



Speech by

**Steve Wettenhall**

**MEMBER FOR BARRON RIVER**

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## **STATE PENALTIES ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL**

**Mr WETTENHALL** (Barron River—ALP) (12.54 pm): I rise to speak on the State Penalties Enforcement and Other Legislation Amendment Bill 2009. This bill is divided into four chapters which deal with amendments to different pieces of legislation. I will primarily be addressing the amendments contained in chapter 2. Chapter 2 provides for increased options for the State Penalties Enforcement Registry, SPER, to engage debtors in compliance and enforcement of fines. SPER has the unenviable task of recovering unpaid court ordered fines, court ordered restitution or compensation, which is paid to victims of crime, and infringement notice penalties issued by state government agencies and authorities. Currently SPER already has a number of flexible methods to enable people to pay off their fines in a manageable way. Instalment plans can be entered into, direct debits organised from wages or Centrelink and community service orders can be completed in lieu of the fine by way of a fine option order for those who genuinely are unable to make the payments.

SPER is to be congratulated on the high success rate that it achieves in recovery of these debts. When you bear in mind that these are often the fines not paid by the due time, the debt recovery rate of around 75 per cent is very high, and many debt collectors would be proud of such a record. However, as at 1 June this year, there was over \$450 million owing to SPER. That money is owed to the taxpayers of Queensland and to victims of crime who have been ordered to receive compensation but have not received it—\$203 million of this debt was under active compliance. However, the balance is owed by recalcitrant people who do not take responsibility for their wrongdoing and do not attempt to make an effort to pay their fine.

Fines are a valuable punishment option for courts and government agencies. They punish the wrong doer and provide some monetary recompense for the wrongdoing by way of restitution to the community. To maintain public confidence in fines as a method of punishment and in the criminal justice system as a whole, the government has decided to take further steps to allow SPER officers to recover unpaid fines. It is not fair if people who refuse to comply with fine orders can thumb their nose at the government and the people of Queensland without stronger enforcement action being able to be taken against them.

Currently, SPER can make an order to suspend a driver's licence for unpaid fines if the fine is a driving-related fine. This has been an effective tool for getting offenders into compliance. Once they enter into an instalment plan, provided they comply with the plan, they can retain their licence. It is proposed to extend this power to include non-driving related fines. This will bring Queensland into line with all other jurisdictions except the ACT. Once a person receives notification that their licence will be suspended if they continue with their noncompliance, there is an added incentive to ensure they take steps to contact SPER to talk about how they can make arrangements to pay. Some of the debts owed by offenders to SPER are for significant sums of money. These high-value fine debtors often ignore their SPER debts, but ignoring them does not make them go away. There is no reason why any Queenslanders should be in noncompliance with SPER. The flexibility of payment options and the availability of fine option orders mean everyone has the capacity to address their fine obligations.

Another initiative being introduced in this bill is for SPER to be able to immobilise, seize and sell vehicles owned by recalcitrant high-value debtors. This wheel-clamping method has already been introduced in a number of other jurisdictions, including New Zealand, Victoria and South Australia. This is a power that will only be available for high-value debtors, for those debtors who owe more than a prescribed amount to SPER. It is envisaged that initially this amount will be \$5,000. It will also be an enforcement option of last resort. Clamping will be used by SPER where other options are not suitable or have proven to be unsuccessful. The debtor would also need to be the sole registered operator of the motor vehicle. Initially it will be trialled in the Brisbane metropolitan region, in both metropolitan north and metropolitan south police regions, commencing 1 January 2010.

Initially the process will allow SPER to register an interest over a vehicle on the register of encumbered vehicles. This will prevent a debtor from avoiding this system by selling the car before it can be seized. Once it has registered its interest, SPER will then serve the debtor with a notice of intent, which gives the debtor 14 days to either pay the fine or enter into compliance. Given the time that has already been allowed prior to this method being pursued, this is eminently fair. SPER operates a call centre from 8 am to 5.45 pm Monday to Friday, with a 1800 number, at the cost of a local call. Application forms for instalment plans and fine option orders are available online and can be faxed or posted to SPER.

If the debtor fails to take the opportunity afforded by SPER to enter into compliance, SPER officers can clamp the vehicle at any reasonable time of the day or night without further notice to the debtor. The vehicle can be clamped for up to five days and then seized for sale if it is not of sufficient value to cover the value of the fines. If not, SPER will refer the debtor to the next warrant evaluation committee for an arrest and imprisonment warrant. SPER officers will be able to clamp vehicles if they are in a public place or the debtor's place of residence. Where the debtor is a corporation, the vehicle can be seized from the place of business. In any case, a vehicle can be seized from any property with the consent of the occupier.

Sitting suspended from 1.00 pm to 2.30 pm.

**Mr WETTENHALL:** The vehicle cannot be clamped where it would constitute a traffic or safety hazard. Nor can a vehicle be clamped where to do so would compromise the safety of the occupants. The seizure of vehicles is part of a wider power contained in this bill to seize and sell the property of a debtor. This will be part of a two-year pilot, again in the Brisbane metropolitan area, to enable Magistrates Court bailiffs to enforce seizure and sale warrants against debtors who owe \$1,000 or more.

Where the seizure of a vehicle will cause severe and unusual hardship to the debtor or their family or to a third person who uses the vehicle and has no capacity to ensure the debtor pays the debt, there will be a capacity to apply for consideration of this fact both before the immobilisation warrant is issued and also during the seizure period. This consideration will take into account a number of matters including the employment and residential situation of the debtor and their responsibilities to family or as a carer.

One of the notable aspects of the profile of SPER debtors is that 60 per cent of debtors are aged 34 years or under. Because most people in this age group are highly tech savvy, it makes sense that the most up-to-date technology is available to SPER to engage with these debtors in an attempt to enter into compliance. This bill will allow SPER to contact debtors using SMS technology without requiring their prior approval. This technology will be used in particular circumstances such as when SPER is about to suspend a debtors driver's licence. They will of course first receive written notification, with an SMS reminder prior to suspension. Similarly, where a debtor has entered into an instalment plan to pay by credit card, the debtor will receive an SMS message advising that their credit card is about to expire so that new details can be provided to SPER to ensure they remain in compliance. Where a debtor defaults on a payment plan, they will be sent a default notice, but, before SPER suspends the agreed payment plan, they will also be sent a reminder SMS.

These are very strong initiatives that will allow SPER to take action against those debtors who refuse to honour their obligations to the government and the taxpayers of Queensland by paying their outstanding fines. This is a positive step towards ensuring that all Queenslanders who owe SPER debts enter into compliance to commence paying off their fines. I commend the Attorney-General and the Department of Justice and Attorney-General for this bold initiative, which will strengthen the capacity of our courts and government agencies to punish wrongdoers in a way that has even greater enforcement potential. I commend the bill to the House.