had been queuing for a while and had been very patient. The person told the taxidriver that he wanted to go to Medina. For members who do not know Medina, it is down near Hon Phil Edman’s electorate. Is it down his way?

Hon Phil Edman: I bought my first house in Medina.

Hon STEPHEN DAWSON: There we go; it is obviously a good place if Hon Phil Edman used to live there!

The passenger wanted to go to Medina. The member for Kimberley, Josie Farrer, told me that all of a sudden there was a commotion with the taxidriver saying that he was not taking the passenger to Medina. He refused to go to Medina, saying that it was a nasty place, a wild place or an unsavoury place. Those are not my words; I am trying to describe part of the commotion that went on last night. The taxidriver refused point blank to take the passenger to Medina even though that person had flown for a number hours and queued for a while at the taxi rank at the airport during a busy time.

Hon Phil Edman: I hope it wasn’t the Mayor of Kwinana.

Hon STEPHEN DAWSON: I do not think it was the Mayor of Kwinana who was refused. This person wanted to pay to be taken to Medina, and he should have been taken to Medina. I hope this Taxi Drivers Licensing Bill will ensure that fewer and fewer taxidrivers refuse to take someone to Medina or wherever. As I said earlier, the taxi service is better in some towns than it is in others. Hedland is one of those places; there are plenty of taxidrivers there. As I said, they are busy because of the weather. For half the year the weather is hot and therefore people catch taxis. Some people catch them to school in the afternoon if they do not have a car. Lots of people catch taxis to the shops, particularly in South Hedland. Taxis probably do a roaring trade around that area. There is no doubt that on certain days and in certain communities we hear stories. Taxis get called to houses where there may be some unsavoury elements or people who have had a few beers and are intoxicated. I understand that in those cases taxidrivers want to refuse patronage. That is certainly a lot different from a driver telling a passenger they do not want to go to Medina.

To help with this, I want to pick up on a point raised by a number of members earlier about cameras being installed in taxis in regional areas. For the life of me, I do not understand why taxis in regional areas do not have cameras and why the government will not consider installing them. I believe cameras will make a big difference to taxidrivers if their passengers are misbehaving, refusing to pay, drunk and disorderly or causing other problems for the drivers. I have heard stories from members of the public. Recently in South Hedland a constituent of mine, who is an Aboriginal woman, thought she was being unfairly treated by the taxidriver because the driver was charging her more than the call-out fee for things she should not be charged for—extra money here and there for a pick-up et cetera. My constituent thought the taxidriver was racist and that she was being taken advantage of. I am sure that if cameras were installed in taxis in regional areas, that would help reassure the constituents of those of us who represent regional Western Australia. It can only help reassure them when they feel aggrieved by a taxidriver’s actions.

I have to say that for the most part, this is a good bill. There is obviously a need for it. There have been a few high-profile cases in the metropolitan area about taxidrivers and, shall we say, illegal activity. I am sure that with the passage of this bill, those actions will be stamped out. Although we cannot stop certain elements of society from committing crimes, this bill will certainly help and, hopefully, will encourage people to do the right thing. I flag now that I have a number of questions about the investigative powers under the bill, and I hope some of the answers can be given during the committee stage. My questions relate to people being compelled to give evidence about a taxidriver. In my initial reading of the bill a few weeks ago, I thought people could be

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compelled to give evidence about a taxidriver. I also had some questions about authorised officers being allowed to enter people's houses. I am not quite clear whether they will be given extraordinary powers that are stronger than police powers. They are probably no stronger than police powers, but police have been through an academy and are trained in the way they should enter people's houses. My questions relate to what training regime investigative officers will undertake before they can use their powers to enter people's houses.

I refer to taxidrivers being able to reasonably refuse to take a passenger. I draw the attention of the house—members have probably heard this already—to a story I heard just over 12 months ago about taxidrivers transporting maximum security prisoners from prisons to mostly hospital appointments but also doctors. There was a story in June 2012 on WAtoday that also featured on Paul Murray's radio show that week about maximum-security prisoners being moved to Hakea Prison in the back of standard sedan taxis. It concerned me to hear that prisoners in Western Australia were being transported in the back of taxis. I hope that, with the passage of this bill, taxidrivers will be able to reasonably refuse to transport dangerous prisoners around the state. Although there may always be at least one escort in the taxi with the prisoner, it is of concern that taxidrivers who, on a daily basis, drive members of the public around to the shops, the airport or wherever are being used to transport prisoners to hospital appointments. I flag that I will have more questions on that later.

I started by mentioning the respect I have for taxidrivers and the work they do. I would be lost without them, whether it be in Perth or regional areas. They do a very valuable job. I also want to acknowledge the success and usefulness of the new Swan Taxi iPhone app, which is a tremendous invention because it certainly makes much easier my life and, I hope, the lives of other members in this place when we need to use a taxi. We all get tired of talking to a machine on the phone when we hear, "Press 1, hang on," and then waiting, then hearing "Press 2, press 3." It goes on. I am not the most patient of people. Talking to machines or waiting for machines when I ring banks and those kinds of organisations drives me spare, particularly being someone with an Irish accent. I do not think the machines are programmed to understand me, so they make me even wilder when I try to say the words with an Australian accent. It does not work and it gets worse. It is one of the reasons I appreciate the Swan Taxis iPhone app.

Hon Ken Travers: In commercial fairness, Black and White Taxis also have one.

Hon STEPHEN DAWSON: For commercial fairness, I thank Hon Ken Travers for acknowledging that Black and White Taxis have a similar service. I have not used that app. I am happy with the Swan Taxis app; I can use it and I use it quite often. It is a great initiative because not only do we not have to talk to anyone—I do not have a problem with talking to people generally, but I have a problem waiting on telephones for service and talking to a machine that cannot understand me—but also in this case we key in where we are to be picked up and where we are going to, press "Accept" and a taxi is ordered. The other part of the service I really appreciate is the ability to track the taxi. We know where the taxi is and when it gets to within 250 metres of the pick-up, it beeps. It gives an indication that a taxi is around the corner so a person can get out of the door and wait for it. Being an impatient person and liking being able to track the taxi, I have to say it annoys me when I can see the taxi has not moved from a spot in 10 minutes! It is not stuck at traffic lights; it might be at the edge of a park or somewhere that makes me wonder why the taxi is so late. I have raised this with taxidrivers when they have arrived at my house. I have told them that I noticed it took them a while to get there, and they might say that they were just using the toilet or perhaps slipping into the shop for a second because they were doing a 12-hour shift and wanted a can of Coke or Red Bull. I know I have to be less impatient. I acknowledge that these applications are fantastic and that taxis play a very vital role in society. They certainly play a vital role in my life. I acknowledge this legislation is needed, can only make the taxi system operate more effectively and make consumers feel safer when they catch taxis. Bear in mind that people of all ages catch taxis. I am not making a value judgement, but some parents are comfortable putting a 12, 13 or 14-year-old child in the back of a taxi because they think a taxidriver is a reputable person—that the child is going only from A to B and this person will get them there. A lot of trust is put in taxidrivers and we do not want that trust to be unfounded. Likewise, people with disabilities or a range of illnesses catch taxis. Is Hon Alyssa Hayden saying I have a disability or a range of illnesses?

