



Speech by

**Hon. STEVE BREDHAUER**

**MEMBER FOR COOK**

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Hansard 25 August 1999

**TRANSPORT LEGISLATION AMENDMENT BILL**

**Hon. S. D. BREDHAUER** (Cook—ALP) (Minister for Transport and Minister for Main Roads)  
(12.05 p.m.): I move—

"That the Bill be now read a second time."

The objective of this Bill is to provide for a range of amendments to a number of Acts administered by my Departments of Transport and Main Roads. They are the Traffic Act 1949, Transport Infrastructure Act 1994, Transport Operations (Marine Pollution) Act 1995, Transport Operations (Passenger Transport) Act 1994, Transport Operations (Road Use Management) Act 1995 and the repeal of the Sea Carriage of Goods (State) Act 1930. The continued use of transport legislation amendment Bills allows the various amendments to my portfolio's legislation to be consolidated into one Bill rather than progressed as a series of Bills.

This Bill amends the Traffic Act 1949 by omitting from that Act provisions relating to fare evasion and offences where fares are not paid. The Transport Operations (Passenger Transport) Act 1994 is amended in this Bill to provide for these matters and is the appropriate Act to deal with what is essentially a public transport issue.

This Bill also seeks to amend various components of the Transport Infrastructure Act 1994. I will briefly outline the key issues addressed. Firstly, amendments are made to the Department of Main Roads' powers with respect to controlling access to State-controlled limited access roads. Accesses on those roads have a significant effect on the safety and operational efficiency of the road network. The issues dealt with by these amendments go to some detail as the scheme for regulating access to roads has been rewritten. Importantly though, the key principle of ensuring compensation is available to those who have their access rights diminished is preserved. The amendments give the chief executive the power to declare a limited access road, to approve access arrangements and to develop and apply departmental policies regarding access to limited access roads. This will be done on a road-specific basis and incorporate where appropriate any existing arrangements which were developed under previous legislation. Access policies will be retained by the Department of Main Roads and can be inspected free of charge by any person. A policy will be a living document and will allow flexibility to make changes to the policy. Any major changes are required under the Bill to be gazetted.

The circumstances when the chief executive can personally initiate action concerning limiting access has been expanded to include safety, traffic operations and emergency situations. Previously, this was limited to situations which represented a traffic hazard or where a means of access had become an obstacle to the carrying out of roadworks. The revised provisions allow for notices to be given to future owners and occupiers and other persons so that they are made aware of decisions regarding access. Where a decision to limit access is made, works to restore the functionality of a property may be negotiated between the property owner, an occupier and the chief executive. Where agreement cannot be reached, there is provision for compensation to be claimed by an owner or occupier of a property.

The legislation provides for a more comprehensive scheme of compensation where access to a road is affected. For example, the current legislation is deficient in that it does not specifically provide for compensation where a property is isolated by road development and the property did not have an approved access arrangement. Under the proposed provisions, compensation will be payable in such

circumstances. One area clarified is that businesses will not be compensated for loss of access to a specific traffic stream, provided that their on-site functionality is not affected by changes in the road. For example, if a bypass road is constructed away from a town, those businesses which suffer a commercial loss through deprivation of access to traffic streams are not compensated for that loss. This confirms what has been existing practice for many years. Any exposure to this form of compensation would be unsustainable for the State.

The Transport Infrastructure Act is also amended by placing the air transport infrastructure funding program on a statutory basis. No mention of air transport infrastructure is currently made in the Act. In recent years, the Commonwealth has progressively handed over ownership and responsibility for nearly all local airports to local government. In response, Queensland Transport has created the Rural and Remote Airport Development Program to assist in improving and providing air transport infrastructure. In support of the program and as a result of discussions held with the aviation industry over some time, an aviation plan has been developed by Queensland Transport. Agreement has been reached with respect to this plan and it reflects Queensland Transport's evolving role in air transport infrastructure. The development of funding programs for the Minister's approval facilitates basic access to air transport services for Queenslanders. The program is required to be supported by legislation and will state how Government funding is to be used for the upgrading of runways, landing strips and ancillary works.

This Act will also be amended with respect to marine infrastructure. The Bill provides for new legislation dealing with public marine facilities and the management of waterways. Subject to the passing of the Bill, new regulations will be proposed to support this legislation. One regulation will deal with public marine facilities such as Crown boat harbours, jetties and boat ramps, etc. Another will concern regulating transport issues on the Gold Coast Waterway. This will supplement other laws which currently apply. The passage of this legislation will enable the final repeal of transitional provisions relating to the preservation of aspects of the old Harbours Act 1955 and its obsolete by-laws and regulations.

