



Speech by

Mr JIM PEARCE

MEMBER FOR FITZROY

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TRANSPORT OPERATIONS [ROAD USE MANAGEMENT] AMENDMENT BILL [No. 2]

Mr PEARCE (Fitzroy—ALP) (5.39 p.m.): I rise to support the Transport Operations (Road Use Management) Amendment Bill (No. 2). I will first talk about a report of the Travelsafe Committee of the 48th Parliament. I will then present some statistics and talk a little about the bill.

The Travelsafe Committee of the 48th Parliament inquired into Queensland's increasing road toll. Two reports from this inquiry, reports 19 and 22, were about drink-driving. Report No. 19, *Queensland Road Toll: Drink Driving*, tabled in December 1996, was about random breath testing, the flagship of anti drink-driving programs. The report noted the impairing effects of alcohol on driving, the high incidence of alcohol related crashes in Queensland and the low testing levels compared to comparable states that had achieved bigger reductions in drink-driving and alcohol related crashes. In essence, the low-intensity Queensland program did not convince drink-drivers that they risked getting caught by police. The report noted that RBT is highly effective in reducing alcohol related crashes when done properly and gave criteria for best practice RBT operations. The report noted the potential to achieve significant reduction in both the numbers and severity of crashes in Queensland through improvements to the RBT program.

In the early 1990s RBT in Queensland was conducted by police on an ad hoc basis. There were no set targets for the number of tests to be conducted by police. This led to significant differences in approaches to RBT across the state's police regions. In effect, officers did what testing they could when not assigned to other police duties. The committee noted that, as a result, the numbers of random breath tests conducted in Queensland were low compared to other comparable Australian states with highly effective RBT programs, such as Victoria and New South Wales. The committee also noted that Queensland RBT enforcement statistics were very poor and often incomplete. This made it difficult to gauge the true extent of the state's drink-driving problem. The committee's recommendation 1 states—

While ensuring that RBT best practice, as outlined in the report, is adhered to, the intensity of the RBT program should be increased in all police regions so that a ratio of tests to licensed drivers of 0.7:1 is achieved—

that is, 70 per cent of one million licensed drivers—

by 1998; and a ratio of 1:1—

that is, one million tests for one million licensed drivers—

is achieved by the year 2000.

This does not mean that every licensed driver in Queensland would be tested, but the target was to conduct as many tests as there were licensed drivers in Queensland, so that increased the risk of drink-drivers being detected.

The Queensland Police Service has not reported its implementation progress to the current or past Travelsafe Committees. However, State Traffic Support Branch staff have publicised RBT statistics from time to time. These statistics show that police RBTs exceed the levels recommended by the Travelsafe Committee. State Traffic Support Branch staff state that no additional police were appointed to conduct RBTs. Increasing testing levels have been achieved with existing resources. RBT levels reported by Queensland police are now the highest in Australia. At least that has been achieved.

I will briefly give some of the statistics relating to the breath tests conducted by the Queensland Police Service. The number of tests conducted were as follows: in 1993, some 800,000; in 1994, 773,000; in 1995, 696,000; in 1996, 690,000; in 1997, 1,078,000, which exceeded the Travelsafe target; and in 1998, 1,685,626, which exceeded the target by 13.4 per cent. In 1999 the target was exceeded by 16 per cent. In 2000 there was a small decrease but the number of tests conducted still exceeded the target by some 13.7 per cent. In the year 2001 the number of tests conducted was back up to 16.8 per cent over the target. These statistics show that police were actually out there doing the job of random breath testing. What has to be considered now is just how effective the current RBT program is. Road crash statistics show that there are still high numbers of drink-drivers on our roads. Maybe we have to look at addressing the problem in some other way.

At present, people who attend Queensland hospitals after traffic accidents do not routinely have breath or blood samples taken to determine blood alcohol content. The taking of samples under the current legislation is dependent on police being notified of the accident, police being able to attend the hospital to request the test, a doctor being available and willing to conduct the test, and the patient being conscious or appearing to be conscious and able to consent to the test being taken. This all has to happen within a period of two hours after the accident.

Police told the Travelsafe Committee of the 48th Parliament that feigning injury was one of the biggest outs in relation to drink-driving. Police advised the committee that loopholes in the current legislation do exist and can be exploited by people who are aware of them. There are enough smart people out there on our roads who read the rules, understand the laws and know what they can do.

There are other problems with the current legislation, such as police not being notified of an accident or being unable to arrive at a hospital within the specified two hours or a doctor being unavailable or not having the time to take a sample. These factors all contribute to a high level of non-testing and, consequently, a low level of detection of drink-drivers involved in road accidents. It is highly unjust that hospitalised drink-drivers effectively avoid detection and punishment for grossly irresponsible behaviour. Given the statistics, I find it difficult to understand why government departments of the past have failed to recommend similar legislation to that now before the House. Drink-driving remains one of the causes of road crashes leading to death and/or serious injuries, and often it is the innocent who are the victims.

For honourable members to understand the problem we have, we should look at the data available to us. Despite our levels of enforcement and random breath testing exceeding those for all other states in Australia, there are still large numbers of drink-drivers on Queensland roads causing or being involved in road crashes. It is only when we look at the statistics that we can appreciate the problem. First we have to look at the number of drivers and motorcyclists hospitalised in Queensland with a blood alcohol content, the number of those tested who returned a BAC above .05 and the number who refused to be tested.

