

Extract from Hansard

[ASSEMBLY — Tuesday, 19 March 2019]

p1430f-1471a

Mr Peter Katsambanis; Mr Kyran O'Donnell; Dr Tony Buti; Dr David Honey; Amber-Jade Sanderson; Mr Peter Rundle; Mr Simon Millman; Mr Mark Folkard; Ms Jessica Shaw; Ms Cassandra Rowe; Mrs Jessica Stojkovski; Mr Chris Tallentire; Ms Janine Freeman; Mrs Michelle Roberts

ROAD TRAFFIC AMENDMENT (BLOOD ALCOHOL CONTENT) BILL 2019

Second Reading

Resumed from 19 February.

MR P.A. KATSAMBANIS (Hillarys) [3.15 pm]: We are on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019 and I rise as the lead speaker of the opposition to indicate that the Liberal opposition will support this bill. We take road safety extremely seriously, and I think that is a bipartisan and multi-partisan approach. We have zero tolerance for people who drive dangerously on our roads, particularly those who are affected by alcohol or other drugs. I make absolutely no apology for our stance. We in Western Australia have a serious problem stopping dangerous drivers from causing carnage on our roads. We know that our road trauma statistics are certainly not as good as they can be. As the minister pointed out in her second reading speech, it is estimated that in about one in five fatal crashes drink-driving is a contributing factor. In around one in 10 crashes that may not result in a fatality but in serious injury, drink-driving is one of the key factors that causes those crashes. We know that the consequences of both fatalities and serious injuries are tragic for the people involved and their families—for innocent third parties. They also, of course, impact on the public purse as we look after people who are seriously injured in road crashes. The consequences flow right through the whole of the Western Australian community because they impact on third party insurance premiums and the like. Everyone is affected by bad choices made by drivers affected by either alcohol or other drugs.

This bill is a very narrow bill; it deals only with a small portion of our Road Traffic Act relating to how evidence of blood alcohol content is calculated for the various intoxicated-driving offences contained in the Road Traffic Act. The bill closes a loophole that, unfortunately, some unscrupulous people have been using to get around our drink-driving laws. Unfortunately, they have been using it to try to get away with what they know they should not be doing. We know there is still a culture in the community among some people who do not care about getting behind the wheel of a car when they have had too much to drink. That is what this amendment is trying to get at—to make sure that we keep changing that culture. Over the last 40 or 50 years we have come a long way as a society. We have recognised the perils of drink-driving and the need to set a limit. The limit is a bit arbitrary. In the old days it was .08; that was the limit for the first set of drink-driving offences. In the 1970s, it was realised that perhaps a lower figure of alcohol impairment should be introduced. When a lot of people reach .08, their reflexes, senses and perception of what is around them is highly reduced and they are a danger if they drive on the road. From the 1970s onwards, that was recognised across Australia. I grew up in Victoria and I remember that when I was a young boy the famous motorcar driver Peter Brock led the public campaign to reduce the blood alcohol content limit from .08 to .05. I was quite a fan of both Peter Brock and the Holden racing team, which had various names. It was named after a cigarette company at one point. I shared another passion with Peter Brock; he was also a wonderful supporter of the Collingwood Football Club. I was a child at the time so I did not drive, but where I lived he was used as the public face of the campaign to reduce the allowable alcohol content in people's blood from .08 to .05. That campaign was very successful. The majority of Australians and Western Australians have come to accept that. Western Australia came to the party some years later. It was quite a significant period later. The Minister for Road Safety, with her experience, can perhaps tell us when that was. Western Australia had the higher limit for a lot longer than most of the other states. However, we have come a long way. All those jokes that were around in the 1970s and 1980s about drink-driving have disappeared. The vast majority of people get it.

Since the change to a .05 limit, we have moved further. We have moved to the stage of probationary drivers—newer drivers, including young drivers—and professional drivers, such as truck drivers, bus drivers or drivers of for-hire transport vehicles, being expected to have no alcohol in their blood when they drive. I think that is a good thing. Zero tolerance is the right way to go because those people take other people's lives into their hands in their vehicles and are charging or being paid for it. They also take other road users' lives into their hands. We have done a great job as a society, but a small hard core of drivers continues to transgress. I do not have the latest statistics in front of me, but, unfortunately, recidivist drink-drivers—those who have been caught again and again—and, even worse, some who are under a current disqualification for drink-driving or other transgressions of the road laws and should not be on the road at all, continue to drink-drive.

With this amendment, hopefully, we will be able to attack that small portion of people who continue to thumb their nose at the law and, as the minister said in her second reading speech, play Russian roulette. Whatever it is called, they take their life into their own hands and roll the dice. It is not about just them. It is about every other person they could impact and that list is long. If a drink-driver is injured or killed, it will impact their family and friends. But if they hit someone else, be it another driver, a pedestrian, a cyclist, or a motorcyclist, they could cause that person irreparable harm with a cascading effect on their family and friends. I make no apology for being tough on drink-drivers and getting them off our roads. I think the same applies to people who drive under the influence of

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drugs. We need to keep those people off our roads and convince them that it is not the right thing to do. This amendment deals with only the blood alcohol content, but the principle is the same. If a person is impaired by alcohol or drugs, they should be off the road.

This series of amendments is really one amendment. A few clauses of the Road Traffic Act need to be amended and some tidying up of the Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act needs to be done. This bill will do one thing. It will change how a driver's blood alcohol content level is calculated. The current laws are out of step with the rest of Australia's laws. They are a throwback to that time when we did not necessarily communicate to the public how dangerous it is to drink and drive or to take drugs and drive. The rest of the states have got rid of this small, but very important, way of retrospectively calculating a person's blood alcohol content. In Western Australia, a driver's blood alcohol content is tested at a roadside test—either by a random breath test or because police have pulled a person over because they were committing another driving offence or driving erratically. The driver blows into the preliminary breath-testing device, which will give an indication of whether there is a concern about them driving over the limit—over zero in the case of professional drivers and probationary drivers, or over .05 for other drivers. The police then take those people to conduct the actual breath test on an alcohol breath-testing machine. If it is a random breath test, that equipment will usually be in the familiar buses that we see on our streets at all times of the day—the booze buses. A lot of buses are now equipped with dual testing equipment, which tests for both alcohol and drugs, so they are booze and drug buses, but some are still booze buses. If a roadside testing facility is not available, the person is taken back to the police station, where they submit their breath for analysis on the breath-testing equipment. In every other state in Australia, the level that they blow on the official alcohol breath-testing equipment is considered to be the alcohol content in their bloodstream. Borrowing a term that the minister may have used, “What you blow is what you go.” That is the system in every other state. In Western Australia, we still have a throwback to the past and that is not the end of the road. The police will ask the driver when they had their last drink. Then they use a very complicated formula—in a moment I will say how I found out exactly how complicated it is—to retrospectively calculate what the blood alcohol content would have been at the time the driver was pulled over by reference to when the last drink was had. That recognises the fact that for some time after someone has consumed alcohol, their blood alcohol content keeps rising. I think the calculation is based on the presumption—the member for Cottesloe is an expert in doing this calculation, and he will correct me if I am wrong—contained in the mathematical formula, that one's blood alcohol content will continue to increase in the first two hours after the last alcoholic drink was consumed. A complex formula calculates a figure. Often that figure is lower than the reading shown when people first blow into the machine.

