

ROAD TRAFFIC AMENDMENT (IMPAIRED DRIVING AND PENALTIES) BILL 2019

Second Reading

Resumed from 28 November 2019.

HON NICK GOIRAN (South Metropolitan) [7.02 pm]: I rise on behalf of the opposition as its lead speaker in the second reading debate on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. At the outset, I indicate that I concur with the comments made on 26 November last year by my learned friend and colleague from the other place the shadow Minister for Road Safety, Peter Katsambanis, the member for Hillarys, as recorded on page 9265 of *Hansard*, who said —

The Liberal Party stands with every other law-abiding citizen in this state, including members of the government, members of the Nationals WA and members of the crossbench in the other place, in condemning people in our society who continue to flout not only the law but also their own safety and that of other road users by driving whilst they are impaired by either drugs or alcohol, or both drugs and alcohol. We welcome any changes to legislation that will make it tougher for those people who drive whilst impaired and that will punish them appropriately if they choose to drive whilst impaired.

It has indeed been a long time since this bill was first introduced into this place and since 26 November 2019 when those comments were made in the other place. In that time, I have had the opportunity to consider a study conducted by the Curtin–Monash Accident Research Centre. The study’s findings were published in 2014. I note, pursuant to that study, the following remarks made by the authors —

Evidence continues to accumulate of the impairing nature of illicit drugs on driving and the prevalence of use among crash and non-crash involved drivers. The prevalence of illicit substances among drivers varies with the type of substance and whether the driver was involved in a crash. For example, illicit substances of all types have been detected in up to 33% of fatally injured drivers with cannabis being the most frequently detected substance. Among non-crash involved drivers, between 4%–18% self-report having driven after using illicit drugs, while up to 5.5% of drivers subject to a roadside oral fluids test have tested positive. Research has also identified that certain drivers have a higher risk of illicit drug-driving, including males, younger age persons and those that engage in other on-road risk behaviours such as failing to wear a seat-belt, drink-driving, and unlicensed driving.

The study later goes on to say —

Alcohol featured very strongly in this study’s findings and reaffirms the concern that this ‘legal’ substance, alone and in association with other impairing substances, is a major crash risk factor. In this study, 34% of fatally injured drivers/riders returned BAC levels $\geq 0.05\text{gm}\%$. This is significantly higher than the 23% who tested positive for an illicit substance. The higher prevalence of alcohol compared with that for illicit drugs is consistent with the findings of other investigations (e.g., Morland et al 2011; Drummer et al 2003; Drummer et al., 2012). Importantly, the findings in this study clearly demonstrate that alcohol and illicit drugs are found in combination among fatally injured drivers/riders: driver/riders with a BAC level of $0.05\text{gm}\%$ to $0.140\text{gm}\%$ were 2.66 to three times more likely to test positive for an illicit substance. When considered together, nearly 47% of all fatally injured drivers/riders in this study were at risk of impairment because they tested positive to either alcohol alone (i.e., $\geq 0.05\text{ gm}\%$), illicit drugs alone, or alcohol and illicit drugs in combination.

When we read these research findings on the impact of impaired driving, it should not be forgotten that each of these statistics and each of these percentage figures represents individual Western Australians whose lives have been lost because of impaired driving. Worse still, of course, is the impact upon innocent victims. When reflecting on the impact of impaired driving in our community, the recent and tragic case that occurred in the Sydney suburb of Oatlands in February this year returns to mind. Members will recall that four children were killed and three others were injured when Samuel William Davidson, a 29-year-old driver with a blood alcohol concentration level three times the legal limit, allegedly drove his car into a group of children who were walking on the footpath on their way to visit a local shop. This incident and others like it are extremely distressing for the family of the victims, as well as to the community, and impact first responders to the scene, whether that be members of the public, paramedics, doctors, fire and rescue or police officers. I suspect that members will also recall the shocking death of Ms Jennifer Pratt, who was killed when the car she was driving was hit head-on at a high speed by another vehicle driven by Shaun Southern on Bussell Highway near Capel in February three years ago. As I understand it, a sample was taken from Mr Southern three hours after the collision occurred and he was found to have a methamphetamine reading of 0.56 milligrams per litre, which can also be described as an acute level of intoxication. When asked whether methamphetamine was compatible with driving, Dr Jonathan Grasko, a toxicologist who gave evidence

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at Mr Southern's trial, gave the definitive response that it was not. Indeed, Mr Southern was ultimately found guilty of murder and sentenced to life in prison.

These cases make headlines for days and on occasion they make headlines for weeks. But, of course, the impact is felt by the families for a lifetime, and for this reason it is imperative that we legislate in this house to deter Western Australians from drink and drug-driving. We have an opportunity to do so with this bill, and so the opposition supports four of the five elements that this bill addresses.

The first substantive reform in this bill is to allow police to immediately prohibit a person who tests positive to the presence of a prescribed illicit drug in their system from driving for 24 hours. Police already have the power to prevent a person from driving while impaired by alcohol, and it follows that we should be able to prevent people from driving while impaired by illicit drugs. As the law currently stands, a drink-driver can theoretically be pulled over to the side of the road, be tested by a police officer and, if the initial test is positive for a prescribed illicit substance, provide their name, address and licence details to the police officer and otherwise drive off. They can continue to drive the vehicle despite having been detected as having illicit drugs in their system and potentially posing a great risk to themselves and others. The fact that this is still the case in our state in 2020—a state that has the highest methamphetamine use in the country—beggars belief. The opposition supports the government's amendments to the Road Traffic Act 1974 to see the law changed in this respect.

The second element of the bill that the opposition supports is the introduction of a new offence that targets people who drive with both an illegal level of alcohol and prescribed illicit drugs in their system. We support this change in the law. As the shadow Minister for Road Safety noted in the other place on 26 November last year —

Currently the penalties for drink-driving are higher and police, knowing that their time is precious—they are run off their feet anyway—stop there and do not bother testing for illicit drugs.

I foreshadow that it is my intention in the Committee of the Whole House to confirm with the minister's representative in this place that this issue under the current law is adequately addressed by this bill. It is vital that the WA Police Force is resourced to conduct more drug testing than is currently being done if the policy intent of the second reform is to be implemented in roadside testing.

I move now to the third substantive reform that this bill will bring about, which also has the support of the opposition—that is, an increase in the existing penalties for drink and drug-driving offences so that they remain an effective deterrent in our community. This third substantive change brings the penalties up to around the national average for drink and drug-driving penalties. Indeed, as the shadow Minister for Road Safety stated in the other place, the opposition supports the penalty increases in this bill, but we would also happily consider any other suggestions or increases brought forward in the future.

The fourth element of this bill is a change that essentially relates to what I would describe as good housekeeping. That is a streamlining of some of the enforcement processes around drink-driving and drug-driving, a modernisation of the language, and the removal of obsolete provisions in the Road Traffic Act 1974. This type of good housekeeping also has the support of the opposition.

The fifth and final element of this bill is to change the regulation-making power in section 111 of the Road Traffic Act 1974. This change is not supported by the opposition. Indeed, we support Hon Rick Mazza's proposed amendment as outlined on the supplementary notice paper at 1/41—that being to oppose clause 41.

I have to say that until some recent developments earlier today, it was not at all clear from the explanatory memorandum, and it is still not clear from the explanatory memorandum, what the government is hoping to achieve by amending section 111 of the Road Traffic Act 1974. I draw to members' attention that the explanatory memorandum states —

Clause 41 implements Reform 5 by inserting proposed new section 111(1)(b) to confirm that regulations can be made to regulate the use of devices in vehicles in both positive and negative terms.

I have had the opportunity to consider the *Hansard* record of debate in the other place, particularly in respect of this clause. That reveals that the government claims that clause 41 is necessary to futureproof the legislation when new devices that currently do not exist are introduced into the market. However, it is also apparent from debate in the other place that the Minister for Road Safety seeks to specifically amend section 111 of the Road Traffic Act 1974 to allow for the banning of radar detectors through the drafting of regulations. As I have said, some developments have occurred today, and I will get to that in a moment. However, at this time, the opposition does not have a settled position on the banning of radar detectors from use in motor vehicles. The reason that the Liberal Party has not decided on a party position is that until the developments today, this issue had not been raised by government for debate in this Parliament. Indeed, I borrow the words of the shadow Minister for Road Safety on 26 November last year, when he said at page 9268 of *Hansard* —

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I have no issue with having that debate, but do not bring in a ban by stealth ... because that is not good government, that is not good legislation making and it is certainly not good regulation making.

This concern is held not only by me and my Liberal Party colleagues, but also by members of the Western Australian public. I note that all the constituent communications with my office about this bill have been to oppose the inclusion of clause 41 in the bill. I take this opportunity to draw to members' attention a letter that my office received from a constituent on 15 March this year. It reads —

Dear Hon. MLC Member

I am a responsible driver/ motorcycle rider/ 4WD in WA **and I vote**. I have been made aware, that you as the elected member of the WA Legislative Council will be soon be asked to endorse the amendments to the proposed Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019.

This Bill was passed as is, in the Lower House in November 2019 by the ALP majority. Independents and Liberals opposed the Bill in the Lower House, due to the inclusion of Section 111.

I pause here to make the observation, again with due respect to this particular correspondent who has no doubt sincerely written to me, that he has referred to the inclusion of section 111, but I think it is reasonable for us to infer that he actually means the inclusion of clause 41 in the bill. Nevertheless, the correspondence from this constituent on 15 March this year continues —

I strongly oppose the inclusion of Section 111 in the proposed Bill.

In section 111, The Governor may make regulations —

(a) For any purpose for which the regulations are contemplated or required by the ACT and may make all such other regulations as may, in the Governor's opinion,

be necessary or convenient for giving full effect to the provisions of and for the due administration of, this Act, for the equipment and use of vehicles and for the regulation of traffic generally; and

(b) To regulate or prohibit, or anything that is necessary or convenient to be prescribed to regulate and prohibit —

I) Using a vehicle with a device attached to, or removed from, vehicle: and

II) Using or possessing a device while a person is within or on a vehicle,

My opposition is based on the following factors:

1. Section 111 of the Bill has no relevance to the rest of the Legislation and is not included in the Explanatory Memorandum.

Again, I pause here to make the observation, again with the greatest of respect to the well-meaning correspondent who obviously holds these views strongly, that section 111 of the Road Traffic Act is, in fact, referred to in the explanatory memorandum under clause 41. Be that as it may, the correspondent goes on to say —

2. This section represents an infamous Henry V111 Clause which inappropriately delegates legislative authority to the Executive.

It allows the Office of Road Safety and the Police to decide what "devices" should be banned or become mandatory in WA and gazette them. It must then be opposed by the MPs or it becomes law.

