



Speech By
Hon. Mark Bailey

MEMBER FOR MILLER

Record of Proceedings, 14 July 2020

TRANSPORT AND OTHER LEGISLATION (ROAD SAFETY, TECHNOLOGY AND OTHER MATTERS) AMENDMENT BILL

TRANSPORT LEGISLATION (DISABILITY PARKING AND OTHER MATTERS) AMENDMENT BILL

Second Reading (Cognate Debate)

Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Bill resumed from 17 March (see p. 621) and Transport Legislation (Disability Parking and Other Matters) Amendment Bill resumed from 17 March (see p. 636), on motion of Mr Bailey—

That the Transport Legislation (Disability Parking and Other Matters) Amendment Bill be now read a second time.



Hon. MC BAILEY (Miller—ALP) (Minister for Transport and Main Roads) (12.04 pm): I move—

That the Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Bill be now read a second time.

I begin by thanking the Transport and Public Works Committee for its consideration of the Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Bill 2020 and for its report tabled on 29 May 2020. I now table the government's response to the committee's report.

Tabled paper: Transport and Public Works Committee: Report No. 39, 56th Parliament—Transport and Other Legislation (Road Safety, Technology and Other Matters) Amendment Bill 2020, government response [1141](#).

I acknowledge the role of the committee chair, the member for Kurwongbah, in leading the parliamentary committee's scrutiny of these reforms and the committee secretariat for its support to the committee in reviewing this bill. In addition, I thank everybody who made a submission for the time they have taken to comment on the bill. The report recommended that the bill be passed and included two recommendations for consideration. The government supports the committee's recommendations. I will address them in more detail during this speech.

This bill first came before the House on 16 March 2020. It is fair to say that a lot has changed in the intervening period. We now debate the bill in the midst of the global coronavirus pandemic. Australia is not immune and Queensland is not immune. Indeed, we are currently watching closely the recent turn of events in Victoria and New South Wales. The pandemic has impacted every aspect of our daily life and the issues dealt with in this bill are not isolated from the impacts of the pandemic. We have had to alter our approach to the digital licence app trial which commenced on the Fraser Coast in March this year. The trial has had to be extended because of that. Our plan to begin a trial of mobile phone distraction cameras was delayed because neither the equipment nor the personnel were able to travel to Queensland from the southern states. I have been deeply saddened by the slippage in road safety progress since we began dealing with the global pandemic. Early indications are that more people were speeding and using riskier behaviours on our roads, including using mobile phones more often.

Given Queensland is continuing to manage well the health impacts, we are now able to begin returning to business as usual in a phased approach. We have started delivering our plan to unite and recover for Queensland jobs. In my portfolio we have announced \$1 billion in road and transport stimulus funding over the last three months which will create more jobs right across Queensland over the next year or so. Queensland's plan for recovery is a plan for Queensland's future. The initiatives in this bill are future focused and timely. The main initiatives in this bill will legislate for the use of a digital licence and support the introduction and ongoing operation of a digital licence app and also enable camera enforcement of seatbelt and mobile phone distraction offences. Clearly, both of these initiatives will bring benefits to the people of Queensland.

Changes to licensing legislation will provide Queenslanders with the option, for the first time, of a digital driver's licence for personal and business transactions. The digital licence app will enable the use of a digital driver's licence and will enable a person to have up-to-date information about their credentials via dynamic updates, facilitate secure access to online services, including vehicle registration renewals, and allow a person to receive notifications such as vehicle registration reminders.

COVID-19 has also seen the Palaszczuk government working on ways to help Queenslanders stay healthy and safe, whether it be engaging with government or showing their ID to businesses in different ways. The digital licence app will support contactless transactions and verification of a person's identity. I am aware that there are many Queenslanders who only carry their wallet or purse because they want or need to carry their physical driver's licence with them. The digital licence app will mean that people can conveniently have their driver's licence on their mobile phone. Initially, the digital licence app amendments in this bill will ensure digital products administered by the department such as drivers' licences, recreational marine licences and photograph identification cards can be accepted in the same way as physical cards. For example, a person will be able to display their digital licence to a police officer if required to, or a person will be able to use their phone to prove their identity when renting a house or prove that they are over 18 to enter a pub or a nightclub.

