




Speech By
Michael Berkman

MEMBER FOR MAIWAR

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**TRANSPORT LEGISLATION (ROAD SAFETY AND OTHER MATTERS)
AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (12.21 pm): I rise to give my contribution on the Transport Legislation (Road Safety and Other Matters) Amendment Bill. I say at the outset that the Greens support this bill and we will vote accordingly. However, I do think there are two key missed opportunities while we are amending the Transport Operations (Road Use Management) Act 1995, which I will refer to as the road use management act, to improve the safe use of e-scooters in Queensland and to address outdated and discriminatory sections relating to drug driving offences and THC.

I intend to move some really simple amendments during consideration in detail to update the drug-driving sections which would ensure medicinal cannabis patients are not subject to unfair, outdated and discriminatory charges for the mere presence of THC in their system as an interim measure while the government considers an appropriate framework to measure impairment. First I will turn to the changes proposed by the bill. We support reinvesting revenue raised from camera detected offences into assistance for organisations and local communities to develop and implement road safety initiatives. This makes a lot of sense and we note it was broadly supported in stakeholder submissions on the bill. We also support the changes to ensure photos taken of children under the age of 15 are destroyed after five years instead of 10. The amendments to apply national changes around motorised mobility devices, or MMDs, in Queensland are also commonsense changes to ensure our laws account for disabled people.

I note disability advocates, including QDN and Spinal Life Australia, welcomed the increase to weight limits for motorised wheelchairs, as well as classifying people using one of these devices as pedestrians, extending their access to free registration and CTP insurance, and setting maximum speed capabilities of 15 kilometres per hour or 10 kilometres per hour when on a public path. I do note that the 170-kilogram limit, while an improvement, does not match the 300-kilogram weight limit in federal disability standards for public transport accessibility. We are also still falling behind on those standards when it comes to train station accessibility, including at Taringa Station in my electorate, where platforms can only be reached by stairs. That station has really high patronage.

Mr BAILEY: Mr Speaker, I rise to a point of order. The member is clearly straying well off the specifics of the bill. This has nothing to do with Taringa Railway Station and I respectfully ask him to come back to the bill.

Mr DEPUTY SPEAKER (Mr Krause): Member for Maiwar, the bill is clearly about road safety. I would caution you at this point to please keep your comments confined to the long title of the bill, which is about road safety.

Mr BERKMAN: I will take your guidance and move on. I support the other amendments and administrative changes in the bill around legal protections for professional health advice on fitness to drive, amendments around admission of documentary evidence relevant to vehicle standards offences, and the clarification that accommodation works may occur as a result of railway works.

Alongside the changes for motorised mobility devices, I think this bill should address safe e-scooter use in Queensland. E-scooters hit our streets a few years ago and I have been pushing for reforms to make them safe for everyone, including riders and pedestrians. There has been some welcome progress in this area, including allowing e-scooters to be carried on trains, which I wrote to the minister about in July 2020. However, the government still refuses to consider allowing e-scooters and other personal mobility devices to use on-road bike lanes under the same conditions as bikes. I am still contacted by residents concerned about clashes between pedestrians and e-scooter riders who are forced to use footpaths under the current rules. Given that e-scooters can travel at similar speeds to bicycles and the riders use similar safety equipment, it seems far more dangerous to put them on the footpath where there is a significant difference in speed between pedestrians and themselves and a real risk of dangerous collision. Obviously allowing e-scooters in bike lanes should be accompanied by a broadscale review of, and greater investment, in a comprehensive network of safe, separated bike lanes.

We have seen in the debate on this bill how road safety is seen pretty much solely through a lens of car use instead of properly accounting for public and active transport. I would also like to see requirements put in place for council or the state government to collect and report data on e-scooter crashes to inform future policy setting around safe use. While I am encouraged to see that all e-scooter hire companies operating in Brisbane now have comprehensive insurance, I still think it is concerning this is not required either by council or state laws. This bill does feel like a missed opportunity to make e-scooter use safer.

While we are amending the road use management act, I will use this opportunity to address the glaring discriminatory and outdated inconsistency between our drug driving laws and their potential impacts on medicinal cannabis patients. I table a copy of my amendments, statement of compatibility and explanatory notes in case the government sees fit to argue the relevance of these amendments.

Tabled paper: Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022, amendments to be moved by Mr Michael Berkman MP [1247](#).