It has come to people's attention that that small hardcore of recidivist drink-drivers are utilising this second chance, this retrospective calculation to either avoid being charged for drink-driving completely or to have their blood alcohol content reduced to a level that they do not lose their driver's licence—that gap between .05 and .08. Perhaps a conversation for another day with the responsible minister is whether Western Australia is in step with other states on that as well. That allows for gaming of the system. That ability for a driver to nominate when they had their last drink allows an unscrupulous drink-driver who simply does not care about the consequences of their actions to concoct the time they had their last drink as being pretty close to when they had their breath tested preliminarily on the side of the road so they have the benefit of the formula back calculating a lower figure than they blew on the official calibrated alcohol breath-testing equipment. In my mind, it is totally and utterly wrong that people are gaming this system.

At a briefing, we sought some further information and evidence that this is happening. We were referred to a report conducted by the Curtin–Monash Accident Research Centre. I think the research was conducted in 2012 but the paper was not published until June 2014. The researchers looked at over 8 400 tests that had been conducted during the period they were researching. They worked out that 26 of the 8 400 people tested managed to avoid being tested for drink-driving completely because of the benefit they derived from that back-calculation. This reinforces the point that the recidivists—the hardcore drink-drivers—are gaming this system more than the punter who has been caught out once; that is, 65 out of 8 400 people utilised the back-calculation to have their level of offence reduced so that their penalty was lower. If they go from being above .08 to being under .08, they avoid suspension or cancellation of their licence at first instance. The figures are stark. Almost three-quarters of the beneficiaries are people who are already at the high end. They have blown over .08 and then their charge is reduced. That is not good enough. It is quite clear that those hardcore drink-drivers understand that this second chance exists—this second bite of the cherry—and they are taking advantage of it. They are playing us all for mugs. They are thumbing their noses at us. They are the sort of people who go back to the throwbacks of the 1970s and 1980s. They are mainly men, but it is not restricted to men; more and more, we are seeing the percentage of women caught drink-driving increasing over the last decade or so. But it is mainly those men who used to go to the pub, skull a few drinks and jump behind the wheel of their car thinking that they are bulletproof, especially in regional areas,

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thinking they are just going around the corner but around the corner is 80, 90 or 100 kilometres away. Even if they are travelling only two kilometres or five kilometres, they are still a risk to themselves and, more importantly, to every other road user. That is not good enough. These people should not be allowed to get a second crack at it and they certainly should not be allowed to game the system to gain an advantage and not be punished for their drink-driving habits.

That is why we think it is a good idea that Western Australia come into line with every other state and abolish this retrospective back-calculation of blood alcohol levels. It is really a throwback to the years when alcohol breath-testing machines were perhaps not as accurate, but today they are highly accurate and the operators are highly trained. We have one of them in the chamber. The wonderful member for Kalgoorlie was an authorised operator. He was telling me about the amount of time he spent on the course learning how to use the machine and was certified that he was the right operator for it. He was telling me about the amount of time they dedicated in that course to not only how to use the machine, but also how to calculate this formula longhand. They were not allowed to use calculators. That may be no problem for a scientific mind like the member for Cottesloe's, and perhaps even for someone like me who would never profess to have much scientific knowledge whatsoever, but significant accounting and statistical experience and qualifications—and perhaps that qualification is easy, especially for people of a generation who have grown up using calculators to do a lot of their maths. I had the benefit of seeing two children go through high school maths. It is the calculator and the ability to punch in a formula and pick the right formula that is tested, not one's long division skills. Children would find that a lot more challenging. That did eat up a lot of time teaching our police officers those calculations. I have no doubt, as the member for Kalgoorlie also explained to me, that those operators did those sums perfectly well and correctly and applied the law. It is just that this particular part of the law is completely outmoded and outdated. It gives people that second chance. Those calculations will no longer be required. That second chance will not occur.

This legislation will not in any way impact on the ability of people involved in serious accidents or serious crashes, which has caused either a death or a serious injury, to have their blood alcohol content tested by blood sample rather than by breath sample. However, a long time ago we moved away from the ability of any person caught drink-driving to nominate the option of having a blood test. That is a good idea because, again, these modern machines are so much more accurate than what we had back in the day. I was reminded earlier today, by the member for South Perth, of some of those old days, before my time admittedly. I am an inner-city boy; I grew up in the inner city, so I do not have the benefit of the war stories from regional areas, but I recall that when I was a young man I heard stories of people being made to walk the line. Police would pull people over, find the line on the side of the road and say, "Walk along that."

Mrs M.H. Roberts: That was the old-fashioned sobriety test. You literally had to walk the line and touch the end of your nose.

Mr P.A. KATSAMBANIS: There you are. I do not have any personal experience of that. I will bow to superior knowledge; perhaps people have their own experiences of walking the line whilst touching their nose. We used to do that. I remember police would give people on the side of the road inflatable bags with crystals in them to blow into. These were very rudimentary tests to test nothing more than whether a person had some alcohol in their system. It would light up green if the test failed. I never failed one.

Mr J.E. McGrath: What about when you're driving along and you haven't had a drink—you've been in the office all day—and there's a breath test ahead? You always get called through, you never get tested and you're waiting for the police to test you.

Mr P.A. KATSAMBANIS: The member for South Perth is going to get me to tell war stories. After I had already moved to Perth I was a passenger in a cab in another city and the cabby got pulled over. He blew and he was quite inebriated. That did not help me get to where I was going in a city that is not my city. It was quite confronting. There are a lot of war stories and horror stories around drink-driving. We should not be flippant about it. Enough members in this chamber know that when I was a university student, one of the many jobs I did was work in the towing industry. I do not really want to bore people with my significant experience in dealing with the aftermath of bad driving decisions, including decisions to drink-drive or drug-drive. The less I say about that, the better, because it does evoke really strong emotions. Anyone who has been a first responder of any type recognises that. I am sure the member for Kalgoorlie and the member for Burns Beach, although he is not in the chamber, well recognise that. I have had many conversations with the member for Burns Beach; he is deputy chair of the committee that I chair. It is not always a healthy thing to keep talking about some of those experiences, but again, what I have said just goes to highlight the impact that these people who thumb their nose at our legal system can have on many other people, such as the first responders, the people who treat the injured in hospital, the people who help with the rehabilitation of the innocent injured people, and the like. They all get

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affected by these terrible decisions that we are trying to discourage from being taken. Hopefully, eventually, we will eliminate them.

We have moved on from those days, as I said, of the blow-up bags and the crystals. Back then it would be a blood test afterwards, in the main, if the person requested one. We have moved away from that. We have very accurate machines and highly trained police officers—not any police officer can operate the machine. I know that in regional areas it is sometimes a bit of a challenge to find an authorised operator, but invariably, again, I am told by experienced hands like the member for Kalgoorlie, that it does happen. Occasionally, the experienced operator might have to trudge back to the station after having completed a very long shift in order to fulfil the elements of the law, so we can get these people properly calibrated and get the drink-drivers off the roads. That is why we do it. We do not do it for any other reason; we do it to protect the community—well, the police officers do it. Good on police officers like the member for Kalgoorlie. If he makes a contribution, maybe he can tell us some of the things that he has encountered in his experience.

