




Speech By
Dale Last

MEMBER FOR BURDEKIN

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HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

 **Mr LAST** (Burdekin—LNP) (3.20 pm): I rise to make a brief contribution to the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018. I note that there are a number of provisions contained within this bill and that this legislation is the cornerstone of the COAG national heavy vehicle reform agenda ensuring that the industry can operate across state borders without conflicting regulatory requirements.

I will in my response relate my experience as a former police officer in dealing with heavy vehicle regulation and compliance. I can certainly attest to the problems that we used to experience in enforcing heavy vehicle legislation in this state, particularly for interstate truck drivers. I note the bill amends the heavy vehicle national law to create a positive due diligence obligation on executive officers that will apply to all safety related offences and to require the NHVR to maintain a database of heavy vehicles. This database is important for a number of reasons, not the least of which is the need to have consistency in the application of laws across the country. We know that heavy vehicle operators work across Australia and the maintenance of a database of heavy vehicles is pivotal to understanding who is operating heavy vehicles on our roads, where they are operating and, more importantly, whether they are committing offences.

Heavy vehicle registration can be a complex issue. If you speak to staff involved in the registering of heavy vehicles, they will certainly tell you that it is both time consuming and multifaceted. I note that Queensland will continue performing registration related functions, and I certainly hope the appropriate level of support and training is ongoing and is being provided to departmental and police staff to assist them with the performance of this function.

I want to turn to the road safety aspects of this bill and, in particular, the amendments to the Transport Operations (Road Use Management) Act 1995 and the Transport Planning and Coordination Act 1994. These amendments will improve road safety by: increasing penalties for driving offences involving death or grievous bodily harm; allowing a registered operator of a vehicle to be notified of offences committed in their vehicle by another person; allowing a police officer who conducts a roadside test for drug driving to also conduct any subsequent saliva analysis; and clarifying the duties of drivers involved in road crashes.

Usually, the officer who conducts a roadside drug test is the same officer who arrests the offender. Currently, when testing for drug-driving offences, the police officer who operates a subsequent saliva analysing instrument must not be the same officer who arrested the driver or who performed the preliminary roadside saliva test. The current legislative requirement for two officers to be involved provided for corroboration of questions asked of the driver and of the indicia displayed by the driver. This of course presents significant problems for single officer police stations, particularly those in isolated or remote areas of the state. The technological advances in saliva analysing instruments mean

that the restriction preventing the roadside officer operating the analysing instrument is no longer necessary. This means that officers in localities such as Laura in Cape York, where I used to be stationed, can conduct these tests.

There is nothing more callous or offensive than a driver failing to remain at the scene of a traffic accident where someone is dead or apparently dead. I am pleased that this bill clarifies that a driver involved in an accident where someone is killed or apparently dead must remain at the scene.

I note the three recommendations from the committee and, in particular, recommendations 2 and 3. I certainly support a review of the heavy vehicle national law as it is highly likely further changes or amendments will be required in due course regarding this legislation. Having regard to recommendation 3, I want to make a comment on the inclusion of the term 'negligent'. At the present time, we have a simple offence of driving without due care and attention and we have the much more serious criminal offence of dangerous driving. I will give some examples of what might constitute driving without due care and attention. It would be someone who is playing with their car radio or someone who spills coffee in their lap and momentarily takes their eyes off the road. I have had drivers who have dropped cigarette butts into their lap. Those sorts of things are examples of driving without due care and attention.

If we contrast that with dangerous driving—where someone might be travelling at excessive speed, driving through a red traffic light or crossing double lines—we can see that there is a significant difference. Where the problem arises is if someone who is fiddling with the radio in their car is involved in a traffic accident where a driver or pedestrian is killed. It makes it very difficult to take that to a court of law or to decide what to actually charge that person with because it may not constitute 'dangerous driving' in the true sense of the word, but someone has been killed and there is an expectation from the broader community and from relatives—as we have heard my colleague the member for Burnett already elaborate—that there would be a significant term of imprisonment imposed and/or a fine and the disqualification of the driver's licence for a period. That is where the issue arises with regard to this legislation.

If the minister is to include the term 'negligent', I would ask for clarification as to whether that is to be included in the offence of driving without due care and attention or the offence of dangerous driving or whether a separate new offence is to be created. It is my submission here today that a new criminal offence be created of negligent driving causing death or grievous bodily harm with relevant circumstances of aggravation around intoxication, unlicensed driving or disqualified driving. It may well be that section 289 of the Criminal Code—that is, duty of persons in charge of dangerous things—could be amended to incorporate this provision. With the House's indulgence, I will read that section. It states—

It is the duty of every person who has in the person's charge or under the person's control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.

As members can see, it would very easily fit within the premise of what we are talking about here today to incorporate the term 'negligent' into that particular definition which would make it a criminal offence. There is certainly a community expectation out there—as I alluded to previously with what was said by my colleague the member for Burnett—that drivers who cause death or serious injury to a third party are appropriately punished. As legislators, we have a duty to ensure appropriate legislation is in place that reflects community expectations, and I certainly hope that the minister is taking that on board. I listened to the minister's contribution today and I appreciate where he is coming from with this, but to me there is a definite need to have some legislative changes made which create an offence between driving without due care and attention and dangerous operation of a motor vehicle. I certainly hope that going forward we can take that on board and look at implementing legislation which reflects that.