

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 41

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

THURSDAY, 13 AUGUST 2009

1. Meeting of Assembly

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

The Speaker took the Chair.

Prayers were read.

2. Petitions

Country Age Pension Fuel Card - Mr D.A. Templeman presented a petition from 687 persons requesting that residents in the electorates of Mandurah and Dawesville and the Shire of Serpentine Jarrahdale are included in the Country Age Fuel Card scheme (P. 96).

Applecross Primary School - Dr J.M. Woollard presented a petition from 209 persons requesting that the Minister for Education be directed to take action to replace the entire roof at Applecross Primary School (P. 97).

Harvey Pine Plantation - Mr M.J. Cowper presented a petition from 78 persons requesting that the dumping of sewage materials in the Harvey Pines be stopped until it is proven that the practice is safe (P. 98).

In-fill Sewerage Program - Mr F.M. Logan presented a petition from 128 persons requesting that the Government honour previous commitments made to complete the Spearwood in-fill sewerage program by 2010 (P. 99).

Shack Site Coastal Communities in Western Australia - Petitions requesting that Shack Site communities be preserved so Western Australians have affordable coastal holiday destinations for future generations were presented by –

Dr K.D. Hames from 92 persons (P. 100);

Mr G.A. Woodhams from 90 persons (P. 102).

Uranium Mining in Western Australia - Mr C.J. Tallentire presented a petition from 702 persons requesting that the ban on uranium mining in Western Australia be immediately reinstated (P. 101).

3. Notice of Motion - Withdrawal

Mr M. McGowan withdrew Private Members' Business Notice of Motion No. 17.

4. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Racing and Gaming on the Noonkanbah and Bow River alcohol bans which commenced on 25 July 2009 and will run for an initial period of two years.

The Minister for Mental Health on the implementation and recommendations of the Forensicare Report which reviewed clinical care and resource utilisation within the State's Forensic Mental Health Service.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Minister for Mental Health –

Health, Department of - Review of the State Forensic Mental Health Service (1181).

5. Grievances

The Speaker called for grievances which were then made.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Parliamentary Secretary representing the Minister for Transport –

Transport, Department of - Licensed Parking in Perth: A guide for commercial property owners about licensing their parking bays for the year 2009-10 (1182).

6. Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Premier –

Interstate and Overseas Travel undertaken by Members of Parliament - Report of Interstate and Overseas Travel undertaken by Members of Parliament funded by the Imprest System, for the three months ended 31 March 2009 (1183).

7. Suspension of Standing Orders

Mr B.S. Wyatt, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

That this House authorises the Opposition to table the Financial Projections Review and urges the Treasurer to comply with Section 11 of the *Government Responsibility Act 2000* by 31 August 2009.

Debate ensued.

Mr J.E. McGrath moved, That the question be now put.

Question put.

The Assembly divided.

Ayes (29)

Mr P. Abetz
 Mr F.A. Alban
 Mr C.J. Barnett
 Mr I.C. Blayney
 Mr J.J.M. Bowler
 Mr T.R. Buswell
 Ms A.S. Carles
 Mr V.A. Catania
 Dr E. Constable
 Mr M.J. Cowper

Mr J.H.D. Day
 Mr J.M. Francis
 Mr B.J. Grylls
 Dr K.D. Hames
 Mr A.P. Jacob
 Dr G.G. Jacobs
 Mr R.F. Johnson
 Mr A. Krsticevic
 Mr W.R. Marmion
 Mr P.T. Miles

Ms A.R. Mitchell
 Dr M.D. Nahan
 Mr C.C. Porter
 Mr D.T. Redman
 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Noes (26)

Ms L.L. Baker
 Mr A.J. Carpenter
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr W.J. Johnston
 Mr J.C. Kobelke
 Mr F.M. Logan
 Ms A.J.G. MacTiernan

Mr M. McGowan
 Mrs C.A. Martin
 Mr M.P. Murray
 Mr A.P. O’Gorman
 Mr P. Papalia
 Mr J.R. Quigley
 Ms M.M. Quirk
 Mr E.S. Ripper
 Mrs M.H. Roberts

Ms R. Saffioti
 Mr T.G. Stephens
 Mr C.J. Tallentire
 Mr A.J. Waddell
 Mr P.B. Watson
 Mr M.P. Whitely
 Mr B.S. Wyatt
 Mr D.A. Templeman (*Teller*)

Question thus passed.

On the question, That so much of the Standing Orders be suspended,

Question put.

The Assembly divided.

Ayes (26)

Ms L.L. Baker
 Mr A.J. Carpenter
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr W.J. Johnston
 Mr J.C. Kobelke
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 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Question thus negatived.