This law will not change the requirement for police to wait 15 or 20 minutes—I think it is 20 minutes in Western Australia—after the preliminary breath test, to ensure that any mouth alcohol that is not part of the calculation of the blood alcohol has been removed from someone's system. This will continue to be the case. I think in some other states it is 15 minutes, but 20 minutes seems fair, and usually if a police officer has pulled someone up on the side of the road, by the time they have taken them into the bus, talked to them and explained to them the situation, they are at almost 20 minutes. If the police have to take them back to the station, unless they have nabbed them as they were leaving, after having processed the previous drink-driver, usually, especially in regional areas, the 20 minutes will be eaten up simply when transferring the person back to the station, finding an operator and getting the machine going. That will continue to apply as well. There is a built-in check and balance so that when a person blows into the official alcohol breath testing machine, the police will have waited a sufficient amount of time to wash out any mouth alcohol. That is different from the alcohol that is inside their blood and is working its way up. Yes, there will be a few people who may be disadvantaged between the current situation and the situation that will exist when this bill is passed into law and we come into line with the other states. There may very well be the occasional person who is not gaming the system, who has had that last drink, and perhaps in the period between the time that they were tested on the roadside and the time they had got to the proper testing machine, their blood alcohol did continue to rise because they were not gaming the system, they were simply still in that period of an hour or two hours in which their blood alcohol continued to rise. We have to recognise that. We do not have any real statistics of how many of those people there are, but we do know that another group is gaming the system. We want to get them. The message I would say to that other small group who perhaps feel as though they are being unfairly disadvantaged by this change, is that this is about changing behaviour. This is about eliminating the people who take a couple of quick swigs and jump behind the wheel of a car. We want to discourage that activity and really, whether a person is a little over or under, a blood alcohol level of .05 or .08 is an arbitrary figure for a loss of licence. Are they really going to argue that their blood alcohol level was only .049 or .048? I see the Minister for Health is in the chamber listening to this debate. He understands, from his own portfolio, the impact that slightly over or slightly under could have on the health system more broadly and on individuals' lives. We want to send a strong message—the six o'clock swill should be confined to the annals of history. There is a famous painting by John Brack of the six o'clock swill in Collins Street, Melbourne. That was in the 1960s.

Mr J.E. McGrath: Even I'm too young for that.

Mr P.A. KATSAMBANIS: Even the member for South Perth does not remember the six o'clock swill! We should confine it to the annals of history and to paintings, cartoons and historical books, not a modern-day phenomenon or scenario. We have taken a strong policy decision as a community—a very strong policy decision—to discourage people from drinking and driving and today in the main there are far more options than ever for people not to drink and drive. First of all, there is the ready availability of packaged alcohol. People do not have to go to the pub to fill up and then jump in their cars and drive home. They can go to the pub or the bottle shop to collect their alcohol and take it home. In that way, they will not cause much damage to anyone else, particularly road users, although, even then drinking in moderation is the message. We also have public and on-demand transport—taxis, Uber and the like. Through my interactions with young people and my older children and their friends, I know that young people are very, very responsible. Young people today are far more responsible than my cohort was when we were the same age: late teens and early to mid-twenties. They are extremely responsible. They designate a driver or they leave their car at home if they are going out to socialise because they know they might have a few drinks. They do not want to be in the position at the end of the night of having to scratch their head and think, “Am I a bit over or am I a bit under?” Of course, when people have had a lot to drink—when they are well over the limit—their decision-making power is not as great. People often do not make the right decision when they have had too much to drink in the first place. From my experience, young people today are so much more cognisant of the impact of

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drink-driving and they actively take measures to make sure that they are not caught in that position. I recognise that in regional and more remote areas, the plethora of options that we have in the city does not exist and that they may not be able to get a taxi, an Uber, a bus or a train home. I recognise that. But it does not take away from the main message—people should not substitute a bus, a train, an Uber or a taxi for their car or the car of someone who has been drinking with them. People need to make choices that are appropriate for them, and if that means having less to drink or nothing to drink until they get home, that is the right thing to do to protect themselves and the entire Western Australian community. We are unapologetic about that. That is the same message that we send to the small cohort of people for whom, as I said—I think my friend the member for Cottesloe might spend a bit more time on this particular issue—their blood-alcohol content continues to go up and up between the preliminary test and the official test. The message to those people is—do not risk it or take the chance, because it is just not worth it. It is not only not worth it from the perspective of getting fined or losing their licence, it is also not worth it for the tragic consequences that could occur if people drive while they are impaired. That is the strong policy message that we as a society have sent across Australia for 40 or 50 years. Again, unfortunately, we here in Western Australia are lagging a bit behind, but this amendment will go through and it will give us the opportunity to catch up.

We are bipartisan on this issue, and have been for a long time. Road safety is important. I know that the road safety strategy is now up for review. New issues always emerge. I am looking forward to seeing the discussion papers and the final result of the new road strategy that will take us beyond the year 2020, which is next year. But with all the new challenges and issues that are emerging, we have not eliminated drink-driving. We have done better—we have done a lot better. The figures are stark. I am actually really happy when I see the figure for the percentage of people who have failed breath tests. Thousands and thousands of breath tests are conducted every week, but the failure rate is tiny, which is great because it means that we are getting through to the vast majority. The ones that we are not getting through to are hardcore. As I said, we give a big tick to the younger generations—people in their late teens and early twenties, and even some of those who are now in their thirties who were teens and in their early twenties a decade or so ago, because they have done better than my generation did. I guess my generation probably did a little better than the generation before it. We have to continue to ram that message home: “If you drink, then drive, you’re a bloody idiot”. It is as simple as that. But not only that, the consequences can be devastating for everybody.

I am looking forward to the new road safety strategy. I understand that the acting Road Safety Commissioner has indicated that the whole process of creating the new strategy will kick off very shortly. It will be informed by what we have done in the past and what is happening around us at the moment. I do not want to politicise this issue at all because it is a bipartisan issue. I do note, however, that we now have our third acting Road Safety Commissioner in as many years. I urge the Minister for Road Safety to make sure that the appointment of a permanent Road Safety Commissioner happens earlier rather than later, because I think it is absolutely critical that when we charge someone with implementing a long-term strategy, which will perhaps extend for a decade or even more, the responsible person to whom we will all look for community leadership—the Road Safety Commissioner—is involved in preparing the strategy and working out what it will look like so that we work on a no-surprises basis. I urge the minister—I do not know whether she can inform us during the summing up or in the near future—to advise us what that process looks like and how far away she thinks we are from appointing a permanent Road Safety Commissioner to continue the good work that the Road Safety Commission and the Road Safety Council conduct in the area of road safety generally, including drink-driving and drug-driving.

