

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 85

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

THURSDAY, 20 MAY 2010

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Speaker's Statement – Media Arrangements for Budget Day

The Speaker advised members that he had approved the presence of photographers and a news camera at the northern side door of the Chamber from 2.00 p.m. to enable coverage of the budget.

3. Petition

Increases in Fees and Charges to Householders – Mr C.J. Tallentire presented a petition from 44 persons requesting that relief from increased fees and charges be given to Western Australian householders (P. 288).

4. Expiration of Notice of Motion

The Speaker advised that Private Members' Notice of Motion No. 1, notice of which was given on 5 May 2009 and renewed for a further 30 sitting days on 14 October 2009, would be removed from the next Notice Paper.

5. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Police on the new campaign targeting driver distractions.

The Minister for Racing and Gaming on the Gaming Community Trust and grants made from the Trust, including to the Brightwater Care Group.

The Minister for Mental Health on the naming of Ms Charlotte Collins, a mental health nurse at Fremantle Hospital, as the Nurse of the Year at the HESTA Australian Nursing Awards in Melbourne.

6. Grievances

The Speaker called for grievances which were then made.

7. Joint Standing Committee on Delegated Legislation

Mr P.T. Miles, representing the Chairman, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009, Report No. 40, May 2010 (2108).

Mr P.T. Miles, Mr A.J. Waddell and Ms J.M. Freeman spoke on the report.

8. Variation to the Order of Business

Ordered, That Bills Notices of Motion Nos 1 and 2 be postponed to a later stage of the sitting.

9. Suspension of Standing Orders

The Leader of the House, pursuant to notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

That so much of Standing Orders be suspended as is necessary to enable the *Pharmacy Bill 2010* to proceed through all remaining stages without delay.

Debate ensued.

Question put and passed.

10. Pharmacy Bill 2010

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 69 agreed to.

Clause 70.

The Minister for Health moved,

Page 40, lines 16 to 22 – to delete the lines.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 71 to 87 agreed to.

Clause 88.

The Minister for Health moved,

Page 49, lines 8 and 9 — To delete “for the balance of the term for which the member was elected as a member of the former Council; and” and substitute:

“ until the first annual general meeting held after the commencement day; and ”.

Page 49, lines 13 to 15 — To delete “for the balance of the term for which they were elected as president and deputy president of the former Council; and” and substitute:

“ until the first annual general meeting held after the commencement day; and ”.

Amendments put and passed.

Clause, as amended, agreed to.

Clauses 89 to 94 agreed to.

Title agreed to.

Consideration in detail concluded.

The Minister for Health moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

11. Variation to the Order of Business

Ordered, That Government Business Orders of the Day Nos 3 and 2 be next considered.

12. Approvals and Related Reforms (No. 2) (Mining) Bill 2009

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 5 agreed to.

Clause 6.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

13. Variation to the Order of Business

Ordered, That Government Business Orders of the Day Nos 2 and 6 be next considered.

14. Health Practitioner Regulation National Law (WA) Bill 2010

The Order of the Day for the third reading of the bill having been read,

Dr J.M. Woppard moved,

That the Health Practitioner Regulation National Law (WA) Bill 2010 be referred to the Education and Health Standing Committee.

Debate ensued.

Debate interrupted by the Chair (Dr J.M. Woppard speaking) and adjourned until a later stage of the sitting.

15. Members' Statements

The Speaker called for members' statements which were then made.

16. Questions

Questions without Notice were taken.

Questions on Notice Nos 3026 to 3062 were asked.

Paper tabled by the Minister Representing the Minister for Environment; Youth –

Question on Notice No. 2620 – Details of Officers employed in the Minister for Environment; Youth's Ministerial Office (2109).

Question on Notice No. 2445 – Summary of Car Wash and Detail purchases for vehicles allocated in each Department and Agency under the Environment; Youth portfolios (2110).

Paper tabled by the Minister for Regional Development –

Question on Notice No. 2638 – Lists of Community Resource Centres in Western Australia, their Date of Opening, and location of Centres that have Received Funding (2111).

Paper tabled by the Parliamentary Secretary representing the Minister for Transport; Disability –

Question on Notice No. 2609 – Details of Officers employed in the Minister for Transport; Disability's Ministerial Office (2112).

