




Speech By  
**Andrew Powell**

**MEMBER FOR GLASS HOUSE**

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## **HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr POWELL** (Glass House—LNP) (12.39 pm): I, too, rise to contribute to the second reading debate on the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016. As I think the minister alluded to, this bill is really a tale of two cities. There are the rather uncontentious matters contained in the amendments to the Heavy Vehicle National Law but also the very different and unrelated issues to be considered through the other legislative component of this bill. I want to turn my attention first of all, as the minister did, to the amendments to the Heavy Vehicle National Law.

The LNP has a longstanding record of supporting national heavy vehicle reforms. During our time in government we introduced and passed the original Heavy Vehicle National Law, which had lapsed in the previous parliament. We supported the National Heavy Vehicle Regulator setting up in Queensland because we know just how important the trucking industry is for our state. These reforms also have the support of the trucking industry, including peak bodies, which want the standardisation of heavy vehicle laws and regulations around the operation of the heavy vehicle industry including road network access, mass and dimensions, fatigue management and safety accreditation.

It is fair to say that the process has not been without its hurdles. As many members would know, the regulator initially faced difficulties regarding access for heavy vehicles. I believe progress has been made but it is not yet perfect. The Local Government Association of Queensland has been assisting the regulator in supporting councils which need to access applications on local roads, but issues still remain around the movement of oversized and overmass vehicles as well as specifically heavy agricultural vehicles, especially around harvest time. These harvesters and tractors are critical to our agricultural industry. Whilst I know there is a lot of goodwill and plenty of effort underway to solve these issues, perhaps the minister could give the House an update when he sums up the debate later this afternoon on how the resolution of those issues is progressing.

The amendments proposed in the bill primarily seek to modify chain of responsibility provisions and make a number of minor tidy-up alterations. The reformed chain of responsibility provisions go to the heart of safety and accountability in the trucking industry. This duty of care approach has been adopted in other national safety laws such as the model Work Health and Safety Act.

Each party in the chain of responsibility has a primary duty of care to ensure safety. Breaches of this care will attract penalties. A positive due diligence obligation on executive officers is also introduced in relation to the new primary duties obligation. Due diligence for executives includes taking reasonable steps to acquire and keep up-to-date knowledge about the safe conduct of transport activities. It is important that every person along the chain is accountable for their responsibilities. Safety is everyone's responsibility and everyone must be aware of the hazards and risks associated with those activities. The changes shift the burden of proof for chain of responsibility offences from the defendant who previously had to prove to the prosecution they took all reasonable steps to avoid the offence to prove that everything reasonably practical was not done to avoid the offence.

The bill also includes a range of minor technical amendments to reduce the administrative burden on the heavy vehicle industry and clarify existing requirements outlined in the HVNL. When appearing before the committee, Gary Mahon, the CEO of the Queensland Trucking Association, who at the time was representing the Australian Trucking Association, supported the changes. The ATA had made recommendations as to further changes, reforms and clarifications but concede they can be made in a future iteration of amendments due to the complex and time-consuming nature of making national legislative change. Mr Mahon said—

In prosecutions for breaches of this duty, the authorities would have to prove their case beyond reasonable doubt, which is entirely reasonable. This approach is in line with the fundamental principles of our criminal law. Individuals should not have to prove that they are innocent. The change in the burden of proof would be accompanied by a substantial increase in maximum penalties to match the work health and safety law and increase the investigative powers. The ATA supports these amendments which have to be considered together as a package. It is reasonable for the change in the burden of proof to be accompanied by stronger powers so investigators can gather enough evidence to establish a case beyond reasonable doubt. The increase in maximum penalties is also appropriate, but it is only acceptable because of the shift to conventional liability.

I am pleased to share with the House that the LNP will be supporting the amendments to the Heavy Vehicle National Law.

I now want to turn to the other legislative aspects of this bill; namely, the changes to the Transport Operations (Passenger Transport) Act 1994. The changes in this bill create a head of power for the Palaszczuk Labor government's taxi and limousine industry assistance package but, like everything the Minister for Transport has touched, this is flawed and botched policy. It has been bungled from the beginning.