With those words, I do not intend to take up my whole hour. I was goaded by some of my colleagues to give a bit of a history lesson. I have done a potted history; I did not want to go deep into all the history of this area. We have come a long way as a society, as I said, from the time that the late great Peter Brock became the public face of more responsible driving behaviour, especially with the use of alcohol. Sadly, our state has lagged behind in going from .08 to .05 as the base figure. I think we adopted zero—zero for various types of drivers more quickly than we did some of the other changes. Now we have this lingering area of the back-calculation, which was introduced for good reason—namely, to deal particularly with those few people who experience a rise in their blood-alcohol content after they have stopped drinking. Clearly, it has been gamed by the sorts of people we want taken off our roads. I hope that the passage of the Road Traffic Amendment (Blood Alcohol Content) Bill 2019 through this and the other place will mean that the arcane system of back-calculation—the long division and the handwriting of a formula, which benefited people who did not deserve to be benefitted—will be gone forever and that we can send another strong and unequivocal message: “Don’t drink and drive”. It is as simple as that. Do not risk it. Do not guess and do not second-guess. Do not buy those silly gadgets that are probably about as accurate as any prediction I might make for the forthcoming AFL season. Just work it out like everyone else does. Perhaps learn from the younger generation rather than learning from the old ways of the older generation. Do not risk it. Do not

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drink and drive. If people drink and drive, they are going to get caught and they are going to get punished. The alternative is that they could punish innocent people, and we do not want that to happen.

MR K.M. O'DONNELL (Kalgoorlie) [4.00 pm]: Greetings, Mr Acting Speaker. It is my turn to briefly comment on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. I wish to talk on record as a police officer of 34 years. I dare say that the member for Burns Beach will have his turn as well. I stand up to fully support this bill. I think it is a good bill. When I first joined the police department in the 1980s—I dare say that the member for Belmont was not even born then—we could not just stop a driver for a random breath test; we had to show cause. We had to have a valid reason to stop any car. When we did stop a car, a plastic bag would be utilised for a breath test.

Mr M.J. Folkard: The crystals.

Mr K.M. O'DONNELL: That is correct—the crystals. There were no calculators and no alcotest.

Mr M.J. Folkard: The line.

Mr K.M. O'DONNELL: Yes, there was the line. I remember asking my first drink-driver, allegedly, to blow into the bag. He blew into the bag and then both of us—the offender and I—proceeded to the front of the police car, which still had its headlights on. I advised him that if they turned green, he would be in the back of the van, and if they did not change, he would be on his way home. He was eagerly anticipating what that would look like, so he practically got to the headlights before me. We crouched down and both of us were looking. Then, bingo, they turned green. I was happy; he was not.

Mr M.J. Folkard: That's where the phrase “blowing in the bag” comes from.

Mr K.M. O'DONNELL: Yes. That is funny; I have never thought of that—it is.

I never had any qualms charging a drink-driver. Drink-driving is one thing I disagreed with, especially when, in many instances, it would have cost someone only \$10 or \$20 to get a taxi.

In the past, when a drink-driver had blown into the bag, they would have been taken to the old Plain Street Perth Girls School and placed before a qualified breath-test operator who gave them a spiel. I might have a crack at remembering the spiel I used when I was a breath-test operator.

Mr W.R. Marmion: Give it a go.

Mr K.M. O'DONNELL: It has been a long time. It went something like this: “I am an authorised person within the meaning of section 65 of the Road Traffic Act to operate all types of breath analysis equipment. The equipment you see before you is a Dräger Alcotest 7110. It calculates the amount of alcohol —

Mr M.J. Folkard: No, you're wrong!

Mr K.M. O'DONNELL: Oh! You are not reading from it! They do not know that! It continued, “It's a machine to calculate the amount of alcohol in a person's blood by analysis of the breath. You are being required to submit your breath for analysis. When was the last time you had a drink containing alcohol?”

Mrs M.H. Roberts: Well done!

Mr K.M. O'DONNELL: I was close.

Mr W.R. Marmion: Not bad—I'll give you 95.

Mr K.M. O'DONNELL: Thank you, member. The member for Hillarys spoke about this and I am sure others will speak about it. It is all to do with the time a person had their last drink containing alcohol. Some people think they can manipulate that a little bit and that it may result in only an infringement, not a suspension. Before infringements came in, people got away with it. They got away with blue murder, as they say. Some people listen to barbecue talk. They think that when the police take them back to have a breath test and ask them to blow, they have an option to refuse to blow into the machine and request a blood test. Over the years people have said to me, “I'm not blowing into the machine. I've been told that if I do not blow into the machine, you cannot charge me.” Many have fallen by the wayside. As soon as a person refuses a blood test, they are charged automatically with driving under the influence, the highest they can go. Once police do that and say that a person is under arrest, they are charged; they just cannot believe it. But they had the option to blow. For years and years—for the last 30 years—when they asked for a blood test, it was the same: what you blow is what you go. When they take the blood test, the alcohol reading is exactly the same as when they take the blood test. It is the same thing. In my opinion, it is a shame it is not like that for the breath test as well. I used to advise friends to never refuse and never take a blood test, because there is always a chance that they will get the benefit on the machine. Does that mean

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I want to see anybody gain a benefit from having a few drinks and getting away with things? No, it does not—not at all.

In the metropolitan area when people are taken back to the police station, operators are there ready to go, 24 hours a day. In the regions, it is a different story. If a person is in Dawesville, people are still down the road from a breath-test operator. It is different in remote areas. In the goldfields, for example, we could be halfway between Leonora and Menzies. For example, we could be 200 kilometres from Kalgoorlie and maybe 150 kays from Leonora. If police stop a driver in the middle of nowhere and ascertain by using the breath-testing machine that they have alcohol in their system, they then have to convey them to a qualified breath-test operator at one of the centres. There is no guarantee that one will be on duty. In the old days, we hardly had any breath-test operators. In Kalgoorlie, I think we had two or three at most. The police department did not put too many people through the course because it was expensive and time consuming. Times have changed. I know in Kalgoorlie, for the member for Swan Hills' information, the 24-hour police station I worked at for 30 years —

Ms J.J. Shaw: I am listening.

Mr K.M. O'DONNELL: Yes. Back then if we brought somebody back to be breath tested, we would have to find an operator. If they had all knocked off work, we had to ring around to try to find one. Under the system now, that person has to sit and wait. As the member for Hillarys said, the alcohol level in a person's blood goes up for two hours after their last drink. If they are sitting there for an hour and a half waiting, their blood alcohol level is going up and it is peaking. I have no issue with that. That is his or her bad luck, but it will go up. If they have a blood test straight after they have been driving, it is to their benefit because that is where it is at. But if it takes longer to get the breath test, that person will be penalised even more. I reiterate that I have no issue with that—none at all—but I hope that the courts do not take that into consideration and give a lower penalty because I took longer; no, I hope not.

Alcohol plays a big part in traffic accidents. It is not just speeding or falling asleep; it is alcohol consumption, and anything we can do to stop it I am thoroughly for. I have been to traffic crashes in which alcohol has been the issue. I have stated before that I have picked up a helmet at a traffic accident in which alcohol was involved, and the person's head was still inside the helmet. That is not good to see or to still visualise.