I think we would all agree that we live in a fast-changing world in terms of technology, so the provisions in this bill will allow the app to include a range of government digital products and services into the future. This makes sense from a whole-of-government perspective because the Department of Transport and Main Roads already holds biometric data for more than 3.7 million licence holders. Other government issued authorities could easily be added to the digital licence app over time. For example, the app may in the future include non-transport authorities such as yellow cards for working with people with disabilities or high-risk work licences.

I note that the committee has recommended a thorough review be undertaken before the digital licence app is expanded to include other authorities. I can assure the House that expansion to include other authorities will not occur until the technology is well established and a thorough review has been undertaken. It must be, and will be, extremely secure and protect Queenslanders' privacy. Queenslanders can have confidence in the app.

My department has completed a privacy impact assessment as part of its due diligence in understanding any risks and mitigations relating to the app. The privacy impact assessment has not identified any significant concerns, and all recommendations in that assessment will be fully implemented. However, the privacy impact assessment would need to be updated prior to the addition of any future authorities.

The revised privacy impact assessment would help to ensure that any privacy risks have been identified and addressed before the inclusion of other products was considered. The committee also recommended a review of the provisions that limit law enforcement officers from requiring an individual to hand over a device that displays a digital licence to ensure the intent is clear.

I note that the committee's recommendation relates to comments from the Office of the Information Commissioner that were supported by the Queensland Law Society. These submissions sought clearer provisions prohibiting police or authorised officers from requiring individuals to hand over their devices when requested to produce a digital driver's licence, digital proof of age or digital proof of identity.

I want to reassure Queenslanders that, as a result of the recommendation, my department has reviewed the provisions to ensure that they work as intended. That explanation is outlined in the response to the committee that I have tabled. However, I will also take this opportunity to reinforce the intended operations of the provisions.

There are various provisions allowing police or other authorised officers to require the production of a driver's licence or proof of age or proof of identity. For physical products, this usually involves the person handing the officer their physical driver's licence or other identity document. However, we all understand that a mobile phone is not just a driver's licence or proof of ID. As a result, this bill ensures that appropriate privacy measures are adopted.

If a person is required to give or provide an officer with their driver's licence or other proof of identity or proof of age and the person wants to display a digital version through the digital licence app, the person will not have to hand over their device. Requirements to give or provide a driver's licence or proof of age or proof of identity will be met if the person displays their digital version on the device and it is able to be read, copied, downloaded, photographed or scanned by the officer.

As officers are equipped with their own devices, any copying, downloading, photographing or scanning will be able to be conducted device to device and contactless. There will be no need for a police officer to touch someone's phone. I note that that is particularly pertinent given the health situation that we all find ourselves in, not just in this state but across the globe.

I note that police officers have existing powers under their legislation to seize evidence of criminal offences which could include a mobile phone, and this bill does not change those existing powers. I also want to assure Queenslanders that it is intended that use of a digital licence and the digital licence app will be optional. People will still have a physical licence which will remain valid.

Camera enforcement of seatbelt and mobile phone offences is the second significant issue in this bill. This provision will also benefit Queenslanders by improving road safety and deterring unsafe behaviours on our roads. The reason for the amendments in this bill are simple: distracted driving is an escalating road safety issue that affects all of us. Every year distracted driving kills and injures far too many people. In fact, it accounts for approximately 20 per cent of lives lost each year. Research shows that using a mobile phone while driving is as dangerous as drink-driving with a blood and breath alcohol reading of .07 to .10. Despite this, irresponsible drivers continue to pick up their phone while driving.