17. Variation to the Order of Business

Ordered, That Bills Notices of Motion Nos 1 and 2 be next considered.

18. Appropriation (Consolidated Account) Recurrent 2010-11 Bill 2010

The Treasurer, pursuant to notice, moved,

That a bill for “An Act to grant supply and to appropriate and apply out of the Consolidated Account certain sums for the recurrent services and purposes of the year ending 30 June 2011.” be introduced and read a first time.

Question put and passed.

The Treasurer presented an explanatory memorandum and bill read a first time.

The Treasurer moved, That the bill be now read a second time.

Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Treasurer –

Budget 2010–2011 – Budget Paper No. 1, Budget Speech, 20 May 2010 (2113).

Budget 2010–2011 – Budget Paper No. 2, Budget Statements, Volume 1 (2114).

Budget 2010–2011 – Budget Paper No. 2, Budget Statements, Volume 2 (2115).

Budget 2010–2011 – Budget Paper No. 2, Budget Statements, Volume 3 (2116).

Budget 2010–2011 – Budget Paper No. 3, Economic and Fiscal Outlook (2117).

Budget 2010–2011 – Budget Overview 2010–11 (2118).

Budget 2010–2011 – Reader’s Guide to the 2010–11 Budget Statements (2119).

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

19. Appropriation (Consolidated Account) Capital 2010-11 Bill 2010

The Treasurer, pursuant to notice, moved,

That a bill for “An Act to grant supply and to appropriate and apply out of the Consolidated Account certain sums for the capital purposes of the year ending 30 June 2011.” be introduced and read a first time.

Question put and passed.

The Treasurer presented an explanatory memorandum and bill read a first time.

The Treasurer moved, That the bill be now read a second time.

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

20. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 2 be resumed.

21. Health Practitioner Regulation National Law (WA) Bill 2010

The Order of the Day for the further consideration of the motion to refer the bill to a standing committee having been read,

That the Health Practitioner Regulation National Law (WA) Bill 2010 be referred to the Education and Health Standing Committee.

Debate resumed.

Question put and negatived.

The Minister for Health moved, That the bill be now read a third time.

Debate ensued.

Question put.

The Assembly divided.

Ayes (51)

Mr P. Abetz	Mr J.N. Hyde	Mr P. Papalia
Mr F.A. Alban	Mr A.P. Jacob	Mr C.C. Porter
Ms L.L. Baker	Dr G.G. Jacobs	Mr J.R. Quigley
Mr C.J. Barnett	Mr R.F. Johnson	Ms M.M. Quirk
Mr I.C. Blayney	Mr W.J. Johnston	Mr D.T. Redman
Mr T.R. Buswell	Mr J.C. Kobelke	Mrs M.H. Roberts
Ms A.S. Carles	Mr A. Krsticevic	Ms R. Saffioti
Mr G.M. Castrilli	Mr F.M. Logan	Mr A.J. Simpson
Mr V.A. Catania	Ms A.J.G. MacTiernan	Mr T.G. Stephens
Dr E. Constable	Mr M. McGowan	Mr M.W. Sutherland
Mr R.H. Cook	Mr W.R. Marmion	Mr C.J. Tallentire
Mr M.J. Cowper	Mrs C.A. Martin	Mr P.C. Tinley
Mr J.H.D. Day	Mr P.T. Miles	Mr A.J. Waddell
Ms J.M. Freeman	Ms A.R. Mitchell	Mr T.K. Waldron
Mr B.J. Grylls	Mr M.P. Murray	Mr P.B. Watson
Dr K.D. Hames	Dr M.D. Nahan	Mr M.P. Whitley
Mrs L.M. Harvey	Mr A.P. O'Gorman	Mr D.A. Templeman (<i>Teller</i>)

Noes (1)

Dr J.M. Woppard (*Teller*)

Question thus passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

22. Message from the Legislative Council

Message No. 80 dated 19 May 2010 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly in reply to Message No. 80 that it has agreed to the following resolution –

That the date for presentation of the report of the Joint Standing Committee on the Review of the Racing and Wagering Western Australia be extended to 15 October 2010.

23. Road Traffic Amendment Bill 2010

Message No. 79 dated 20 May 2010 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Road Traffic Amendment Bill 2010* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Road Traffic Amendment Bill 2010

No. 1

Page 2, line 14 — To delete the line and insert —

section 79BB(2), 79BCB(2) or 79BCE(2).