In finishing, I say that this is one good thing, but in order to cut road carnage and drink-driving, I would love to eventually see us bring in a law, whether we can do it in this Parliament or the next, that would entitle a person to get only one extraordinary driver's licence in their lifetime. At the moment, many people say, "It's all right if I get done; I'll just get an extraordinary licence." Some people go to court and get an extraordinary licence two, three or four times. I even saw in the media a couple of years ago that somebody had had an extraordinary licence more than 10 times. The attitude is, "Who cares? I can have a drink. I'll get an extraordinary licence." I would love to see us take that away from people. If we had that rule at the moment—the ability to have an extraordinary licence just once in a lifetime—we would charge someone for drink-driving and they would have to make the big decision: do they opt for that extraordinary licence now when they go to court, or do they think, "Gee, I'm not very good at this. I'd better wait until I really need it"? I hope we bring in a law in my lifetime whereby no-one is entitled to multiple extraordinary licences, no matter the hardship. They know the rules; they get it once. That is all I have to say at the moment. I commend this bill to the house.

DR A.D. BUTI (Armadale) [4.11 pm]: I would like to contribute to the debate on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. I do not disagree with the member for Kalgoorlie's sentiments on extraordinary licences. Why do those people not just run to work? Some of us do it; it is not a problem! The hardship cannot be that great. I agree; I have seen the extraordinary licence process abused in the court system. People show no responsibility for their actions. There eventually has to be a time when enough is enough. Obviously, although there may be some personal hardship and unfortunately family members may be affected, the hardship to the community from having dangerous drivers on the road is even greater.

I wish to also pass on my congratulations to Hon Michelle Roberts, the Minister for Police; Road Safety, on the twenty-fifth anniversary of her election to this Parliament. I believe she is the longest serving female politician in Australia at the moment, so congratulations; well done!

In introducing this bill, the minister said —

Drink-driving is a key factor in around one in five fatal crashes and one in 10 serious injury crashes in Western Australia. The impact of these crashes is far-reaching. Alcohol-related crashes are estimated to have cost the Western Australian community \$3.6 billion over the last 10 years. The McGowan government is continuing to tackle drink-driving to make our roads safer for all Western Australians and visitors to our state.

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In that first paragraph of the second reading speech introducing this bill, the minister told us the incidence of alcohol in fatalities and serious injury crashes in Western Australia. There is not only that personal dimension, but also an economic dimension. As the minister mentioned —

Alcohol-related crashes are estimated to have cost the Western Australian community \$3.6 billion over the last 10 years.

Imagine if that money could have been used for other purposes—for schools or other more positive aspects in our community. The health budget is always very pressing and consumes a lot of the state budget. It would be good if we could remove the need to deal with the consequences of drink-driving. As mentioned by the member for Hillarys, the lead speaker on this bill for the opposition, WA is behind other states in bringing this legislation before the house, so it is very much needed. As the minister also stated when introducing the bill —

The Road Traffic Amendment (Blood Alcohol Content) Bill 2019 strengthens WA's road safety laws by removing an outdated and unnecessary practice to calculate a driver's blood alcohol content—BAC—and finally brings WA into line with the rest of Australia.

The system we have at the moment was very well articulated by the member for Hillarys. Under this system, someone is given either a random breath test or an initial test when they have been pulled over or there has been an accident and so forth. If that test has a reading of above or near .05, or lower for certain stipulated drivers, the driver then waits 15 minutes for the evidentiary test, which uses more sophisticated measuring apparatus. The member for Hillarys mentioned the way in which the science works. I am sure the member for Cottesloe would be able to articulate the science behind this probably better than anyone. Alcohol content is supposed to increase. Then there is the evidentiary test, and the back-calculation is performed. That is based on asking questions about when someone had their last drink. We can see where the avenue is open to milk the system and to get out of or lessen a conviction by reducing the reading over and above the allowable limit. Obviously, if someone does not tell the truth about when they last had a drink, that will of course affect the back-calculation, which may affect the reading used to prosecute a case. The Curtin Monash Accident Research Centre study of 2014 found that the back-calculation process resulted in an estimated 20 per cent of drivers avoiding charges altogether. That is something we obviously need to try to minimise, which is why this bill is before the house today. The minister has made no apology for bringing in this bill.

An article by Joe Spagnolo headed “‘What you blow is what you go’ laws to be introduced into WA”, on PerthNow of 16 December 2018, states —

THE days of the so-called “hip flask defence” will soon be over for drunk WA motorists, with Police Minister Michelle Roberts confirming new “what you blow is what you go” laws will be introduced into Parliament next year.

Cabinet has given approval for the new laws under which a back calculation process that potentially reduces a drink-driver's blood-alcohol content—meaning a lesser penalty, or, in some cases, allowing offenders to get off—will be eliminated. “There will be no more tricky fiddling with numbers,” Ms Robert said.

It should say “Roberts”. Joe's got a typo! The article continues —

“Whatever you blow at the booze bus or the police station is what you will be charged with.

“Hopefully this will stop people from playing Russian roulette with the road rules and people's lives.

“It will close a loophole which has allowed some drink-drivers to manipulate the system and escape conviction or higher penalties.

“It removes the outdated practice of retrospective calculation of blood-alcohol levels and brings WA into line with the rest of Australia.”

That was quoting the minister. Joe Spagnolo then wrote —

WA is the only State that still uses a back calculation method to determine a person's blood-alcohol level at the time of being stopped by police.

It was coined the hip-flask defence because in the old days it was not uncommon for a person to carry a hip flask with alcohol in their car—to argue that they had taken a swig of alcohol to calm their nerves prior to being breathalysed.

Under the change, the roadside reading will be the one used at their court appearance.

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“You could have had your last drink three hours ago or three minutes ago, it doesn't matter,” Ms Roberts said.

“The reading you blow roadside will be the one used at your court appearance.

“It means what you blow is what you go.

“It's simple, it takes all the confusion away and it's a clear message that alcohol and driving don't mix.”

The hip-flask defence will still be available in certain narrow circumstances, but the general use of that defence is going to be removed, which is something we should all applaud.

The member for Hillarys talked about the changing drinking or drink-driving habits over the generations. He may be right; I am not 100 per cent sure whether he is right about the younger generation being more responsible. But I do know that since the introduction of random breath tests, there generally has been a reduction in drink-driving as such. Of course, the number of fatalities contributed to by alcohol consumption is still very high at one in five. We can ask sporting and community clubs about the effect that RBTs have had on their bar returns; they have significantly reduced the revenue that they receive. This has had a detrimental economic effect on them, but it could be argued that it has had a positive economic effect in other areas, such as members not being involved in accidents and, therefore, not being able to play for their club or be involved in the running of the club. I do not think any excuses should be made or that we should feel sympathy that as a result of RBTs, bar revenue raised by sporting and other clubs has been reduced. A sporting club should not rely on an increase in alcohol consumption for its survival. We have to look at other ways to ensure that clubs survive.

Most of us will know that Rob Johnson, a former member of this house and a former police minister, had a daughter who was the innocent victim of a road traffic accident. As far as I am aware, it was not a drink-driving incident, but I am not 100 per cent sure. I refer to an article in *WAtoday* of 24 June 2014. It states —

State Liberal MP —

In those days, he was still a state Liberal MP, before he saw the light and became an Independent —

Rob Johnson has been given many labels during his colourful political career.

Outspoken. Maverick. Disgruntled. Veteran. Rogue. For more than two decades the member for Hillarys and former WA police minister has built a reputation for never shying away from a tough subject—or title.

