




Speech By
Stephen Bennett

MEMBER FOR BURNETT

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HEAVY VEHICLE NATIONAL LAW AND OTHER LEGISLATION AMENDMENT BILL

 **Mr BENNETT** (Burnett—LNP) (3.05 pm): Today I dedicate my contribution to Sarah and Daniel Walker—two young siblings whose lives were cut tragically and unnecessarily short. I stand here in this House deeply saddened for Sarah and Daniel's family and friends, and for the many other lives that have been needlessly lost due to the careless and dangerous actions of others on our roads. Sarah, 30, and Daniel, just 22, were in their prime. They had their whole lives ahead of them before they were so cruelly taken away from them on Easter Monday last year following a multivehicle head-on crash on the Bruce Highway. The person responsible for the crash that killed Sarah and Daniel, and seriously injured their friend, Peter Knowles, and Sarah's son, Sam, was fined a measly \$3,000 and had his licence suspended for just three months.

I have met Sarah and Daniel's mum, Kerri, many times and have seen the unimaginable pain in her eyes as she recounts the day she lost her children. There is nothing that will bring her children back. There is nothing I can say or do to make everything okay. What we can all do in this House is back this tenacious family in their quest for change so that no other family has to go through the pain and suffering of losing loved ones on our roads.

It is for the Walker family that my contribution today will focus on the Transport Operations (Road Use Management) Act 1995 amendments and important changes. However, I do want to acknowledge changes that make improvements to safety for the very important road transport operations. All initiatives that contribute to reducing traffic related tragedies for our road users need to be supported.

I would like to take a moment to pay tribute to the Walker family, and their dear friend Trisha Mabley, for their ongoing efforts to raise awareness and ultimately to save lives on our roads. Their strength, determination and commitment for change is why we are here today debating this legislation. Through their 'Walker's law' campaign, including a petition which collected more than 8,100 signatures from passionate people across the state, the family has made this government—indeed, all of us—sit up, listen and admit that the current laws concerning careless and dangerous driving are not strong enough. I acknowledge the 8,100 petitioners who called for changes. We should applaud you all for your efforts. It is truly remarkable that within a year you have delivered real changes not only to the penalties within the act but also to Queensland.

As Trisha Mabley and the Walker family have pointed out time and time again, Queensland's current driving laws are weak. They believe the current penalties for those charged with negligent driving causing death or serious injury do not reflect the community's expectations and the seriousness of those offences. In fact, this was highlighted in a coroner's report back in 2015 following an inquest into the death of a Mackay woman who was killed when her vehicle collided with a disqualified driver.

Coroner David O'Connell observed that a legislative gap existed between the Queensland Criminal Code offence of dangerous operation of a vehicle causing death and the Transport Operations (Road Use Management) Act 1995 charge of careless driving. The coroner stated clearly in

recommendation 55 that the law in Queensland needed to change to allow for a mid-range offence to include a circumstance of aggravation for drivers who cause death or grievous bodily harm when driving without due care and attention and/or where their licence is disqualified or they are unlicensed.

Recommendation 59 from the coronial inquiry details what a new mid-range driving offence might look like. The recommendation does reference that the Attorney-General would be the minister responsible. Such an amendment would give the authorities in Queensland the power, in appropriate circumstances, to lay a charge which inherently recognises the death of a person and also allows a court to impose a heavier penalty than in other cases without having to resort to the laying of a very serious criminal charge which should be reserved only for those circumstances in which the driving reaches a certain threshold. To be clear, the existing dangerous operation offence in Queensland should remain.

I acknowledge the minister's contribution earlier. We will be supporting the legislation as it stands. I do say, though, on behalf of the families that I think there is more to be done at a later date.

Until now these recommendations have been ignored by both sides of this House. I know that Kerri Walker, Trisha Mabley and their supporters were disappointed. They believed more changes could have occurred. I know they were disappointed with what they understood were the minister's commitments prior to the last election, but those have been explained through consultation and engagement. We need to ensure as a House of Representatives that we treat these stakeholders with respect. They believe Queensland is out of step with the majority of the country in that, as pointed out in the coroner's report, we have only two charges available to authorities when a person causes the death, or serious injury, of another through poor driving. Their strong position was that section 83 of the Transport Operations (Road Use Management) Act 1995 should be amended.