In 1996, 1,267 people were tested, 427 people had a BAC above .05 and 27 people refused to be tested. In 1997, 1,203 people were tested, 340 were above the limit and 28 refused to be tested. In 1998, 1,518 people were tested, 326 were above the limit and 19 refused to be tested. In 1999, 1,666 people were tested, 338 were above the limit and 20 refused to be tested. In 2000, 2,060 people were tested, 357 were above the limit and 24 refused to be tested. In 2001, 2,494 people were tested, 438 were above .05 and 24 refused to be tested. Over the last six years, 10,208 drivers and riders hospitalised after a road crash were tested for BAC, 2,226 were found to have exceeded the legal limit and 132 refused to be tested. In Queensland during 2001, 5,296 drivers and motorcyclists were hospitalised following a road crash. Four hundred and thirty-eight, or 8.3 per cent, were found to have an illegal BAC level where police requested that a blood sample be taken for analysis.

For the same year in New South Wales, 11.9 per cent of blood tests taken routinely from road crash victims taken to hospital showed a BAC of .05 or higher. In South Australia, 22 per cent of blood tests from people killed in or hospitalised after a crash were found to have illegal BAC levels. So there is a real problem in South Australia. If we apply these percentage rates to the number of drivers and motorcyclists hospitalised after road crashes in Queensland in 2001—that is, 5,296—and subtract the number of people who were found to have an illegal BAC—that is, 438—it could be suggested that between 727 and 192 drink-drivers may have gone undetected. Of course, I understand that these figures are approximate only and assume a similar drink-driving pattern among drivers in three states. However, there is no doubt that the figures support the fact that there is a significant number of hospitalised drivers and riders getting away with being involved in road crashes while under the influence of alcohol.

The amendment bill before the House will ensure the increased detection and removal of drink-drivers from our roads. It will enhance the integrity of Queensland data on alcohol as a factor in crashes, it will assist with better casualty management in hospitals, improve the identification and the treatment of drink-drivers and it will stop hospitals from being used as safe havens from the law. If a person gets behind the wheel of a motor vehicle and is above the legal limit, that person is breaking the

law. If, because of alcohol, that person is responsible for/or contributes to the cause of an accident, he or she must be held accountable for his or her actions. Using loopholes in legislation to escape punishment and public humiliation is just no longer acceptable. The community has been telling us that for a long time.

These amendments will ensure the closure of serious loopholes that previously have allowed drunken drivers to escape punishment. I know that the public will welcome these new laws. This bill will provide for the taking of blood for the purpose of blood alcohol content testing from drivers who are unconscious or unable to communicate when they attend hospital as a result of a road crash. These amendments will not introduce compulsory blood testing, but will close a serious loophole in the legislation and ensure that potentially culpable drivers cannot escape penalty for drink-driving simply on the basis that they were unconscious when they attended hospital following a road crash.

Under the legislation, a police officer can obtain a sample, through a health care professional, from all drivers who attend a hospital following a road crash—whether they are conscious or unconscious—whom they reasonably suspect were under the influence of alcohol or a drug at the time of the road crash. To address the situation where drivers may escape prosecution because the police were unable to breath test the driver at a crash site or to make a request for a blood sample to be taken within the time limit for requests, Queensland Transport will conduct a full examination of the feasibility and efficiency of compulsory blood testing for alcohol. I support the minister in that action.

It is acknowledged that in Queensland compulsory blood testing—that is where a sample is automatically taken from a person who attends a hospital for treatment following a road crash—may produce a number of benefits. The minister acknowledges that the recommendations of the Travelsafe Committee's report warrant further consideration to determine the likely benefits of the introduction of compulsory blood alcohol content testing in Queensland and the cost involved in achieving those benefits. I understand that civil liberties issues will be canvassed during this feasibility study. This parliament needs to give the minister the support that he requires to ensure that that study is carried out and that he is able to report back to the parliament the results of that study and, if necessary, make the legislative changes to support it.

As I said, under this legislation police may request a doctor or a nurse to take a specimen of blood for the purpose of blood alcohol content testing from a driver who is, or appears to be, unconscious or unable to communicate. It will be lawful for a doctor or nurse to take a specimen of blood from a person who is unconscious or unable to communicate their consent. A second sample of blood will automatically be taken from patients who are unconscious or unable to communicate. That is just some protection for the injured person. Currently, conscious patients can request a second sample for their own purposes at the time the blood is taken. Nothing will change in that regard. Provisions relating to the taking of blood specimens in hospitals will be expanded to allow registered nurses and qualified assistants—that is, persons whose duties include the taking of blood—if directed by a doctor or nurse to take blood samples when requested by a police officer.

This amendment will not require persons other than doctors to be called out to a police station, vehicle, vessel or other place for the purpose of taking a blood specimen. Health care professionals taking a blood sample under section 80 of the Transport Operations (Road Use Management Act) 1995 will be protected from civil liability for an act done or omission made honestly and without negligence. We need that protection for those people.

A new offence provision has been included in the bill for any person who obstructs a health care professional in the taking of a blood sample for another person. The amendments will allow for the Commissioner of Police to enter into an arrangement with an interstate commissioner to allow for the exchange of blood and other blood test results data.

Drink-driving continues to be a problem for the community and for the government. I congratulate the minister on his commitment to road safety. As chairman of the Travelsafe Committee, I work with his department in a very commendable way. I know how committed the minister is and how committed is his department. I also want to congratulate the Queensland Police Service on the good work that they do. They are underestimated and undervalued in the work that they do and the contribution that they make to road safety in Queensland. They are doing a great job in Queensland on behalf of the people.

The amendment bill is good legislation. I appreciate the fact that the minister realises that there is probably an opportunity in the future for him to go a little bit further, but at this time he is making the changes that are necessary. I believe that they are good changes and a good result for Queensland.