A significant factor is that drivers who engage in unsafe behaviour do not think they will be caught. Some drivers even try to hide their phone to avoid being detected by police. New camera technology is now available that is effective at detecting illegal mobile phone use. This technology will increase the rate of detection, enhance roadside enforcement and help shift the public perception that drivers will not be caught. I note that it is a mobile technology that can be used anywhere. I think that is a significant thing to highlight. It is a very flexible mode.

It will also ensure that the deterrent effect of the mobile phone penalties introduced on 1 February this year are realised. Drivers disobeying the mobile phone rules now face a fine of \$1,000 and four demerit points. These penalties, together with increased enforcement and driver education, will work together to bring about behavioural change and reduce the lives lost on our roads.

Cameras have been used for over two decades to address other unsafe driving behaviours such as speeding and red-light traffic offences. They have been very effective at saving lives on our roads in Queensland. The provisions in this bill will ultimately save more lives. It is not just about mobile phones. It is very disappointing to see that failing to wear a seatbelt is still a significant contributor to road deaths and injuries across our state. This is despite the well-established benefits of wearing seatbelts in a crash.

Again, by supporting camera enforcement of seatbelt offences, this bill will help to save lives by encouraging behavioural change. This will include our rural and regional communities. I note that this is a provision that New South Wales does not currently have, but the technology is there. I am a very strong supporter of the idea that, if the technology is there to increase compliance and reduce fatalities, we need to take advantage of it—and that is what we are doing with this bill. It is not just about mobile phone offences. It is also about people not wearing a seatbelt because, as the last line of defence, it is critical to people surviving a crash.

The processes for enforcement of camera detected mobile phone and seatbelt offences will be consistent with the long-established processes in Queensland's Camera Detected Defence Program. This includes robust privacy and security measures to protect personal information. A key element in protecting privacy is that images from the cameras that do not contain an offence will be deleted automatically. This means that the data will not be used or transferred to a person for adjudication unless the system detects an offence. It also means that where a driver is obeying the road rules by wearing a seatbelt and not using a hand-held mobile phone, their data will not be stored.

Where a potential offence has occurred, information will be securely transmitted to the Queensland Police Service. The Queensland Police Service will then undertake a review of the image and adjudicate on whether an offence has taken place before any infringement is issued. This two-step process means that only those people caught doing the wrong thing will be issued an infringement. Images from the cameras will only be used for enforcement purposes. They will not be given to third parties or used beyond existing police powers.

Like other camera detected offences, there will be the opportunity for a person to seek a review of an infringement outside of the court system. A person will also be able to provide evidence beforehand if they have an exemption from the seatbelt rules such as those provided for vintage or

classic vehicles or medical exemptions from wearing a seatbelt. To help build public confidence in the system, information regarding privacy, the image capture process and use of data will be available on the Queensland government website.

Information on the process for challenging an infringement will also be published. An online portal will make it easier for people to advise if they were not the driver or if they have a seatbelt exemption. Importantly, a person who wishes to challenge an infringement can elect to proceed to court. The provisions in the bill support efficient processes by ensuring that all relevant information has been considered before a matter proceeds to court.

The bill allows for video evidence collected from a detection device to be used where it is available. This will allow for future technological advances and may also help to improve the quality of the evidence available when enforcement action is instigated and when a matter proceeds to court.

The overall objective of these amendments in the bill is to support efforts to improve road safety through behavioural change. This can only occur if the public perceives that offences can be enforced and prosecuted. This is critical to maintaining public confidence in the Camera Detected Offence Program and for deterring high-risk driving behaviours.

I would like to acknowledge the issues raised by stakeholders in relation to amendments in the bill. Important issues such as privacy, reverse onus of proof, accuracy of the technology, the deletion of images and the prescription of offences in subordinate legislation will continue to be examined throughout the implementation of the camera program in Queensland. After a delay due to COVID-19, a trial of the technology will commence later this year.

The bill includes a number of amendments to transport legislation in order to improve processes or streamline regulatory requirements. This is part of my department's ongoing work to ensure that transport legislation is effective, relevant and supports business. Amendments to the Transport Infrastructure Act 1994 include enabling my department to more efficiently meet its mandatory environmental duties that arise as a result of acquiring and holding land for a transport purpose.