Hon Alyssa Hayden: You should use your two feet when you are standing!

Hon STEPHEN DAWSON: I beg the member's pardon! Apologies, Mr Deputy President; I apparently was not standing in the chamber properly! A range of people catch taxis—people of all ages, old or young; our loved ones; sick and unwell people; well people; grandparents; and whoever. Everybody catches taxis. We put a lot of faith in the drivers and this legislation will help ensure that taxis operate appropriately, that safeguards are in place, that we can be happy with the service provided and that we know that for the most part the service is safe. This legislation will only make it safer.

HON JIM CHOWN (Agricultural — Parliamentary Secretary) [7.52 pm] — in reply: I thank members for their contributions on this important Taxi Drivers Licensing Bill 2013 and for the interest they have shown. I

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especially thank Hon Ljiljana Ravlich and Hon Stephen Dawson for their stated support of this important bill. I also thank Hon Darren West for his anecdotal taxi statements in regards to this bill, which had no relevance at all to what we are discussing today. I am a little surprised at the ambivalence of some opposition members in not stating their support for this important bill. I, too, have had a number of taxi rides recently and I have been informed that the taxi distribution centres are taking a great deal of interest in what is happening in this place tonight. I hope they look at the second reading debate and, as they do regularly, send out newsletters in regards to this matter, which the industry supports.

A couple of issues were raised during the second reading debate.

Hon Ken Travers: I am trying to understand your point. Are you suggesting that the opposition isn't supporting this legislation?

Hon JIM CHOWN: As I said, only a number of opposition members stated that in their contributions to the second reading debate.

In regard to some of the points raised, a number of members talked about their unhappiness that this bill has taken two and a half years to evolve and to be introduced into this place. I remind them that for a bill of this substance—I think 90-odd clauses—two and half years is a very good outcome. For example, the Biosecurity and Agriculture Management Act took about 12 years and was put through this place in around 2007. The regulations were not actually passed by the Joint Standing Committee on Delegated Legislation until May 2013. There is also the Mental Health Bill, which took 10 years to get into the Legislative Assembly, five of which were under the Labor government. Of course, there was also the Dog Bill.

Hon Stephen Dawson: That has 583 clauses.

Hon Ken Travers: Do you realise that those bills had complete rewriting and this is only a partial rewrite?

Hon JIM CHOWN: The issue is that this taxi bill has arrived in this place in a good framework.

The DEPUTY PRESIDENT (Hon Simon O'Brien): Order! There are two things we need to understand. First, when the presiding member says, "Order", it means everybody is to stop moving around the chamber and to be silent. The second thing I need to point out is that the bill we are addressing is the Taxi Drivers Licensing Bill 2013, not any other bill, so perhaps that is what we need to address. That way there will not be interjections.

Hon JIM CHOWN: I was getting to that, but I am just addressing some of the issues that have been raised in the second reading debate by other members. Most of the issues raised we can address during the committee stage, but I believe there are some issues that need to be stated. The bill contains everything that other licensing statutes contain. It creates offences for being unlicensed. It will set out a process for applying for a licence as well as licence eligibility criteria for the grant of a licence. These criteria will also be relevant to whether a licensee is eligible for the renewal of a licence or to continue to hold a licence if there is a change to relevant circumstances. It will empower the CEO, who is the licensing authority, to grant a licence, to refuse to grant a licence, to refuse to renew a licence, to suspend a licence or to cancel a licence. It will provide answers to enable enforcement of its provisions. What the bill contains that other licensing statutes do not is a penalty point regime and the ability to prescribe appropriate offences as disqualification offences. I will touch on the disqualification offences shortly. The proposed penalty point regime is modelled on the Road Traffic Act 1974 demerit point regime. Under the Road Traffic Act 1974, supporting regulations create demerit point offences, the commission of which are to result in the recording of demerit points prescribed in regulations as the number of demerit points to be recorded in respect of each offence. There is no mystery surrounding the proposed penalty point regime that will be created under this bill. I understand that these matters were covered during the briefing opposition members received from Department of Transport officers.

Presently, a number of taxidriver-conducted offences are created in the Taxi Regulations 1995 and the Transport (Country Taxi-Car) Regulations 1982. The Taxi Regulations 1995 apply in the case of taxis operating in the prescribed, controlled area, which is effectively the Perth metropolitan area, and the Transport (Country Taxi-Car) Regulations 1982 apply throughout the rest of the state. Many similar offences exist under each set of regulations; however, these offence provisions are expressed differently and different penalties apply. For example, under the Taxi Regulations 1995, regulation 14 makes it an offence to fail to transport a guide dog accompanying a passenger who is visually impaired, and the applicable modified penalty is \$300. Under the Transport (Country Taxi-Car) Regulations 1982, regulation 26B states that it is an offence to fail to transport a guide dog that is accompanying a passenger who is visually or hearing impaired unless excused from doing so in writing by an authorised officer, and the applicable modified penalty is \$50. As we can see, there is a great discrepancy in regards to some of these breaches of the regulations, depending on where the taxi is operating. Supporting regulations pursuant to this bill will provide the conduct offence in the Taxi Regulations 1995 and the Transport (Country Taxi-Car) Regulations 1982 to be deleted and for those regulations to be both

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rationalised and modernised. For example, reference to guide dogs will be replaced with reference instead to assistance animals. One set of conduct offences will be created under this bill applying to all taxidriver within Western Australia, with appropriate penalties. Importantly, they will be the same whether the taxidriver works in the metropolitan area or in regional areas. Offences that will be described as penalty point offences will be offences that affect the quality of the service provided by taxidrivers and they will be drawn from conduct offences prescribed under the supporting regulations, which are, as I have described, offences created under the Taxi Act 1994; offences created under the Transport Co-Ordination Act 1966, such as charging a fare or a charge contrary to the Country Taxi-cars (Fares and Charges) Regulations 1991, regulation 3; and offences under the Tobacco Products Control Regulations 2006 such as regulation 10(1), smoking in an enclosed public space, a car or a taxi.

The department is consulting with industry on the allocation of penalty points, working from the premise that only key service offences will be prescribed as penalty point offences and that these will be arranged from minor to more serious. The more serious offences, such as terminating a fare without reasonable cause, will attract a greater number of penalty points. The supporting regulations will also prescribe the duration of the disqualification period and will apply when a person has been given an excessive penalty points notice. Once again, the department is consulting with industry on this; however, I understand that the favoured position is a three-month disqualification in the case of the first excessive penalty points breach, a six-month disqualification in the case of a second breach, a 12-month disqualification in the case of a third breach and a permanent disqualification in the case of a fourth breach. All of these matters are entirely appropriate subject matters for subsidiary legislation. In the event of a trend towards particular undesirable conduct, those offences prescribed as penalty point offences and/or the number of penalty points to be recorded in respect of penalty point offences may be adjusted to better deter the relevant behaviour.