To be fair, he has had some help in botching this, because it first took the Deputy Premier when she was transport minister nine months before she did anything despite the Queensland taxi strategy expiring and drivers, operators and passengers increasingly uncertain about the future. Did the Deputy Premier have any plan or vision for what needed to change in the personalised transport laws which regulate the industry? No. In true Palaszczuk Labor government style she announced—wait for it—a review; not action, just another review. When the now transport minister received the outcomes of that review—a review that so many stakeholders across the industry said was a farce and a charade—he chose to deregulate the taxi industry across the state with no immediate compensation and with an anticipated 18-month-long legislative agenda before he would even remotely achieve a new even playing field. It is those two elements that infuriate our state's taxi and limousine licence owners and operators the most—fair compensation and an even playing field.

That policy decision by the Minister for Transport and the Palaszczuk Labor government—this bill before the House—is a kick in the guts to our taxi licence owners and operators, to our limousine licence owners and operators, and to the values that Queenslanders hold dear and the LNP holds dear. Like nearly all Queenslanders, the LNP believes in reward for effort and that hard work is recognised. We believe in small business like the mum-and-dad taxi and limousine operators across the state. We certainly do not believe governments should act like a bully, pulling the rug out from established industries and putting financial stress on their enterprises.

Let me be clear: the LNP also welcomes competition but there must be fair compensation and a fair and level playing field for the personalised transport industry. Unlike the Labor Party, we fundamentally believe in the property rights of Queenslanders. Labor, however, has thrown out the rule book on Queenslanders' property rights and, as we see in their policy and this bill, refuse to offer fair and reasonable compensation.

We should not be that surprised because this minister has form. He pushed through his first tranche of regulatory changes with very little consultation. We in the LNP were alarmed by some of the issues raised with us by stakeholders in that piece of regulation, and it was up to the LNP to move a disallowance motion on the provisions that this lazy minister did not think through properly—the provisions that unacceptably put passengers at risk.

The Palaszczuk Labor government has been arrogant and dismissive of those affected by their policies. One group which has particularly felt forgotten and neglected in this debate and by this government are the limousine licence holders. I want to share with the House some of their stories, written by them. Jacqui from Doolandella wrote to me about how she has been affected by the way this minister has handled this issue. She said—

After the break-up of a 17-year marriage I found myself a single mother in my 30s, one child with a disability and another with a seizure disorder and brain tumour. Needless to say, I have been through my fair share of troubles. My ex-husband lives in another country and offers no form of support. My capacity to work has been and still is limited due to the care of my children and especially my son with a disability. I struggled financially and had to twice draw money from my super in times of hardship.

Things got a little easier in the last few years with my children getting older and all of the therapy I put my son through starting to show results. Now in my 40s I was worried about my lack of retirement planning so I entered into what was thought to be a fairly safe entry level investment of purchasing a limousine licence. This was secured by my home and has a 10-year loan with repayments being \$800 per month. The licence cost \$72,500. I was receiving \$700 a month for the lease of the licence and paying the difference in my loan. My licence is now a worthless piece of paper that I have to pay \$800 per month to the bank for loan repayments. This severely impacts our family life.

The day the government legalised rideshare on 5 September 2016 the need for a limousine licence ceased. The proposal says that I may be entitled to a \$10,000 transitional payment sometime in the future. I do not know what the Palaszczuk government thinks I am transitioning to. Perhaps it's poverty.

These were perpetual licences sold by the Queensland government. If these licences cease to exist, then a fair price buyback is required or similar compensation in the next reforms. I am counting on the members of the Queensland parliament to do what is right and insist that the Minister for Transport develop a fair passenger transport reform that will not leave me and my children in a state of hardship.

I will also share the story of Martin and Patricia, 90 and 89 years old respectively, from Forest Lake. They said—

We were brought up in the years of World War II. We have lived through the Depression. We have raised nine children, struggled through the difficult times and enjoyed the peaceful joy of our lives with our family. We worked hard in our own nursery business during our working years and invested in five limousine licences to fund us through our retirement. The lease from these licences was not grand but it has been enough to support our simple life and achieve our responsibility of being self-sufficient.

If the current proposals for the passenger transport reform go through, our income will be completely extinguished with no chance of ever being recouped. Our licences will be cancelled. The government proposes to give us a \$10,000 assistance payment for each of our licences. Being 90 years old, we are not physically or mentally able to invest these funds into another venture. The only option we would have would be to bank that money. On the current interest rate on my bank account, I will earn \$1,125 per annum. That means we have gone from \$32,400 to \$1,125 a year in income.

As our health is starting to fail, we are requiring extra support for our basic needs. I implore the government not to take away our income. Please be fair to your senior citizens.