However, there is one powerful but publicly little-known description that has more influence on Mr Johnson than any other—that of the father of a road accident victim.

Following his interview on Radio 6PR, sister station to *WAtoday*, last Sunday where Bob Maumill asked why he continually attacked former WA Treasurer Troy Buswell over convicted traffic offences, Mr Johnson penned an open letter to the listeners to explain.

In a brutally honest account, Mr Johnson publicly opens up about why he takes such a tough stand on people who flout motoring laws.

“Some people accuse me of being too tough with unlicensed drivers and hooners,” Mr Johnson writes in his letter.

“I would like to share a true story with you that will perhaps give you an understanding on why I have this approach.

“At 8.30am on a Friday morning, someone I know very well, received the phone call that every parent dreads. It was the police, who informed him that his daughter and 12-year-old grandson had been involved in a traffic crash and could he come to the scene as soon as possible.

“Dazed and shaken, he dropped everything to go to the scene, where his badly injured daughter was being cut free from the wreckage. She had been ... virtually T-Boned by a vehicle being driven by an 18-year-old.

“... They could hear the doctors trying without luck to get a response from her ... The doctor then appeared and told them that it was unlikely their daughter would survive. On hearing this, the father broke down ... The image of her laying ... there, limp and motionless in the hospital bed, broke his heart.

“She would survive, but she had serious and permanent brain damage.

“I know her father very well, I see the hurt in his eyes, still there nine years after the accident. In fact, I see his face in the mirror every morning when I have my shave.

“Yes, it was me who had my daughter brain damaged in that traffic crash all those years ago, but not a day goes by that I don't think of her. I bear no malice towards the young driver but I question whether

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he ever gives a thought to his victims and how his moment of recklessness has changed so many lives and caused so much suffering.”

Picking up the responsibility of raising his three young grandchildren, Mr Johnson watched as his daughter spent six months in hospital

“The extent of her brain damage meant that she would require 24-hour-a-day care for the rest of her life. She had gone from being a wonderful mother who lived for her children, to one that was now unable to care for them and enjoy watching them grow up and be able to play an important role in their lives. She was someone that would now need enormous care and assistance herself.

“The person who crashed into her was convicted of Dangerous Driving Causing Grievous Bodily Harm. He was fined \$1500 and his licence was suspended for two years. I ask you to compare that inconvenience with the price everyone else has had to pay.

“It took me a long time to be able to write this account of my experience and, while doing so, the odd tear rolled down my cheeks. While I managed to write about this tragedy, I am still unable to talk about it for obvious reasons. It’s just still too raw, the pain never goes away, even nine years on.”

I believe that his daughter passed away last year.

Mrs M.H. Roberts: Yes, she passed away.

Dr A.D. BUTI: Yes, last year. I know that members opposite would have a different view on Hon Rob Johnson.

Dr D.J. Honey: He is very well regarded.

Dr A.D. BUTI: That is very good. Obviously, they would respect the fact that the suffering and trauma he went through after this incident would have influenced the way he addressed any road traffic incident. He would fully support the Minister for Road Safety in bringing this bill before the house.

[Member’s time extended.]

Dr A.D. BUTI: The article that I read out mentions that he was asked by Bob Maumill why he was so critical of Troy Buswell. Of course, we know about Troy Buswell and his various issues. I was a member of the Community Development and Justice Standing Committee that looked into the police investigation of Troy Buswell’s traffic incidents. The report, “Review of the police investigation into traffic incidents involving a Member of Parliament”, was tabled in Parliament in June 2014. As we know, Troy Buswell went to a wedding at Kings Park and obviously consumed a considerable amount of alcohol and then got behind the wheel of a car and was involved in numerous manoeuvres and destruction in Subiaco. I will read the first page of that report —

On 8 March 2014, a Perth resident revealed to a media organisation that he had observed a car driving erratically in Subiaco in the early hours of Sunday, 23 February, and that he believed the driver was the Member for Vasse —

Not the current member for Vasse, who has just walked into the chamber —

at the time, the Treasurer and Minister for Transport. The Member for Vasse had been absent from work on personal leave since 24 February.

The media informant revealed that he had made a call to the Police Assistance Centre at the time of the observation, in which he said the driver “reminded me of Troy Buswell”, and that the person had been “unsteady on his feet”. The police had responded to the complaint by sending a Traffic Enforcement Group vehicle to the Subiaco address where the caller said the car had parked, but due to the vehicle being behind a locked gate and the driver nowhere in sight, the case was closed off nine minutes later.

The police instigated further investigations after the Police Commissioner was made aware of the Subiaco incident on 9 March courtesy of his media adviser. Subsequent police investigations revealed that there had been a series of crashes in the Subiaco area on the same night, and these were subsequently linked to the vehicle driven by the Member for Vasse.

There is speculation that the public would have remained unaware of the incident involving the Member for Vasse were it not for the fact that the police complainant contacted the media. Apparently due to the lack of integration of their information systems, the police failed to connect the call reporting the erratic driving to several crashes in the same area. Initial investigations by the media led police to conduct their own detailed investigations, resulting in charges of careless driving, failing to stop and failing to report a crash being brought against the Member for Vasse. The former Treasurer pleaded guilty to the charges on 28 April 2014. He was fined \$3100 and his drivers’ licence was suspended for 12 months.

Later, on page 23 of the report, it states —

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Once forensic tests which showed a match between a piece of plastic found near a damaged vehicle and the headlight of the Caprice ... it was clear that police could proceed with charges against the Member for Vasse. The nature of the charges focussed on whether it was possible to charge the Member for Vasse with driving under the influence of alcohol ... (Section 63 of the Road Traffic Act 1974 ...), and whether he would be charged with careless, reckless or dangerous driving.

The police sought advice from the State Solicitor's Office ... and briefed Senior Assistant State Counsel John O'Sullivan on 17 March. On 1 April, WA Police received the assessment of evidence and possible charges from the SSO. The Committee obtained a copy of the advice, which it regards as reasonable but conservative.

In considering the evidence, Mr O'Sullivan's opinion was that while it may seem that "the respective collisions with the Telstra pole and the parked cars is consistent with ... being intoxicated" and incapable of controlling the vehicle, it could not be assumed that only an intoxicated person would drive in this manner. To succeed on a charge under s.63 RTA 1974, the prosecution would need to prove beyond reasonable doubt that alcohol and/or drugs had rendered the driver incapable of controlling the vehicle. Unless other reasonable inferences could be excluded, it would not be possible to make a conviction under s.63 RTA 1974.

Mr O'Sullivan said that it could be argued that the driver's inability to control the vehicle may have been because he was affected by "migraine, a dizzy spell or (being) in a highly emotional state". It may also have been the case that the steering of the car was damaged when the vehicle mounted a kerb and hit a Telstra pole. Mr O'Sullivan acknowledged that while this might explain why the parked cars could not be avoided, it did not explain why the Telstra pole was struck in the first instance.

