




Speech By  
**Shane King**

**MEMBER FOR KALLANGUR**

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### **RAIL SAFETY NATIONAL LAW (QUEENSLAND) BILL**

 **Mr KING** (Kallangur—ALP) (5.02 pm): I rise this evening to make a contribution to this debate on the Rail Safety National Law (Queensland) Bill 2016. The purpose of this bill is to adopt national rail safety regulation and investigation reforms by applying the Rail Safety National Law as the law of Queensland. It will also establish the Office of the National Rail Safety Regulator—ONRSR—as the rail safety regulator in Queensland. The bill proposes to apply the Rail Safety National Law, as modified by the bill, as a law of Queensland; repeal the Transport (Rail Safety) Act 2010; define a number of terms to aid in the interpretation of the Rail Safety National Law in the Queensland context; provide for drug and alcohol testing of rail safety workers using procedures that are consistent with the procedures used by the police under the transport operations act; and provide transitional arrangements.

The Rail Safety National Law was prepared and passed in South Australia in 2012 with South Australia being the host jurisdiction. There was always the intention that other states and territories would pass legislation to apply national law as the law of their own jurisdiction. This bill does not seek to incorporate the Rail Safety National Law within its provisions but instead applies the Rail Safety National Law, as modified by the bill, as the law of Queensland. This means that any future amendments made to the Rail Safety National Law will not need to be considered by the Queensland parliament. However, it does not mean we do not get to have a say in the future, as changes to the Rail Safety National Law can only be made by unanimous agreement at the Transport and Infrastructure Council before then progressing through the South Australian parliament.

The Department of Transport and Main Roads explained to the committee that if the Queensland government had a serious concern about the management of safety or the management of the national law in the future, it would still be able to effect changes to the legislation. They said—

We will continue to work very closely with the National Rail Safety Regulator through a number of forums. We will be represented on the policy committee, so the Queensland government will still have a role in rail safety. The minister in fact will have a role to approve any change to the national legislation in his role on the transport and infrastructure committee.

... we will still be represented on the policy committees and we will still have contact with the Office of the National Rail Safety Regulator. In addition, there is a communication protocol that the Office of the National Rail Safety Regulator has which ensures that the minister is advised of any major incidents that they become aware of. The National Rail Safety Regulator also produces an annual report in December each year to the minister specifically that outlines what has been happening in the state.

I will address the drug and alcohol testing component of the bill. Under the Transport (Rail Safety) Act 2010 a rail transport operator must have and implement an alcohol and drug management program which identifies, assesses and manages the risks that may be caused by workers being under the influence of alcohol or impaired by a drug. Even though we are now moving to a new set of national rail safety laws, this requirement will remain. Rail safety in Queensland already has a strong culture in testing rail safety workers and complying with the drug and alcohol requirements. For example, during the 2014-15 financial year rail transport operators in Australia conducted over 21,000 drug tests and 170,000 alcohol tests. The percentage of positive results was only about .5 per cent for drugs and .05 per cent for alcohol tests. Queensland Rail, who publish their monthly drug and alcohol tests,

undertook between 564 and 776 drug and alcohol tests each month during 2015-16. This equates to testing between 10 to 13 per cent of their workforce every month with an average of 0.39 per cent of tests having a positive result.

This culture of the industry testing its workers will not change on commencement of this bill. Rail transport operators will still be required to prepare and implement a drug and alcohol management program for rail safety workers. However, the Rail Safety National Law recognises that, while the rail industry has a strong safety culture, introducing regular drug and alcohol testing by the national regulator would complement the rail operator testing. It will do that by: acting as a deterrent, which will improve safety; monitoring compliance with the law; and monitoring the effectiveness of the rail transport operator's drug and alcohol management program. The Rail Safety National Law introduces a maximum penalty of \$10,000 for a rail safety worker who commits any offences in that regard.

Under the Rail Safety National Law, all rail safety workers can be tested by the Office of the National Rail Safety Regulator. Rail safety workers are considered individuals who are doing rail safety work, and that includes workers involved in driving or dispatching rolling stock; workers involved in signalling; and workers involved in the maintaining, repairing and testing of rolling stock or rail infrastructure. It covers the people who could do some damage if they were impeded by drugs or alcohol.

Under the Rail Safety National Law, the Office of the National Rail Safety Regulator can appoint a person to be an authorised person to undertake the drug and alcohol testing program. The regulator's drug and alcohol testing program includes random testing, post-incident testing, and informed testing based on identified trends or information that the Office of the National Rail Safety Regulator receives.

It was agreed nationally that the regulator's drug and alcohol testing process is to mirror the roadside testing process in each jurisdiction. In Queensland, the regulator's drug and alcohol testing process will largely mirror the testing process contained in the Transport Operations (Road Use Management) Act 1995. The Queensland Police can already test train drivers. This will continue unchanged and police will still continue to test train drivers as they currently do.

In fairness and recognition of the important contribution tourist and heritage railways make to Queensland's tourism industry and the commitment many volunteers display in keeping these services running, the Department of Transport and Main Roads is going to fund the annual accreditation fees payable to the national regulator on behalf of—

**Mr Rickuss:** Are you just reading from the second reading speech now?

**Mr DEPUTY SPEAKER** (Mr Millar): Member for Lockyer, I would like to hear the member. Please do not interrupt.

**Mr KING:** I will take that interjection. In answer to your question: no.

In fairness and recognition of the important contribution that tourist and heritage railways make to Queensland's tourism industry and the commitment many volunteers display in keeping these services running, the Department of Transport and Main Roads is going to fund the annual accreditation fees payable to the national regulator on behalf of tourist heritage operators as a community service. When Queensland applies the Rail Safety National Law, the Office of the National Rail Safety Regulator will be able to recover the cost of regulation from all accredited operators in Queensland, including tourist and heritage operators. This would have resulted in all tourist and heritage operators being required to pay fees, the majority of them for the first time. The national regulator charges an annual fixed flat fee that is based on the amount of track managed and the number of kilometres travelled.

The tourist and heritage rail sector is important to Queensland and there would be significant impacts if these railways were forced to close, with a loss of volunteer and paid jobs; reduced capacity to attract tourists and encourage longer stays, with flow-on impacts to local businesses; and the loss of important rail history in Queensland. Our government will support tourist and heritage rail operators to ensure these services continue to operate and bring enjoyment to Queenslanders. Many of these services are tourist attractions in our regional areas and provide a boost to the local economy.

This bill, while not at all contentious, is important to allow us to come into step with the rest of the nation with respect to rail safety. I would like to thank the members of the Public Works and Utilities Committee—formerly the Transportation and Utilities Committee—for their work on this bill. We did go through it in great depth and, member for Lockyer, that is why I thought it was valid to make a speech on it. I would like to thank Chris Whiting, the member for Murrumba; Linus Power, the member for Logan; Joan Pease, the member for Lytton who came on board at the end; Rob Molhoek, the member for Southport; Matt McEachan, the member for Redlands; Jason Costigan, the member for Whitsunday; and, as always, our hardworking secretariat staff Kate, Rachelle, Lynette and Mishelle. On behalf of the committee I would like to thank those organisations which lodged written submissions on the bill: the Technical Scrutiny of Legislation Secretariat, the Department of Transport and Main Roads and the National Rail Safety Regulator for their assistance. I commend the bill to the House.