3. There is no definition of "device" in the Bill so this could include a radar detector, a mobile phone, a navigation system with Wayze or Google maps, a bull bar, a side awning, GoPro on a motorcycle helmet, even window tinting or any "device" the Executive or Bureaucrats see fit to ban or include.

4. The legislation would also ban a passenger from using or having in his possession a prohibited device, like a mobile phone, DVD, navigation system, PC or radar detector etc.

5. The present Police Minister states "that the executive will not use the power inappropriately". But once in place, this section grants legislative authority now and in the future, to the Police and Road Safety Authority to ban any "device" they deem fit, without proper consideration or discussion by the voted Members of Parliament.

6. By adding this irrelevant section to the Impaired Driving and Penalties Bill, the Police Minister is effectively proposing legislation by stealth.

I ask you as our elected Member to oppose Section 111 of the proposed Bill in the Upper House.

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Yours faithfully,

It is not necessary for me to disclose the name of the individual, other than to say that the address provided in this correspondence is in my region, the South Metropolitan Region. The correspondence ends with the date, which is 15 March this year.

That said, a significant development has occurred today. While I was busy in this house dealing with other legislation that had been inordinately delayed by the government—legislation that had originally started in this place in 2018—and that the government had finally decided to bring on for proper debate and scrutiny today, I noted that the Minister for Police; Road Safety had issued a media release, dated 24 June 2020. It is worthy of quoting and consideration by members. Two introductory dot points state —

- Government moves to ban radar detectors, finally closing a 20-year loophole
- Tough penalties proposed for drivers caught with radar detectors fitted to their vehicle

The media release was issued this afternoon on this matter and this bill, which incidentally I note was introduced into this place on 28 November last year. This is the first time—what is happening right now, this evening, on 24 June—that this house has had an opportunity to debate this bill since it was introduced by the government long ago, on 28 November 2019. Today is the first day that it has been brought on for debate. Again, as I have said before, that is fine. The Leader of the House has that job. That is why she gets paid the big bucks—to determine the priority of business so that she can push out, on a Friday, courtesy of the Clerk’s office, the weekly bulletin and decide the agenda of the week. She was quite entitled to continue to have this bill buried since November last year. Technically, the government is also quite entitled, in the same spirit, to issue these types of media releases on the afternoon that the bill is going to be brought on for debate some seven months later. The media release says —

The Government is moving swiftly to outlaw the use of radar detectors in vehicles by creating new specific offences in the Road Traffic Act.

The first thing that should happen is that the author of the media release who decided to use the word “swiftly” should be reprimanded because they are an embarrassment. To suggest after all this time that somehow the government is moving “swiftly” to outlaw the use of radar detectors in vehicles by creating new specific offences in the Road Traffic Act is an embarrassment in terms of a government trying to provide truthful, meaningful information to the people of Western Australia. The media release goes on to say —

It was planned, based on advice from the State Solicitors Office to amend regulations, through a Road Traffic Amendment Bill currently before Parliament.

I have no problem with that second paragraph of that media release issued this afternoon. The third paragraph says —

Due to obstruction in the Upper House, by the Liberal Party and Shooters, Fishers and Farmers MLC Rick Mazza, the Government has moved to create a standalone offence, to ensure its speedy passage into law.

I say again with all sincerity that the author of this media release should be reprimanded for that third paragraph. What the government has pushed out this afternoon in that third paragraph is nothing more than a lie. It is a lie with a capital L. To suggest that there has been obstruction in the upper house by the Liberal Party and Hon Rick Mazza, MLC, of the Shooters, Fishers and Farmers when this bill has not been brought on by the government once—not once since it was introduced. The bill was introduced into this place on 28 November 2019. It was first read, the minister gave the second reading speech and then it was deferred. It has not been brought on since—not once. How can a reasonable person write a media release that states —

Due to the obstruction in the Upper House, by the Liberal Party and Shooters, Fishers and Farmers MLC Rick Mazza ...

I expect that by the end of this debate someone in government will stand and issue an apology because that is a gross lie that the government has told the people of Western Australia today. There has been no obstruction whatsoever by the Liberal Party on this bill. In fact, the shadow Minister for Road Safety, my good friend the member for Hillarys, Peter Katsambanis, MLA, has repeatedly said that we would like to see this dealt with. We support the aspects of this bill that deal with drug-driving. We think it is wrong that people can drive under the influence and then continue to drive after they have been picked up by police. I expect an apology.

The fourth paragraph of the media release goes on to state —

Under the proposed new offence to be introduced into Parliament today, —

I pause to note that the untrained observer would read that and think, “Okay; the government is bringing in a bill to deal with this new offence.” No, it is not. In a stealthy, ambush-like fashion, the government is bringing in an amendment to a bill with no notice. I question whether it is even in the scope of the bill to move this amendment,

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but we will deal with that in due course. The bill has not been brought on since November last year. Anyway, the media release goes on to say —

anyone caught driving a vehicle fitted with a radar detector will face a \$3,200 fine.

A second or subsequent offence would attract a fine of \$4,800

It follows the McGowan Government's banning of laser jammers and electronic scramblers.

Driving at speed is the single most contributing factor in all fatal and serious injury crashes.

At the end of this media release, there are comments attributed to the minister, which read —

“This is the end of the road for those people who think they can outsmart speed cameras with laser jammers or radar detectors

“It's unfortunate Western Australia is the last jurisdiction in the country to ban these devices, which provide cover for speeding and allow drivers to flout the law and put other road users at risk.

“The Government's efforts to deal with this to date, have been obstructed for no good reason by minority members of the Upper House who actually have no interest in road safety.

“I'm disappointed that the Liberals, anxious to frustrate the Government's efforts to make the roads safer for the community, have sought to co-operate with this shabby exercise.

“If their irresponsibility had been allowed to persist, it could have cost lives.

“I put it to them to clearly support this legislation and to ensure its safe passage through both houses.

That is the end of the media release. I make this observation: I am really disappointed by the media release because, for what it is worth, I hold this particular minister in high regard. This minister is very, very experienced and possibly the most experienced member of both houses. I stand to be corrected on that, but the minister certainly has a wealth of experience. I have found this minister to be a minister with integrity and courage, and I have a lot of respect for her. I cannot understand how it is possible that this media release could have been produced and distributed today. There has to be an explanation provided by government. It is a gross lie to suggest that in any way there has been any obstruction by the Liberal Party. I will leave it to other members to comment on the grotesque assertions made about them, but I will speak as the lead speaker for the Liberal Party opposition at this time to say that what was put in the media release is categorically false, and I expect an apology by the end of this debate. In conversations I had behind the Chair with the minister representing in this place, I indicated that I hoped that my second reading contribution would be no longer than 30 minutes, and I note I have just exceeded that. I hope the honourable minister in this place will understand that that was before these events that transpired today. I did not expect this media release to be produced. I want to conclude on this point by reading in the media release provided in response by the shadow Minister for Police; Road Safety, Peter Katsambanis, later this afternoon. It says —

POLICE MINISTER SHOULD STOP PETTY POLITICAL GAMES

Shadow Minister for Police Peter Katsambanis has called on the Minister for Police to stop playing petty political games on serious road safety issues to cover up her own poorly drafted legislation.

“The Liberal Party did not block or oppose the Road Traffic Amendment (Impaired Driving and Penalties) Bill,” Mr Katsambanis said.

“In fact, we offered the Minister speedy passage of the critical drug-driving provisions in the Bill, which she sadly rejected. They were the main focus of the proposed legislation. The radar detector ban was always a secondary consideration.

“The Liberal Party pointed out way back in November 2019 that the McGowan Labor Government's proposed method of banning radar detectors on WA roads was flawed.

“The clause, as drafted, was so wide and open-ended it would allow any Minister in the future to ban almost any device in any motor vehicle, including popular GPS navigation systems.

“The Bill passed the Lower House in November 2019. After sitting in the Upper House for almost six months the Minister has now finally addressed the obvious flaw that could have been fixed last year.

“Now that she has effectively agreed with the Liberal Party position she should thank us for helping to fix her flawed legislation, instead of continuing to play politics with important road safety initiatives.”

I will add nothing further to that, but I want members to be aware of that context.

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In conclusion, with the exception of clause 41, which infringes fundamental scrutiny principle 12, the opposition supports this bill. In doing so, the opposition condemns drink-driving and drug-driving. We support police removing drug-drivers from the road. We welcome the introduction of a dual offence whereby someone is both drink-driving and drug-driving and we also welcome the increased penalties, which are contemporary and should be a deterrent. The opposition calls on the government to maintain this momentum and expresses its disappointment about the incompetent management of the legislative program that has seen this bill buried since its introduction into this place on 28 November last year.

HON AARON STONEHOUSE (South Metropolitan) [7.38 pm]: I rise tonight to speak on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. From the outset, let me just say that I agree with the stated policy objectives of this bill—that is, to address drivers driving under the influence of alcohol and drugs. I believe it is the role of government to ensure that those operating a vehicle on our roads do so in a safe manner. Obviously, being under the influence of a substance poses an unacceptable risk to other road users. The second reading speech says —

Currently, Western Australia and Tasmania are the only Australian jurisdictions where a driver testing positive to a roadside drug test may continue driving. Other jurisdictions, some for many years, have equipped their police with the power to immediately prohibit a driver who tests positive from driving off.

I think addressing that flaw in our regime is absolutely a priority, and we should ensure that we grant police such powers as quickly as possible. The second reading speech continues —

The bill also introduces new offences for driving after having consumed both alcohol and drugs, known as polydrug offences.

I think it is absolutely appropriate to introduce new offences for poly-drug use. We have heard of examples of drivers under the influence of both alcohol and illicit drugs, the effect that they can have on them and the risk that that can pose to other road users, so I am supportive of those measures. I agree with that policy objective and I am happy to pass a bill that achieves those outcomes.

What I am not supportive of is the sneaky, underhanded and dishonest attempt by this government to, through obfuscation, sneak in a ban on other devices. What we effectively have here is a rider—a broad regulation-making power the government snuck into the bill and did not even make mention of in the second reading speech. If members look at the second reading speech, they will not find one mention of the proposed new amendments to section 111 of the Road Traffic Act that will grant the government the power to ban any device it wants to from being in a vehicle. There is no mention at all of that in the second reading speech. We have to turn to the explanatory memorandum to find any reference —

Hon Stephen Dawson: If it's in the explanatory memorandum, we're not hiding it.

Hon AARON STONEHOUSE: Yes, it is in the explanatory memorandum. What does it say?

Hon Darren West: You're accusing them of hiding it?

Hon AARON STONEHOUSE: Absolutely. It is at the end of the bill and there is no mention of it in the second reading speech at all. What do we get as an explanation for it in the explanatory memorandum? Under the paragraph headed, "Section 111 amended" it states —

Clause 41 implements Reform 5 by inserting proposed new section 111(1)(b) to confirm that regulations can be made to regulate the use of devices in vehicles in both positive and negative terms.