The Transport Operations (Passenger Transport) Act 1994 will be amended. The overall objective of the Transport Operations (Passenger Transport) Act 1994 is to provide the best possible public passenger transport services at a reasonable cost to the community and Government while keeping government regulation to a minimum. All forms of public transport, including bus, taxi, limousine, air and ferry services are regulated pursuant to this Act. The amendments proposed affect a broad range of subject matter across the Act and cover the introduction of some new provisions and reforms to existing provisions which require clarification or require amendment to better reflect current industry needs and practices.

Key issues addressed in the Bill include amendments to the Transport Operations (Passenger Transport) Act 1994 to provide for an additional scheme for driver authorisation for courtesy and community transport services. This is referred to in the Bill as restricted driver authorisation. Without restricted driver authorisation, courtesy and community transport services would be subject to full driver authorisation following the expiry of the current exemption. The objective of restricted driver authorisation is to retain the benefits of regulating driver standards for community and courtesy services without imposing the undue burden that would apply if full driver authorisation requirements were imposed. This reflects the unique requirements of community and courtesy services that often rely on itinerant workers or are provided on a voluntary basis with a correspondingly high staff turnover. Importantly, neither restricted nor full driver authorisation will apply where a transport service is provided that excludes access by the general public. An example is a junior football club which uses a bus solely to transport players to and from games. This will not be subject to restricted driver authorisation.

The meaning of "operator" of a public passenger service is clarified. In some prosecution actions against operators, it has been necessary to prove that the person is an operator. It has not been enough to simply demonstrate that they are operators because they are accredited under the Act. Proving that a person is an operator is time consuming for both the department and the court. Accordingly, the amendment provides that if a person is accredited to operate a public passenger service under the Act then this is evidence that the person is an operator of the service.

The Bill clarifies that service contracts can be entered into for the provision of long distance scheduled passenger services. Service contracts for long distance scheduled passenger services had previously been enabled through regulation. Also, service contracts will be required to provide scheduled ferry services in specific areas that may be stated by the chief executive. Contracts can be used to ensure minimum service levels and approved Government subsidised concession fares.

The department currently has power to enter into contracts with ferry operators proposing to provide services and this enables a minimum standard of service to be set. However, without the proposed amendments, the department has no power to prevent services if the operator chooses not to enter into a service contract. The proposed amendments will allow my department to stop an

uncontracted operator from providing a service. Also, a fine may be applied to an operator each time a service is provided other than under a contract.

School service contracts are an integral part of my department's administration of public passenger services in Queensland. School children's transportation does not fit easily into the more general contractual provisions of the Transport Operations (Passenger Transport) Act 1994 used for scheduled passenger services. Following a review conducted by my department, existing provisions concerning the contracting of school services have been modified to ease difficulties that have occurred with the administration of school service contracts. The amendments simplify issues such as tendering for and termination of contracts. The amendments provide for easier splitting of contracts to allow for specific routes to be sold and a faster, less bureaucratic tendering system for new contracts. None of the existing entitlements of school bus operators are affected by the proposed amendments.

This Bill will also amend the Transport Operations (Road Use Management) Act 1995 as a consequence of implementing further national scheme legislation in Queensland. The Act presently refers to an owner as the person in whose name a vehicle is registered and, consequently, the State has not been able to adopt the term "registered operator" in a Transport Operations (Road Use Management—Vehicle) regulation that is presently being redrafted by the Office of the Queensland Parliamentary Counsel. A registered operator means the person in whose name the vehicle is registered under the Transport Act or a corresponding law, or a person who has given notice to the chief executive for the purpose of having the vehicle registered in the person's name. The adoption of this definition assists in ending any confusion about legal ownership and ensures the State is meeting commitments to nationally uniform legislation.

The Bill also repeals the Sea Carriage of Goods (State) Act 1930, which is now of no relevance to Queensland or its economy. This Act was enacted when Government policy was to intervene to limit the potential liability of certain industries. The Act based liability limits on a gold standard that is outdated and impractical. The interests of shippers are far better served by repealing the Act in its entirety and allowing common law to determine a fair level of compensation for cargo damage, loss or delay. This repeal will bring Queensland into line with four other Australian jurisdictions, thereby making a majority of Australian States uniform in their treatment of compensation for cargo loss, damage or delay.

In summary, this Bill amends legislation administered by my portfolio to the benefit of all Queenslanders. I commend the Bill to the House.

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