



Speech by

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MEMBER FOR SOUTHPORT

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CRIMINAL CODE (DRINK SPIKING) AND OTHER ACTS AMENDMENT BILL

Mr LAWLOR (Southport—ALP) (6.26 pm): Drink spiking is a modern and growing phenomenon. It can take various forms, from the addition of drugs like Rohypnol to drinks and also the adding of alcohol, for instance vodka, to alcoholic or non-alcoholic drinks. A report in 2004 by the Australian Institute of Criminology found that the exact number of drink-spiking incidents was impossible to accurately calculate. However, an estimate for the period 1 July 2002 to 30 June 2003 was that between 3,000 and 4,000 suspected incidents of drink spiking occurred in Australia. Four out of five victims are females, about half the victims are aged under 24, one-third are between 24 and 34 and one-third of the drink-spiking cases were associated with sexual assault.

Other Australian jurisdictions are considering similar legislation to the legislation currently before the House. Once again the Beattie government is at the cutting edge of this growing problem. This government has given priority to this legislation and it is important to note that it is coming in in time for schoolies week, which commences in Queensland on 18 November. That is a time when the incidence of drink spiking is quite prevalent.

The offence will apply to a person who administers or attempts to administer a drink or a substance to another person without that other person's knowledge of the presence of the substance with the intent to cause the other person to become stupefied or overpowered. It is immaterial whether the substance is capable of having the effect intended, it is immaterial if the victim is a person other than the intended victim. These are the sorts of offences that occur quite regularly in nightclubs where people can pick up different drinks so it might not actually be the intended victim. It is also immaterial whether the spiked drink is in fact consumed or not.

There is a defence for an accused to prove that the substance was administered or attempted to be administered as a playful trick. This defence is only available when the substance in question is not a dangerous drug as defined in the Drugs Misuse Act, where the prank is a trick of a playful nature and not a trick of a malicious nature. The bill as introduced contains a defence that the onus is on the accused whether the act was a prank and involved no predatory motive. This defence will be removed and replaced with a new subsection which modifies the operation of section 24 of the Criminal Code but only where alcohol is the spiking agent. Section 24 provides an excuse from criminal responsibility for a person who does an act under an honest and reasonable but mistaken belief in the existence of a certain set of circumstances. For the purpose of the offence in section 316A, the accused will be excused from criminal responsibility if he or she was under an honest and reasonable but mistaken belief that the victim would not have objected to the addition of alcohol. This approach is more consistent with the policy intent of the bill, which is to ensure that people do not consume alcohol or other drugs without their knowledge. The maximum penalty for this offence is five years imprisonment and will be capable of summary disposition at the election of the defendant. The penalty reflects that this is not a trivial offence but one that this government regards seriously.

As I said before, it is timely for schoolies. The perpetrators of these acts are not actually schoolies but what has been defined as toolies and even maybe people my age who might be defined as droolies. I am not wanting to be frivolous about this, but it protects the schoolies from the attention of toolies and droolies.