During his contribution, Hon Ken Travers advised the house that material pertaining to, amongst other matters, the ongoing process of industry consultation on this legislation was promised by the advisers during their briefing on the matter but was not subsequently provided. I am talking about a draft they would receive on the kind of conduct that was involved. I apologise for that on behalf of the minister. There was a mix-up with this matter. In fact, when I found out that they had not received it in the break, I spent 20 minutes this afternoon ensuring that Hon Ken Travers and the opposition received the relevant paperwork.

Hon Ken Travers: I am just surprised that we could not receive it before the start of today's proceedings.

Hon JIM CHOWN: I appreciate that comment and the member is correct. As I stated, I was unaware of the fact. I was assured that that would take place, and when I checked it had not. I apologise to members in this place.

The code of conduct is a draft and there has to be some discussion with industry on bedding it down, but I believe that it is a very good start for discussion points between the department and industry at large. Once again, the code of conduct is a document that it is entirely appropriate to take the form of subsidiary legislation. This will ensure Parliament's role in guaranteeing that the code does not contain matter that is unreasonable and not within the spirit and intent of the bill, while making certain the ability to amend the code of conduct in a timely way so as to be responsive to emerging trends and issues.

I will touch on the issue of complaints about the behaviour of taxidrivers and how they will be handled. A number of second reading speeches targeted this particular matter and I hope to clear it up now. To reap the benefits of innovations, such as a penalty points regime and the code of conduct, sound processes must be in place for the receipt and management of complaints about taxidrivers. It is the government's intention that breaches of rules should result in the application of penalty points. There are instances, such as overcharging or not taking the most economical route, in which it can be difficult to demonstrate that an offence has occurred because the alleged overcharges are quite small or the selection of the most appropriate route is debatable. In these instances, the taxi dispatch service may resolve the issue directly with the passenger as a matter of good customer service. It is clear that as part of the implementation of this bill the protocols that exist between booking services and the department will need to be reviewed, so that taxi dispatch services or country operators cannot hide driver complaints from the department. It is certainly the case that the IT infrastructure will provide mechanisms to better share complaints data and better enable passengers to lodge complaints online, circumventing making a personal complaint to either the driver or the taxi dispatch service.

Finally, I would like to say a few words about the cancellation and suspension of taxidriver licences and about disqualification notices as there seems to be some confusion amongst members, which came through a number of second reading speeches as well. As with every other licensing statute, the bill empowers the CEO to cancel or suspend a taxidriver licence. These same powers are currently available to the director general to deal with the cancellation or suspension of a person's authority to be a taxidriver conferred by the endorsement of the T extension on a person's driver's licence. Hon Adele Farina suggested that it is not clear under the bill when the

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CEO would suspend or cancel a taxidriver licence. The bill is quite clear on this. Clause 30 will empower the CEO to suspend a taxidriver licence if the CEO suspects on reasonable grounds that the licensee is not a fit and proper person to hold a licence or is mentally or physically unfit to drive a vehicle as a taxi or has been charged with an offence that is a disqualification offence. Clause 33 will empower the CEO to cancel a taxidriver licence if the CEO is satisfied that the licensee is not a fit and proper person to hold a licence or is mentally or physically unfit to drive a vehicle such as a taxi. Being satisfied requires the CEO to be certain regarding these matters. This represents a higher standard than the standard that must be met to empower the CEO to suspend a taxidriver licence.

There also seems to be some confusion about disqualification offences. This bill introduces some new measures to deal with taxidriver behaviour—a penalty points regime and disqualification offences. These measures will enhance the licensing regime but are not intended to replace the power of the CEO or suspend or cancel a taxidriver licence when the CEO forms a view that a licensee is not fit and proper to hold that particular licence. This is natural justice; the CEO as the licensing authority must take into full account all relevant matters in making a decision whether a person is fit and proper or whether a person's taxidriver licence should be suspended or cancelled. Also, the affected person has the right of review on that particular decision.

The penalty points regime is intended to deal with service-related misconduct. An offender will have a set number of penalty points recorded against them, and the taxidriver will have a great incentive to desist from this conduct or, alternatively, they will incur further penalty points and his or her taxidriver licence will be cancelled and a period of disqualification will apply. During the penalty points disqualification period, the person will be ineligible to apply for a taxidriver licence. There is no ability to seek the review or setting aside of these consequences.

Disqualification offences will work in the following way: offences to drive a vehicle as a taxi while not authorised, pursuant to clause 8, are disqualification offences. These offences cannot happen accidentally or without benevolent intent. Under clause 33, other offences may be prescribed as disqualification offences. When a person is convicted by a court for an offence that is a disqualification offence, clause 33 will act to say that the person's taxidriver licence is cancelled. The prescribed period of disqualification will apply and during this period of disqualification the person will be ineligible to apply for a taxidriver licence. There is no ability to seek the review or setting aside of these consequences. Clause 33 will act to cancel the licence and impose the period of disqualification. In other words, if an offence is prescribed as a disqualification offence, a mandatory sentence will be imposed on a licensee. For this reason, careful consideration is being given to those offences that are appropriate to be prescribed as disqualification offences. If such careful consideration is not given, there is the chance that an unjust result could occur when it is clear on the face of the circumstances that a person ought to be ineligible to continue to be licensed or to be granted a licence; however, there will be no capacity for the CEO to grant a licence and there will be no avenue of appeal for the affected person. It is also worth noting that during consultation, for these very reasons, industry representatives had strongly voiced the view that licensees charged or convicted of criminal matters ought to continue to be dealt with by the CEO—in this case, by using the CEO's powers under clause 31 to suspend or under clause 33 to cancel. That will be up to the CEO's discretion. The code of conduct will provide excellent guidance for taxidrivers about the behaviour expected of them and what behaviour may lead to licence suspension or cancellation. In any case, when a disqualification period is imposed, the disqualified person may apply for the grant of a taxidriver licence when the disqualification period has elapsed. The CEO will need to be satisfied at the time of the application that this person is a fit and proper person to hold a taxidriver licence. In any case in which the CEO cancels a taxidriver licence, the former licensee may reapply at any time. However, in these cases, the existence of the circumstances that led the CEO to find the person not fit and not proper, and as a result exercising his or her power to cancel the licence, is very likely to result in the CEO being unable to be satisfied that the applicant is fit and proper.

There appeared to be some suggestion that if an offence is not prescribed as a disqualification offence, no action will be taken against a taxidriver who is charged with, or convicted of, an offence. That is absolutely untrue. Currently, when a person is charged with an offence, the nature of which is a cause of concern to the safety of passengers and potential passengers, the director general suspends the person's authority to drive a taxi. On conviction of such offence, the director general cancels the person's authority to drive a vehicle as a taxi. The affected person has the right of appeal if he or she is of the view that the director general failed to take into account relevant information when making that particular decision regarding whether or not the person is fit and proper to operate a taxi. All of this will continue to be the case when the provisions of the Taxi Drivers Licensing Bill 2013 are enacted.