What on earth does that mean? What on earth does that actually mean? What is the government trying to achieve here? What devices is it trying to ban? We would have absolutely no idea from looking at the second reading speech, the bill or the explanatory memorandum. The government has intentionally buried this at the back of the explanatory memorandum and made no reference to it in the second reading speech.

Luckily, we have some idea of what kinds of devices it wants to ban; we can either get it from the debate in the Legislative Assembly or we can rely on the not-so-timely press release the Minister for Police put out today, 24 June, titled "End of the road in sight for drivers using radar detectors". That is not a bad pun; I have a similar press release, and I thought mine was a little better, but I will get to that later. The minister clearly signals in this press release that it is her intention to ban radar detectors. It is actually the first written notice we have, the first official communication from the minister or the government that that is actually their intention. I presume they had hoped to just sneak this one in and that no-one would notice and no-one would care that radar detectors were being banned. I am sorry, but that is not how it operates. Most members here have a keen interest in what the government is trying to do, and we normally look out for those sneaky types of Henry VIII clauses that grant the government unchecked power to regulate, ban or prohibit whatever it likes.

The minister in her press release makes some rather remarkable comments. It states, in the third paragraph down —

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Due to obstruction in the Upper House, by the Liberal Party and Shooters, Fishers and Farmers MLC Rick Mazza, the Government has moved to create a standalone offence, to ensure its speedy passage into law.

I take issue with that statement—not on behalf of Hon Rick Mazza or on behalf of my friends in the Liberal Party—but because it completely ignores the fact that I have been onto this since March! Where is the credit?

Several members interjected.

The ACTING PRESIDENT (Hon Robin Chapple): Members, Hon Aaron Stonehouse has the call, and I would ask him to direct his comments to me and not incite interjection.

Hon AARON STONEHOUSE: I would do no such thing, Mr Acting President.

My pride is wounded that I do not even get a mention in the minister's press release. I have with me a press release that I put out on 5 March—three and a half months before the minister's rather untimely press release that she put out this afternoon. My press release from 5 March is titled "Don't ban radar detectors". I do not want to read members the whole thing. It would have gone out in an email to most of them back in March, so they can avail themselves of a copy. In that media release, I exposed the fact that the government is trying to ban radar detectors. I talked to the media back in March and several articles were published at that time stating that it was the government's intention to ban radar detectors. I compared it to highway robbery and I think that is a better pun than "the end of the road". I am talking about revenue-raising exercises, which is what I think this provision is about. I do not think that it is about trying to increase road safety at all. I think this is merely about protecting a government revenue stream. In that press release, I made it very clear that I oppose this legislation and think that it is too broad in scope and that I intend to do something about it. Unfortunately, I did not get a mention in the minister's press release. That is okay. I think I will get over that in time, but I take issue and take personally the comments attributed to the minister, who said —

The Government's efforts to deal with this to date, have been obstructed for no good reason by minority members of the Upper House who actually have no interest in road safety.

I think that is a disgusting comment and it is completely untrue. If the minister had said that in Parliament, I would be raising it as a matter of privilege because I think it would be misconduct to lie in such a way in Parliament. She has done this out in public, so there is not much that I can do about it, but that is a blatant lie. As we heard earlier, this bill was introduced to the upper house back on 28 November 2019 and languished on the notice paper for six months before the government even bothered to bring it on for debate. I can barely believe it, but in this press release the minister says —

If their irresponsibility had been allowed to persist, it could have cost lives.

The implication is that if somebody dies on the road and that is somehow linked to speeding, the obstruction in the upper house will somehow be responsible. That is a very dangerous game to play, especially when this government has allowed this bill, which does far more than address radar detectors—it deals with impaired driving, drug-drivers and drink-drivers—to languish on the notice paper for six months. If the government really wants to play that game, it should be very careful about throwing around accusations. If this is life-saving legislation, why on Earth has it been six months before we have even had an opportunity to debate it? We are debating it now on the second last day of sitting before the winter recess and the government is trying to rush it through. The government has not even considered this legislation for the past six months. That is a very dangerous game for the government to play—that is, to start throwing around accusations.

We should be very clear: no-one has obstructed this bill. We have not even had an opportunity to obstruct it because it has not been brought on for debate. We cannot slow down a bill that the government has been keeping in its back pocket and has had no intention of progressing. For those who are unfamiliar, all that has happened so far is that back in March, I indicated that I was unhappy with the provisions that would allow the government, through regulation, to ban radar detectors. Sometime after that—I am sure he was inspired by me, but perhaps not—Hon Rick Mazza gave notice of an amendment to oppose the clause for the regulation of radar detectors. It is an excellent idea and I would be happy to support the amendment that Hon Rick Mazza has put forward. That amendment would in no way delay the bill. If that amendment were successful, the bill, with its other provisions that address drug and drink-drivers, would still pass in a timely manner with no obstruction or modification and the government would have an opportunity to implement its stated policy objectives of addressing drug and drink-drivers. Even with the amendments proposed by Hon Rick Mazza, there is no obstruction. The only obstruction here is the government's reluctance to bring on its own legislation. I think it is disgraceful that the Minister for Police has lied and misled the public in the press release that she released earlier today. I am looking forward to her making some kind of correction or apology, because it is disgraceful for a minister of this government to mislead in such a way.

Let me get to the substance of the clause that is causing so much consternation—that is, clause 41, "Section 111 amended". The clause seeks to create a regulation-making power, and it is described in the explanatory memorandum

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as allowing regulations to be made to “regulate the use of devices in vehicles in both positive and negative terms”. It has been explained to me that “both positive and negative terms” means the government can write a regulation that can compel somebody to have a device in their car, or it can write a regulation to prohibit somebody from having a device in their car. The word “device” is rather vague; it could be anything. It could be a radar detector, which seems to be the government’s objective here, although it was not very forthcoming about it, or perhaps it could be, as was suggested by the previous speaker, a dash cam, a GoPro attached to a helmet, or perhaps a mobile telephone with a navigation application that allows someone to know where set speed cameras are. It could be a speed limiter or a speed detector. It could be anything. It could be a device that we have not even thought of yet. It was obviously the government’s intention to leave these regulation-making powers very broad. It is stated at reform 5 in the explanatory memorandum that the intention is to —

update the regulation-making authority to ensure that future safety reforms to address new technological changes for instance can be implemented in an effective and timely manner.

The problem is that we are basically writing the government a blank cheque. We have no idea what kind of technology might be available in the future. Are we going to let the government ban any device it likes in the future merely through regulation? Of course, regulations can be disallowed, but I think now, this far into the term, we all know how much attention is paid to the regulations that are tabled here and published in the *Government Gazette*, and how much time is allocated to the debate on the disallowance of those regulations. Those regulations are not given the same level of scrutiny as the primary legislation.

These regulations go far beyond any power the government would need to ban radar detectors, because they also deal with banning devices that passengers may have. Typically, a radar detector would be something that is fixed to the car, attached to the dash or plugged into the cigarette lighter charger port, but this would allow the government to ban any device that a driver or passenger may have, whether it impairs the driving, distracts the driver or allows them to circumvent any regulation or law in any way. It is far, far too broad.

As I said earlier, the ability to compel somebody to carry a device raises questions, too. Typically, in law, we have the ability to compel motorists to carry devices, in a very broad sense. Someone who licences a vehicle has to have seatbelts, airbags, a seat, a windshield and things like that. But that is an area that is regulated by the Department of Transport and its licensing division. Do we really want to grant police the power to start compelling the carrying of certain devices? In what law enforcement context would police need the power to compel a driver or a passenger to have a device on them, outside of regular road safety, which would be the purview of the Department of Transport? It is really quite a questionable power to be granting the government. Really, it gets to the issue of the insistence from the minister in this case that radar detectors need to be banned. Like the previous speaker, I have received correspondence from my constituents. Not a single one of those constituents has written to me to say, “Aaron Stonehouse, I need you to pass this ban on radar detectors. It is the right thing to do.” Not a single one. No-one out there in the community wants radar detectors banned; in fact, quite a lot of people in the community are opposed to the ban. In fact, as I have researched this issue and gathered evidence, I have come to realise that radar detectors are not really in common use, anyway. Most of the new speed cameras do not use radar, so people cannot detect the radiation emissions. For the new cameras that use lidar or infrared, a radar detector is useless.

Of course, there are new detectors that might be able to detect things like infrared, but by the time they detect the camera, a lot of the time it is too late.

The most effective way for people to know where a speed camera or a speed trap is located is to use the mobile phone apps that I mentioned earlier. That has me concerned. Is it conceivable that a future government could move to ban mobile devices or certain types of apps from being used while driving? Most people do not use radar detectors; they are not very effective. The anecdotes I have collected indicate that the police do not really care about radar detectors anyway, probably because they realise how ineffective they are in the first place. The question becomes: Why are we even bothering with all this? What is the point? On principle, we should absolutely be cautious of a government that is trying to write itself a blank cheque to ban or compel the use of devices, whatever those devices might be. That is far too broad a power to grant. But why is the government so insistent about banning radar detectors and why is it doing it in such a secretive manner? That really does raise some questions. I support the stated objective of this bill to address drink and drug-driving, as I think any sensible person does. However, I do not support the ban on radar detectors or the Henry VIII clause that would enable the government to write a blank cheque for regulations to ban whatever it likes, whenever it likes. When we get to the Committee of the Whole House, I will absolutely support amendments to remove that broad and gross power.

HON RICK MAZZA (Agricultural) [7.56 pm]: I rise this evening to make some comments on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. I want to comment on the title of the bill, which includes the words “impaired driving and penalties”. Most people would expect the bill to contain provisions around impaired driving. I do not think anybody in this chamber or the community would believe that we should not reduce the

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incidence of impaired driving as best we can, whether that is drink-driving or drug-driving, to reduce road trauma on our roads, which of course affects a lot of people each year.

I will go through some of the key points of this bill. The bill will allow a police officer to immediately prohibit from driving for 24 hours a driver who tests positive at a roadside test to the presence of prescribed illegal drugs. It absolutely alarms me that police officers are not currently able to prevent someone who has been tested and found positive for prescribed illicit drugs from driving a vehicle. I welcome that amendment to provide for the prohibition of that person from driving for 24 hours. The bill also introduces new offences to target people who drive with an illegal level of alcohol and prescribed illicit drugs in their system, which have been referred to as poly-drug offences. The bill will increase the penalties for existing drink and drug-driving offences to ensure that they remain an effective deterrent, and enhance and streamline drink and drug-driving enforcement processes. The bill will also update the regulation-making authority to ensure that future safety reforms can be implemented in a timely and effective manner—for instance, to address technological changes. That is one area with which I have a problem, and that concern has been well articulated by Hon Aaron Stonehouse. Section 63(1) currently prescribes the same penalty for driving under the influence of alcohol alone, drugs alone or both combined. Section 64(1) will be amended from “under the influence of alcohol or drugs” to “under the influence of alcohol and drugs”—that is the poly-drugs offence.