I will not revisit that debate, but I think John O'Sullivan's opinion stretched credibility. Later in discussion with the then Commissioner of Police, who appeared before the Community Development and Justice Standing Committee, the issue arose of whether someone could be convicted of driving under the influence without a forensic evidentiary blood test. In Troy Boswell's case, the police did not interview him until a lot later, so it was not possible to test his blood alcohol content. However, it has been argued that the police could have made a more concerted effort to contact him. Leaving that aside, I turn to page 25 of the report, where it states —

According to the Police Commissioner, even an admission of drink driving by the driver is not necessarily grounds for prosecution. Dr O'Callaghan cited a case (*Bunning v Cross* (1978) 141 CLR 54) in which a driver was observed driving erratically and admitted to having been drinking, but this was not sufficient to establish reasonably that the driver was driving under the influence of alcohol so as to render him incapable of driving a car.

Having looked into the case, the Committee believes the reference is somewhat misleading, in that the case revolved around whether the blood test process was reasonable and proper and should have been considered by the magistrate. The fact that the driver had admitted to drink driving was not the focus of the case—rather, it was that the police officer had not considered whether the person was incapable of being in control of a vehicle before asking him to take a breath test.

Attempting to interview a suspected drink driver with the aim of obtaining a breath test is also problematic, especially when the police officers have been called to an address following a report from a member of the public. In such circumstances, according to the Police Commissioner, it was not unusual for a person to say that they had been drinking since they had arrived home.

...for as long as I have been a police commissioner people have been going home and shutting themselves in houses and drinking alcohol after they have driven on the road to avoid police prosecution.

The Committee is open to the conclusion that it is difficult for police to make a successful DUI prosecution in the absence of a blood alcohol reading. However, it is also fair to conclude that s. 63 could have been applied with a more concerted effort to gather evidence and/or to present the circumstantial evidence in a different manner.

Since the alternative explanations to DUI (e.g. mental stress, migraine) suggested by the prosecution were not presented as an affirmative defence in court (and since the Member did not present such evidence to police, having refused to submit to a police interview), the Committee is more convinced by DUI as an explanation of the careless driving than any other reason. There is considerable other evidence which supports this ...

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My main reason for bringing that up is that in sport, the rule for doping offences used to be that unless a person shows a scientifically positive test—an A sample and a B sample—they could not be found guilty of an offence. In the early 1990s, an Australian cyclist, Martin Vinnicombe—in those days, to test athletes for doping, only urine tests were taken—admitted to having taken a prohibited substance. However, under the rules of the relevant doping regime, an athlete could be convicted based only on scientific evidence, not on an admission of guilt. That has changed. An athlete can now be convicted if they admit that they have taken a prohibited drug or on the basis of circumstantial evidence.

In the case of the 34 Essendon Football Club players, no positive blood tests were determined, albeit one sample was sent to a laboratory in Cologne, Germany, which provided evidence of the ingestion of a prohibited substance; however, the owner of the sample was not identifiable. Those 34 players were convicted on the basis of circumstantial evidence. Obviously, sport is very important but, surely, it is not as important as ensuring that drunk drivers are not driving on our roads. Leaving aside the Troy Buswell case, generally, I think it is wrong not to convict people of drink-driving if they have admitted to drinking. People caught drink-driving can be convicted if they admit to it, but the former police commissioner has said that it is very difficult to convict. I do not see how it can be difficult to convict if the person charged admits to the offence. Surely, if the person admits to the offence, they should be found guilty.

Mr S.K. L'Estrange: The difficulty is if they are not telling the truth.

Dr A.D. BUTI: Of course there is a difficulty if they do not tell the truth, but silly them. Obviously, the occasional person will do that, but if they do not tell the truth, they can be charged with perjury. There may be an argument that an offender is not telling the truth, but as the then police commissioner is reported as saying —

In such circumstances, according to the Police Commissioner, it was not unusual for a person to say that they had been drinking since they had arrived home.

...for as long as I have been a police commissioner people have been going home and shutting themselves in houses...

That is fine. The former police commissioner is indicating that it is difficult to undertake a blood alcohol test because the driver may have been drinking at home. I understand that, but if the driver says, “I was drinking before I was driving or while I was driving”, that is an admission of guilt. As far as I know from my law school education, an admission of guilt is pretty strong evidence in court. However, if it was fabricated, that is a different issue.

Mr S.K. L'Estrange: Why did the commissioner disagree?

Dr A.D. BUTI: The member for Churchlands should not ask me that question, because it might bring me onto the politics of the issue and I am trying to stay away from it. As I think I mentioned when this Community Development and Justice Standing Committee report was tabled, I was quite disappointed in the evidence provided by the then police commissioner. When he was at the committee hearing, he basically acted as Troy Buswell's defence lawyer. I did not think he behaved as he should have, but I will not go there. As I said, I am trying not to be overly political about it, but the member for Churchlands asked me the question so I answered it.

Mr S.K. L'Estrange: I thought you might have known the answer.

Dr A.D. BUTI: I do not know. The then commissioner was right in saying that Troy Buswell could not have been tested for a blood alcohol level because his house was closed up and the police could not get in. Our argument was that the police could have made more effort. Let us leave that aside. I do not want to verbal the then police commissioner. He did not say that someone could not be convicted based on an admission of having drunk over the limit. As members know, conviction can occur on the admission of having drunk over the limit, but he is saying that it is very difficult. I am saying that I do not necessarily think it is as difficult as he has made out. Circumstantial evidence has been used to convict people of murder. Circumstantial evidence has always been used in criminal convictions. Mind you, I want to be careful. Circumstantial evidence would have to be used very carefully in this respect. The bill before the house concerns scientific evidence and tries to plug the back-calculation loophole. I do not have time to refer to a number of cases, but I am sure that the member for Mount Lawley will refer to some cases in his contribution. The Victorian case of Mitchell and the South Australian case of Tully are good cases to look at to see the operation of the laws in those two states. I believe that the bill before the house will be supported by all members. We should do what we can to reduce any loopholes that allow people to get off when they should not. That Curtin Monash study showed that it was up to 20 per cent, which is far too many—it is 20 per cent too many. As we know, alcohol is a factor in one in five traffic fatalities in Western Australia. We need to do what we can to ensure that that is not the case.

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DR D.J. HONEY (Cottesloe) [4.40 pm]: I rise to make a contribution to the second reading debate on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. In relation to the member for Armadale's contribution, we have seen a substantial reduction in the number of road fatalities in Australia and Western Australia. In 1980 there were 22.3 deaths per 100 000 people. In 2018 there were 4.65 deaths per 100 000 people. Using Australia's current population that would have been 5 575 deaths from road traffic accidents versus the actual figure of 1 143. In Western Australia last year there were 158 fatalities. I think that is the lowest on record. With the previous national average, that would have been 550 deaths. That is a reduction of 71 per cent. As we all know from the vivid advertisement on television about the chap with his family of 70 people, every road fatality that we can eliminate is important.

We need to be very conscious that this bill will relate to only one in five road fatalities. I am sure the Minister for Road Safety is conscious that four in five road fatalities are caused by other reasons. In one in five road fatalities, someone is affected by alcohol—that is, someone is above .05—but that does not mean that the fatality was caused by alcohol. As 80 per cent of all fatalities involve no alcohol, perhaps a fair percentage of those that do are perhaps not specifically caused by alcohol. They may be caused by other factors. Although it is important to focus on alcohol—as our lead speaker, the member for Hillarys, mentioned, we support this legislation—we need to be very conscious that this is a small part of a much bigger pie. Eighty per cent of all fatalities are caused by some other reason. Police comments indicate that fatigue and distraction are very common causes.