On that note, I thank members again for their interest and contributions, and I look forward to responding to any further matters during Committee of the Whole.

Hon Dr Sally Talbot; Hon Darren West; Deputy President; Hon Stephen Dawson; Hon James Chown; Hon Ken Travers; Deputy Chair; Hon Adele Farina; Hon Sue Ellery

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Simon O'Brien) in the chair; Hon Jim Chown (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon KEN TRAVERS: I place on the record that the opposition supported the Taxi Drivers Licensing Bill 2013 at the second reading stage. I do not know what the parliamentary secretary was trying to suggest in his comments during his reply to the second reading debate. We want to raise a number of issues about the operation of this legislation, but my colleagues and I voted yes at the second reading stage.

I looked at this bill during the recess, and one of the things that struck me was that the parliamentary secretary gave a number of examples of other pieces of legislation and the time they had taken. This is a very narrow piece of legislation dealing with taxidriviers; it does not deal with the whole taxi industry. In fact, one of the problems I see in the way in which this bill will operate and the way it will operate with other pieces of legislation just confirms for me that the government actually needs to be developing a single piece of legislation for taxis in Western Australia. As we go through the different clauses of the legislation, that will become more and more apparent.

Three substantial pieces of legislation will operate around taxis in Western Australia: the Taxi Act 1994; the Transport Co-ordination Act 1966; and, assuming it is proclaimed this year, the Taxi Drivers Licensing Act 2013. As we go through different clauses, members will understand my argument for the need for a new, consolidated piece of legislation, as has been done for the Mental Health Bill 2013. There are subtle, slight changes in the language in the different pieces of legislation that will cover taxidriviers. I will not go into that in detail now; I think it will be more appropriately dealt with as we go through this legislation clause by clause and we see the variations in some of the language and whether the changes will have a substantial or minor impact. But I think it will become incredibly confusing for anyone who tries to understand the Western Australian taxi industry.

Hon Alanna Clohesy: Plus you've got the regulations.

Hon KEN TRAVERS: And the regulations as well; absolutely. I appreciate that interjection from the member.

Listening to the comments of members of this and the other place, I suspect the majority understand that country taxis operate under a completely different piece of legislation from metropolitan taxis, but I do not know that that is always clear. Although members of this chamber might understand that, I am not sure that members of the public do, which is one of the reasons for members raising the issue of taxi cameras. They are provided in the metropolitan area by way of the taxi industry development fund, which does not exist for regional taxis; there is a different set-up. Having said that, royalties for regions funding could be used to fund them in regional taxis. The funding in the taxi industry development fund comes from Perth taxis and must be applied back to the Perth taxi industry. A similar structure would be a massive impost on regional taxis, but there would certainly be the opportunity, I would have thought, to use royalties for regions money to provide that same level of security. That is just one area, but as we look at the different clauses of this bill and how they interact with those other pieces of legislation, we can see problems. As to the speed the legislation will be implemented, clause 2 encompasses a whole range of variations and permutations, depending on whether legislation passed by this Parliament some considerable time ago has been brought into operation.

Issues raised during the second reading debate that went broadly across the operation of all the clauses were not addressed by the parliamentary secretary in his second reading reply. I suggested that as a very minimum why would we not require taxidriviers to undergo a working with children check? I think the majority of people in Western Australia would expect that as a bare standard. Does the government intend to, by way of regulations to this act, make it a tougher regime than the working with children regime or not? Would the government be prepared to support amendments to ensure that taxidriviers meet the requirements of a working with children check? I think there are a whole range of areas around the way the complaints system will operate. Again, the nature of complaints between regional WA and metropolitan Perth differ, so how will that operate and does the government accept there is a problem in its current operation that needs to be reformed as part of the legislation? As we go through the individual clauses of the bill, I think we will see those issues coming into play. A lot of this is about sticks for taxidriviers. At least four or five members raised the issue of taxi cameras in regional WA but the parliamentary secretary did not address that. If we are going to bring in the sticks, why is the government not prepared to commit to giving some carrots so that the good drivers are protected? We can expect drivers to

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behave but it is only reasonable when passing a bill containing these provisions to get some commitment from the government around some positive outcomes for individual drivers.

A lot of the clauses in this bill relate to what we do when we have a bad driver in the industry. I would be keen for the parliamentary secretary to explain what the government will do to prevent the bad drivers getting into the industry. Sure, there are criminal checks. We used to have aptitude testing. I do not think it is any surprise that the increase in complaints about drivers coincides with the removal of that aptitude testing regime for taxidrivers. I understand there were some problems with that regime but it strikes me that there is an opportunity to develop that side of it. Again, I would be keen for the parliamentary secretary to give a better explanation of the measures the government will put in place to prevent bad apples getting into the industry.

I turn to a final area that goes to the overall way in which different clauses in the bill operate that needs to be addressed under the short title. I note that a number of provisions and clauses in the bill are about the way in which the director general or the CEO is to provide information to other interstate taxi bodies or to the police but there seems to be very little about how the police will be required to provide information to the director general. Again, I would like the parliamentary secretary to explain how the department will obtain that information from the police. There are lots of clauses about how the department will provide that information to the police but how will it get the information from the police that it requires to do this job? I have raised a range of issues. I will leave it to the parliamentary secretary to work through each of those. I hope we can get some answers.

Hon JIM CHOWN: With regard to the issue about appropriate people applying for a taxi licence, people need a driver's licence for three years before they can consider applying for a taxi licence. One would assume that if someone has maintained a three-year licence, they are a reasonably good driver.

Hon Ken Travers: I am talking about the character of the person rather than the driving abilities of the person.

Hon JIM CHOWN: People still need to pass the aptitude test when applying for a taxidriver's licence.

Hon Sue Ellery: Isn't that a skill test?

Hon JIM CHOWN: The aptitude test will still apply.

Hon Ken Travers: Can you describe the aptitude test to us? What does it involve?

Hon JIM CHOWN: The aptitude test includes questions on maths, English, map reading and obviously the ability to drive safely on the road, and there are registration requirements.

Hon Ken Travers: And what?

Hon JIM CHOWN: After the aptitude test and after applicants have done the training, they need to go through a registration process before they receive their taxidriver's licence. It is a simulated test that determines one's ability to drive, follow a route and deal with passengers et cetera.

Hon Ken Travers: Maybe we can deal with this issue. I will make some comments on that when you have finished talking about the aptitude test and deal with them one by one.

Hon JIM CHOWN: With regard to the camera issue, it is my understanding that the minister has been down to Mandurah talking to taxidrivers. The department is trying to procure the latest taxi cameras that have the ability to be downloaded offsite or outside the taxi. Obviously, nothing can be procured until it is known what is required. The department is looking at suppliers to see what latest technology is available.

The other issue the member raised related to the working with children check. The department has discussed the issue with the working with children screening unit. Taxidrivers are covered under the working with children legislation if they deal with issues relating to children in their job.

