




Speech By
Hon. Curtis Pitt

MEMBER FOR MULGRAVE

Record of Proceedings, 13 October 2015

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL

 **Hon. CW PITT** (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (5.52 pm): I move—

That the bill be now read a second time.

This bill delivers on another Palaszczuk Labor government election commitment which will improve safety for Queenslanders by restoring critical work health and safety protections removed by the former LNP's Work Health and Safety and Other Legislation Amendment Act 2014.

The Palaszczuk Labor government believes in genuine consultation, cooperation and respect between employers and workers. We also recognise the long-term benefits of providing safe and productive workplaces where everyone shares the responsibility for improvements in work health and safety practices to prevent work related injury and disease.

There is considerable evidence that the effective participation of workers and the representation of their health and safety interests are crucial elements in improving health and safety performance at the workplace. Worker involvement in work health and safety is accepted at an international level because of strong ethical and practical reasons, particularly as it is the workers who generally bear the burden of failure to manage risks at work. Worker representation provides a means for facilitating consultation, involving workers and giving them a voice in health and safety matters.

The Work Health and Safety Act 2011 recognises that workplaces have better health and safety outcomes when workers have input before decisions are made about health and safety matters that affect them. The amendments in this bill align with one of the objects of the Work Health and Safety Act 2011, which is to provide for fair and effective workplace representation, consultation, cooperation and issue resolution in relation to work health and safety. So far in 2015 there have been 16 work related fatalities in Queensland, which is still 16 too many. It is pleasing to note that, based on preliminary national comparative data published by Safe Work Australia, the number of traumatic fatalities at the workplace in Queensland has reduced by almost one third between 2012 and 2014, down from 45 to 30. In addition, there is also a positive trend in the incidence of serious work related injuries which have reduced by 22.5 per cent between 2009-10 and 2013-14.

Queensland's four priority industries also experienced significant reductions in serious work related injuries, with manufacturing down 36.4 per cent, construction down 29.6 per cent, rural down 13.7 per cent and transport down 13.2 per cent. While this trend is positive, it is of no comfort to those who have lost loved ones or who have to support a seriously injured worker on a daily basis. We should continue to be striving for no fatalities. Zero harm is the best way to go.

This bill restores the right of work health and safety entry permit holders to immediately access a workplace where they suspect a safety contravention is occurring. Work health and safety entry permit holders play a valuable role in securing health and safety at the workplace, as they are generally experienced in work health and safety matters and provide substantial support to worker

representatives. Training provided to entry permit holders enhances their ability to contribute to workplace consultation arrangements through advice to workers and identifying suspected safety breaches.

In a practical sense, entry permit holders have experience across various workplaces and it is the information they gain from that experience that assists workers and representatives to identify and manage potential hazards, engage and consult with an employer and effectively resolve issues that arise. For this purpose it is essential that entry permit holders are able to access the workplace to support workers and observe relevant parts of the workplace or activities occurring. This is why the model work health and safety laws provide for entry permit holders to enter a workplace for health and safety purposes. Importantly, the existing provisions have a number of limitations and safeguards to protect against inappropriate use and behaviour by permit holders. The use of this entitlement comes with great responsibility as there are many safety issues every day in workplaces which require investigation, and entry permit holders play an important and proactive role in achieving healthier and safer workplaces as is provided for in the objects of the Work Health and Safety Act 2011.

The bill also restores the right for health and safety representatives to direct unsafe work to cease. Restoring the right for health and safety representatives to direct unsafe work to cease is also critical to ensuring worker safety at the workplace. Workers have always had a statutory protection to cease unsafe work, however, the ability of a health and safety representative to direct the cessation of unsafe work provides an important safety protection for all workers, including young workers and workers from non-English speaking backgrounds who are less likely to be able to adequately identify potential hazards. When the model work health and safety laws were developed there was strong support for cease to work provisions, including specific provision for health and safety representatives to direct that unsafe work cease. This approach draws on the knowledge and training of the health and safety representatives in health and safety generally and in circumstances where workers may be placed in high-risk situations.

Their experience on a day-to-day basis in the workplace means that they are a trusted source of information and support for other workers. In addition, they are more likely to have influence with relevant workers and have an established relationship with the employer to assist with consultation and resolution of issues. This makes them best qualified to make a decision about whether a work practice should cease. These provisions are also accompanied by safeguards. Should a health safety representative give a direction to cease work, they must consult with the employer prior to giving the direction and attempt to resolve the matter through the issues resolution process required by the act. Finally, where a direction has been given the act entitles the employer to direct a worker to undertake suitable alternative work if available and protects the payments workers would have received had they continued to carry out their normal work. No-one can deny that when there is a genuine, immediate and imminent risk to a worker's safety work in the affected area should cease immediately, and this bill restores this important protection.