My department undertakes environmental activities across the state which require it, on occasion, to access land. For example, sometimes a department needs to access private land to complete a flora survey when clearing vegetation in a mapped high-risk area. The flora survey must be undertaken within a clearing impact area which includes the area to be cleared and an additional 100 metres around that area. This often means that surveys must be undertaken on land outside of the road corridor. The current legislation does not allow the department to enter land next to the road corridor to undertake these mandatory regulated environmental activities as it already does for roadworks and accommodation works. The bill corrects this to allow this important work to be undertaken.

Importantly, the bill strengthens the current rights that provide landowners and occupiers a right to make a submission to the chief executive officer about the proposed activity. The bill provides that the chief executive officer is compelled to consider any submission made by a landowner or occupier, and the current legislation does not prescribe this condition on the chief executive. Of equal importance, the amendments do not alter, remove or change landowners' rights to compensation.

I would like to specifically address the concerns raised by opposition members of the committee. These amendments do not enable my department to carry out unlimited land management activities on private land. The amendments will provide access to private land so that the department can better manage transport land and reduce the impact of that management on adjacent private landholders. For example, section 23 of the Biosecurity Act 2014 requires the department to take all reasonable steps to minimise biosecurity risks. These risks include declared invasive weed species such as fireweed which, if not controlled in a transport corridor, can spread rapidly to private land. In some cases, treatment of the invasive species within the road corridor can be difficult, especially when access is restricted. In these situations, access to land adjacent to the road corridor enables my department to produce a better pest treatment outcome and significantly reduce the risk of transmission of invasive species onto adjacent land. This also reduces future compliance costs for the landowner.

Weed management currently costs the state government an estimated \$600 million per year. My department has established processes and procedures for entering land to undertake authorised activities, and these will continue to apply. My department must give at least seven days notice to the owner-occupier of the property adjacent to the road corridor of its intention to enter the land and undertake activity. As I said earlier, the owner-occupier is entitled to make a submission within the seven-day notice period to the CEO in response to the notice of intention to occupy. This amendment provides transparency and clarity to legislative land management activities that my department undertakes.

The bill also preserves existing secondary legal interests such as easements when declaring a transport corridor. These amendments will allow uninterrupted benefit to interest holders when a railway corridor or busway land is declared. This is an important amendment that will result in significant savings

to the department and multiple stakeholders. Currently when rail and busway land is declared, secondary interest holders—for example, easement holders—are required to renegotiate their interest. The re-establishment of easements is lengthy, expensive, time-consuming and can involve up to three government agencies. It often results in significant legal costs to all parties. The current process can also mean that parties incur the cost of obtaining new survey plans.

In addition, the current arrangements may expose the department to compensation for the loss of legal rights previously held. This is a sensible amendment that ensures the existing legal rights of interest holders are protected and will save significant costs for all parties by not having to engage legal representation for the reinstatement of interests. The amendment removes a complex administrative process and includes a compensation safeguard. In the extremely unlikely event that an interest must be removed, the bill puts in place a process that ensures interest holders will be compensated.

In relation to some minor administrative amendments, the bill also makes amendments to passenger transport legislation. Amendments will facilitate court proceedings relating to fare evasion for the use or hire of a public passenger vehicle by allowing the chief executive to certify particular matters; for example, allowing the chief executive to certify the fare for the use of a public passenger vehicle. This will simplify proceedings by not having to rely on expert witnesses to testify on matters which are considered administrative, factual and non-contentious.

The bill makes some minor amendments to passenger transport legislation to allow for information to be published on any website administered by the department and to support proceedings relating to vehicle requirements and make minor amendments to update legislation or clarify existing policy. This bill ensures that legislation supports the use of technology to improve road safety, provides Queenslanders with the option of a digital licence and facilitates more efficient access to government services in-house. I commend the bills to the House.