Through the committee process, we also heard from taxi licence holders and the pain that this Palaszczuk Labor government has caused them. Anne Awabdy spoke to the committee in Brisbane about her family's investment in taxis and her concerns about the future. She said—

Our story is very similar to that of many new Australians. Queensland has benefited from a very safe, very reliable taxi system. The regulations and standards to protect both the drivers and the consumers have been put in place over many years. The bill removes those protections and destroys the livelihoods of over 2,000 Queenslanders, who have spent their lives and their life savings serving Queensland in their small businesses.

My husband worked for years 12 shifts a day, seven days a week. That is over 100 hours a week and that is not unusual for a taxidriver. He started that in the 1970s, I believe, and in the 1990s he put a deposit down on a taxi licence. When he first started driving a taxi there was no way in the world that he could even dream of purchasing a taxi licence. He did that in the 1990s. It was not an easy life at all, but he took great pride in the hard, honest work and the contribution that he made to getting people home safe. On a number of occasions, he was physically assaulted, including having a number of ribs broken when attacked by three men. He was always driven by a desire to be financially independent and not rely on welfare. It was our expectation that the taxi licence would continue to provide an income. No way would he have worked so hard to the detriment of his own health if he had known that everything that he had worked so hard for was going to be unfairly ripped away.

Queensland now has taxidriviers struggling to survive, or leaving the industry to go on Centrelink payments.

Taxi licence owners in the regions are also hurting thanks to the action of this minister and this government. The committee heard from Trevor Moore in Mackay. Trevor is a taxi licence owner and operator as well as a driver. Let me read from his evidence to the Transportation and Utilities Committee. He said—

My partner, Lyn, and I own one taxi licence which is an unrestricted wheelchair accessible taxi. We purchased the licence in 2003 and it is operated in the Whitsunday region of the Mackay Taxis service area. This was seen as a long-term investment that would appreciate in value over time and form a substantial part of our retirement fund, but sadly this appears to no longer be the case. We are also operators and we both drive on a regular basis which allows us to see the industry from all levels. We are a small business and like all businesses, regardless of their size or what they do, they must have a sustainable business model to work in order to continue into the future.

The upheaval and uncertainty that is currently experienced by the taxi industry is 100 per cent the result of the state government's decision to totally deregulate the taxi industry over the next couple of years. That is my belief. This government policy, which would have to rate as one of the worst thought-out and even worse implemented policies ever seen, will see the complete demise of the taxi licence from what was a valued asset of the owner's to nothing.

The Palaszczuk Labor government's deregulation of the industry has hurt hardworking Queenslanders and has shown disrespect for values that Queenslanders hold dear, but it does not stop there. The Palaszczuk Labor government is causing further distress by adding more uncertainty and by again refusing to consult. Nobody knows exactly when the government's next proposed tranche of legislative and regulatory reform will go ahead or what it will look like. I am not sure if the transport minister even knows what is going to be happening next. It is unacceptable that the government refuses to give any dates or details to provide certainty to the taxi industry. The government cannot continue to operate like this. The government cannot continue to trash our taxi and limousine industry.

With respect to the bill, we are particularly concerned that this minister is setting up his compensation package without outlining the specific eligibility criteria for those receiving payments. He has flagged what we consider to be an unfair cap of two licences to receive transitional payments, and the minister has ruled out mum-and-dad investors whose licences are held in family trusts and companies. Licence owners have varying reasons for having licences in different financial structures, whether they be a small company or a trust. They still bought and paid for their licences, fair and square.


Similarly, the cap on compensating only two licences should be removed. I note the minister stated any increase in the overall \$100 million package will need to be funded by Queensland taxpayers. My question to the minister is this: who is funding the existing \$100 million? Is that not also the Queensland taxpayer? Or is there some other magic source of funding that the minister has found that he is not willing to share with the people of Queensland?

The minister promised a fair and level playing field, and it is about time he delivered on that promise. It is about time the minister detailed his plans and gave the industry a date they can work to. He needs to articulate his plans for his new licensing scheme, provide clarity around cameras in vehicles, introduce an interim—

**Mr DEPUTY SPEAKER** (Mr Crawford): Member for Glass House, are you summing up? I am trying to work out when to adjourn the debate.

**Mr POWELL:** I am happy to break for lunch now.

Debate, on motion of Mr Powell, adjourned.

 **Mr POWELL** (Glass House—LNP) (3.14 pm), continuing: The minister promised a fair and level playing field. It is about time he delivered that for the taxi and limousine industry. It is time the minister detailed his plans and gave the industry a date that they can work to. The minister needs to articulate his plans for his new licensing scheme, provide clarity around cameras in vehicles, introduce an interim CTP classification and detail the level of training for wheelchair accessible vehicle drivers.