This bill also amends provisions in relation to allowing health and safety representatives to request the assistance of any person by removing the requirement for at least 24 hours notice if the assistant requires access to the workplace to enable the assistance to be provided. An assistant may be a person with additional knowledge of work health and safety within the workplace or someone who does not work at the business. The aim of this power is to enable the health and safety representative to access advice if this is required to assist in carrying out their powers and functions. For example, a health and safety representative may require assistance about how to perform inspections at the workplace or technical advice from a manufacturer of a particular machine guard.

Debate, on motion of Mr Pitt, adjourned.



Hon. CW PITT (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (7.41 pm), continuing: The current 24-hour notification requirement restricts timely access to advice in the workplace. It could assist a health and safety representative being better placed to manage risk if they are able to call on the assistance of a person who has specialist knowledge. Existing safeguards in the legislation mean that an employee can refuse access to a person assisting a health and safety representative if they have reasonable grounds to do so. For example, if the person assisting had previously acted improperly at a workplace by intentionally and unreasonably delaying or disrupting work or otherwise acting in an improper manner, access could be refused.

In addition, the bill amends the current incident notification provisions to implement the government's election commitment to include an additional requirement for an employer to notify the regulator when a worker is absent from work for more than four days due to a workplace injury. This will provide the regulator with increased intelligence around workplace injuries, in particular, musculoskeletal disorders and mental disorders, which are not captured by the existing notification

provisions. Both of those disorders are national priority areas in the Australian Work Health and Safety Strategy 2012-22 and result in significant cost to individuals, business and the community. Musculoskeletal disorders alone continue to be the most commonly compensated work related injury across Queensland and across the nation. This additional data will assist in developing interventions to reduce those types of work related incidents and will also assist Queensland to achieve its milestone under the Australian strategy of 30 per cent reduction in musculoskeletal disorders.

The matter of incident notifications is also subject to a recommendation arising from the Finance and Administration Committee's consideration of the bill. At this time I thank the Finance and Administration Committee for its report, tabled on 13 July 2015, regarding the Work Health and Safety and Other Legislation Amendment Bill 2015. I also thank those who made submissions to the committee about the bill and those who appeared as witnesses as part of the committee's inquiry. During consideration of the bill, the committee was unable to reach agreement to recommend that the bill be passed. However, the committee made one recommendation that the Office of Industrial Relations work to improve ease of access and reporting systems for employers, including self-insured employers, and develop education and communication strategies to ensure employers are aware of the requirements and are also aware of the reasons for them. This recommendation is supported and I am pleased to table the government's response to the committee's report.

Tabled paper: Finance and Administration Committee: Report No. 5, 55th Parliament—Work Health and Safety and Other Legislation Amendment Bill 2015, government response [\[1374\]](#).

The government has already taken action to streamline the notification process for self-insurers and make its electronic reporting systems more user friendly. In addition, it is planned to conduct further education and awareness programs to promote the use of a one-stop shop website for employers as part of the implementation strategy. It is also important to acknowledge that, while the amendment may impose an additional notification requirement, it is unlikely to make any significant impact as employers should already have systems in place to notify work-related injuries. In addition, employers now have the option of lodging a claim and notifying an incident at the same time, either online or over the phone, through the workplace health and safety one-stop shop. To assist further, this provision has a six-month transitional period to allow employers to make any relevant adjustments to their incident notification processes.

This bill is not just about ensuring work health and safety protections; it also implements election commitments to improve electrical safety in Queensland. Specific amendments include reinstating the electrical safety commissioner, the Electrical Safety Education Committee and the Electrical Equipment Committee, which were all abolished in 2015. As I outlined in my speech when introducing the bill to the parliament, the electrical safety commissioner's role is to manage the Electrical Safety Board and its committees, and to provide advice to the department and myself as minister on electrical safety matters. It is important to note that the commissioner must have an electrical trade or qualification, along with professional experience in electrical safety, to ensure that they can bring a wealth of knowledge and experience to this important role in Queensland. As members may be aware, the Electrical Safety Act 2002 has broad coverage and covers electrical safety not only in the workplace but also in the broader community. The role of both the Electrical Safety Education Committee and the Electrical Equipment Committee will be to assist in the promotion of electrical safety in the workplace and also in the broader community. This could include for purposes such as recommending and advising on educational strategies, as well as safety standards, to improve the safety of electrical equipment.

This bill is about ensuring the health and safety of workers and making sure genuine cooperation and consultation occurs between all parties at the workplace, including the representatives of workers, to enable improved health and safety outcomes. Labor and this government believe that every worker has the right to go to work expecting to go home safely to their family and their loved ones at the end of the day. I commend the bill to the House.