Hon KEN TRAVERS: Let us deal with aptitude testing. When I applied to become a bus driver, I had to go through a range of psychological tests, not just practical skills tests. What the parliamentary secretary outlined to me about skills testing does not go to whether a person's character is suitable for the task and the role of driving a taxi. There are issues around anger management. A number of taxidrivers who were refused a taxi licence under the old regime have since been able to get a taxi licence. I suspect that a couple of them might have been drivers who subsequently had problems in the industry. I am talking about things such as anger management and the way in which people behave. I understand we have to be careful that that psychological testing does not discriminate on ethnic backgrounds. It requires some significant controls. It is about the character of a person. Understanding map reading and having basic maths are skills that are required but I am concerned that there seems to be no attempt to identify whether the person has the right psychology to do the job and whether there are other issues that a psychological test might identify to determine whether a person would be a risk as a taxidriver. Could the parliamentary secretary address those issues about whether it is the intention of the

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government to try to do anything to keep the bad eggs out of the industry rather than wait until they get into the industry and use this bill to get them out?

The DEPUTY CHAIR: I am about to give the call to the parliamentary secretary, who wants to respond. Hon Ken Travers knows very well, as he demonstrates, the scope of a clause 1 debate, and indeed he is doing that. Perhaps I will suggest to the committee that after we have dealt with this matter, we might want to move on from consideration of clause 1 and its possible adoption. If members want more detail on this, perhaps it may be more appropriate to consider those issues in part 3 of the bill. I just offer that suggestion knowing that it will be received in the spirit in which it is offered.

Hon JIM CHOWN: Between April 2004 and December 2008, approximately 2 000 prospective taxidriv­ers undertook psychological tests. Of these, 483 failed but only four failed purely on the basis of the psychological component of the test. This led to the conclusion that the psychological profile tests were not adding any value to those who were applying for a licence and finally receiving it. However, the department is open to entertaining or looking at future tests if it can find one that is relevant to applying for a taxidriver’s licence.

Hon KEN TRAVERS: I will deal with general issues across a range of the clauses without getting into the detail of specific clauses. It strikes me that it is not about the department waiting for one; surely, it is about the department trying to develop one. The taxi industry in Western Australian is probably the best funded of any taxi industry in Australia, that I am aware of, because of the taxi industry development fund, which has its money because of the reforms that Hon Alannah MacTiernan shepherded as the minister and her then parliamentary secretary took through this place back in the early 2000s. Those reforms were opposed by members opposite when they were on this side of the chamber, unlike us today; we are supporting this piece of legislation. At the 2008 election, the then shadow Minister for Transport for the Liberal Party promised to get rid of those measures. However, they are still here today because the government realised how good those measures really are. The Liberal Party took the political opportunities before the 2008 election and then started its process of breaking promises. I digressed for a second.

It is about going out there and developing the psychological test. I argue that if the process keeps four people who are unsuitable as taxidriv­ers out of the system, four fewer people would be offended against. I note that the words the parliamentary secretary used were “solely on the psychological testing basis”. I suspect that means a range of them were knocked out for other reasons, but they would have also potentially been knocked out for the psychological testing reasons. The detail of this bill is deficient in this area; there are not enough provisions about how to prevent the wrong people getting into the industry. It is all about what we do to get them out once they are in the industry. That is the wrong approach. This is my final question on this point: why would the department not go out and work with people with expertise in this area to develop a test to keep those people out of the industry? It is not uncommon in a range of industries around Australia. There would be a lot of expertise out there; on a daily basis people assess whether people are suitable for different types of work and different industries. Why is the government not developing a psychological test? Why is it not part of the detail of this bill?

Hon JIM CHOWN: Western Australia has adopted a national framework on taxi licensing requirements which has a number of components. Other jurisdictions have rejected the psychological part of that framework. However, provisions in clause 12 allow for the adoption of psychological tests if required.

Hon KEN TRAVERS: Extraordinary! We are not signatories to the National Heavy Vehicle Regulator because we do not agree with the eastern states. We are not signatories to the National Rail Safety Regulator because we do not agree with the eastern states. The Liberal Party comes into this chamber and tells us how we should maintain state rights. If taxis are not a clear area that is a legislative framework for the state, I am amazed. I find it extraordinary to hear a Liberal Party member come into this place and try to hide behind a national framework as his excuse for not doing something. Instead of hiding behind the fact that it is a national framework, those who profess to be the defenders of state rights need to ask: is it the right course of action? Do we have the right process for our industry in Western Australia? I find it almost humorous that the parliamentary secretary is hiding behind saying that we are part of a national framework when Western Australia has not signed up to various forms of national regulation and at a cost to the state at times.

Hon Alanna Clohesy: And the people.

Hon KEN TRAVERS: And the people. It is not about whether it is a good or bad measure; it is simply because we are a signatory to a national framework. That is extraordinary. The government signed up to that framework and now uses it as its excuse regardless of whether it is right. We can leave clause 12 and we can discuss it in more detail later.

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I come back to the working with children check. Correct me if I am wrong, minister—I mean, parliamentary secretary—although I believe there is a spare ministry going, so you never know your luck in the big city! I cannot understand why the Liberal Party are not getting an extra one, but anyway, that is for members opposite to sort out in their own time.

Hon Jim Chown: Has it been decided? Has it?

Hon KEN TRAVERS: I think it has been decided by the Premier, sorry! I would have thought that if there is not a coalition agreement, the parliamentary secretary would take his chances.

The DEPUTY CHAIR (Hon Liz Behjat): Focus.

Hon KEN TRAVERS: Focus—that is very good chairing. The parliamentary secretary said that the working with children check applies to the taxi industry. Could he explain to the house the circumstances in which it applies?

Hon JIM CHOWN: Just for the record, in response to the comments by Hon Ken Travers, I have never hidden behind anything in my life and never will.

Hon Ken Travers: You said it is all about a national framework.

Hon JIM CHOWN: The national framework was driven by this state and adopted by other states when Hon Simon O'Brien was Minister for Transport. Anthony Albanese as the relevant federal minister decided it was a good idea and pursued it through the eastern states. That framework's genesis was here in Western Australia. I refer to the national heavy transport issue. As Hon Ken Travers well knows, from a national perspective Western Australia has some of the most efficient heavy transport operations in the world and a unique environment; why should we adopt something pursued from the eastern states where the road systems and freight tasks et cetera are not as efficient as those in Western Australia? I do not believe the member has any argument there at all.

Hon Ken Travers interjected.

Hon JIM CHOWN: Hang on! Hon Ken Travers has had his 10 minutes. He will get a chance later.

A working with children card is required for taxidriver who have contracts with schools or parents or any other contractual arrangement in which children are involved in transport in their taxis.

Hon KEN TRAVERS: My recollection—correct me if I am wrong—is that the Working with Children (Criminal Record Checking) Act provides that if a taxidriver carries a child on more than five occasions a year, a taxidriver must have a working with children card. I wonder how that is monitored. I accept that taxidrivers have formal contracts with schools and the like. I imagine most multipurpose taxidrivers would also because of the nature of a lot of the work they do. But how is that monitored within the industry? Let us leave it at that for now. My understanding is yes, if the taxidriver has an ongoing contract, but it is also about whether the taxidriver carried children on more than five occasions.

