

MISUSE OF DRUGS AMENDMENT (PSYCHOACTIVE SUBSTANCES) BILL 2015

Third Reading

MRS L.M. HARVEY (Scarborough — Minister for Police) [4.11 pm]: I move —

That the bill be now read a third time.

MRS M.H. ROBERTS (Midland) [4.11 pm]: We are dealing with the third reading of the Misuse of Drugs Amendment (Psychoactive Substances) Bill 2015. This bill has been a very long time coming. Misuse of drugs has been a significant issue in the community over the past couple of years. The member for Rockingham and other colleagues of mine have raised it. I have raised the issue with the police, too, because these substitute drugs, many of them with various names—they are effectively artificial or synthetic cannabis—have been sold in our communities all too readily. They have been available in everything from herb or incense shops to delicatessens and sex shops in my electorate and others. Unfortunately, they have got into the hands of young people. They have affected young school-aged children, teenagers and older people. As I highlighted in my speech on the second reading, fully grown adults—people aged 30, 40 and 50 years who should know better—are using these substances to their own detriment and to the detriment of their families and our community. These are bad substances.

There has been a lot of talk over the years about cracking down on marijuana use and the dangers of marijuana. Unlike some other members in the chamber, I have never smoked marijuana. I have too much respect for myself, my family and the community to have ever contemplated that. When I speak to those people who try to give some advice to young people, they say that they tell them to think about drugs before they are in a situation in which they might be tempted by them. In fact, I spoke to a former addict, Jade Lewis, who now gives advice and talks to people. She says she wished she was given some advice on how to respond when drugs were first offered to her. It was not until she was at a party and something was offered to her that she unfortunately took up that offer and it took her down a tragic path, with consequences for other members of her family too.

It is not just marijuana that is the problem; there is a lot of commentary about the tetrahydrocannabinol level in marijuana being perhaps stronger than it used to be. Ideally, we want people to say no and to think about their response if they were offered drugs—how they will say no and why they will say no. We want them to think about those things in advance, not when they are at a party or in a group or when they have perhaps had an alcoholic drink or two. It is good to see Hon Phil Edman back. I call him my latest fan; he is in the chamber every time I speak on this bill. This is an issue that he obviously takes seriously too.

As I was saying, young people and older people need to think about drug use before they are offered drugs. They need to make a conscious decision that they will not take drugs in the first place. This bill deals with a group of psychoactive substances that are effectively a substitute for marijuana. As members know, the Misuse of Drugs Act already prescribes penalties for the supply and use of marijuana, but no effective laws have been in place to cover a full range of psychoactive substances that claim to mimic the effects of marijuana. Some of the other additives in these psychoactive substances are of great concern. It is a little like some of these laboratories that create ecstasy pills or manufacture ice—we never know what other chemicals may be present and what people may be ingesting into their bodies in one way or another. In some circumstances I am very, very confident that these psychoactive substances are potentially even worse than smoking marijuana. Potentially, they could have very significant health consequences for the individuals involved. I know of constituents of mine who have been affected by these psychoactive substances. During the second reading stage I highlighted the fact that a mature woman came to talk to me about how her husband was availing himself of a marijuana substitute—one of these substances. He was getting it from two local businesses in my electorate, both of which my office has informed the police about in past months.

I am very pleased to see this issue being dealt with at long last. It has been too long coming. We have been very brief and curtailed our number of speakers on this bill. A number of my colleagues are very keen to see this issue dealt with. I cannot say that I was overly confident with the minister's responses during the consideration in detail stage. There may well be some anomalies in the bill that will need to be rectified in the future. I am also disappointed. I put on record my disappointment that at this stage the minister has advised that the regulations have not been drafted and that they could not have been drafted yet. I think that is rubbish. I have seen many examples. When Hon Kevin Prince was Minister for Police, I remember him routinely providing proposed regulations to bills in draft form. Sometimes they were provided in confidence because he saw the benefits of having a cooperative approach on issues such as this. In reality, every member of this house and also the other house wants to see appropriate penalties in place for those people who sell, supply or manufacture these drugs. Will it mean that they will not be available at all? Again, I am not confident about that either.

Obviously, one way to obtain these substances is from the internet and through the mail, but at least they will not be available at the local deli or under the counter at another form of local shop or, indeed, on display on the front

counter of so-called adult shops. This is pleasing progress. I understand I am the only person from this side of the house who is speaking at this final stage of the bill. I genuinely hope that the legislation is flawless and it works perfectly, but if any shortcomings are identified over time I hope that amendments will be brought here promptly so that we can deal with them.

