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16 October 2015

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
BRISBANE QLD 4000

BY EMAIL: ipnrc@parliament.qld.gov.au

Dear Sir/Madam

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Transport Legislation (Taxi Services) Amendment Act 2015 – a bill to provide for the recording of demerit points against the traffic history of a person who provides a taxi service introduced by R. Katter on 16.09.2015

Yellow Cabs (Queensland) Pty Ltd (**Yellow Cabs**) makes this submission in response to the invitation of the Committee in relation to the proposed amendment to the *Transport Operations (Passenger Transport) Act* (the **Act**) described above (the **Proposed Amendment**).

Yellow Cabs supports the Proposed Amendment

Yellow Cabs supports, for the reasons outlined in this submission, the Proposed Amendment.

Yellow Cabs believes there must be, for the safety of the general public, and to ensure an industry-wide compliance with workplace health and safety requirements and with the law generally:

- (i) an effective deterrent against drivers who do not operate within the mandated industry framework; and
- (ii) proper enforcement of the laws of the State in relation to driver standards and workplace health and safety.

Background

Yellow Cabs is one of two taxi service administration companies in the Brisbane taxi area. That taxi area is the largest (in terms of issued taxi service licences) in the State.

The Yellow Cab taxi fleet provides taxi services to the general public and also special taxi services such as wheelchair accessible taxis and taxi services for veterans and for school services.

Approximately 2,600 active drivers at any one time, together with the owners and lessees of the taxis they drive, depend for their livelihood on the Yellow Cab fleet. Many other businesses such as mechanics, panel beaters, suppliers of parts and accessories also depend on the patronage of the taxi industry for the success of their businesses.

The taxi industry in Queensland (working with the Department of Transport and Main Roads (DTMR)) has made great strides in the last two decades such that the taxi industry now provides the public with:

- a very safe and professional means of transportation;
- using well equipped and well maintained vehicles;
- developed technology for the protection of the travelling public;
- driven by trained professional drivers;
- and for an affordable price.

Over the past decades as recognised Training Organisation we have worked hard to bring our drivers up to a high standard through training and continued monitoring. We have endeavoured to remove from our fleet drivers who refuse to meet our standards and who, as a result, may present a safety risk to the general public (or to those sections of the public who have special needs).

The drivers and their vehicles are the service providers to the public. The quality of that interface is a critical one for the reasons outlined below. The taxi industry generally including that interface is regulated primarily by the Act and the *Transport Operations (Passenger Transport) Regulation 1994* and the *Transport Operations (Passenger Transport) Standard 2010*.¹

Strengthening existing legislation

The objectives of the Act (set out in section 2 of the Act) are to:

"2 Objectives of Act

- (1) *This Act is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.*
- (2) *However, this Act recognises that market entry restrictions may be needed in the public interest.*
- (3) *The overall objectives of this Act are, consistent with the objectives of the Transport Planning and Coordination Act 1994, to—*
 - (a) *enable the effective planning and efficient management of public passenger transport in the State; and*
 - (b) *provide a system of public passenger transport in the State that—*
 - (i) *is responsive to community needs; and*
 - (ii) *offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport; and*
 - (iii) *addresses the challenges of future growth; and*
 - (iv) *provides a high level of accountability; and*

¹ For ease of reference in this submission, a reference to the Act should be taken to include this delegated legislation.

- (v) *provides public passenger services at a reasonable cost to the community and government; and*
- (c) *promote the personal safety of persons using public passenger transport; and*
- (d) *provide a reasonable level of community access and mobility in support of the Government's social justice objectives; and*
- (e) *provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system."*

Yellow Cabs believes the Proposed Amendment will strengthen and support the objectives of the Act as it will, if properly enforced, remove illegal drivers from Brisbane or elsewhere, who do not provide services to the standard required by the Act or who wilfully, recklessly or negligently breach the provisions of the Act (or its supporting regulations and standards).

Why is it important for drivers to meet certain standards?

It is important for drivers to meet the obligations and standards in the Act because it is only by doing so that the public can be assured that any driver offering a taxi service at least meets the minimum standards prescribed by laws.

In addition, it will remove any pressure on drivers who do meet existing standards to perhaps breach those standards in order to better compete with drivers who are persistently breaking those standards.

The Proposed Amendment, properly enforced, should mean that:

- drivers will understand that a persistent failure to meet the required minimum standards will result in a loss of demerit points which will (if the failure continues) ultimately result in the driver not being able to operate in the industry; and
- drivers who nevertheless persistently fail to comply will ultimately lose their licence and their right to operate in the taxi industry (which will protect the public from rogue drivers).

It overcomes a problem with existing legislation

While the Act provides for fines for a breach, provided the driver pays those fines, there is no impediment to that driver continuing to operate in the taxi industry and persistently continuing to fail to comply with the Act. We are seeing that presently where it has been widely reported in the Courier Mail that some \$1.4 million in fines have been levied on non-compliant drivers but they continue to re-offend. Not only that but we understand from the Courier Mail and from our discussions with the Transport Department officials that many fines have been challenged and remain unpaid.