I have had a driver’s licence continuously for 42 years. When I say it like that, it makes me feel old! I was one of those people who back in the day got their driver’s licence on their seventeenth birthday. Much to my disappointment, that was the very first year that people had to display P-plates for the first year of having a driver’s licence. It was a bit daggy to have your P-plates up on your vehicle back in those days. I had had my driver’s licence for only eight or nine months when I was coming back from Perth Airport late one night after picking up some family members. Just south of Pinjarra, I saw debris all over the road and some people waved us down. There were three of us in the car. Back in those days, we did not have mobile phones. They asked us to remain with the people who were involved in the car accident while they went into Pinjarra to get an ambulance. It had been a head-on crash. Two young men, one in each vehicle, had ended up down in a ditch off the side of the road. We had to try to comfort them for about 45 minutes until an ambulance arrived. My memory is that both of them absolutely reeked of alcohol. I learnt very early on that alcohol and driving do not mix. Unfortunately, I later learnt that one of those drivers had passed away.

A lot has been said today about the media release put out by the Minister for Police, Hon Michelle Roberts. I do not have a copy of the uncorrected *Hansard* but I understand that today she criticised the opposition, and me personally, about allegedly frustrating the passage of this bill. As other members have pointed out, this bill was debated in the other place in November last year. In Peter Katsambanis’s contribution, he said that it would be good if this bill passed the upper house ready for Christmas, for that period when there are a lot of road traffic accidents as people who are out celebrating often drink and drive. That was over six months ago. We have only just started the second reading of this bill in this place.

I was disappointed that Hon Michelle Roberts, in the other place, criticised me and other members about interfering in the passage of this bill. Then the media release came out, which has been referred to by others as well. I will not read it all out again, but one part of the minister’s comments stuck in my mind. She stated —

The Government’s efforts to deal with this to date, have been obstructed for no good reason by minority members of the Upper House who actually have no interest in road safety.

I repeat: no interest in road safety. That is a disgusting comment. Hon Michelle Roberts has absolutely no idea of the impact of road trauma on me or my family—she has none—yet she makes that disgusting and offensive comment in a media release. I am appalled by that. This is a media release by a very lazy minister. My opposition to clause 41 has been on the supplementary notice paper for months. Did the minister come and see me to discuss what my issue was with this particular clause? Did she reach out to me and ask, “Why do you want to oppose this clause?” and give me a reason why I maybe should support it? I got nothing—not an email, not a phone call; no consultation or discussion with me at all. In the other place today, the minister criticised me and others for obstructing this bill. That is an appalling, lazy action by this minister on a particular issue that has been concerning a lot of members of the public.

I have absolutely no problem with increasing penalties and giving police more powers to reduce road trauma by dealing with impaired driving. As has been pointed out, the problem I have relates to a sneaky little head of power that has been put into the bill in relation to regulations. It is stated in proposed section 111 —

(1) The Governor may make regulations —

(a) for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in the Governor’s opinion, be necessary or convenient for

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giving full effect to the provisions of, and for the due administration of, this Act, for the equipment and use of vehicles and for the regulation of traffic, generally; and

- (b) to regulate or prohibit, or anything that is necessary or convenient to be prescribed to regulate or prohibit —
 - (i) using a vehicle with a device attached to, or removed from, the vehicle; and
 - (ii) using or possessing a device while a person is within or on a vehicle.

There is no mention in that of radar detectors—zero.

With all respect to the police, they are not beyond stretching things when it comes to regulations or, as they refer to it, policy bending, so we as a Parliament should be very mindful of how much power we provide to government departments to make regulations. As has been pointed out, disallowance motions are rarely successful. We are now running into the dying embers of this government so if a member moved a disallowance motion now, they would be battling to get it heard before Parliament is prorogued. I am very concerned about that regulation. It is very interesting that the Minister for Environment now has an amendment on the supplementary notice paper that is headed “Radar detectors”. I imagine that the government will oppose clause 41, which is the amendment that I have on the supplementary notice paper, and replace it with the provision that specifically refers to radar detectors and measuring devices. It is now very specific about what will be in the bill. I have not seen any data on the effect of radar detectors on speeding and road trauma. I have not read anything that states, “So many thousands of people have got radar detectors. We have identified that a lot of speeding and trauma is going on and a lot of people have these radar detectors in their vehicles, which are involved in traffic accidents.” If that information is available, it has never been presented to me. My understanding of radar detectors is that they are pretty inconsistent and unreliable. Anyone who uses a radar detector as a means of speeding and trying to avoid being penalised or prosecuted for speeding will probably get caught sooner or later. It is a matter of time before they fall foul of the law. I am very concerned about that regulation, and I hope I get the support of the chamber in opposing clause 41. I am still considering the minister’s amendment on the supplementary notice paper. Again, there has been no reach-out as to why I should support the amendment. I do not know why there has been a change of heart and why it has suddenly been put on the supplementary notice paper. Are we looking at not supporting clause 41 in favour of the amendment that seeks to insert proposed part 5B? I am in the dark; I have no idea.

It is extraordinarily disappointing. I have worked very well with ministers in this place and ministers assisting ministers in the other place. During recent debates on the Planning and Development Amendment Bill, a lot of work went on behind the Chair to get that complex bill over the line with some very positive amendments that improved it. A fair bit of work went into the Residential Parks (Long-stay Tenants) Bill 2018. A lot of amendments were passed in this place and the bill has gone back to the Assembly. I am sure that it will pass the amendments we made because, as an upper house, we do a lot of work improving the legislation that comes before us. I had communication with ministers about that. However, there has been crickets on this bill—nothing but basically offensive media releases and comments in the other place. I am very disappointed about that and I want that on the record.

Apart from clause 41, I support the bill. We in the community have to be very mindful that, as time goes on and more people, unfortunately, turn to other substances besides alcohol in the form of drugs, we certainly do not want them on the road. Powers that assist in the removal of those people from the road are a good thing. The bill provides for increased penalties. I do not know whether they were referred to. The new penalty for driving with a blood alcohol level of more than .08 is a fine of up to \$4 500 and a licence disqualification of at least 30 months. The new penalty for driving while impaired by drugs is a fine of up to \$7 500 or 18 months’ imprisonment. Those are quite serious penalties.

Hon Charles Smith interjected.

Hon RICK MAZZA: Fines enforcement is another issue that I will not get into; I will leave that to others. Increasing the penalties is a positive move. With that, I will support the bill. I will work through the Committee of the Whole, and I will certainly be opposing clause 41.

HON MARTIN ALDRIDGE (Agricultural) [8.09 pm]: I rise on behalf of the Nationals WA as its lead speaker and also as the party spokesperson on road safety matters. I would like to indicate from the outset that the Nationals WA support the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. As members have remarked this evening, this is a 2019 vintage bill that was introduced into the Legislative Assembly in September last year and subsequently introduced into the Council in November of the same year, 2019. It has been sitting on the notice paper and today is indeed the first occasion that we have had the opportunity to consider the substance of this bill.

As members have outlined already, this bill seeks to achieve five reforms, which are set out fairly clearly and concisely in the explanatory memorandum. The Road Traffic Act 1974 will be amended to implement the following reforms —

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1. allow a police officer to immediately prohibit a driver who tests positive to the presence of prescribed illicit drugs at roadside from driving for 24 hours;
2. introduce new offences to target people who drive with an illegal level of alcohol and prescribed illicit drugs;
3. increase penalties for existing drink and drug driving offences to ensure that they remain an effective deterrent;
4. enhance and streamline drink and drug driving enforcement processes; and
5. update the regulation-making authority to ensure that future safety reforms to address new technological changes for instance can be implemented in an effective and timely manner.

It is obviously the fifth reform that has drawn the most significant contributions in the Legislative Council this evening, and I will turn to that matter later in my contribution. The first reform is to allow a police officer to immediately prohibit a driver who tests positive to the presence of prescribed illicit drugs at the roadside from driving for 24 hours. It was not apparent to me until I considered this bill, and received the first of three briefings on this bill, that that was indeed a power that the WA Police Force lacked. It was put to me at my briefing that often the power of persuasion or perhaps the way in which police discourage drivers from continuing to drive following a positive test for illicit drugs would in most cases stop that driving from occurring, but it was not possible for them to prohibit that driving from occurring. Indeed, in the second reading speech of the minister in this place, the third paragraph refers to this matter. It says —

Currently, Western Australia and Tasmania are the only Australian jurisdictions where a driver testing positive to a roadside drug test may continue driving. Other jurisdictions, some for many years, have equipped their police with the power to immediately prohibit a driver who tests positive from driving off. It was introduced, for example, in Queensland in 1999, in New South Wales and South Australia in 2006, and in Victoria in 2007.

In this respect, obviously, Western Australia is lagging other jurisdictions in providing this power to WA police. As I understand it, it will bring those powers in line with what is currently available to police for those who return a test result that is above the prescribed level of alcohol. Western Australia does not have a good record on road safety. Earlier today, I looked at some of the publications that are published by the Road Safety Commission. Although Western Australia's road safety record has improved in certain areas, Western Australia is the third worst state in the nation in the number of fatalities compared with the size of our population. We are in front of only Tasmania and the Northern Territory in that road safety outcome. It is unfortunate that in regional Western Australia, the issue of road safety and road trauma is far more acute. People in regional Western Australia are more likely to die or receive major trauma or serious injury than are people in the metropolitan area.

I want to quote from a publication of the Road Safety Commission entitled “Western Australian Road Trauma Trends 2017”. Page 57 of this document is quite interesting. It contains table 37, which is entitled “Drug and alcohol use in non-fatal road trauma admissions”. I will read the preamble to this table, because it may qualify the data that I am about to provide, which I think may have some limitations, but the government or the minister may have other sources. The preamble states —

The following table reports trauma patients' self-reported current habitual use of alcohol or illicit drugs. This is likely to be an underestimate of drug/alcohol presence at the time of the crash. This data does not identify whether these people were under the influence at the time of the crash or in control of a vehicle. The following table shows that reported drug use has increased in recent years, with 58 people reporting illicit drug use in 2012 compared to 94 in 2017. Although the number reporting alcohol use has decreased from 322 in 2012 to 260 in 2017, more people are reporting combined use of alcohol and illicit drugs.