I commend the minister on her agreement with my assertion that the Misuse of Drugs Act needs to be overhauled so that all the penalties are in alignment and it is a holistic piece of legislation. This legislation has been amended a number of times and it is well and truly due for review so that there are internal consistencies and the penalties are consistent. I also raised in the consideration in detail stage—I appreciate it is potentially more of a consideration for the Attorney General—the prospect that rather than specify fines, we use the system in the Road Traffic Act, which is sensible; that is, penalty units rather than dollar amounts for fines. The difficulty when the fine is a dollar amount, as with this bill, which refers, in one part, to a fine of \$24 000 or two years in jail, or both, and in another part to \$48 000 or four years in jail, or both, is that potentially we would need to amend the bill in five or 10 years if inflation is such that that fine becomes too small an amount. That is why the Traffic Code is set in penalty units. I note that some of the other states show a much greater trend than Western Australia to use penalty units in place of dollar amounts. Over the time I have been in this place, the fines in many pieces of legislation have clearly been out of date; in fact, some legislation had penalties expressed in pounds because it was put in place before 1966. I cannot remember the interpretation we adopted at the time, but in the late 1960s and early 1970s we doubled the amount in pounds as the conversion to dollars for the penalty that applied. Victoria has a penalty amount that goes up every year. The Treasurer in the Victorian Parliament sets the penalty unit amount each year, so that each year the amount of the fine goes up. That means that sometimes it is not an even amount, such as \$24 000 and \$48 000 as in this bill, and potentially the fine might be \$24 325; it would go up by the CPI or as declared by the Treasurer each year. I realise that is a broader issue, but I raised it in the consideration in detail stage.

Drugs are a scourge on our community. Unfortunately, these drugs have been way too appealing, particularly to high school-aged children, and also to others, and they are very dangerous. Education is always part of the solution, but of course prevention is the ideal. We would like every child in Western Australia to have the strength to say no to drugs and never to pick up their first marijuana joint or their first packet of crap like this. Hopefully this legislation will go some way towards that. It contains penalties not just for those people who supply and manufacture these substances but also for those who promote these substances. That is a very important part of the legislation too.

MRS L.M. HARVEY (Scarborough — Minister for Police) [4.25 pm] — in reply: I thank the member for Midland for her contributions to this debate on the Misuse of Drugs Amendment (Psychoactive Substances) Bill 2015 and, indeed, her interrogation during the consideration in detail stage. I put on record my appreciation of the support of the opposition for this legislation in ensuring that it can move through this house as quickly as possible. I will address some of the comments raised by the member for Midland. Obviously, looking at penalties for the promotion and selling of illegal substances, which will include psychoactive substances once this legislation is passed, is one part of the jigsaw puzzle in battling drugs in our community. My colleague in the other place Hon Helen Morton is working extensively with her agencies on a demand management scheme around all illicit drugs. That will go some way to addressing some of the concerns of the member for Midland around better education for children. The school drug education and road aware program is a robust program available in schools that is frequently updated to ensure its currency in getting information through to children. Minister Morton has had particular challenges in getting counselling services and rehabilitation opportunities up to capacity in Western Australia. Western Australia lacks capacity in the two areas of drug counselling services and drug rehabilitation services and Minister Morton is putting considerable effort into building up capacity and helping people address what drives them to abuse psychoactive substances.

The people who sell these substances do not care who they sell them to. Yes, they are popular with high school children, but they target the most vulnerable people in our society. Some constituents have approached me concerned about young men with mental health issues. For example, a young man who is one of my constituents uses a psychoactive substance as a form of medication, but it does not work and causes significant disbenefits to him, both for his mental health and the safety of the people in the house he was living in at the time. It is not only our children who are being targeted by these people, but also all vulnerable people in the community, and that is why I am pleased that this legislation is now about to pass through the Legislative Assembly.

The regulations consist of two forms—a destruction notice and an application for analysis notice—and a fee. The fee applies to any application for analysis made by someone charged under this legislation and they will need to pay a fee for that analysis to occur. We anticipate that will be around \$500 as a cost-recovery fee, and that will be an aspect of the regulations.

I concur with the member for Midland's assessment that the Misuse of Drugs Act needs an overhaul. It has been amended several times and it now has some anomalies in the penalties for the different forms of drugs in our community. That needs some work, and I have commenced discussions with the Attorney General around the merit or otherwise of reflecting these penalties in the legislation as a penalty unit rather than a prescribed fine. That will no doubt be a policy discussion that will commence in earnest in the near future.

I undertook to bring some clarity to some of the definitions. In proposed section 8R(2), on line 8 of page 6 of the bill, clarification was sought about the term "intended or apparently intended" in promoting a psychoactive substance. I am advised by parliamentary counsel that these phrases are consistent with various other pieces of legislation. The Western Australian Fair Trading Act 2010, section 62(2)(a), uses the phrase "that is intended or is apparently intended to promote" various things. That terminology was used in the final version of this bill. Earlier drafts of the bill had used "takes any action that is designed to publicise or promote", based on the South Australian Controlled Substances Act 1984. That sort of terminology has been used in other Western Australian legislation, but we went with the Fair Trading Act precedent because we thought it was more suitable in the context of the new forms of promotion by social media et cetera that we are trying to capture by way of this legislation, in ensuring that anybody who is promoting or, indeed, apparently intending to promote these psychoactive substances, could be captured by these offences. I think that was all the items I needed to follow up on, member for Midland.

Once again, I commend this bill to the house. I acknowledge the presence of Hon Phil Edman, MLC. He is here because this is, indeed, an issue in his electorate that he has raised numerous times, and he is very passionate about, particularly given the location of one of these businesses right opposite one of his high schools. That high school is in an area in which there are a number of vulnerable families and vulnerable children, and they do not need to have easy access to these sorts of substances. I thank Hon Phil Edman for his advocacy of this legislation, and I am sure that he will be a very vocal supporter of it when it passes through the other place.

In closing, this legislation forms another tranche of the Liberal–National government's commitment to drive drugs out of our community and to improve the community safety of all Western Australians.

Question put and passed.

Bill read a third time and transmitted to the Council.