I also want to take this opportunity to acknowledge other brave families who have made such a tremendous contribution to these amendments and the changes to this legislation. Just like the Walkers, all these families have lost so much and have a lot at stake to ensure justice—justice for others when tragedy occurs. Noela, Neil and Ian McCrossin lost their son and brother Gerald in May 2015. The at-fault driver in the crash that led to the death of Mr McCrossin, who was a pedestrian at the time, was charged with an offence of driving without due care and attention—careless driving. The McCrossin family indicated support for some of the changes but believe the changes that are proposed do not go far enough.

Ms Hardwick lost her father, Mr Bryan Baker, in a crash on Mother's Day in 2017 while riding his motorcycle. The at-fault driver in the crash was charged with a careless driving offence. Ms Hardwick noted in submission to the committee that the current penalty regime for careless driving offences under section 83 does not differentiate between outcomes including grievous bodily harm or death. Ms Hardwick noted that to say the 'gaping hole' compounds her family's loss and grief is a 'gross understatement'.

Mr Thomas Harnell lost his daughter Yasmin McAllister on 14 June 2017. The at-fault driver in the crash that led to the death of Ms McAllister, who was a pedestrian at the time, was charged with a careless driving offence. Mr Harnell indicated his view that the proposed amendments do not go far enough. He proposed that a new law of negligent driving causing injury or death be introduced as soon as possible with penalties that align with community expectations, such as a term of imprisonment of up to 10 years depending on the circumstances with a minimum of two years without parole; a monetary penalty of up to \$10,000 with a minimum fine of \$3,000; a loss of driving licence for a period of up to 10 years with a minimum of two years if someone is injured and five years if someone is killed. Mr Harnell also expresses disappointment that a foreign licence holder who was in the country for 1½ years was in a position to obtain a full licence. That is another issue for another day, I am sure.

Ms Meiklejohn, Mr Dow and Ms Garnett—the Dow family—lost their mother, Audrey Anne Dow, in a crash in Mackay. The Dow family have noted that in a subsequent coronial inquest Coroner O'Connell recommended the introduction of a mid-range driving offence between the existing Criminal Code section 328A dangerous driving offence and the TORUM driving without due care and attention offence. The coroner also recommended a review to consider whether it is appropriate to include circumstances of aggravation for drivers who cause death or grievous bodily harm or where driving while their licence was suspended or disqualified and whether a new mid-range offence should be legislated in the Criminal Code. The Dow family have indicated that there should be an avenue to expand the options available to the courts to include imposing suspended mandatory sentences on disqualified drivers so that if they are subsequently caught driving while suspended they go to jail. They are seeking changes to the legislation as recommended by the coroner.

As is hopefully clear from the debate and reflections on the maximum penalties, one charge—careless driving—is a relatively non-serious offence. It can proceed via a traffic infringement notice at the recommendation of police, while the other dangerous operation is an extremely serious criminal offence for which the tariff in court is an inevitable prison sentence.

The night and day charging options which are available in Queensland have two undesirable results. Firstly, in circumstances which are purely the result of carelessness, the appropriate charge of careless driving gives no recognition to the fact that a person was killed and does not provide any scope for the court to impose a greater penalty because of that fact if there has been no death caused. The second undesirable outcome is that, even if the circumstances of a case might not otherwise be serious enough to warrant it, police are sometimes persuaded to lay the extremely serious charge of dangerous operation simply because a death has been occasioned and there is no lesser charge which can recognise that fact.

Contrast this position with New South Wales which provides for three separate careless driving offences called 'negligent driving' including a specific 'negligent driving causing death'. New South Wales also has a serious criminal offence of driving dangerously but the existence of a negligent driving occasioning death offence means that in circumstances where purely careless or negligent driving causes death the police have an option to lay a charge which both recognises that the driving was not at the level of culpability requiring a serious criminal charge but that a person died and the penalty open to the court is therefore elevated beyond the simpler charge. It is all complicated but all relevant and it has been well canvassed by the committees.

I acknowledge that a lot of correspondence received from the aforementioned grieving families wanted more action, particularly around section 83 of the Transport Operations (Road Use Management) Act, wanting amendments to incorporate the wording as per the Office of the State Coroner recommendations. I acknowledge the minister's explanations and diligence in this respect and the family's continued efforts.

In closing, I want to acknowledge the efforts of those brave families who have lost loved ones and stepped up to help make our roads safer for all. May the tragic deaths of their loved ones not be in vain. May their lives be worth making meaningful changes to our driving laws which will make people stop and think before they get behind the wheel.