There are probably some significant limitations on a person's motivation to self-report their alcohol and/or drug use as they are admitted to a hospital. However, it is interesting that this data shows, despite those limitations, that from 2012 to 2017, there was a declining trend in alcohol-only non-fatal road trauma admissions, and an increasing trend in drug-only admissions and alcohol and drug admissions. Given that this bill deals with poly-drug offences, which is being under the influence of drugs and alcohol, it is interesting to reflect on the baseline data that is presented in this report of the Road Safety Commission, namely that from 2012 to 2017, there was an increase in both drug-only and alcohol and drug-only admissions to public hospitals post-road trauma.

Yesterday, I attended the third and final, hopefully, briefing on this bill. Certainly when this bill was introduced into the Legislative Assembly, I perhaps underestimated the contention that it would attract. That contention certainly increased with the passage of the bill through the Legislative Assembly in late 2019. I think that was the point at which I started to receive correspondence about reform 5 as outlined in the explanatory memorandum to this bill, which has been well canvassed already this evening. Later that same day, I remarked to the minister representing

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the Minister for Road Safety in this house about the value of that briefing. Unfortunately, the briefing was not well timed, because it occurred during the time on a Tuesday when partyroom meetings historically take place, so there was obviously a limited number of attendees at that briefing. However, Hon Laurie Graham, Hon Alanna Clohesy and I were able to find a good reason to not attend the party room yesterday and instead attend what for me was the third briefing on the bill that is before the house tonight. It was an opportunity to revisit some of the technical aspects of this bill as well. Probably the most powerful contribution at the briefing yesterday was given by Ms Sharon Knapp from Injury Matters Western Australia. She was accompanied, obviously, by representatives from the Western Australia Police Force, the Road Safety Commission and the Minister for Road Safety's office. What Sharon shared with the three members who were able to attend was a very personal story of road trauma and the impact that road trauma has had on her family, and in particular on her 21-year-old son who experienced a very traumatic road traffic event that resulted in a double amputation. Her story was very compelling. Sadly, her story is not unique among families who have experienced road trauma. It demonstrated to me the impact beyond the person involved in the crash—that is, the impact on their family, friends, their lives and, I am sure, to some extent, their future plans and how they changed as a result of the road trauma. I would like to thank those who attended that briefing yesterday, and Sharon in particular for the strength that she showed in sharing that personal experience with us. Certainly, it was a good opportunity to discuss other relevant aspects of the bill before the consideration of it early this evening.

I turn to the fifth reform, which is the issue, as I said earlier, that has probably received the most attention in not just the contacts made to my office, but also the contributions this evening by the members who have spoken thus far. I have received some very similar correspondence to that outlined by other Legislative Council members in their contributions this evening. It is interesting to note when we delve into clause 41, it is clearly the government's intention to restrict or prohibit the use of radar detectors in Western Australia. I made an uninformed remark yesterday when I said I thought that Western Australia was probably 20 years late in prohibiting radar detectors, but I was reliably informed by, I think, one of the advisers present, that it was indeed 20 years since the last jurisdiction in Australia moved to prohibit radar detectors. We are obviously the last jurisdiction to consider doing so. In the 20 years since the last jurisdiction, which I think was a state—if I name a state, I will get it wrong, so I will not —

Hon Stephen Dawson: New South Wales and the ACT.

Hon MARTIN ALDRIDGE: It was New South Wales and the ACT. This issue has remained in abeyance for some time in Western Australia. Nevertheless, it is clear that the government's intention is to resolve that issue with the passage of this bill. Shortly, I will come to the amendments foreshadowed on the supplementary notice paper.

I want to comment—perhaps the minister will provide some more reliable advice—on the correspondence I received from different constituents. In fact, a number of submissions came from the eastern states, interestingly. I am not sure what interest somebody from the east has in communicating with me on this issue; I was not able to explore that issue with them. But some comments made in the submissions I received questioned the efficacy of the policy to ban radar detectors. One piece of correspondence—I will probably not be able to put my finger on it now—referred to some Australian Transportation Safety Bureau report or analysis that had proven that fact. However, when I canvassed this matter with the Minister for Road Safety in early 2018, well before the creation of the bill that is now before the house, the advice of the minister's office stated —

Research commissioned by the Road Safety Council has found that the use of radar detectors increases the probability of speeding and driver involvement in crashes. The Road Safety Council has also advised that radar detectors appear principally to be used as a means of avoiding police detection rather than warning drivers of their excessive speed.

There seems to be some difference of view on the evidence. I have heard other members express an interest in being able to determine the negative influence radar detectors have on road safety. If we could be pointed to some type of factual evidence, report or opinion, that might help clarify the issue for not only us, but also those constituents who wrote to us expressing a contrary view from the Road Safety Commission.

Another thing I would like to say about radar detectors, which might echo a contribution by, I think, Hon Rick Mazza—perhaps we are 10 or 20 years too late—is that I do not know anyone who owns a radar detector. Once upon a time, we used to see them commonly sitting on the dash of a car. They were generally visible and we could see them as we passed by. That was probably at a time before dash cameras and when they might have been confused with other devices in motor vehicles. I wonder about the prevalence of radar detectors. Given that it is not an offence, there is probably no data to show the number of roadside stops police officers do when they observe radar detectors in use. As I understand it, it is not currently an offence, and that is what the government intends to do with either the regulation-making power or its foreshadowed amendment to bring that into the act itself.

Another thing I would say is that with the passage of time, there is an influence of technology. Perhaps when we get to clause 41 and the government's foreshadowed amendment, which I think will come prior to clause 41 at

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new clause 38A, we can discuss how we will deal with technological change and the impact that that has on the types of issues the government is trying to address with speed detection devices. I made some comments during my briefing. One of two comments I made was that, whether I like it or not, when I use Google Maps and navigate through the suburbs, or wherever I might be, I get alerts from Google to say that there is a fixed or a mobile speed camera and how many people have reported that speed detection device, whether it is a mobile or fixed camera, on the side of the road. I must say it only works when I am navigating. More often than not—I do not know about other members' habits—I tend to use Google Maps more as a measure of when I am going to arrive at a place and whether I am going to be early or late as opposed to the navigation function. More often than not, one cannot take too many wrong turns in the Agricultural Region. I do not know whether we can deactivate it or change the settings because I have not bothered to look —

Hon Charles Smith: You can't touch it.

Hon MARTIN ALDRIDGE: Yes, we are not allowed to touch it. This is Google Maps; it is hardly a covert, dark-web style of app or product. I am sure it is probably installed on the smart devices of all members in the chamber. In some respects, those types of things will probably become, if they are not already, more effective at alerting drivers to the presence of police or cameras, whether fixed or mobile. As we are having a conversation around speed or radar detectors, it would be interesting to talk about the way in which technology is evolving and how fit for purpose our response is to it, but that is probably a conversation best left to when we reach that point in our consideration of this bill.

Another point I want to make is that I think the government is sending a mixed message on this issue. I quite like listening to the Commissioner of Police's segments on ABC radio. Usually, he gets 101 questions about how to enter and exit a roundabout, but he does get some other questions. Interestingly, he quite often has to deal with the issue of people warning motorists of the presence of a speed camera by flashing their headlights or holding up a cardboard sign. In fact, driving back into my little humble town the other day—we do not often see many speed cameras in town—I saw a cardboard sign affixed to the 60-kilometre-an-hour speed sign saying, "Speed camera". It is that type of behaviour. I am happy to stand corrected, but I am pretty sure that on more than one occasion I have heard the police commissioner respond to callers' questions on this issue with the view that he does not want officers prosecuting an offence when somebody is warning other road users by flashing their lights or holding a sign on the side of road because, at the end of the day, those actions are having the effect of changing those drivers' behaviour to reduce the speed of their vehicle. I wonder to what extent we are sending a bit of a mixed message to the people of Western Australia about whether they employ the use of a device in their motor vehicle or whether somebody is standing on the side of the road with a sign telling drivers to slow down because the police are ahead.

On 11 February 2020, I submitted question on notice 2753 to the Minister for Environment representing the Minister for Road Safety. I have been pursuing the government for some time over its review of the Road Traffic Code 2000 penalties. Members may recall that at the beginning of this term of government, a range of new penalties were introduced. I am testing my memory now, but there was slow down, move over and the distance drivers need to give cyclists. There might be another one, but my memory is not serving me well at the moment. There are some big inconsistencies in the Road Traffic Code 2000 penalties. I pointed out to the government that it is a lesser penalty for a person to mount the kerb and drive their car down the footpath than it is to drive too close to a cyclist on a road. There are some obvious issues with and inconsistencies in the penalty regime. It is probably not a debate for today, but I am not sure of the extent to which they have been remedied. Anyway, a review was done in 2019. It was released in September 2019, which was around the time that this bill was introduced in the Legislative Assembly. One of the things I pursued on this question is that on page 48 of the report there was a reference to a mobile phone offence options paper, and I asked that this paper be tabled. The minister's response was —

I am advised that the paper is subject to public interest immunity and cannot be tabled at this time.

I have remarked on many occasions that I am most dissatisfied with the Minister for Police; Road Safety about the way she provides information to Legislative Council. I often remarked that, in my view, she is the worst minister in that regard. I do not know whether that is just because I ask more questions of her as my party's spokesperson for police and road safety, as I am sure other non-government members will question my claim.

The government had conducted a review. I think it may have even been a review conducted by the Road Safety Commission on the Road Traffic Code 2000 penalties. I thought this was a review of an instrument, of regulation, and I would have thought it would have been a bit like a statutory review and it ought to be a public document and be known at least to the Parliament in order to know where there were deficiencies or action that needed to be taken. I have certainly raised this issue in previous debates. I think Hon Jim Chown moved a road safety motion earlier in this term and during that debate, I made some observations about the challenges we face, particularly of driver

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distraction and technological advancement, and how we stay ahead of those as a fairly slow-moving legislature to make sure that those challenges do not continue to add to road trauma in Western Australia.

Members might be aware that the government is increasing penalties for using a mobile phone while driving. I think a ministerial statement was made just this week to say that the regime is being delayed because of the COVID-19 pandemic and the availability of drafters. This was due to commence later this year, I believe on 1 September. I will make just one comparison before I move on to the next point. It is interesting that it is illegal to touch a mobile phone while driving in most circumstances, but the technology that exists in most motor vehicles these days is such that via Bluetooth or cable most multimedia touchscreen systems in the vehicle will replicate exactly the screen of the mobile phone. It is not legal to use apps and the touchscreen of the motor vehicle to navigate or do a range of other things, but if people were to do that on their mobile device, it would be an offence under the regime that exists in Western Australia. We will see more and more of that, not less, as cars get smarter and more technology is deployed into motor vehicles as it gets cheaper. We need to stay ahead of the ball on that, because driver distraction, along with fatigue, speed, and drug and alcohol use are major contributors to not having better road safety outcomes in our state.