8. Community Development and Justice Standing Committee

Ms A.J.G. MacTiernan, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Community Development and Justice Standing Committee - Inquiry into the Adequacy of Services to Meet the Developmental Needs of Western Australia's Children, Report No. 1, 2009 (1184).

Community Development and Justice Standing Committee - Submissions for the Inquiry into the Adequacy of Services to Meet the Developmental Needs of Western Australia's Children, 2009 (1185).

Ms A.J.G. MacTiernan, Mr A.P. Jacob, Mr T.G. Stephens, and Mr A.P. O'Gorman spoke on the report and Mr M.P. Whitely, by leave, also spoke on the report.

9. Road Traffic Amendment (Hoons) Bill 2009

The Order of the Day for the resumption of the Minister's reply to the second reading debate of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 6 agreed to.

Clause 7.

Ms M.M. Quirk moved,

Page 4, line 8 — To delete the line.

Page 4, line 27 — After "committed" insert:

" in circumstances of aggravation ".

Page 5, after line 12 — To insert:

"

(6) In section 78A in the definition of *circumstances of aggravation*:

(a) delete "or" after paragraph (e);

(b) after paragraph (f) insert:

(g) the vehicle, being a motorcycle, is driven in a manner in which the front wheel is lifted so that the vehicle balances on its rear wheel;
or

(h) the vehicle is being driven to escape pursuit by a member of the Police Force;

".

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

10. Members' Statements

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

11. Questions

Questions without Notice were taken.

Questions on Notice Nos 1405 and 1406 were asked.

12. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 1 be resumed.

13. Road Traffic Amendment (Hoons) Bill 2009

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Clause 7.

Debate resumed on the amendments moved by Ms M.M. Quirk to clause 7 (see paragraph 9).

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Minister for Police –

Road Traffic Amendment (Hoons) Bill 2009 - Estimates for First, Second and Third Hoons Offences (1186).

On the question, That the amendments be agreed to,

Amendments put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
Ms A.S. Carles
Mr A.J. Carpenter
Mr R.H. Cook
Ms J.M. Freeman
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan

Ms A.J.G. MacTiernan
Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk

Mr E.S. Ripper
Ms R. Saffioti
Mr T.G. Stephens
Mr C.J. Tallentire
Mr A.J. Waddell
Mr P.B. Watson
Mr B.S. Wyatt
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Mr P.T. Miles
Ms A.R. Mitchell

Dr M.D. Nahan
Mr C.C. Porter
Mr D.T. Redman
Mr A.J. Simpson
Mr M.W. Sutherland
Mr T.K. Waldron
Dr J.M. Woollard
Mr J.E. McGrath (*Teller*)

Amendments thus negatived.

Clause agreed to.

Clause 8.

Ms M.M. Quirk moved,

Page 6, after line 15 — To insert:

“

- (5) In section 78C(4) delete “without warrant” and insert:
with a warrant issued under section 42 of the *Criminal Investigation Act 2006*

”.

Amendment put and negatived.

The Minister for Police moved,

Page 6, lines 16 to 20 — To delete the lines and substitute:

“

- (5) Delete section 78C(4) and insert:

- (4) If a member of the Police Force reasonably suspects that the keys to a vehicle referred to in subsection (3)(ba) or (b) are, or the vehicle is, in any premises, the member may, without a warrant, at any time, enter the premises for either or both of the following purposes —
- (a) seizing the keys;
 - (b) driving, towing or otherwise conveying the vehicle to a place where the vehicle is to be stored.

”.

Amendment put and passed.

Clause, as amended, agreed to.

Clauses 9 and 10 agreed to.

Clause 11.

Ms M.M. Quirk moved,

Page 7, lines 23 to 27 — To delete the lines and insert:

“

previous offender means a person who has previously been convicted of an impounding offence (driving);

”.

Amendment put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
Mr A.J. Carpenter
Ms A.S. Carles
Mr R.H. Cook
Ms J.M. Freeman
Mr J.N. Hyde
Mr W.J. Johnston
Mr J.C. Kobelke

Mr F.M. Logan
Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk

Mr E.S. Ripper
Mr T.G. Stephens
Mr C.J. Tallentire
Mr A.J. Waddell
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 Mr A.J. Simpson
 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

The Minister for Police moved,

Page 8, line 19 — To insert after “the day”:

“ after the day ”.

Page 8, line 22 — To insert after “after”:

“ the day on which the vehicle is ”.

Page 8, line 25 — To insert after “on”:

“ the day after the day on which the vehicle was ”.

Page 9, line 2 — To insert after “as”:

“ 28 days or ”.

Page 9, line 7 — To delete “3 months.” and substitute:

“ 28 days or 3 months, as the case requires. ”.

Page 9, line 14 — To insert after “the day”:

“ after the day ”.

Amendments put and passed.

