




Speech By
Hon. Grace Grace

MEMBER FOR BRISBANE CENTRAL

Record of Proceedings, 22 August 2017

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL

Message from Deputy Governor

 **Hon. G GRACE** (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (4.22 pm): I present a message from the Deputy Governor.

Mr DEPUTY SPEAKER (Mr Elmes): The message from the Deputy Governor recommends the Work Health and Safety and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL 2017

Constitution of Queensland 2001, section 68

I, CATHERINE ENA HOLMES, Deputy Governor, recommend to the Legislative Assembly a Bill intitled—

A Bill for an Act to amend the Electrical Safety Act 2002, the Safety in Recreational Water Activities Act 2011, the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2011 for particular purposes

DEPUTY GOVERNOR

Date: 22 AUG 2017

Tabled paper: Message, dated 22 August 2017, from the Deputy Governor recommending the Work Health and Safety and Other Legislation Amendment Bill 2017 [\[1402\]](#).

Introduction

Hon. G GRACE (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (4.22 pm): I present a bill for an act to amend the Electrical Safety Act 2002, the Safety in Recreational Water Activities Act 2011, the Work Health and Safety Act 2011 and the Work Health and Safety Regulation 2011 for particular purposes. I table the bill and the explanatory notes. I nominate the Finance and Administration Committee to consider the bill.

Tabled paper: Work Health and Safety and Other Legislation Amendment Bill 2017 [\[1403\]](#).

Tabled paper: Work Health and Safety and Other Legislation Amendment Bill 2017, explanatory notes [\[1404\]](#).

The Palaszczuk government is today introducing significant changes to improve and strengthen workplace health and safety laws in Queensland. While in recent years there has been an overall reduction in serious work related injury rates in Queensland, in 2016 we experienced two terrible workplace tragedies: at Dreamworld, where four people lost their lives on the Thunder River Rapids Ride; and at Eagle Farm, where two workers were crushed when a precast concrete slab toppled over. Those tragedies highlighted the need to ensure Queensland's work health and safety framework is robust, operates as an efficient deterrent to noncompliance, and is responsive to best practice emerging

issues. To address this, the government announced a best practice review of work health and safety laws, including how the laws are administered and enforced by Workplace Health and Safety Queensland. An independent reviewer, Mr Tim Lyons, was appointed to carry out the review, and he was supported by a tripartite reference group including representatives from unions and employer associations. The review process included a discussion paper, submissions from interested parties, and extensive consultation with a wide range of stakeholders.

I am pleased to advise that the government has considered the report provided by the review, and the bill I am introducing today will give effect to substantial legislative recommendations made by the reviewer in his final report. Workplace health and safety has been front and centre throughout my entire working life. From very early on, I understood the severe impact that injuries sustained in the workplace can have on families, including my own. My father almost lost his arm in a serious workplace incident while working in a tannery. Due to the injuries he sustained, he was never able to work again. This had significant impacts on our family, but I know that we are not alone. There are many Queensland families who have been similarly impacted when a loved one has suffered injury in the workplace.

Throughout my union career, I worked hard to improve safety in Queensland workplaces. I am proud, as the state's industrial relations minister, to be acting to implement the important recommendations contained in this report. The most significant of these recommendations, I believe, is the introduction of the new offence of industrial manslaughter. This bill creates two new offences: a senior officer offence and a corporate offence, where conduct negligently causes the death of a worker. The existing standard for criminal negligence is proposed to be applied, with a maximum penalty for an individual of 20 years imprisonment and a maximum fine of 100,000 penalty units or \$10 million for a body corporate. For consistency, it is also proposed that mirror offences be included in the Electrical Safety Act 2002 and the Safety in Recreational Water Activities Act 2011.