I want to address the concern towards the foreshadowed amendments to clause 41. Members who have reflected on the Legislative Assembly *Hansard* will be aware that there was division on clause 41 and the Nationals WA in the Legislative Assembly supported clause 41, as printed. It is interesting; correspondence on clause 41 often starts with the writer saying who they are and where they are from, but ultimately their motivation is that they want to avoid having to pay a fine for speeding. They then go on to list six or a dozen or more reasons why clause 41 should not be supported, but none of the reasons relate to their primary concern, which is that they do not want to pay a fine for speeding. The reasons include a range of things, such as whether the explanatory memorandum is sufficiently detailed; one writer said that the explanatory memorandum did not even provide information on clause 41. Certainly, the explanatory memorandum I have in my possession does; I am not sure if that was the case in the Legislative Assembly, but I would find it highly unusual for an explanatory memorandum to neglect to provide reference to a clause. Perhaps it did not go to the extent that some members or, indeed, some constituents believed it should have in respect of mapping out the government's intentions with regard to the regulation-making powers in clause 41. Another issue that was raised was that it would allow the government to do a whole range of nasty things, including banning bull bars, tow bars or awnings and a few other pearls.

The sections of an act and the powers to make regulations, where they exist, are always constrained by the scope of the act. The long title of the Road Traffic Act 1974—the act that this bill amends—is “An Act to make provision in relation to the driving and use of vehicles, the regulation of traffic and for incidental and other purposes”. The Road Traffic (Vehicles) Act 2012 has been brought to my attention. Its long title is “An Act to provide for the licensing and standards of vehicles and for mass, dimension and loading requirements for vehicles used for transporting goods and passengers by road and for related matters”. The mischief that has been described by some of the people who wrote to my office and some of the members who have spoken this evening—that the government is going to tell us on Monday that we can no longer have a bull bar on our motor vehicles—misses two very important things. One is that the government already possesses a regulation-making power to prohibit those harm devices on motor vehicles. It already has that power. There has been a considerable amount of debate over the years with regard to bull bars—not in Western Australia, although perhaps there was before my time—and it has certainly been a sensitive issue in other states. The other point that needs to be considered is that any regulation is subject to the scrutiny of the Joint Standing Committee on Delegated Legislation to make sure that it is within power. As I understand it, the advice is that banning bull bars or awnings or the other things that people have written to me about—I think they are disguising the primary issue, which is avoiding paying fines for their driving behaviour—would not be permissible under clause 41. Firstly, it is not within the scope of the bill, but even if it was, it is already available to the government under existing powers in the Road Traffic (Vehicles) Act 2012.

Another aspect of regulation-making powers and the scrutiny of the Joint Standing Committee on Delegated Legislation is the ability of either house of the state Parliament to disallow a regulation made by the Governor. People believe that regulations can only be disallowed by the Legislative Council, but of course that is nonsense. Either house of the state Parliament can disallow a regulation that is made by the Governor.

When I read between the lines of the communications from the limited number of people who have contacted me about this issue, a lot of the reasons that they outline for why clause 41 ought not to be supported fall short of the test I would apply in my decision-making process of determining whether it ought to be opposed. In the Legislative Assembly, the Nationals WA supported clause 41, as printed. Hon Rick Mazza has already indicated through the supplementary notice paper and earlier this evening his intention to oppose the clause. Amendments are foreshadowed by Hon Tim Clifford, and I thank him for the engagement that he has had with me about the amendment that stands in his name. I do not want to speak for him on that. There is now a government amendment on supplementary notice paper 147, issue 4, in the name of the honourable Minister for Environment representing the Minister for Road Safety.

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We have a few paths forward by which to consider these issues. I assume the government does not intend to pursue new clause 38A and clause 41. I assume that the new clause is an alternative proposition to clause 41 and it is not the government's intent to pursue both of them. When we get to those clauses, I will consider them in the context of the contribution that I have just made. Given that it has taken us 20 years to act after the last jurisdiction in Australia made this change, I have a concern about the ability of the legislature to respond to the impending and immediate technological change. I think it will be very difficult for the Parliament to stay across it and that could contribute to a very significant challenge in our state and, indeed, my electorate of the Agricultural Region, where our road safety record is nothing to be proud of.

I will draw my contribution to a close, but I want to make a comment about the media statement that was issued today. There have been some very strong contributions, particularly by Hon Rick Mazza, who was named in this media statement. I am on the record tonight supporting the government on clause 41, and I am sure that we, as a house, will find a way through the competing amendments to resolve this issue. It is rather unfortunate that this media statement was issued. I think we should always put politics to one side for something as important as road safety and focus on good argument and good debate—sometimes strong debate—on the best way forward and the merits of that path. Road safety issues take far too many Western Australians from us. If we allow the debate on road safety to be reduced to partisan politics, we will only contribute further to the delay and the reputation that Western Australia has as a laggard on reform to create better road safety outcomes on our roads and for our good citizens.

I look forward to the second reading of this bill proceeding and what will, hopefully, be a much more considered and appropriate consideration of the clauses of this bill in the interests of those important people who travel our roads and, unfortunately, from time to time, sometimes through their own fault, the fault of others or no fault of their own, experience road trauma in Western Australia.

HON TIM CLIFFORD (East Metropolitan) [8.49 pm]: I indicate that I am the lead speaker for the Greens on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. From the outset, I would like to indicate that the Greens support this bill. Of course, we do not support people who drink and drive, use illicit drugs and drive, or both at the same time. Too many people die on our roads. In my personal experience, I can think of two or three people who I went to school or worked away with who lost their lives on the roads, and alcohol, drugs or both are more than likely to have played a part in those deaths.

This bill has been a bit of a journey. It was introduced in November, and there have been lots of discussions going on. I will get to the contentious issues around clause 41 a bit later in my contribution. A lot of uncontroversial clauses in the bill go to modernising the legislation, such as the removal of some of the terminology used, with words that indicate gender such as “he” and “him” being replaced with suitable alternatives; the removal of references to urinalysis, as urine testing is no longer done for suspected drink or drug-driving; and the removal of references to self-testing breathalysers, which is now obsolete technology. New offences are introduced for simultaneously drink and drug-driving, and, as I mentioned before, poly-drug offences. The bill introduces new offences for simultaneously drink-driving and illicit drug-driving and refusing to do a drug test after testing positive for drink-driving. This is backed up by research. When alcohol and illicit drugs are put together, the level of driving impairment is greater than if the separate effects of the two were added together. That should not be a surprise to too many people in the chamber. As a fact, between 2000 and 2012, fatally injured drivers who tested positive for drink-driving were 2.6 to three times more likely to also test positive for illicit drugs. Drivers using both alcohol and psychoactive drugs were 20 times more likely to be seriously injured or killed on the road than unaffected drivers.

Of course, people have been calling for these legislative reforms for quite some time, including in reports such as a 2014 study by the Curtin–Monash Accident Research Centre, and recommendation 8 of the 2015 report of the Community Development and Justice Standing Committee in the other place, titled “Are We There Yet? How WA Police Determines Whether Traffic Law Enforcement is Effective”. It was stated in the second reading speech that Victoria is the only Australian jurisdiction that has similar offences. The bill also accounts for increased penalties and changed counting rules. The bill increases the penalties for drink-driving and drug-driving offences. It was stated in the second reading speech that WA's penalties lag behind interstate penalties. For example, a first-time conviction for drink-driving at 0.075 blood alcohol concentration currently attracts a maximum penalty in WA of \$500, compared with South Australia, which is \$1 100; Queensland, which is \$1 828; and Victoria, which is \$3 223.80. The bill also changes the counting rules so that similar but not identical previous offences are counted to work out whether a person is a first or second offender and so on. Research on fatally injured drivers between 2000 and 2012 shows that around 47 per cent of them were drink-driving, drug-driving or both. It is also no surprise that drink-driving and drug-driving are highly dangerous not only for the driver, but also for everyone else on or near the road. More broadly, drink-driving and drug-driving are totally unacceptable within the community.

Research has shown that to help deter drivers from drink-driving and drug-driving, traffic law enforcement needs to be intensive, unpredictable and broad enough across the road network to increase both the perceived and actual risk of drivers getting caught. It is really only a deterrent if it is concentrated in the right way. This was also stressed

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in the 2015 report of the Community Development and Justice Standing Committee that I referred to earlier. Finding 11 of that report was that WA police performed fewer drug-driving tests than were conducted interstate, and significantly fewer than recommended by research. Recommendation 6 was —

That WA Police performs at least 90,000 roadside drug tests per year, as per the expert advice ...

It has been contended that 90 000 tests might not be possible; nonetheless, the number of tests being conducted is increasing. The 2019 annual report of the WA Police Force indicates that during the last financial year, some 40 000 roadside drug tests were performed. That number has doubled since 2014–15. There were also 2 185 028 breath tests conducted in that period. The aim this year is to achieve 42 500 roadside drug tests. I understand that the minister advised post-briefing that the police are on track to achieve this target.

Finding 12 of the committee report was that WA spends less on road safety advertising campaigns than most other states, leaving the burden of deterring risky driving behaviour to law enforcement. Recommendation 9 was that significant funds should be allocated from the road trauma trust account so that effective education and media campaigns can be consistently implemented. Recommendation 10 was that driver attitude surveys should be reinstated so that the success of campaigns can be measured. I was advised by the minister that both those recommendations have now been implemented. A two-yearly survey of community perceptions of speeding, drink-driving, mobile phone use and seatbelt use is now carried out, with the last one carried out in 2018. Also, a community attitudes survey was conducted in 2018 to gauge attitudes towards a wider range of road safety issues. Sadly, it is quite obvious that repeat offenders will not be deterred. Bringing everything up to speed with other states will go a long way towards getting into the psyche of many people within the WA community who put themselves and others at risk.

This bill will give the police a new power to ban drug-drivers or drivers who refuse a drug test from driving for 24 hours. The maximum penalty for a breach is a fine of up to 25 penalty units for a first offence or 40 penalty units for a repeat offence. This safety measure is not a penalty—the 24-hour period corresponds with how long meth, ecstasy and cannabis are likely to be detectable via oral fluid testing. The second reading speech outlined that there are similar provisions in all other Australian jurisdictions except Tasmania. The police will be given the power to require the driver to hand over their car keys, which the police can then hand to someone else who is allowed to drive the car, such as a passenger or family friend with a valid licence. The separate power to disqualify a driver from driving for two months will be expanded to cover the new offences. The disqualification can be revoked in certain circumstances, one of which currently is when the charge is not laid within 10 days. This bill will lengthen this period to a month to allow time for samples taken in regional and remote areas to be tested in Perth, which is the only place in WA where these tests can be conducted. The bill makes some changes regarding alcohol and drug testing processes—for example, by allowing blood samples to be taken not by vacutainer as per the regulations, but in some other proper manner. This is because the vacuum of the vacutainer is too much, and a small-volume needle and syringe needs to be used instead.