Hon Alyssa Hayden: On their own, or without a parent or a guardian? If a child is in the car with a parent or guardian, surely that is —

Hon KEN TRAVERS: Yes, but, from recollection, it is carrying children on five occasions or more, as I understand it.

Hon JIM CHOWN: The exemption in regard to the working with children card applies only if the taxidriver is working with children for no more than five days during a calendar year. If it is more than that, the taxidriver requires a working with children card.

Hon KEN TRAVERS: This is where the clarity is required, because how does anyone ever know whether a taxidriver has taken children on more than five calendar days in a year?

Hon JIM CHOWN: If a taxidriver arrives at the school on more than five occasions or works with children on more than five occasions in any calendar year, or more than five days in any calendar year, the expectation is that he will have a working with children card. In fact, it is mandatory that he has a working with children card, and he must show that card on request to the responsible adults who are passing over their children into his care during the transit arrangements in the taxi.

Hon KEN TRAVERS: I still come back to this: how is that monitored? Is that monitored in any way by the Department of Transport?

Hon JIM CHOWN: Most of these arrangements are contract arrangements with schools and other entities dealing with children. As I have already stated, it is expected that a working with children card is required by the

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taxidriver. From a monitoring perspective, any complaint that goes to the relevant government unit will be dealt with and followed up in regard to the taxidriver involved.

Hon KEN TRAVERS: I come back to my key point. That is when the children are going to a school, but there would be lots of times when parents would use taxis to pick up their children or take them somewhere. Currently, that is not monitored in any way. I get it when there is a contract with a school and the children are going to and from that school. As I said, I would be surprised if there were many MPT drivers in the state who do not have a working with children check because of the nature of their work. It would be interesting to know whether that is the case. Certainly, my view is that they should have. I cannot understand why we would not make the necessary changes to the working with children act. I suspect it would need to be changed, but, as a consequential amendment of this bill, why would we not have a working with children card as a starting point for being able to get a taxidriver's licence? Everyone could then be absolutely assured that the driver has, at the minimum, gone through that test. As members know, getting a working with children check does not involve looking at just the issues around convictions; it goes deeper than just convictions and looks at areas where there might be signs of risk for children. I still cannot get from the parliamentary secretary whether the government would be prepared to support amendments to make it, as a starting point, a requirement that to get a taxidriver's licence under this new regime, the first thing a person has to do is secure a working with children card.

Hon JIM CHOWN: As I have already stated, there are provisions in the working with children act in regard to five or more occasions in a given year on which a taxidriver is required to carry a working with children card. Of course, on the random occasions on which a taxidriver turns up at a person's house and takes a child from there to the doctor and perhaps back again, it is up to the parent to ask, and they are allowed to ask, whether the particular taxidriver has a working with children card, or before the parent even books the taxi, they can ensure that somebody with that card eligibility is sent to pick up their child. In regard to this issue, the department is talking to the working with children screening unit and looking into what can be done on this matter.

Hon KEN TRAVERS: What does talking to the department mean? We are dealing with the bill now. If the parliamentary secretary has reached the conclusion that he wants a working with children card as a requirement for taxidriver, what do we do then? Do we have to wait to get another taxidriver licensing amendment bill in six months to amend the Taxi Drivers Licensing Act 2013? Why would we not try to deal with that issue today?

Hon JIM CHOWN: As I said, the department is in discussions with the working with children unit. Hon Ken Travers needs to understand that there are at least 7 000 taxidriver licences out there. This sort of mandatory screening is a cost to somebody; more than likely it will be a cost to the industry. As I have explained already, at this stage, from discussions with the working with children unit and the department, it is not believed to have any validity in this matter, but if something comes up in the future whereby the requirement is to be imposed—discussions will be ongoing—it will certainly be entertained.

Hon ADELE FARINA: My question to the parliamentary secretary is: how many taxidriver currently have a working with children authority?

Hon JIM CHOWN: Unfortunately, we do not have that information at hand.

Hon ADELE FARINA: Would the parliamentary secretary be able to get that information?

Hon JIM CHOWN: We would have to discuss this with the working with children unit to see whether it was prepared to release the number. If it is available, I will be more than happy to state it in the chamber.

Hon ADELE FARINA: I am sorry; if I understood the parliamentary secretary correctly, he indicated that the department does not actually hold that information. Is that the case?

Hon JIM CHOWN: That is correct.

Hon ADELE FARINA: If that is the case, I am a bit lost with the parliamentary secretary's earlier comment that a person booking a taxi could request a taxidriver with a working with children authority. How can the parliamentary secretary be sure that a taxidriver working on a particular shift would have a working with children authority and be able to take the children if the Department of Transport does not keep numbers and has no idea how many taxidriver have that authority? I am concerned about the answers the parliamentary secretary has been providing up to now if the department does not hold that information.

Hon JIM CHOWN: The answer is quite simple; the taxi dispatch services have a list of the operators who hold that particular card.

Hon DARREN WEST: On the same line of questioning, as the parliamentary secretary would be aware, many country students attend boarding school in Perth. What guarantees will this legislation give to the parents who do not live close that, concerning their children who attend boarding school and frequently catch taxis to sports and

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medical appointments and other functions, there is no chance that a taxidriver will not have a working with children clearance?

Hon JIM CHOWN: Clause 16, “Conditions of licence”, provides the ability for a working with children card to be required when a licence application is being processed.

Hon KEN TRAVERS: I appreciate the parliamentary secretary’s comments about that, but I think we would find that because of the way in which the Working with Children (Criminal Record Checking) Act is constructed, if we want to make it a requirement for drivers to have a working with children card, we need to amend this legislation. There is a question about whether or not under the current legislation a driver who does not carry children on more than five calendar days would be able to apply for it. It would make it extremely complex. If the parliamentary secretary is suggesting that under clause 16 we would be able to make it a condition of the licence that they hold a working with children card—I very much appreciate that—I suggest that for it to be beyond doubt, it would be wise for the chamber to insert a clause to amend the working with children act so that one of the qualifications for applying would be to hold a taxi licence.

Hon SUE ELLERY: I ask the parliamentary secretary to clarify the advice he just provided to the house. I understand that he was most likely referring to clause 16 of the bill, “Conditions of licence” and subclause 2, which reads —

A licence may be granted subject to such other conditions as the CEO thinks fit and specifies on the licence document.

I imagine that is the catchall reference that the parliamentary secretary was making. However, Hon Ken Travers is quite right about the legislation that governs the working with children card in that it is quite prescriptive about who can and cannot hold a working with children card. This bill by itself will not give the chief executive officer the right to determine that taxidrivers must have a working with children card. The parliamentary secretary has already set out certain provisions, such as having to deal with children more than five days in any year. There is no catchall in the working with children legislation that would give that right. Please clarify the advice. I appreciate the clause the parliamentary secretary has referred us to. I think it is a catchall about other conditions, but I really doubt that legislatively that is where we would capture the working with children provisions.