Introducing these new offences for industrial manslaughter will send a clear message about societal expectations around safety in the workplace. It is appropriate to include these new offences in the act as it provides a framework for imputing a person's conduct to a corporate entity. In the past, there has been no capacity to ensure that those at the top are responsible for keeping their workplaces safe. However, with these amendments the message is clear: workplace health and safety standards should be a No. 1 priority for senior officers whose decisions can have catastrophic impacts on the safety of workers.

The bill also proposes to transfer jurisdiction for the review of certain decisions from the Queensland Civil and Administrative Tribunal to the Queensland Industrial Relations Commission. These proposals expand the jurisdiction of the commission to hear and determine certain categories of disputes, such as disputes regarding a work health and safety issue resolution process or cease-work matters. To encourage disputes to be resolved between the parties at the workplace, the bill prescribes that disputes cannot be lodged with the commission until 24 hours after an inspector has been requested to assist with a dispute. The commission will be able to exercise all its powers in settling referred disputes and will have the power to dismiss a matter without conducting a hearing or conference where it believes the matter is frivolous, vexatious or lacks substance.

The bill also proposes to allow work health and safety inspectors to make a determination on matters where workplace health and safety right-of-entry issues cannot be resolved. This would occur after reasonable efforts have been made by the relevant parties to resolve the dispute. Allowing inspectors to make a determination on these matters supports resolution of right of entry for work health and safety matters as quickly as possible at the workplace and possibly without the need to escalate matters to the commission.

The prosecution function for work health and safety laws is an essential part of the enforcement framework. While education and awareness about work health and safety are extremely important and there are several enforcement tools open to inspectors to tackle noncompliance, ultimately there are times when prosecution is warranted. The bill proposes to establish an independent statutory office for work health and safety prosecutions. This would be achieved by transferring the current functions of the regulator to conduct and defend proceedings under the act to the new workplace health and safety prosecutor. Prosecution decision for category 1 offences and industrial manslaughter by the workplace health and safety prosecutor will still be subject to review by the Director of Public Prosecutions.

I would like briefly to touch on other aspects of the bill. These include: restoring the status of codes of practice as they existed under the former Workplace Health and Safety Act; prohibiting enforceable undertakings being accepted for contraventions, or alleged contraventions, of the act that involve a fatality; enhancing the role of health and safety representatives in the workplace, including mandatory training for new representatives within six months of being elected to the role, with refresher

training to be undertaken at three-yearly intervals; and, finally, encouraging a person conducting a business or undertaking to appoint a workplace health and safety officer to provide advice on managing hazards and risks in the workplace.

Appointment of a workplace health and safety officer will be optional so employers can assess the appropriateness of having a person in this role at their workplace. Although a workplace health and safety officer or health and safety representative on a worksite does not exclude the employer's liability to provide a safe workplace, it can be used by an employer as 'admissible' but not 'conclusive' evidence in a proceeding against a PCBU under the Workplace Health and Safety Act.

Preventing work related fatalities and injuries is something that is universally supported. We all believe in being able to go to work and returning home safely. Similarly, members of the public should not be exposed to risks to their health and safety as a result of the way a person conducts their business or undertaking. When a work related fatality occurs, there are immediate ramifications for families, friends, co-workers and witnesses to the incident. I met with some of the families of the victims of the Eagle Farm tragedy. I spent time listening to their stories. I cannot imagine the grief they experienced. This has only strengthened my and this government's resolve to introduce reforms aimed at creating safe workplaces. I would again like to convey my deepest sympathies to the families and other people who were affected by the tragedies at Dreamworld and Eagle Farm last year and any other recent tragedies in the workplace. Sadly, there have been other work related fatalities in Queensland. In introducing this bill the government is saying that one work related death is too many. We must always aim high and work together to prevent loss of life in our workplaces. I commend the bill to the House.

First Reading

Hon. G GRACE (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (4.31 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Finance and Administration Committee

Mr DEPUTY SPEAKER (Mr Elmes): In accordance with standing order 131, the bill is now referred to the Finance and Administration Committee.