The result is that there is presently no effective deterrent on a driver who persists in breaching the legislation. Even if payment of fines were to ultimately bankrupt a driver, the driver could continue to operate an illegal vehicle and continue to ignore the laws. This can lead to mocking of the law and the administration of the law. It creates a two-tiered system of delivery of Passenger services where one group obeys the Act and the other does not, with the group who do not obey the law getting a competitive advantage. If non-compliant drivers faced the loss of their licence for breaches of the Act (through the accumulation of demerit points) then, properly enforced, this would be a strong motivator for those drivers to comply with the Act.

Workplace Health and Safety

Current legislation places a strong emphasis on workplace health and safety, which is important for the wellbeing of both the drivers and the passengers.

With three separate GPS tracking devices in each taxi and computerised monitoring processes, we are able to monitor our drivers to ensure that neither the members of the travelling public nor the drivers themselves, are at risk through fatigue.

But we are noticing that there are persons in the industry who seem to be operating beyond the safe operating limits prescribed pursuant to the Act. We do not see how, for example, there can be any effective monitoring of Uber drivers or similar drivers. Quite simply they have not invested in the technology or systems to enable such monitoring to take place.

A fine alone has not deterred those operators who continue to operate outside acceptable fatigue limits – indeed, they might even push the envelope further and operate even longer and even more dangerously in an effort to earn additional moneys to pay the fine.

However, the threat of loss of licence (if a driver accumulates excessive demerit points) is, in our view, more likely to encourage drivers to comply with fatigue management guidelines, enhancing both passenger and driver safety.

Assurance of driver accreditation

The Act requires taxi drivers to be accredited. A driver has to pass through a number of driver training modules before they are accredited. This training is important. It ensures that drivers (amongst other things):

- have a minimum standard of English;
- have a working knowledge of the taxi service area;
- understand cultural sensitivities and human rights;
- understands their obligations under anti-discrimination laws.

Once accredited, Yellow Cabs continues to monitor their performance as taxi drivers. If they fall below standard they will be counselled and may be required to re-train. We are certainly hearing instances of drivers who are plying for hire with no training and no accreditation. The potential for problems to arise is clear. The risk to the public is clear. The accreditation courses are available. If these unaccredited drivers realised they risked their licence if they failed to comply with the accreditation requirements, then this would encourage them to seek proper accreditation.

It is for the benefit of the travelling public, and for the industry generally, that all drivers are properly accredited and all meet the same uniform minimum professional standards.

Protection of travelling public

One must never lose sight of the fact that protection of the travelling public is an important factor in passenger transport. One of the major reasons why the Yellow Cab fleet has drivers in livery and vehicles which can be clearly and easily identified as being fleet vehicles is that it enables the public to quickly and easily identify that the driver and vehicle meet or exceed required minimum standards; the vehicles are traced by GPS (whether the driver is logged in or not). Drivers' criminal history is updated each day so that any problem driver in the fleet can be identified and removed from providing taxi services.

We understand that, in the past 12 months, there have regrettably been at least two rapes of female passengers in Queensland by drivers of illegal vehicles which were purporting to operate as taxis but not affiliated with an administrator of taxi services.

Tracing unaccredited drivers in these circumstances is very difficult and, if a driver remains unapprehended, there is the risk of the driver continuing to drive and re-offend.

Unless there is uniform (and uniformly policed) laws relating to drivers and accreditation, there is a risk of rogue operators being able to establish themselves, to the detriment of the public.

We are hearing reports now of rogue operators who pretend they are Uber vehicles who are responding to hails. This creates a potentially dangerous situation – in many respects it raises the possibility of a Jinker Track style murder – where a girl was murdered by the driver of a vehicle which looked like a taxi. This kind of situation would have been highly unlikely, even five years ago. However, if we continue to have unaccredited drivers proliferating in the industry, the risk of something of this nature increases.

Bailment issue

Because drivers are bailees, Yellow Cabs has limited ability in many cases to directly enforce driver conduct and relies on Government Legislation to support its discipline regime. This is because Yellow Cabs provides communication and other services to the fleet, but the taxi licence is independently owned by a small investor who will often lease it to another, with the lessee then bailing the vehicle to the driver, or to a number of drivers.

As a result, Yellow Cabs may need to withhold services to a driver to enforce compliance. That may simply mean that the driver looks to another organisation so as to continue to be able to drive, rather than changing his or her conduct.

An independent system of demerit points would travel with the driver, so the threat of loss of points would always act as a spur on the driver to meet a minimum standard of conduct.

In Summary

Failure to deter illegal drivers will have a detrimental effect on the social and business footprint of taxis in the State. Government needs to value the integrated role of the taxi industry in the public transport sector and acknowledge that the industry is not in receipt of Government funding with all sections of the community dependant on the role it plays.

Yours sincerely

Neill Ford

**Managing Director
Yellow Cabs (Queensland) Pty Ltd**

*encl Drivers Hand Book
- Pre Training Guide
Training Resource*