I will move on to the contentious part of the bill, understanding there has been a lot of discussion about clause 41, which will amend section 111. I raised a concern that clause 41 was too wide in its scope. The Greens believe that in a lot of ways proposed section 111 provides too much overreach. It might fall back on the perception of trying to remove something from a vehicle. Anything could be suspected; there is no proper description. It has not been narrowed down to describe it as a radar detector. The amendment in my name on the supplementary notice paper that was circulated last night was to narrow that scope because the wording was too broad. Since then, the government has placed an amendment on the supplementary notice paper to insert a new part 5B. That will pretty much deal with a lot of the concerns that I raised directly with the minister a few weeks ago. I indicate I will not move forward with the amendment that I put on the supplementary notice paper last night because the minister's proposed amendment adequately addresses the issue.

It is important to note that I have received a bit of feedback on this bill in recent weeks. I did not realise how contentious some of the elements of this were. WA has a very poor record with road fatalities. On a more personal level, when my mother worked for one of the funeral directors up in Geraldton, one of her roles was to assist after a terrible road accident. From a Greens perspective, it is really important to ensure that we get everything right. We want people to think about what they are doing. This bill goes a long way towards bringing WA in line with other states to address some of the issues of simultaneous drink-driving and drug use. The Greens will be supporting this bill and there might be some more questions raised during the committee stage.

HON CHARLES SMITH (East Metropolitan) [9.02 pm]: I rise to make a few short comments on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. I support the bill almost in its entirety. I take road safety extremely seriously. I have personally seen the consequences of drink-drivers and drug-drivers. It is a very unpleasant thing to witness, and to have to clean up and inform families afterwards. For me, there is no fine high enough to impose upon people who consistently engage in drink-driving or drug-affected driving. I am happy for fines to be

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increased and for alcohol content levels to be lowered. I do not have a problem with that. In order to stop behaviour that we do not want in our society, there have to be serious consequences. Similar to hoon laws, I will be happy to have impounded the cars of people who consistently drink and drive. I have not got a problem with that. I would support any robust consequence available to this government to stamp out drink-driving. Drink-driving is still a significant cultural issue in Western Australia. Almost week in, week out, when I drive home late at night, I see someone I suspect of driving on the freeway while drunk. That is just from my own personal experience.

It is difficult for the police when they attend road crash trauma because they have to deal with horrific injuries, burns, missing limbs and dead people. I say again that I have consistently urged the government to look after the police, who have to deal with these issues. Police carry trauma for a lifetime. It is grossly unfair that they are still not being looked after. I said that I would be happy to support the bill in its entirety, which I do. However, I will not support the government amendment on the supplementary notice paper that will make radar detectors illegal. The government has gone about this in a bullying way with people almost slandered in media releases, and that is why I will not support the amendment. In my experience, there are few laser detectors out there; and, if anything, when people know there are radars, they drive more slowly.

Hon Stephen Dawson: What was that last bit?

Hon CHARLES SMITH: People tend to drive more slowly when they are pinged with these devices; they slow down. I am concerned that the government is treating police and road safety as a way to gouge motorists. In the last budget, something like \$500 million went towards the speed camera program. That money would have been welcomed had it gone to fund real policemen in cars on the road rather than on cameras gouging motorists. That is not the way to stop speeding and antisocial driving; being stung by police in police cars is. I shall conclude with that.

HON COLIN TINCKNELL (South West) [9.06 pm]: It has been interesting listening to members' contributions today on the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019. Obviously, my initial thoughts or response to the bill is that it is about time. I do not understand why it has taken so long for this bill to be debated in this house when it seems to have majority support. It is quite farcical that it has taken this long to be debated in this house. How many people have died since this bill was first proposed? Drink-driving and drug-driving is very dangerous. Anyone who drives on the road knows that. Like Hon Rick Mazza, I have spent 50 continuous years driving on the roads of WA. It is an experience at all times. More recently, I have done a lot of travelling in the country regions of Western Australia. I have spent many hours in this chamber talking about the dangers of travelling through the wheatbelt, the south west and other regional areas. It is hard for the police in regional areas to police the roads adequately. The distance—mileage—and number of available police make it very difficult. We have to be serious about this. If people drink and drive, and drive under the influence of drugs, they risk not only their lives and those of their family members, but also the lives of passengers in other vehicles. We have to come down very, very hard and let them know that that will not be tolerated. I have no doubt that this government will get the full support of the chamber on this bill. One Nation members will give the bill their full support. We will also look at and make a judgement on the three amendments, and any more, on the supplementary notice paper.

The rhetoric that started the debate in this chamber tonight has been disappointing. I have known Hon Rick Mazza for the last three and a half years since he came to this chamber and I know he takes this bill and all bills that make Western Australia safe very seriously, as does every other member in this chamber. It is very poor politics to play that game before we come in here and debate the bill. Yes, One Nation will support the bill. We will consider all the amendments as they go through, and I will say, once again, it is about time. I am glad that this bill is in the house and hopefully we will be able to save a lot more lives in the future.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [9.10 pm] — in reply: I thank all those who made a contribution to the Road Traffic Amendment (Impaired Driving and Penalties) Bill 2019 this evening: Hon Nick Goiran, Hon Martin Aldridge, Hon Rick Mazza, Hon Aaron Stonehouse, Hon Tim Clifford, Hon Charles Smith and Hon Colin Tincknell. I now intend to try to answer the questions that those members have asked.

Thank you to Hon Nick Goiran for the opposition's support of at least four the five elements of the bill—potentially, the fifth when we get to the amendment that stands in my name on the supplementary notice paper, but who knows!

Hon Nick Goiran asked whether additional drug tests will be conducted upon passage of this bill. Over recent years, WA Police Force has been conducting more drug tests every year, and if this bill passes, WA police will seek additional funding from the road trauma trust account for next year.

A question was raised about radar detectors and the lack of considered debate in Parliament. The issue was canvassed during consideration in detail in the other place on 27 November; however, the member may think it was not canvassed enough, but it certainly was raised.

Hon Nick Goiran raised the issue of clause 41 capturing other devices like bull bars et cetera, but, as Hon Martin Aldridge pointed out in his contribution, these are already covered by other regulations.

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Hon Aaron Stonehouse indicated that he supports the drug-driving issue. He had some very strong language in terms of what he thought had gone on with the bill, and suggested that we were intentionally burying stuff in the bill, which I totally disagree with. The honourable member cannot have it both ways and say that banning radar detectors is a money grab by government, yet no-one uses them. They are either being used and we are trying to penalise people from using them or they are not being used. The member cannot have it both ways.

Hon Aaron Stonehouse interjected.

Hon STEPHEN DAWSON: That is not what the member said.

Hon Aaron Stonehouse stated that there was no reference in the second reading speech. The second reading speech does make reference to modernising the regulation power, and that would have been used in this case. The member raised the issue about the breadth of change to regulation-making powers. It was to futureproof the regulation-making power, and I think Hon Martin Aldridge in his contribution understood and recognised that, and, as the member for the Agricultural Region in this place, he would know far too well the number of people who die on the road in that region—young people in particular. It was to futureproof the regulation-making powers. Any regulations would need to fit into the purpose of the Road Traffic Act, which is the driving and use of vehicles that are a regulation of traffic and for incidental purposes.

I thank Hon Rick Mazza for his contribution. Obviously, Hon Rick Mazza has expressed, again, strong words about a media release that came out from the minister today. The member made the point that the bill was read into this place in November 2019, but I will remind honourable members that in November 2019 we were, of course, dealing with the voluntary assisted dying legislation. That did take some time, so that is probably why this bill was not debated at that stage. I remember that very, very well.

Hon Nick Goiran interjected.

Hon STEPHEN DAWSON: We had expansive and, indeed, extensive debates on voluntary assisted dying in this place, as is appropriate. The fact is, as we all realise, that the longer we spend on any bill means that further bills are dealt with at a later stage. That is how this place works. To suggest that somehow this bill was read in in November and then forgotten is not the case. In November, we were dealing with another piece of legislation that the community supported.

Several members interjected.

The ACTING PRESIDENT: Order!

Hon STEPHEN DAWSON: The member was briefed on this bill in February 2020, and I understand that today, or earlier, he was provided with a copy of the amendment that stands in my name and was offered a briefing and the opportunity to ask questions on that. In relation to the member's question about whether we know how many radar detectors are in use in Western Australia, no, we do not have a number for that. As Hon Martin Aldridge pointed out, we are at least 20 years behind every other state and territory. The first state in Australia to enact legislation to ban radars was Victoria in 1997, and every other jurisdiction has done it since that time.

Research into the effect of mobile speed detection devices has found that they contribute towards an up to 12 per cent reduction in fatal crashes. The use of radar detectors impacts the effectiveness of mobile and fixed speed detection devices. I thank Hon Martin Aldridge and appreciate that he spoke to the value of the briefing that he was given on Tuesday of this week. He said to me behind the Chair that this was one of the better briefings that he has had in this place. He also acknowledged that the introduction of radar detection bans was 20 years too late.

Hon Martin Aldridge talked about Australian Transport Safety Bureau research into the use of radar detectors. We are not aware of that research. However, while the member was making his contribution, I used a web-searching device on my phone to see whether I could find such research. What came up was an Australian website through which people can buy a radar detector. The radar detectors on this website cost between \$500 and \$2 500. This is a current website. It advises that in Western Australia, radar detectors are currently legal, so people can buy them and not worry about it. They are advertising them, so people are definitely using them. The website suggests that the end of the financial year is coming up and businesses might want to buy this sort of equipment to get a tax break. People are buying these at the moment and people are using these at the moment, but it is not regulated, so we do not know how many are being sold and bought. No data is available on the prevalence of the use of radar detectors. The incidence of speeding, especially on country roads, is a major factor in deaths and serious injury. Radar detectors are not of benefit to road safety.

The member asked about the review of penalties. The advisers tell me that that is still under consideration by government. I am further told that police mobile speed detectors will be detected by radar detectors—that is, police patrol vehicles fitted with speed detection devices will be detected. I am further told that WA police uses the same type of device statewide.

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I thank Hon Tim Clifford for his support for the bill and for his interaction with government over the past few months on his amendment. I thank the member for indicating that this evening he will not move his amendment on the supplementary notice paper, given the amendment that stands in my name. The member asked about roadside drug testing. I am told that in 2019–20, 42 500 tests were planned. That number is at 35 500 to date, bearing in mind that the COVID-19 restrictions have significantly influenced the testing over the last few months. Of the 35 500 tests, 5 236 gave a positive result. Approximately 64 per cent were for methamphetamine, 10 per cent for cannabis and about eight per cent due to both methamphetamine and cannabis. There has been a steady increase in drug testing since its inception. There have been increases of about 2 500 detections a year recently. The 2020–21 figure is yet to be published. I thank the member again for his contribution.