Hon JIM CHOWN: The member is correct to some degree. If someone wants a working with children card, they must apply to the working with children unit. It has its own processes to endorse an applicant and decide whether an applicant is a worthy recipient. With regards to this bill, the issue is that if the working with children card is imposed globally on all applicants for taxi licences, the conditions could be through the criteria prescribed in the regulations set out in clause 12(1)(g). Alternatively it could be a licence endorsement under part of the conditions, which is clause 16, “Conditions of licence”. It would be an enormous cost to do it globally. If taxi licence applicants particularly want to work with children more than the required number of times as per the working with children legislation, they can apply for the working with children card through the working with children unit.

Hon ADELE FARINA: As I understand the advice given by the parliamentary secretary, while the Department of Transport does not have information about the taxidrivers who have a working with children card, that information is held by dispatch. I would like the parliamentary secretary to give an undertaking to provide tomorrow when we are in committee, the number of taxidrivers who have a working with children card.

Hon JIM CHOWN: I commit to endeavour to get the numbers that Hon Adele Farina has requested from what are virtually private businesses. If not, we can make an application to the working with children unit to release those particular numbers. One way or another, one would hope to have a result tomorrow.

Hon SUE ELLERY: I will pursue the issue of whether or not clause 16 of the bill gives the chief executive officer of the Department of Transport the power to determine that a licensee shall carry a working with children card. The way to give effect to this, if this is what we want to do, is to commit to amendments to the working with children legislation. In the information that is provided to people about who is required to have a working with children card, a range of categories is listed. Category 16 is a transport service specifically for children. It is recognised that someone who runs a service—the sorts of services we are talking about are school bus services, and all the people using that bus service are students being picked up and dropped off—is required to have a working with children check. The point that needs to be made here and perhaps it will provide clarity to the chamber if the parliamentary secretary acknowledges it, is that under clause 16 of the bill, to give effect to the policy whereby the CEO determines taxidrivers as a general category should be required to have a working with children check, changes will need to be made to the working with children legislation. This bill alone does not give the CEO the power to determine that all taxidrivers will have a working with children check—it does not.

Hon JIM CHOWN: We think this is covered in the bill. We will not entertain anything else.

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Hon Sue Ellery: On what basis? You haven't justified it at all. I am telling you that you're wrong. Tell me how I'm wrong.

Hon Ken Travers: I suggest you get advice overnight on this one.

Hon JIM CHOWN: I am happy to do that.

Hon Sue Ellery: I reckon I know a bit more about the Working with Children (Criminal Record Checking) Act than you do.

Hon JIM CHOWN: I am sure the member does.

The DEPUTY CHAIR: We are dealing with clause 1, but we are getting into areas better dealt with in clause 16. The parliamentary secretary may want to seek further advice on that part so that tomorrow when we are dealing with clause 16 he may have further advice on that and we can continue the clause 1 debate on more general topics. I am not sure that people will be happy with that arrangement.

Hon JIM CHOWN: I am more than happy to take that advice.

The DEPUTY CHAIR: We can continue with other issues in clause 1.

Hon KEN TRAVERS: This goes in a different way to the same issue about how we test people to get a licence and how the clauses will operate. Clause 33 "Cancellation and disqualification when convicted of offence" provides that a driver can have their licence cancelled or disqualified if they commit a statutory offence of which there are three offences under clause 8, or other offences under this bill, another written law, a law of the commonwealth and a law of another state or territory that is prescribed by regulation as a disqualification offence. I am intrigued about whether those offences will be picked up prior to someone getting a licence. There is a subclause that provides that applicants must meet any other criteria prescribed by regulations. I am trying to find the clause under which someone having not met any of those statutory or prescribed offences will cause their application to be cancelled or disqualified prior to them being granted a licence.

Hon JIM CHOWN: Part of the requirement for licence applicants will be to provide a criminal record check, a national police check and a traffic record check. The granting of a licence under clause 12 states pretty clearly what is required for a fit and proper person to hold a licence.

Hon KEN TRAVERS: I understand the meaning of "fit and proper person to hold a licence", but it worries me that under clause 33 we can be very clear that there are both statutory and prescribed offences that will lead to a cancellation and a disqualification. Rather than use the fit and proper person test why would we not provide that a person must be cleared of those same statutory and prescribed offences before being granted a licence, particularly those that would lead to permanent cancellation of the licence? I cannot understand why there is not the same very clearly prescribed list of things that prevent someone from getting a licence at the time of granting, when there is provision for cancellation and disqualification.

Hon JIM CHOWN: The CEO or his senior officer will have a protocols guideline and will have to tick off a number of issues to assess a licence applicant's requirements and suitability to be a taxidriver applicant. Disqualification offences, criminal records et cetera will be exactly what the CEO will be looking for and any other issue that would be relevant to the application.

Hon KEN TRAVERS: Can the parliamentary secretary assure us that if someone has been convicted of any of the offences prescribed under clause 33, and there is a period before disqualification or the offences lead to permanent cancellation of a licence, that will preclude them from being granted a licence?

Hon JIM CHOWN: That particular matter is highly likely to be the case, but of course, the CEO in his deliberations and final decision has to ensure that his decision and the requirements to withhold the licence will stand up, for example, before the State Administrative Tribunal.

Hon KEN TRAVERS: The parliamentary secretary has actually raised and confirmed my fear, because he said it is highly likely and what they do needs to be stacked up. I accept that some of those offences will be absolute, so I assume that if someone has committed murder, it does not matter how long after the crime has been committed, that person will never be a taxidriver. Other offences might be committed and the offender would not be able to be a taxidriver for a certain period after that under clause 33. Why would there not be a provision somewhere in part 3 to make it beyond reasonable doubt that it is the Parliament's desire that those people not be granted a licence? Then we would not have the highly likely scenario in which an appeal goes before the SAT and had the driver had a licence and been convicted of that offence, they would have lost it, been disqualified or had it cancelled, but if they had committed those offences first, they could be granted the licence? Why would we not make that very clear in the detail of this legislation?

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Hon JIM CHOWN: Currently there are only three disqualification offences to holding a taxi licence. One is driving with a taxi licence without a normal driver's licence; the second is driving a taxi without a taxi licence; the third is driving a taxi under disqualification if the licence is suspended. In regard to criminal offences and the loss of a taxi licence, that is still subject to ongoing discussions with the industry and the types of offences that apply can only take place when someone is driving as a taxidriver. They could be things such as interfering with the meter or the camera, being drunk at the wheel or being rude. That is what I meant with the disqualification.

Hon KEN TRAVERS: I accept that the parliamentary secretary is right that at the moment there are only three statutory offences in this bill. I think that is a deficiency in the bill in that we do not prescribe more statutory offences that preclude a person. Clearly, one of the statutory offences is an offence under clause 8(2), driving without a taxi licence. It would strike me that if someone has been convicted of driving without a taxi licence, it should automatically preclude them from being able to apply for a taxi licence. The parliamentary secretary concerned me when he said that the only offences that would cause someone to lose their licence are offences committed while driving a taxi. That is what I think I heard and I am trying to work out whether that is what the parliamentary secretary actually said or whether I misheard. Could the parliamentary secretary clarify that?