No. 2

Page 2, lines 16 to 18 — To delete the lines and insert —

(2) In section 78C(2) delete “section 79BB(2)” and insert:

section 79BB(2), 79BCB(2) or 79BCE(2)

No. 3

Page 2, line 22 — To delete the line and insert —

section 79BB(2), 79BCB(2) or 79BCE(2); or

No. 4

Page 3, line 4 — To delete the line and insert —

79A(1), 79BB, 79BCB or 79BCE

No. 5

Page 6, after line 29 — To insert —

79BCC. Cancelling notices to surrender

(1) In this section —

notice to surrender means —

- (a) a surrender notice given under section 79BA; or
- (b) a surrender substitute vehicle notice given under section 79BCA; or
- (c) a surrender alternative vehicle notice given under section 79BCD.

(2) If a senior police officer is satisfied that —

- (a) a notice to surrender has been given to a person in respect of a vehicle; and
- (b) the vehicle has not been impounded under section 79BB, 79BCB or 79BCE, as the case may be; and
- (c) either —

- (i) if the vehicle were so impounded, the vehicle would be a vehicle that could, under section 79D, be released before the impounding period ends; or
 - (ii) the vehicle's condition is such that it no longer functions as a vehicle and a licence could not be issued for it under Part III,
- the officer may cancel the notice to surrender.
- (3) As soon as is practicable after a senior police officer cancels a notice to surrender, the officer must give a written notice of the cancellation to the person to whom the notice to surrender was given.

79BCD. Notice to surrender alternative vehicle if surrender notice cancelled

- (1) This section applies if—
 - (a) under section 79BA a surrender notice is given to a person responsible for a vehicle (**vehicle A**) the driver of which (the **alleged offender**) is suspected of having committed an offence (the **offence**); and
 - (b) under section 79BCC the surrender notice is cancelled before vehicle A is impounded under section 79BB; and
 - (c) the alleged offender is a responsible person for one or more other vehicles.
- (2) If this section applies, a member of the Police Force may give the alleged offender, personally or by registered post, a notice in accordance with this section (a **surrender alternative vehicle notice**).
- (3) The surrender alternative vehicle notice cannot be given after 28 days after the date on which the surrender notice was cancelled.
- (4) The surrender alternative vehicle notice must contain a statement to the effect that, because vehicle A will not be impounded, a vehicle for which the alleged offender is a responsible person (the **alternative vehicle**) is required to be surrendered to the Commissioner for impounding instead of vehicle A.
- (5) The surrender alternative vehicle notice must specify the following—
 - (a) in relation to the offence, its details and the time and place at which it is suspected to have been committed;
 - (b) which of sections 79(1) and 79A(1) is the provision that authorised the impounding of vehicle A (the **impounding provision**);
 - (c) sufficient details of vehicle A to identify it;
 - (d) when the surrender notice was cancelled under section 79BCC;
 - (e) sufficient details of the alternative vehicle to identify it;
 - (f) if the impounding provision is section 79(1) and the alleged offender is a previous offender as defined in section 79(1A), sufficient details to explain why the alleged offender is regarded as a previous offender;
 - (g) the length of the impounding period for the alternative vehicle, which is to be—
 - (i) if section 79(1) was the impounding provision for vehicle A, either 28 days or 3 months according to which of those periods was the impounding period for which section 79(1) required vehicle A to be impounded; and

- (ii) if section 79A(1) was the impounding provision for vehicle A, 28 days;
 - (h) the place at which, and the time of day during which, the alternative vehicle and its keys are required to be surrendered under this Division;
 - (i) the last day on or before which the alternative vehicle and its keys are required to be surrendered, being the seventh day after the day on which the notice is given.
- (6) The surrender alternative vehicle notice must also include —
- (a) a statement to the effect that this Division contains law about the notice and the impounding of the vehicle; and
 - (b) a statement as to the effect of section 79BCE(5); and
 - (c) a statement to the effect that failure to comply with the notice will result in the vehicle being impounded by operation of section 79BCE(2).
- (7) If the alleged offender is a responsible person for 2 or more other vehicles, the surrender alternative vehicle notice must specify only one of them as the alternative vehicle, being the one decided by the member of the Police Force issuing the notice.