Tabled paper: Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022, explanatory notes to Mr Michael Berkman's amendments [1248](#).

Tabled paper: Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022, statement of compatibility with human rights contained in Mr Michael Berkman's amendments [1249](#).


No-one should be driving while impaired by alcohol or any other drug. We take no issue with this fundamental premise. The amendments I have tabled propose no changes that conflict with this premise. They deal with the offence of having the mere presence of THC in your system. If it is safe to drive after taking medication when the effects of the medication have worn off and in the days and weeks following its use, you should not be criminalised for doing so.

There is currently no consideration of medicinal cannabis in our road safety laws in Queensland. This is an issue we urgently need to address. Queensland's roadside saliva tests pick up trace amounts of THC for longer than 24 hours, long after all impairment has passed. Trace amounts of THC or its metabolites may appear in blood tests weeks after the patient has used these medications. Our laws avoid the truth that impairment can come from an excess or misuse of many legal drugs. This includes conventional medications like opiates, benzodiazepines, amphetamines and, of course, alcohol. In fact, research shows that cannabis has a lower crash risk than benzodiazepines and opiates. However, Queensland law does not criminalise patients who test positive for the presence of these other potentially impairing drugs. In fact, our roadside drug testing does not even provide for testing for the presence of these drugs. It should be no different for medicinal cannabis patients. There is no evidence that the mere presence of THC equates to impairment, but there is lots of evidence that spurious drug driving charges can cause financial and personal ruin.

Medicinal cannabis is legal and it can be transformative for patients, especially those suffering chronic pain or undergoing chemotherapy. Those patients should not need to give up their licence or lose the ability to drive. This is the central issue we need to address. Our current laws mean that someone undergoing chemotherapy or suffering from chronic pain cannot drive for weeks after they use their prescribed medication or they risk breaking the law and losing their means of transport. This can mean lost work and income and other major impacts on every aspect of a person's life.

Medicinal cannabis should be treated the same as alcohol or other prescription drugs, meaning that driving with THC in your system should not be illegal unless it causes impairment. Punishing patients using medicinal cannabis by taking away their licence for trace amounts of THC, which does not impair driving, is cruel and it just makes their lives harder. The Queensland government should catch up with Tasmania, Canada and California in allowing people to drive when they are using medicinal cannabis as long as there is no evidence that it impairs their ability to drive.

Since creating a process for the lawful prescription of medicinal cannabis, we have known that our drug driving laws do not make sense in this respect. That fact is only reinforced by the knowledge now that around 70 per cent of medicinal cannabis prescriptions contain some amount of THC. I understand from media reports that the government is reviewing drug driving laws and looking at impacts on medicinal cannabis users. I will seek to move these amendments today because our laws must be updated to ensure medicinal cannabis patients are no longer subjected to unfair and discriminatory sanctions. A government review should consider the issue that remains genuinely unsettled: how do we measure impairment from drugs, including drugs such as cannabis?

 **Mr BERKMAN** (Maiwar—Grn) (12.57 pm), continuing: It is quite extraordinary the cowardice that will not even allow a bill to be heard by a committee in a timely matter.

Mr DEPUTY SPEAKER (Mr Krause): Member for Maiwar, I urge you at the outset to remain relevant to the long title of the bill before the House.

Mr BERKMAN: As I was saying before the interruption, we understand, only because of media reports, that the government is undertaking a review of drug driving laws and looking at the impacts on medicinal cannabis users. That does not reduce the urgency or the relevance and importance of the amendments that I will move as an interim measure. This government review, as I was saying before the interruption, should consider the issue that remains genuinely unsettled: how do we measure impairment from drugs, including prescription drugs like cannabis? In the interests of improving safety outcomes, we should continue to invest in research on the link between drug use and impairment behind the wheel. Our regulation of drug driving should reflect the best evidence. Clearly that is not the case at the moment.

Parliament is updating the relevant act today, so we should fix this discrepancy with a medical defence now and get on with a review of options to measure impairment. Drug driving regulation should not be an overly simplistic regime that simply reinforces the failed and absolutist war on drugs. It should not risk criminalising people where there is no clear safety benefit.

In concluding, I reiterate that there are a lot of commonsense changes in this bill, which the Greens support, but there could have been even more. I urge the government to take this opportunity to create safer rules around e-scooter use and to fix these outdated sections of the road use management act that treat the mere presence of medicinal cannabis as an offence even where there is no impairment.