



Speech by

## Fiona Simpson

MEMBER FOR MAROOCHYDORE

Hansard Wednesday, 23 March 2005

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### TRANSPORT LEGISLATION AMENDMENT REGULATION (NO. 3) 2004

#### Disallowance of Statutory Instrument

**Miss SIMPSON** (Maroochydore—NPA) (7.45 pm): I move—

That the Transport Legislation Amendment Regulation (No. 3) 2004 (Subordinate Legislation No. 300 of 2004), tabled in parliament on 22 February 2005, be disallowed.

Before I speak to this disallowance motion, I would like to convey our best wishes to the Speaker. I trust that things will go well for him and also for Warren Pitt.

We have strong concerns with regard to a part of this regulation which we wish to put before the House tonight. The strong concerns are that a new traffic rule in this regulation under section 213, if enforced to the letter of the law, will require car windows to be fully closed.

**Mr Lucas:** It's not a new rule.

**Miss SIMPSON:** The National Party has taken this decision to disallow this regulation due to our concerns about its impracticality. We are not seeking to oppose other sections of the regulation but, as members, we know that due to the rules of this parliament the only way we can vote against one section of a regulation is to move a disallowance against the whole regulation.

**Mr Lucas:** It was done in 1999.

**Miss SIMPSON:** Under the Transport Legislation Amendment Regulation (No. 3) 2004, anyone leaving a car window partially open could cop a \$30 fine. The wording is different from the previous regulation, and I will come to that in a moment. This new traffic rule may be okay in the cities where car theft is a significant problem, but in most of rural and regional Queensland it is a rule that should not be enforced to the letter of the law, especially in summer, when temperatures inside cars can quickly top 60 degrees. Good laws are laws that are appropriate to local conditions and situations. Clearly, this window law should not be enforced in much of Queensland, particularly in summer.

I acknowledge that the new law and certainly the previous law were to apply when nobody was in the car but the wording, as I said, has been changed. It is still important to understand that, if a mother stops at a preschool and goes inside and picks up a child, and in the course of talking to the teachers the vehicle is locked up—the temperatures in some parts of the state are quite unbearable—they would then return to that car and the unbearable temperatures. Enforcing the law to the letter in parts of this state has a far worse impact than it does in parts down here in the south-east, where some of us who are lucky to live in coastal electorates perhaps do not experience that sort of heat.

The previous regulation prescribed that people had to lock their doors. The new regulation prescribes that the driver must lock the vehicle immediately after leaving the vehicle. How does this differ? Well, this is the concern. Certainly we are seeking assurances from the minister in light of changes in the wording of the legislation that if people who rigorously enforce this legislation want people to lock a vehicle—meaning that they also have to lock the windows and close the windows to full height—they do not apply that without understanding the impact that will have upon people. That impact upon people, as I

have outlined, is certainly the heat factor in many parts of the state. So the wording is different. Previously it was 'lock the doors'; it is now 'lock the vehicle'. It is the interpretation that we are concerned with. If somebody overzealously applies that, that could be something that is going to really hurt. I notice the minister was chortling away before because he does not think there is a problem, but we have had feedback from a lot of people who are very concerned that sometimes people will strike some overzealous enforcement officers, and the way that they will interpret the law may be very different from what the minister thinks. I think the minister has to realise that it is not just about what he intends; it is about how people actually interpret those laws once they leave the hands—

**Mr Lucas** interjected.

**Miss SIMPSON:** The minister is talking about discretion. Our concern relates to when the letter of the law is applied in a way which in fact hurts people. If the minister does not look at all of the consequences of how legislation is drafted, why on earth is he tying people up in red tape? The minister does not seem concerned that the way this is drafted will potentially tie people up in red tape. The minister's belligerent attitude about this only confirms my concern that it is not just about what he intends with legislation; it is about how it is drafted and how it can be implemented. I remind some of the newer members of this House that one of the challenges we face in interpreting legislation is to try to envisage how it is will be used once the opportunity to deal with regulations has passed and they are being implemented in the community.

There is a difference in the law. There is a difference from the way that the law was previously written. We have a concern about how it is in fact implemented. Perhaps the minister does not realise that there are some people who are very overzealous and do not use that discretion in a way that is fair or reasonable. Laws need to be drafted clearly so that they do not discriminate against different people in this part of Queensland.

**Mr Lucas:** So how you draft it? Two inches down when it is 40 degrees, four inches down when it is 60 degrees and on a Sunday in Lent you have it all the way down?

**Miss SIMPSON:** Once again I note the minister's ridicule of people who live in heated areas of this state. But if he is suggesting—

**Mr LUCAS:** I rise to a point of order. I said nothing to ridicule people who live in the great wealth-producing areas of our state in rural and regional Queensland.

**Mr DEPUTY SPEAKER** (Mr Fouras): There is no point of order.

**Miss SIMPSON:** This is the problem. The minister is talking about leaving car windows down by an inch or two inches. It seems that the minister is only confirming that they are going to throw the book at people. There are places where it is not unreasonable for people to leave windows down to allow some ventilation in the car while they are away from it. The car is secured—it is locked—but ventilation is needed in that car to ensure it is not an oven when its owners return to it. I refer to young mothers picking up their kids from preschool. Under this legislation, applying the letter of the law, they will have to lock their car and not have any ventilation. The minister has just ridiculed the need for that. When an overzealous officer tries to apply that, what is going to happen?

Let us have some concern for how laws are drafted. Let us get it right in the first place. Those of us who live in coastal areas do understand that it is hot in different parts of the state and that leaving a car without any ventilation can make it most unbearable for people when they return to that car. We are asking the minister to give us assurances about interpretation, but the letter of the law should also be correct in the first place.

It is unfortunate that in this parliament we do not have the ability to amend regulations to provide that clarity, because that is not allowable under the standing orders. If it were allowable we would be able to apply some commonsense and some clarity to overcome the problem with the way the regulations have been drafted. That cannot be done, so in this case we have to move a disallowance motion to debate them and draw attention to this particular issue.

Let us understand that laws do get abused. If we care about people not having overzealous officers work them over, it helps if we get it right and make sure that the laws are drafted in a way that is fair and reasonable and take into account the genuine concerns of people who live in parts of this state where not being able to have their car window down by an inch or two would make things unbearable. One has to wonder whether it is a bit over the top to regulate everything to the zenith.

We realise that a lot of cars are flogged and that police have to track those down, but I think laws that force people to have their windows wound up are totally over the top. It is taking the law in a ridiculous direction. I am disappointed that the transport minister does not appreciate the concerns raised about the drafting of the legislation and about the opportunity for the laws to be abused. These are very reasonable concerns that have been raised by constituents in parts of the state. I know that some other members will also raise their concerns about this, because they live in those areas, they know the difference and they know the impact that this has.