Hon JIM CHOWN: Under the code of conduct, which the member has a copy of —

Hon Ken Travers: The draft.

Hon JIM CHOWN: The draft, exactly. It is a draft; it is under discussion.

Hon Ken Travers: I got it at five minutes to three this afternoon, but we will not go into that. I appreciate you giving it to me.

Hon JIM CHOWN: It is something to work from. It outlines taxidriver disqualification offences. It states —

TDL Disqualification Offences

The person drives a vehicle as a taxi and doesn't hold a TDL

The person drives a vehicle as a taxi and the person is disqualified or the TDL is suspended

The Person drives a vehicle as a taxi and the person is not authorised to drive a vehicle

The person drives a vehicle of a particular class as a taxi in a designated area but the licence does not authorise the person to drive a vehicle of that class in that designated area.

Permitting another person to use the TDL identifying details

Hon Ken Travers: What page are you referring to just now?

Hon JIM CHOWN: I stand corrected. This is in the briefing material related to the bill, which I think Hon Ken Travers also has a copy of.

Hon Ken Travers: Which document?

Hon JIM CHOWN: That is it there.

Hon Ken Travers: Is it section 2? What point number is it? Is there a number attached to it?

Hon JIM CHOWN: It is the only one in section 2; it is the first blue line on the top.

Hon Ken Travers: So it goes that way?

Hon JIM CHOWN: Yes; look at that.

Hon Ken Travers: Thank you.

Hon JIM CHOWN: This is under discussion with the industry in regard to disqualification offences. They are: requesting sexual favours from a passenger; interfering with a taxi camera surveillance unit while the vehicle is being used as a taxi; interfering with a taxi meter; interfering with a taxi dispatch system; and failure to comply with the direction of an authorised officer. They are the issues in regard to disqualification matters that are still being discussed with the taxi industry at large; someone obviously has to have a taxidriver's licence to lose to commit these particular offences.

Hon KEN TRAVERS: Except for the first one, which is a person driving a vehicle as a taxi who does not hold a TDL.

Hon Jim Chown: That's true.

Hon KEN TRAVERS: It can also be for impersonating a taxidriver. I assume that if someone is impersonating a taxidriver, they probably do not have a TDL. That might be why they are impersonating a taxidriver! They are

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the only disqualification offences, but is it not the intention, under clause 33, to prescribe other offences under other laws of the commonwealth or state or territory that will lead to disqualification?

Hon JIM CHOWN: In the case of a criminal offence, and in consultation with the industry, it is the industry's preference that this particular matter be dealt with under the fit-and-proper test. If somebody is convicted of a criminal offence, obviously the judgement and the discussions by the judge on the particular matter are taken into account.

Hon KEN TRAVERS: Is the parliamentary secretary saying that it is not the government's intention to exercise and prescribe, by way of regulation, any offences under clause 30(1)(b), in the first instance, as part of the proclamation of this act? That is, when this act is brought into being, the government will not bring in clause 30(1)(b)? Is it the government's intention to not prescribe any offences by way of regulation as disqualification offences under clause 30(1)(b)?

Hon JIM CHOWN: It is very likely that the disqualification requirements as laid out on this page will be prescribed in clause 33(1)(b).

Hon KEN TRAVERS: The government will only be prescribing offences under this bill. I refer to clause 33(1)(b), which refers to an offence under —

- (i) this Act or another written law; or
- (ii) a law of the Commonwealth; or
- (iii) a law of another State or a Territory ...

Is it the government's intention not to prescribe any offences in those categories as disqualification offences?

Hon JIM CHOWN: Not at this stage, but the government is in discussion with the industry, and if it is deemed to be required, it will be given serious consideration.

Hon KEN TRAVERS: If someone is convicted of sexual assault, they will not be removed automatically from the industry but will have to go through a process in which the CEO considers whether they are a fit and proper person to hold a licence. Is that what the parliamentary secretary is saying?

Hon JIM CHOWN: That is correct. It is what happens today under the Road Traffic Act, and it is used very effectively.

Hon Ken Travers: The Road Traffic Act or the taxi regulations and the Taxi Act?

Hon JIM CHOWN: Under the Road Traffic Act, because that is where taxi endorsements reside.

Hon KEN TRAVERS: I think that goes against a lot of the rhetoric of the government about this bill being a tightening up to remove offenders, but I will leave that particular matter until we get to clause 33, when we can have a more detailed debate about whether it should be left to the fit-and-proper person test or whether there should be a very clear statement of offences. The other concern I have in this whole area is how it will work, and obviously we can go through the fit-and-proper test when we get to that clause.

The other area I covered in my second reading contribution goes to the way all the clauses of this bill will come together and how the bill will operate. There is a lot of detail and issues around demerit points and people being penalised for different offences. During my second reading contribution I raised the issue of the current complaints management process in the taxi industry. Hon Stephen Dawson gave a very good example of an incident that occurred at Perth Airport last night. I do not know whether the advisers are in a position to tell the parliamentary secretary, but it was about a driver refusing to take a passenger to Medina. Refusing a fare without reasonable grounds would clearly be an offence under the current regulations. I hope it will be part of the code of conduct, and from what I have seen from a very quick look, it would be an offence under the code of conduct that would lead to demerit points. I would be really intrigued to know whether the department is even aware of the fact that that happened last night. I suspect that the answer is no, it does not.

One of the problems that we have is that as good as this regime will be in bringing in demerit point systems and the like, that information will never get through to the department. As we know, there is some question about when offences will be notified to a taxi dispatch service and when an offence will be notified to the department. From what I have seen very quickly of the code of conduct and the proposal for demerit points that the parliamentary secretary has given me today—I appreciate him giving them to me but, as he can imagine, I have been trying to go through them in a short space of time—under the current system, many of those issues would still go to a taxi dispatch service. I am talking about conversations of an inappropriate nature, which under this

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proposal would attract six demerit points, verbal abuse, failing to take a guide dog—I do not know whether that gets upgraded to the department—charging more than the fare shown on the meter at the termination of the hiring and charging more than the appropriate calculation for travel outside a controlled area. A lot of offences would currently go to the TDS, not the department. We have all these clauses but I am still trying to work out how the department will even know that a person has committed the offence and how it will get into the system and be subject to the penalties that this bill lists in a range of different clauses. How will the public know how that matter is dealt with? There were lots of good people at the airport last night. I suggest that very few of them understood how they could complain and who they could complain to or the fact that under this regime, it would lead to demerit points being issued. It is currently an offence and nothing happens.

I would have thought we would want a system that ensures there is an easy and clear way of getting those complaints raised and dealt with and the demerit points applied that are proposed in the regime outlined in this bill. I would love an explanation from the parliamentary secretary about how the government sees all of that working.

Progress reported and leave granted to sit again, on motion by Hon Jim Chown.