




Speech By
Dale Last

MEMBER FOR BURDEKIN

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TRANSPORT OPERATIONS (MARINE SAFETY-DOMESTIC COMMERCIAL VESSEL NATIONAL LAW APPLICATION) BILL; TRANSPORT OPERATIONS (MARINE SAFETY) AND OTHER LEGISLATION AMENDMENT BILL

 **Mr LAST** (Burdekin—LNP) (9.36 pm): I rise to speak in support of the Transport Operations (Marine Safety) and Other Legislation Amendment Bill 2015 and the Transport Operations (Marine Safety—Domestic Commercial Vessel National Law Application) Bill 2015. As home to one of the deep seaports along the Queensland coast at Abbot Point and the Bowen Boat Harbour, this legislation has particular relevance to me in the Burdekin electorate.

The policy objective of the bill is to ensure that there is seamless interaction between the Commonwealth's Marine Safety (Domestic Commercial Vessel) National Law Act 2012 and Queensland legislation for the regulation of domestic commercial vessels. Unfortunately, Queensland legislation that seeks to regulate domestic commercial vessels in relation to registration, licensing and safety matters that the national law regulates has been of no effect since 1 July 2013 due to the hierarchy of laws principle. The bill proposes amendments to the Transport Operations (Marine Safety) Act 1994 and other Queensland legislation to recognise the transfer of responsibility for these aspects of domestic commercial vessels regulation to the national law and ensures that marine safety legislation continues to apply to those vessels Queensland still regulates—that is, recreational vessels and vessels operated by community groups, as well as personalised watercraft such as jet skis.

Under Australia's constitutional arrangements, the states, the Northern Territory and the Commonwealth have overlapping power to make laws governing Australia's domestic commercial vessels. Prior to 2013, each Australian jurisdiction regulated the safe operation of vessels in its own waters. Marine safety regulation across the nation was not uniform nor consistently legislated or administered. This often resulted in the inconsistent operation of safety requirements, vessel survey recognition, safety certification and qualifications/certificates of crew, as well as variations in the level and nature of ongoing monitoring and compliance with safety standards.

Pursuant to Australian constitutional practice, once the national law commenced it assumed precedence over Queensland laws to the extent of any inconsistency. There are a small number of ships beyond the constitutional reach of the Commonwealth—approximately five per cent of Queensland's commercial fleet—due to the fact that the Commonwealth cannot regulate commercial vessels owned by individuals, sole traders, partnerships and other non-corporate entities operating on inland waters. Therefore, these constitutional gap vessels are currently still regulated under Queensland legislation. I am talking about the sightseeing ferries operating on inland lakes or fishing vessels that operate exclusively on inland waterways. These are vessels which, for example, operate on the Tinaroo Dam on the Atherton Tablelands or the Ross River Dam at Townsville. There are nine commercial vessels and six operators that currently fall within this category.

The intent of the intergovernmental agreement was for all commercial vessels to be regulated by the Commonwealth under the national law. Therefore, the agreement provides that each jurisdiction is to apply the national law within its jurisdiction. The passing of these bills will ensure that the national law regulates all domestic commercial vessels that operate in Queensland. There are some vessels that the Commonwealth has deliberately excluded from the national law that will continue to be regulated under existing state maritime legislation. These include vessels associated with marine studies and schools and surf-lifesaving vessels as well as some vessels associated with organisations that do not meet the Commonwealth's definition of a trading entity. In addition, the national law explicitly states that particular marine matters for domestic commercial vessels will remain with the state jurisdiction to regulate such as the transportation of dangerous goods, marine pollution and waterways management.

The principal objective of the bill is to apply the Commonwealth's marine safety national law, which is contained in schedule 1 of the Marine Safety (Domestic Commercial Vessel) National Law Act 2012 as a law of this state. There are a number of clauses incorporated in this bill relating to functions and powers of the national regulator and other authorities and officers, delegations by the national regulator, offences, administrative laws, fees and fines, and licensing and certification fees. The national law was passed by the Commonwealth parliament in 2012 and already applies to approximately 95 per cent of domestic commercial vessels operating in Queensland. The overarching policy objective of the national law is to provide for the consistent regulation of safety matters for domestic commercial vessels across Australia. This is to ensure that irrespective of where a commercial vessel is in Australian waters, it is required to meet the same nationally agreed safety standards. This means, for example, that those who design and build commercial vessels in one jurisdiction do not need to have the vessel recertified for use in another jurisdiction. It also means that companies which operate nationally and have vessels in different jurisdictions do not need to deal with different regulatory requirements to manage their fleet and crew.

There are transitional provisions contained within the bill which aim to ensure that affected operators can transition from regulation under the Queensland scheme to the national scheme with minimal disruption to their business. The clauses afford owners and operators of the nine constitutional gap vessels the same sort of grandfathering and transitional arrangements that were provided to the vessels that came under the Commonwealth regulation on 1 July 2013. The bill provides for a 12-month transitional period for vessel owners/operators to comply with any new requirements, with the exact time frame dependent on the nature of the requirement. I commend the bills to the House.