I thank Hon Charles Smith for his support for the bill, with the exception of the radar use issue. Obviously, he is entitled to his view on that issue. To Hon Colin Tincknell, he indicated that he and Pauline Hanson's One Nation would support the bill before the house but that he will pay close attention in the Committee of the Whole stage and the amendments before us.

Noting that there are some amendments on the supplementary notice paper and that we will be moving into Committee of the Whole, I thank everybody for making a contribution and I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 1: Short title —

Hon NICK GOIRAN: Today, the government issued a media release dated 24 June 2020. Does the government maintain that all the information contained in the media release is accurate?

Hon STEPHEN DAWSON: I am not aware of the reasons behind why the media release was issued today. I understand, having listened to the second reading debate, that a number of people feel aggrieved by the release of that media release—some because they were named and others like Hon Aaron Stonehouse, who was wounded because he was not named in the media release. Nonetheless, I was not aware of the issuing of the media release today. I do not know why it was issued. If members feel aggrieved by it, I apologise for that.

Hon COLIN TINCKNELL: Has there been any research whatsoever on the number of deaths attributed to radar detectors? Is there any research or information the minister can give the chamber that clearly shows that radar detectors cause deaths on the road or that they create accidents?

Hon STEPHEN DAWSON: No, as I indicated, there is no research into that. We do not know how many exist in Western Australia, so we do not know how many have caused accidents. But I have offered previously that there has been research into the effects of mobile speed detection devices that found they contribute towards an up to 12 per cent reduction in fatal crashes. Mobile speed detection devices are police speed cameras. Obviously, radar detection devices are there to evade police cameras. We do not know what the impact of them is, but there certainly is, or there could be, a negative impact from the use of radar detectors.

Hon COLIN TINCKNELL: That is very interesting. I ask these questions because I want to know more. That could mean that radar detection devices could save lives, as far as we know, because people may slow down earlier than they may have done if they did not have a radar detector. I really want to get behind this and find out what we do and do not know about radar detectors. Minister, we do not have proof that they save lives and we do not have proof that they cause deaths. Will research be done into this so we can get more information?

Hon STEPHEN DAWSON: The member is right that there is no research at this stage. But if a ban succeeds in the legislation before us, we will be able to track how many people are caught with these devices in their cars. However, I make the point that, yes, perhaps if people have a detection device in their car and they have a sense that there is a police radar ahead of them, they will slow down. But one could argue that once that is out of the way, they will speed up again. At the end of the day, people are supposed to be doing the speed limit. Why should people need a device to help them to cheat the system?

Again, I make the point that every other jurisdiction in Australia—Victoria in 1997, Queensland in 1999, Tasmania in 1999, the Northern Territory in 1999, the Australian Capital Territory in 2000 and New South Wales in 2000—banned these devices. We are catching up with other states and territories. They did it for a reason and we are doing the same.

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Hon RICK MAZZA: In the minister's second reading reply I picked up on the figure of 12 per cent in relation to radar detectors. Now, in the answer to questions by Hon Colin Tincknell, the minister has clarified that 12 per cent somewhat—it is not based on research. The minister is speaking about camera detection and people speeding and their being involved in crashes. There is really not much in the way of a correlation between radar detectors and that 12 per cent figure for speed cameras. I think that is a bit disingenuous, to be honest. We do not know. We have absolutely zero idea what impact radar detectors have on road crashes. The minister has said that we are the last state and that Victoria was the first state to introduce such measures. I am not very surprised that the socialist state of Victoria was the first to ban these devices. I really have difficulty banning something that we do not even know has an impact on crashes. There may be some truth in what Hon Colin Tincknell has pointed out, that people may slow down earlier than they normally would.

Hon STEPHEN DAWSON: I am not sure there was a question. I have plainly said that there has been no research on these devices. However, it is not correct to suggest that somehow the “socialist republic” of Victoria is leading the charge. Part of the Australian Road Rules that have been agreed to nationally, agreed that a ban like this should be brought in. We have not done that in Western Australia, so we are simply catching up with them.

Hon NICK GOIRAN: Page 1 of the explanatory memorandum refers to reform 2. I note the following information that has been provided in the eighth report of the Community Development and Justice Standing Committee, tabled in 2015, titled “Are We There Yet? How WA Police Determines Whether Traffic Law Enforcement Is Effective”. At pages 63 and 64 of the report, the Community Development and Justice Standing Committee stated —

Figures provided to the Committee by WA Police reveal that overall, 1,130,519 random and preliminary breath tests were conducted in 2013 and 1,089,757 in 2014.

However, the proportion of these tests that are for detecting drugs is very small. During the period 2008 to 2012, WA Police conducted 43,176 drug-driving tests ... There have been suggestions that this is linked to the much higher cost of conducting drug tests, but the fact that the penalty for an alcohol driving offence is higher than for a drug offence has also been identified as a contributing factor.

...

Once a driver is found to have exceeded the legal blood alcohol concentration ... limit for their licence class, WA Police automatically exclude them from drug testing. As the C-MARC report explains:

This is because the penalty for an alcohol offence is greater than that for an illicit drug offence and secondly, because of the additional cost involved in drug testing the driver who is already subject to a penalty.

If indeed this is the practice of WA Police then it is likely that a high proportion of drivers who test positive for alcohol in a random breath test will have used an illicit substance, but will not be detected or charged by WA Police. This is concerning given that C-MARC's evidence points to a “very strong association” between illegal BAC levels and illicit drug use in its latest study of fatally injured drivers.

According to C-MARC, Victoria Police has recognised this issue and plans to impose stronger sanctions for alcohol and drug-driving related offences, including a new offence for the combined use of alcohol and illicit drugs. Victoria Police also plans to drug-test the majority of drivers who test positive for alcohol—a practice which C-MARC recommends WA Police adopt, along with the “combined impairment” offence.

That can be found in the committee report tabled in 2015. I note that under the current law, the penalties for drink-driving are indeed higher than the penalties for drug-driving. This means that the Western Australia Police Force is not drug testing people after a positive blood alcohol concentration test. How does this bill address that issue? Does the new offence of drink and drug-driving address this particular problem?

Hon STEPHEN DAWSON: There will be higher penalties in place for poly-drug offences under this bill. The penalty for having alcohol and drugs in the system will be 1.5 times higher than having alcohol alone in the system. I understand that was a recommendation from the 2015 committee. I have further advice, and I think I alluded to this earlier, that over the past few years—so, every year—an extra 2 500 drug tests have been done. In responding to Hon Tim Clifford, I mentioned that it was planned to have 42 500 drug tests in 2019–20, but that number was a little bit lower. In fact, it was 35 500 and that was due to COVID-19.

Hon NICK GOIRAN: Leaving aside the fact that the new combined drink-driving and drug-driving offence will be, as the minister says, 1.5 times higher than for alcohol alone, will the penalty for drug-driving still remain lower than for drink-driving?

Hon Nick Goiran; Hon Aaron Stonehouse; Hon Rick Mazza; Hon Martin Aldridge; Hon Tim Clifford; Hon Charles Smith; Hon Colin Tincknell; Hon Stephen Dawson

Hon STEPHEN DAWSON: I am told we are increasing the penalty for drug-driving. For a first offence, it will go from 10 penalty units—a penalty unit is \$50, so 10 is \$500—to 25 penalty units, or \$1 250. That is on par with the penalty for a .05 alcohol reading.

Hon NICK GOIRAN: I thank the minister for that explanation. Will WA police, like Victoria police, also plan to drug test the majority of drivers who test positive for alcohol, a practice that the Curtin–Monash Accident Research Centre recommended that WA police adopt as far back as 2014; and, if so, are they adequately resourced to do this?

Hon STEPHEN DAWSON: I am told that the Western Australia Police Force is resourced, but a policy decision on that issue has not yet been made.

Hon NICK GOIRAN: If no policy decision has been made on that—that is, to drug test the majority of drivers who test positive for alcohol—how will the policy intent of reform 2 be implemented?

Hon STEPHEN DAWSON: The matter is under consideration. I am told that there are about 10 000 positive alcohol tests per year, so that is an extra 10 000 tests that could happen, but the issue is under consideration at the moment.

Hon COLIN TINCKNELL: I am trying to get a feel for the improvements that may have been made in drug detection. Obviously, people driving under the influence of drugs is a very serious matter. Is that part of why this bill is going through now? Has this been a policy of the minister's party and now government since before this bill was put in? The minister indicated that we had the Voluntary Assisted Dying Bill 2019 debate back in November, but I am wondering why this took so long to happen. Drugs have been a major problem in our society for a long time. What has taken so long to find a way to run a proper policy like this, to detect drugs and to find out the people who are guilty of being drug affected while driving? There has been drink-driving detection for a long, long time. Why has it taken so long for us to bring the drugs side of it into the law?

Hon STEPHEN DAWSON: Drugs are becoming more prevalent in society. As the member pointed out, it has been an issue for years, under a number of governments of different persuasions, but drugs are becoming more prevalent in society, so we have the opportunity now to fix that and to test for drugs.

Hon COLIN TINCKNELL: Do we have a better detection model now than we did, say, a year or two ago?

Hon STEPHEN DAWSON: I am told that the testing technology is a lot more sophisticated these days, particularly for roadside testing.

Clause put and passed.

Clause 2: Commencement —

Hon NICK GOIRAN: The minister will note that clause 2 allows for the operation of the bill to be fixed by proclamation and that different days may be fixed for different provisions. No doubt the government will feel that there are various provisions that will require some further time before they can be brought into force. Can the minister indicate to us the expected time for that?

Hon STEPHEN DAWSON: I am told that the main provisions of the bill will come into effect in about six to 12 months. Some of the reasons for that are that IT systems and court systems will need to be updated. I am told that the radar provisions, if they pass, could possibly come into effect in about two months.

Hon NICK GOIRAN: This is unbelievable. Members have been lambasted by this government in a media release today—falsely! Now we find out that the government will not be ready to deal with this matter for six to 12 months, except for the stealthy radar detector provision that has just been put in. That might get done! When might that get done? It might get done in two months. But apparently it is the Liberals and that Mazza bloke—Hon Rick Mazza—who have been obstructing this bill since it first came in in November last year!

With one more day to go, we still have lots to do. I can only hope that government members will reflect on what has happened today and we will not see a repeat of that tomorrow. I indicate to the chamber that I have some further questions at clause 2 and my amendment on the supplementary notice paper. Other than that, my only other questions relate to clause 41.

Progress reported and leave granted to sit again, pursuant to standing orders.