79BCE. Consequences of surrender of alternative vehicle notice

- (1) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD surrenders the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when the vehicle is surrendered.
- (2) If a responsible person who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice, the vehicle is impounded by operation of this subsection for a period that commences at the time when a member of the Police Force takes possession of the vehicle for the purpose of impounding it.
- (3) An impounding period the length of which is specified as 28 days or 3 months in a surrender alternative vehicle notice includes the part of the day on which the vehicle is impounded that is after the impounding occurred even though including that part of the day makes the period more than 28 days or 3 months, as the case requires.
- (4) The period for which a vehicle is impounded by operation of subsection (1) or (2) ends when the impounding period has passed since the end of the day on which the vehicle was impounded.
- (5) A responsible person who is given a surrender alternative vehicle notice under section 79BCD commits an offence and is liable to a fine of 50 PU if, when the alternative vehicle specified in the notice has not been impounded by operation of subsection (1) or (2) as a consequence of the notice, the person disposes of an interest that the person has in the vehicle.

No. 6

Page 7, line 13 — To delete the line and insert —

notice; or

- (c) a responsible person for a vehicle who is given a surrender alternative vehicle notice under section 79BCD fails to surrender the alternative vehicle specified in the notice according to the notice,

No. 7

Page 9, after line 9 — To insert —

- (3C) The Commissioner is to ensure that, as soon as practicable after a vehicle (*the alternative vehicle*) is impounded under section 79BCE following the issue of a surrender alternative vehicle notice to a responsible person for the vehicle under section 79BCD, notice of the impounding is given to —
 - (a) each responsible person for the vehicle; and
 - (b) if the licence in respect of the vehicle is for the time being suspended under section 79BD, the Director General.
- (3D) The notice of the impounding given under subsection (3C) is to be in an approved form and contain details of —
 - (a) the offence referred to in section 79BCD(1)(a) including the time and place at which it is suspected to have been committed; and
 - (b) the alternative vehicle sufficient to identify it; and
 - (c) the time when the alternative vehicle was impounded; and
 - (d) the address of the place where the alternative vehicle is stored; and
 - (e) the length of the impounding period for the alternative vehicle which is to be the period specified in the surrender alternative vehicle notice under section 79BCD(5)(g); and
 - (f) the grounds on which the alternative vehicle may be released under section 79D; and
 - (g) how, when and to whom the alternative vehicle can be released; and
 - (h) the powers of a court under sections 80A, 80B, 80C and 80FA in relation to the impounding and confiscation of vehicles.

No. 8

Page 9, line 16 — After “section 79BCA” to insert —

or a surrender alternative vehicle notice under section 79BCD

No. 9

Page 10, line 12 — After “section 79BCB,” to insert —

or an alternative vehicle has been impounded under section 79BCE,

No. 10

Page 10, line 18 — To delete “given” and insert —

given, or under section 79BCD a surrender alternative vehicle notice has been given,

No. 11

Page 10, line 26 — To delete “notice,” and insert —

notice or surrender alternative vehicle notice,

No. 12

Page 10, after line 33 — To insert —

taxi means a vehicle —

- (a) on which taxi plates issued under the *Taxi Act 1994* are being used; or
- (b) in respect of which a taxi-car licence has been issued under the *Transport Co-ordination Act 1966* Part IIIB,

and it does not matter whether or not, at the relevant time, it is standing or plying for hire or carrying passengers for reward;

taxi operator, of a taxi, means a person who —

- (a) under the *Taxi Act 1994*, owns or leases the taxi plates, issued under that Act, that are being used on the taxi; or
- (b) holds the taxi-car licence issued under the *Transport Co-ordination Act 1966* in respect of the taxi;

No. 13

Page 11, line 7 — To delete the line and insert —

79A(1), 79BB, 79BCB or 79BCE;

