



Speech by

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MEMBER FOR BURDEKIN

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CRIMINAL CODE AND CIVIL LIABILITY AMENDMENT BILL

Mrs MENKENS (Burdekin—NPA) (3.49 pm): I rise to speak to the Criminal Code and Civil Liability Amendment Bill 2007. This bill seeks to increase the penalties for dangerous driving, in some cases to up to 14 years. This bill also seeks to create a penalty of obtaining or dealing with information to commit or to help in committing an indictable offence. Finally, the bill seeks to exclude the application of the Civil Liability Act to work injuries.

Road safety is a major issue facing Queensland. Every day, loss of life and major personal injury is suffered on our roads. In fact, as of today, this year on Queensland roads there have been 71 fatalities. At the current rate, the number of fatalities suffered in 2007 would be more than any fatalities suffered in any year over the past five years.

Dangerous driving is a major contributing factor to the road toll. In many parts of the community there seems to be an apathy about this issue. Many drivers still drive while disqualified. In Townsville, so far 158 drivers have been caught driving without a licence. Last year, 600 people were caught driving without a licence. Those figures are strong proof that many motorists are not taking disqualification seriously and are not giving due respect to road laws. One of the more disturbing elements of these drivers is that the average person caught driving while disqualified is a male and is in their late 20s. The current road laws are simply not getting through to people who are old enough to know better.

It seems that tougher penalties are necessary to make people comply. There seems to be a sense of complacency in that people believe that they will not crash or cause harm while doing something stupid such as racing, drink driving or travelling at excessive speeds. It is undoubtedly that type of reckless behaviour that can cause inflated death tolls and permanent disabilities for drivers and others. That occurs for no reason other than those offenders wanting to indulge in unwarranted risky action. Recently we saw some graphic photographs of two young people who were drag-racing on the roads and the carnage that that caused when they crashed into some parked vehicles. Seemingly, drag-racing is great fun for young people, but the terrible carnage caused by such fun and games cannot be ignored.

This bill seems to be aimed at such offenders as it amends the penalties for dangerous driving which results in death or grievous bodily harm. This bill proposes to expand aggravating circumstances to include travelling at excessive speed, racing or speed trialling, and leaving the scene of the offence. The aggravating circumstance of excessive speeding has always been a question of fact for the jury in a dangerous driving trial. However, the bill proposes to change the law to make excessive speeding a prima facie aggravating circumstance if the prosecution can prove that the defendant was travelling 40 kilometres per hour over the prescribed speed limit, which is actually pretty jolly fast when we consider the current speed limit. This amendment seems reasonable as recent legislation has made travelling 40 kilometres an hour over the limit the cap at which speeding becomes a serious offence, as travelling 40 kilometres per hour over the limit currently results in an instant loss of licence. This amendment will bring the current legislation into line with other legislation.

The other aggravating circumstances that are included by this bill are common-sense inclusions. Racing on the streets should be taken to the racetracks and drag strips, where cars and drivers must go through a safety test. There is a reason racers are required to wear helmets and drag strip side barriers are

made out of solid concrete. Racing on the streets is highly dangerous and should be punished accordingly. Also, fleeing from the scene of an offence is a sign of guilt and an evasion of responsibility. I believe that that action can constitute an additional aggravating factor. The road toll cannot be reduced to zero. We would certainly like to dream that it could be reduced to zero, but we have to face facts. But it can be mitigated with stronger laws and initiatives. If we can get racing off the roads and onto raceways, I believe that will go a long way towards reducing the number of deaths and injuries on Queensland roads.

The next amendment contained in the bill deals with the issue of identity theft. The bill proposes to insert a new offence of identity fraud that would prohibit a person from misusing another entity's identification information. I am aware of a young man who some years ago was travelling in Bali where he had his passport stolen. He went to the embassy, did all the right things and got his passport renewed. About 18 months later the immigration department rang him and told him that a person had been caught coming out of Indonesia. This person was involved in illegal people trafficking and was carrying this young man's name on his passport. That sort of thing is happening all the time.

Although that matter relates to another area of identity theft, I must say that we are unaware of how dangerous identity theft is and how difficult it is to protect ourselves from identity theft. Basically, identity theft is a modern scam. Instead of criminals on the street mugging people and stealing their wallets, now they can instead steal people's identity. Criminals can then use this identity in an array of dishonest ways, such as buying items over the phone or the internet with fraudulent credit card information, or filing fraudulent tax returns, or taking out bank loans with stolen identities.

The current Criminal Code allows for these types of scams to fall within its general fraud or dishonesty provisions. A more specific section in the code would close loopholes and promote consistency in the sentencing of convicted offenders. The current system cannot effectively punish someone who obtains, possesses or supplies identity information for the intention of a criminal purpose but does not commit a substantive offence themselves. This loophole is only a drop in an ocean of possible loopholes that could be found in the current Criminal Code, which has not been updated at the same rate as such crimes have become more high tech. Identity theft needs to be curtailed before it gets out of hand. This amendment certainly makes a start towards doing that. If we allow individuals who trade in identity information without committing substantive offences to slip through cracks in the law, then the results could be disastrous. Identity information traders impinge on personal privacy and freedom, cause economic loss and create distress for unsuspecting victims. For those reasons they must be stopped immediately.

The final part of the bill deals with the implementation of the Civil Liability Act. As I understand it, this amendment wishes to overcome the decision in *Newberry v Suncorp Metway Insurance Ltd* 2006. This case was decided by the Queensland Court of Appeal, which is the highest court in the state. The case dealt with a person who was injured in a motor vehicle accident while at work. The Civil Liability Act was enacted in 2003 to fix many problems regarding personal injury laws, mostly resulting from a combination of overlitigation and overly large payouts. This act had the effect of capping general damages at \$250,000 and placing restrictions on the recovery of some special damages. Section 5 of the Civil Liability Act was inserted to exclude work related injuries from the application of the act. The case of *Newberry v Suncorp Metway Insurance Ltd* did not use common law to assess damages because the person's claim was against a third party. It was ruled by the Court of Appeal that this person's employment was not a material ingredient to the claim against the third party.

The bill claims that the amendment to the Civil Liability Act is to protect workers' rights by allowing the Civil Liability Act to be avoided in types of cases such as *Newberry v Suncorp Metway Insurance Ltd*. This amendment will seek to exclude the Civil Liability Act from such claims and use the more lenient common law. I have pleasure in supporting this legislation.