



Speech by

Hon. STEVE BREDHAUER

MEMBER FOR COOK

Hansard 16 October 2001

TRANSPORT LEGISLATION AMENDMENT BILL

Hon. S. D. BREDHAUER (Cook—ALP) (Minister for Transport and Minister for Main Roads) (2.41 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. The continued use of transport legislation amendment bills allows the consolidation of the amendments into a single bill rather than their progression as a series of bills. The amendments can be categorised as either improvements to existing legislation or providing legislation to support new or revised government policy. Typically, improvements are derived from the receipt of legal advice or are a result of court findings. Sometimes improvements are identified simply through reviewing the operation of the legislation over time. The majority of the amendments in this bill fall into one of these categories, although some significant new policy issues are also addressed. Firstly, I will run through the background to some of the key improvements the bill proposes.

The Civil Aviation (Carriers' Liability) Act 1964 adopts and applies as state law key provisions of the Commonwealth's act of the same name. The Commonwealth and state acts work cooperatively to provide a scheme of legislation dealing with matters such as the insurance requirements imposed on civil aviation carriers. One aspect of the law is that civil aviation carriers are required to have in place passenger insurance as a condition of their operation. Following legal advice, the bill proposes an amendment to the Civil Aviation (Carriers' Liability) Act 1964 to remove any doubt about the capacity of the state to impose a monetary penalty on a corporation which breaches this requirement of the act.

The Tow Truck Act 1973 currently contains an appeal process that is based on a tribunal system. This is very cumbersome in its establishment and operation. A generic mechanism for review and appeal rights against legislative decisions is available under the Transport Planning and Coordination Act 1994. By repealing the tribunal system, the bill will allow appeals under the Tow Truck Act 1973 to be brought into line with this act.

The Transport Infrastructure Act 1994 is divided into chapters—one for each of the different modes of transport, such as road, rail or port infrastructure. Amendments are proposed to the roads chapter to deal with issues arising from the deregulation of the telecommunications industry in 1997. There are now six to 10 service providers involved in the installation of telecommunications cables within roads in Queensland. The amendments proposed will ensure Main Roads—

- has improved powers to apply conditions to installations of mobile phone towers and cables in roads; and
- is able to reduce the costs it pays when telecommunications plant which conflicts with planned roadworks requires relocation.

Amendments are proposed to the rail chapter concerning the defining of future railway land. This category of land is required to allow a railway manager to be accredited during the planning and construction stages of a new railway, for example, Airtrain. The amendment is to clarify that future railway land ceases to be future railway land when it is leased to a railway manager and becomes a new rail corridor.

A number of strategically important tunnels in the state's rail network, particularly between Roma Street and Brunswick Street stations, are held by Queensland Rail by way of an easement. The

amendments proposed will ensure Queensland Rail is able to license use of the tunnels by other railway operators. This will ensure consistency with third party access undertakings and bring arrangements for the tunnels in line with the rest of the rail corridor. Also, some general amendments are proposed to the Transport Infrastructure Act in relation to dealing with water collecting on a transport route, protecting transport infrastructure from damage and recovering the costs of damage where a person needlessly or negligently damages infrastructure.

The Transport Operations (Marine Safety) Act 1994 presently provides for a shipping inspector to direct the master of a ship which is found to be unsafe to immediately take the ship to a nominated mooring or port. However, the act does not provide for a shipping inspector to direct a ship if the ship is found to be unregistered or inappropriately registered or being operated by an unlicensed master or crew. The proposed amendments rectify these formerly unseen circumstances and remove the potential for stranding of ships and crew because of registration or licensing breaches.

In respect of the Transport Operations (Marine Pollution) Act, it is proposed to broaden the ability of the chief executive to prosecute those responsible for the discharge of pollutants from a ship. At the moment only the ship's master and owner are subject to prosecution. It is intended, under defined circumstances, to include every other member of the ship's crew whose act caused, or contributed to, the discharge. The definition of 'discharge expenses' is to be clarified to ensure that costs incurred by the state in preventing a discharge or likely discharge, even if no discharge ultimately occurs, can be recovered.

A range of amendments is proposed to the Transport Operations (Road Use Management) Act. Subject matter addressed in the bill includes changes to—

- evidentiary provisions with respect to vehicle related offences and the operation of Evidential Breath Analysers;
- the operation of the drug and drink-driving laws as they affect driver licensing;
- speed camera legislation to enable entities, such as companies, to be nominated as the responsible party where the driver is not known;
- allow the chief executive to have access to criminal history checks for persons seeking approval to be a motor vehicle examiner, driving instructor, et cetera;
- clarify that a person is to be disqualified absolutely from holding or obtaining a driver licence only when the person is already disqualified from driving by a court;
- not require the surrender of a licence if it has been cancelled or suspended due to excess demerit points. This is consistent with the national driver licence scheme.

The bill also proposes legislation to support some new policy initiatives. The completion of the South East Transit Project has seen the introduction of the busway as a new form of public transport infrastructure. As a temporary arrangement, busways have been facilitated under roads legislation. Due to significant differences in the form and operation of busways compared to roads, legislation dedicated to busways is being progressively introduced into the Transport Infrastructure Act 1994. The first component was introduced by the Transport (Busway and Light Rail) Amendment Act 2000. This act dealt with many of the key infrastructure issues and with the powers for the acquisition of busway land.

This bill proposes to complete the infrastructure component of the busways legislation and introduce new legislation to assist in facilitating the operation of the busways. The final stage will be the completion of the regulations for busways. Key busway issues addressed in the bill include—

- enabling the chief executive to enter into contracts for busway infrastructure works and the operation of a busway;
- requiring local governments to obtain the chief executive's approval if they intend to erect advertising that could constitute a safety hazard for busway drivers;
- providing the chief executive with the power to approve works within the busway that are ancillary to its operations, for example, advertising, rest area facilities, service signs, et cetera;
- providing the chief executive with the ability to authorise busway use. Drivers of emergency vehicles are automatically authorised; and
- ensuring that an offence applies in relation to activities which are done without authorisation and damage the busway.

Finally, as a result of significant changes at the national level to the Australian code for the transport of dangerous goods by road and rail, each state jurisdiction is required to develop legislation for the carriage of dangerous goods by rail. The purpose of the legislation is to reduce the risk arising from the transport of dangerous goods by rail and to promote a nationally uniform approach. The operation aspects of the transportation of dangerous goods by rail is to be dealt with by a regulation authorised by the act. However, some important aspects of these amendments include allowing for the recovery of costs by the state in responding to a dangerous goods incident and establishing powers for dangerous goods investigators.

I have not attempted to cover every aspect of the bill but rather cover the key points the bill addresses. Further detail on the amendments can be obtained from the explanatory notes and of course from the bill. Transport legislation amendment bills provide an opportunity to keep our transport and roads legislation up to date with government policy and ensure that our transport and road laws are legally sound. I commend the bill to the House.