No. 14

Page 11, line 20 — To delete “responsible person for it,” and insert —

person lawfully in possession of it,

No. 15

Page 12, after line 30 — To insert —

- (ga) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —

- (i) the vehicle was used primarily in the course of a business conducted by a person (the ***business owner***); and
 - (ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the business owner; and
 - (iii) the alleged offender was driving the vehicle with the consent of the business owner or an agent of the business owner; and
 - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4A); and
 - (v) the alleged offender was not a responsible person for the vehicle;
- or
- (gb) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was a taxi; and
 - (ii) the person who allegedly committed the offence (the ***alleged offender***) was driving the taxi under an agreement between him or her and the taxi operator of the taxi, or an agent of the taxi operator, under which the alleged offender pays the operator or agent in order to be allowed to drive the taxi for reward; and
 - (iii) the taxi operator or agent who entered into the agreement with the alleged offender had complied with subsection (4B); and
 - (iv) the alleged offender was not a responsible person for the vehicle;
- or
- (gc) a senior police officer is satisfied that, at the time the offence in respect of which the vehicle was impounded was committed —
 - (i) the vehicle was licensed under the *Transport Co-ordination Act 1966* to be operated as an omnibus; and
 - (ii) the person who allegedly committed the offence (the ***alleged offender***) was an employee or contractor of the holder of that licence; and
 - (iii) the alleged offender was driving the vehicle with the consent of the holder of that licence; and
 - (iv) the person who consented to the alleged offender driving the vehicle had complied with subsection (4A); and
 - (v) the alleged offender was not a responsible person for the vehicle;
- or
- (gd) a senior police officer is satisfied that —
 - (i) the vehicle cannot be released under any of paragraphs (a) to (gc) or under circumstances prescribed under paragraph (g); and
 - (ii) unless the vehicle is released, manifest injustice or manifest unfairness will be suffered by a person other than the alleged offender;
- or

No. 16

Page 13, after line 12 — To insert —

- (4A) For the purposes of subsection (2)(ga)(iv) and (gc)(iv), a person who consents to an employee or contractor driving a vehicle must —
 - (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (4B) For the purposes of subsection (2)(gb)(iii), a taxi operator or agent who enters into an agreement with a driver must —
 - (a) ensure the driver has a driver's licence that authorises him or her to drive the vehicle; and
 - (b) ensure the driver has been instructed to obey the law when driving the vehicle.
- (4C) For the purposes of subsection (2)(gd) none of these factors by itself means manifest injustice or manifest unfairness will be suffered by a person —
 - (a) if the offence in respect of which the vehicle was impounded was an impounding offence (driver's licence), the fact that a person responsible for the vehicle concerned had no grounds to suspect the alleged offender was not authorised to drive the vehicle at the time of the offence;
 - (b) the fact that, although a responsible person for the vehicle expressly or impliedly authorised the person who allegedly committed the offence in respect of which the vehicle was impounded (*the alleged offender*) to drive the vehicle, the responsible person had no grounds to suspect the alleged offender would drive in a manner that contravened this Act.

No. 17

Page 13, lines 27 and 28 — To delete the lines and insert —

and any substitute vehicle impounded under section 79BCB and any alternative vehicle impounded under section 79BCE

Ordered, That consideration in detail of Legislative Council Message No. 79 be made an Order of the Day for the next sitting of the Legislative Assembly.

24. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 6 be next considered.

25. Working with Children (Criminal Record Checking) Amendment Bill 2009

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.
Debate resumed.

Question put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the bill.

The Parliamentary Secretary representing the Minister for Child Protection moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and passed.

26. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 5 be next considered.

27. Approvals and Related Reforms (No. 3) (Crown Land) Bill 2009

The Order of the Day for the consideration in detail of Legislative Council Message No. 76 was read.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Approvals and Related Reforms (No. 3) (Crown Land) Bill 2009* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

No. 1

Page 8, line 10 — To delete “person” and insert —

public service officer of the department that is principally assisting in the administration of the relevant Act, who is

No. 2

Page 13, line 15 — To delete “lands,” and insert —

land,

No. 3

Page 13, line 18 — To delete “lands,” and insert —

land,

No. 4

Page 13, line 26 — To delete “grantee” and insert —

grantor

CONSIDERATION IN DETAIL

The Minister for Lands moved, That amendment Nos 1 to 4 be agreed to.

Debate ensued.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

28. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question put and passed.

The Assembly adjourned accordingly, at 5.05 p.m. until Tuesday, 25 May 2010 at 2.00 p.m.

Members present during any part of the day's proceedings – All the members except Mr J.M. Francis.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. GRANT WOODHAMS

Speaker of the Legislative Assembly