The lack of information forthcoming from the minister is astounding. How can he expect an industry to adjust when he provides no certainty, no dates, no deadlines and no details? Regardless of the inadequacies in this government package—and there are many—it is clear that the minister's bungling of the process means that the longer we delay passing this legislation, the longer struggling taxi and limousine owners and operators wait to access hardship payments. That simply cannot happen.

That aside, during the consideration in detail I will be moving two amendments to this bill with the intention of fulfilling more of the recommendations made by the parliamentary committee and to provide certainty for the industry. As always, the LNP has to come in after this bungling minister and clean up his mess. The first amendment goes to the heart of fairness—that licensed owners and operators deserve fair treatment and fair compensation for the impact that this government's policies have had on their property rights. This is a core value, a simple principle, that the transport minister has trashed. This minister has flagged that his compensation payments will be capped at two licences. This is an arbitrary cap—an arbitrary number. The amendment that I will move will ensure that the minister cannot introduce a cap to the industry assistance payments made to licence holders.

The minister has also flagged that only individuals who hold licences will be able to receive the transition payment, not those who hold their licence in other forms of financial structures, such as trusts or companies. Although I acknowledge that the minister has flagged that he will move an amendment to include operators, we are seeking detail and, if not, we will move an amendment that ensures that the minister cannot discriminate when distributing the industry assistance packages.

The need for these amendments has come from the fact that this government and this minister think that owners of multiple taxi and limousine licences are some sort of rich fat cats who do not deserve fair treatment or compensation for their losses. That cannot be further from the truth. Licensed owners and operators come from all walks of life: mum-and-dad investors, retirees, small business owners. They deserve to receive just recompense for all of the licences they hold.

In a stunning vote of no confidence in this minister, all the members of the committee agreed that the administration of the industry assistance package be placed with the Queensland Rural Adjustment Authority, lest the Minister for Transport get his hands on it and botch these important payments and hardship applications as well. Our amendments seek to ensure that this happens. The community has lost faith in this minister's ability to handle these reforms. The industry has lost faith in this minister's ability to manage the industry assistance package payments. Our amendments will hand the administration of that package over to the QRAA.

The members for Kallangur, Murrumba and Logan all know that this minister has bungled these industry changes. The committee's report into this bill was a damning report card on the performance of the Minister for Transport. As I have said previously, a major frustration for the industry has been the

lack of detail coming from the Minister for Transport. Since the 5 September changes, no-one has heard a peep from the minister about what will be changed in the next tranche of legislation and regulation. He has given no dates as to when he will introduce this legislation and regulation or as to when it will come into effect. The LNP wants to end the uncertainty faced by the industry. It wants a chance for businesses to, compete, without the government holding them back, on an even playing field.

Our second amendment seeks to draw a line in the sand, ensuring that the minister tables his draft changes, his draft bill and regulation within three months of this bill commencing. Our amendment also wants to ensure certainty around when the new changes will come into effect, with the legislation proper to be tabled by the minister having to come into effect within six months of this Heavy Vehicle National Law and Other Legislation Bill commencing.

Unlike this Palaszczuk Labor government, we are actually consulting with industry stakeholders, not just pretending to listen to them and then doing whatever we want anyway, as the government has done. The sensible amendments that we are seeking to move have all had their root in the scathing committee report into this bill which made it clear that nobody, least of all anyone in the industry, has any confidence in this minister any more. We have consulted with the Taxi Council and other sectors of the industry on these amendments. We need to end the uncertainty and ensure we treat licence owners and operators fairly.

In conclusion, what a bungled process this has been. It is a slap in the face for hardworking Queenslanders who believe in reward for effort, who believe in core property rights, in fairness, in fair compensation and in competing on an even playing field. Again the LNP is cleaning up Labor's mess. I encourage all members to support the LNP's amendments during consideration in detail. I trust the Labor members of the Transportation and Utilities Committee will. They certainly thought they were a good idea when they recommended them in the committee's report. I state again: those most affected, those Queensland taxi and limousine licence owners and operators, have waited far too long for the compensation they are due following this Palaszczuk Labor government's decision to deregulate the industry. We in the LNP do not think they are being offered enough, but for their sake we will not oppose the passing of this bill so that they can get something—anything—sooner rather than later.