Clause, as amended, agreed to.

Clause 12.

The Minister for Police moved,

Page 11, lines 16 to 20 — To delete the lines and substitute:

“

(g) the length of the impounding period, which is to be —

(i) if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for

”.

Page 12, line 26 to page 13 line 2 — To delete the lines and substitute:

“

(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.

”.

Amendments put and passed.

Clause, as amended, agreed to.

Clause 13.

Ms M.M. Quirk moved,

Page 15, after line 28 — To insert:

“

(2) In section 79B(2) delete “an approved form” and insert:

a form prescribed by regulation

”.

Page 15, after line 28 — To insert:

“

(2) In section 79B(2) after paragraph (a) insert;

(aa) the grounds referred to in section 79C(1)(a) and (b), as is relevant to the case; and

”.

Page 16, line 6 — To delete “charge or”.

Amendments, by leave, withdrawn.

The Minister for Police moved,

Page 16, after line 8 — To insert:

“

- (cb) the vehicle sufficient to identify it; and
- (cc) the time and place at which the offence, in the commission of which the vehicle was used, is suspected to have been committed; and
- (cd) the offence sufficient to identify the grounds on which the vehicle was impounded; and
- (ce) if known, the person who was driving the vehicle when the offence is suspected to have been committed; and
- (cf) the length of the impounding period, which is to be —
 - (i) if section 79(1) is the impounding provision, either 28 days or 3 months according to which of those periods is the impounding period for which section 79(1) requires the vehicle to be impounded or would require the vehicle to be impounded if it applied; and
 - (ii) if section 79A(1) is the impounding provision, 28 days;
 and
- (cg) the grounds on which the vehicle may be released under section 79D; and

”.

Amendment put and passed.

Clause, as amended, agreed to.

Clause 14.

Ms M.M. Quirk moved,

Page 16, after line 22 — To insert:

“

- (b) delete “inform a senior police officer” and insert:
inform a senior police officer in writing

”.

Page 17, line 5 — To delete “ charge or ”.

Amendments put and negatived.

Clause agreed to.

Clauses 15 and 16 agreed to.

New clause.

Ms M.M. Quirk moved,

Page 19, after line 13 — To insert:

“

17. Section 79F inserted

After section 79E insert:

79F. Compensation for impounding where no offence committed and no reasonable grounds for impounding

A court may, on the application of any person who has incurred an expense as a result of a vehicle being impounded, order the Commissioner to pay to that person compensation equivalent to all expenses reasonably incurred by that person as a result of the vehicle being impounded, if:

- (a) a vehicle is impounded under section 79(1) or 79A; and
- (b) there were no reasonable grounds for suspecting the matters mentioned in section 79(1)(a) and (b) or 79A(a) and (b), as the case requires; and
- (c) the person charged with the offence for which the vehicle was impounded was acquitted or discharged.

”.

Amendment put.

The Assembly divided.

Ayes (23)

Ms L.L. Baker
Mr A.J. Carpenter
Mr R.H. Cook
Ms J.M. Freeman
Mr J.N. Hyde
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan

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 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

Clauses 17 to 19 agreed to.

Clause 20.

Ms M.M. Quirk moved,

Page 20, lines 24 to 29 — To delete the lines and insert:

“

- (6A) Subject to sections 80A(2) and 80G(4), the court is required to grant an application for an order it may make under section 80A(1) unless it is satisfied that a person, other than the driver of the vehicle, who has an interest in the vehicle or is the usual driver of the vehicle:
- (a) would be caused severe financial or physical hardship by the order;
 - (b) made reasonable efforts to prevent the offence because of which the order is sought; or
 - (c) made reasonable enquiries of the driver's driving history and the results of those enquiries would have satisfied a reasonable person that the driver was not likely to commit the offence because of which the order is sought.

”

Amendment put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker
 Ms A.S. Carles
 Mr A.J. Carpenter
 Mr R.H. Cook
 Ms J.M. Freeman
 Mr J.N. Hyde
 Mr W.J. Johnston
 Mr J.C. Kobelke

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Mr E.S. Ripper
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 Mr M.W. Sutherland
 Mr T.K. Waldron
 Dr J.M. Woollard
 Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clauses 21 to 27 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

14. Local Government Amendment (Elections) Bill 2009

Message No. 31 dated 13 August 2009 from the Legislative Council was reported agreeing to the bill without amendment.

15. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 5.16 p.m. until Tuesday, 18 August 2009 at 2.00 p.m.

Members present during any part of the day's proceedings - All the members except Mr I.M. Britza and Mrs L.M. Harvey.

PETER J. McHUGH
 Clerk of the Legislative Assembly

HON. GRANT WOODHAMS
 Speaker of the Legislative Assembly