I am sure that all members here will have seen many drivers using mobile phones. In my previous life before I entered Parliament—can I say that that was one day over a year ago, so yesterday was my anniversary. I will get the cards later, I am sure.

Mrs M.H. Roberts: You have 24 more to go.

Dr D.J. HONEY: Congratulations, minister. That is fantastic. I admire the minister's stamina, and I think it is a fair bet that I will not repeat it. Well done.

I used to spend a lot of time driving up and down Bunbury highway. I reckon about 10 per cent or more of drivers were using mobile phones. I cannot comprehend the number of people I saw on that road using phones. Every single time I drove on Bunbury highway, I saw more than one person texting while driving. Honestly, I was terrified. I would either hang back from them or pass them as efficiently as I could to get away from them. They slowed down, sped up and weaved across the road. I encourage the minister to pursue this legislation, but to also look at other areas—in particular, mobile phones. I know that this is not a novel thought, but I am stunned at the number of people I see, even in the metropolitan area, texting whilst driving. I think that is a bigger problem than drink-driving.

I will not bore members with all the details, but in my early career I spent six years of my life working in what was called at the time the Government Chemical Laboratories. It is now called the ChemCentre. I was the specialist in the measurement and interpretation of blood alcohol levels. There is no doubt that the law as it currently stands does not reflect the reality of the rise and fall of blood alcohol levels. I was involved in studies on that and a lot of studies in this area have been reported on. After a person has a drink, their blood alcohol level rises for approximately one hour. Whatever alcohol a person has consumed, they will reach a peak blood alcohol level within about one hour of having had that drink. I know that some members are students of this, so they will know of the Widmark equation, which gives an estimate of blood alcohol levels. It is quite an interesting area. That equation looks at the amount of alcohol consumed and the amount of water in the body because alcohol spreads to all the parts of the body that contain water. As an aside, I remember very vividly quite some years ago a truck driver drove into the back of the *Indian Pacific*. The only significant bit of the driver's intact tissue with fluid in it was his eyeball. I can tell members that his eyeball was completely drunk, because the alcohol had dispersed into that water. That was a tragic fatality but, fortunately, no-one on the train was injured. The driver had been drinking quite heavily.

Mr M.J. Folkard: I remember that myself!

Dr D.J. HONEY: Thank you, member.

Men and women are affected differently by alcohol. A woman will, on average, get drunker and have a higher blood alcohol reading from the same volume of alcohol drunk by a man of the same weight. There are two reasons. Men have an enzyme in their stomach lining called alcohol dehydrogenase that breaks down the alcohol more before it enters their blood. Women do not have that in their stomach lining. That is a genetic difference between men and women. On average, women have a higher ratio of fat to muscle than men. Again, that is a biological difference. When blood alcohol levels are calculated with the Widmark equation, two factors are used—one is for women and one is for man.

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I had not looked at the area of blood alcohol levels for a number of years because I had not been involved in it. There has been a proliferation of charges at all different levels. It is very easy to achieve significant alcohol levels. I will do a simple calculation. If someone who weighs 80 kilograms drinks a couple of 285 millilitre middies of 4.5 per cent alcohol—two middies of beer—that would take the average male to about .47, which is just on the .05 level. Typically, it would take an 80-kilogram female over the .05 limit.

Mr W.R. Marmion: Is that in one hour?

Dr D.J. HONEY: Yes, it is in one hour.

It would take women to about .058. Other factors affect a person's blood alcohol content. If they have eaten, that will slow down the absorption of alcohol, so such a high level will not be achieved. It is very easy to achieve blood alcohol levels that will take people well into the level of being charged. The penalties under the act, particularly at the higher levels, are quite significant and can affect people's lives. As has been mentioned by others, this change in the laws was in part motivated by the Monash study, which studied up to 2012. It is interesting to look at that study in a bit of detail. Out of 8 435 drivers tested, 1.4 per cent, or 119 drivers, had an illegal blood alcohol content of over .05. Members would know that probationary drivers are required to have a limit of .02. Referring to those levels I quoted earlier, one middy of full-strength beer is enough to put all drivers over the .02 limit. P-plate drivers cannot drink at all without risking being charged for having an elevated blood alcohol level. Of those 119 people, on the estimates in that Monash report, 76 per cent—91 drivers—would have had a reduced penalty. That would have taken them below a particular charge level, so in this case either below .08 or below .05. This report does not have the same fine grade of levels that we have in Western Australia. Twenty-six drivers, or 22 per cent, would have received no charge. Unfortunately, the member for Armadale has left the chamber but I was interested in the fact that 11 per cent of drivers had what is called a rising blood alcohol level. Based on this legislation, 11 per cent of them would have had a higher blood alcohol reading than was measured. I do not know whether that would have tipped them over. The report does not say whether that would have taken them to a higher charge. In the time I had available to read the report, I did not see that. That is quite significant. Twenty-two per cent received no charge but 11 per cent had a rising blood alcohol level. I caution the findings of this report.

As I said, I devoted a fair bit of my life to this subject. Back in the days when they took blood tests, I had a lot of involvement with the police and their breath alcohol machines. This report is based on a preliminary test using a small machine that is typically used. It has a fuel cell sensor, or a Taguchi cell sensor. They are not accurate machines. They base the rising or falling of the preliminary versus the evidentiary test. An evidentiary test is done because the machine that is used for it is substantially more accurate than the hand-held units that the police use on the side of the road. They use the other units because they are cheap and quick relative to the evidential machines. This study concerned me a little in that it did not compare apples with apples. A rigorous scientific study of using an evidential machine and monitoring over time was not carried out. Even if we take it at face value and assume errors go both ways, a significant number of people would have received higher blood alcohol readings than at the time they were stopped.

The nub of this whole issue is really around the background or the basis for the legislation. Typically—I was interested in the member for Armadale's comments in this regard—when we apply the law and there are significant penalties, there is always a presumption of innocence. Members would recall the famous saying that it is better that 1 000 people go free than one innocent person be prosecuted. There has always been that tendency in the law to make sure we go above and beyond, particularly when there are significant penalties. If we look at the drink-driving penalties, at the lower level, they are just fines and demerit points. But at the higher level, the penalty is mandatory loss of licence for significant periods. If we look at the people who could be adversely affected by this, which could be a significant number of people, if we were applying that principle, we would say that maybe this is going the wrong way. When we discussed this in our party room, as our lead speaker, the member for Hillarys, presented today, this is more around public policy. It is really saying, "Do not drink or drive". People are going to chance their arm. I do not think it is uncommon for people to finish a drink or have a quick drink before they leave a hotel. When this law is introduced, it will eliminate that behaviour, because if people are managing their drinks and staying below the limit and then they have a quick drink before hopping in their car, obviously depending on the length of their drive—let us assume they have a short drive home—that person could end up being prosecuted with an offence that they otherwise would not have been if the calculation was applied.

I note in the legislation the phrase "rebuttable presumption". I would expect that in some cases people will use that defence. It is a real defence. It is real that after people have had a drink, their blood alcohol content will rise. If they have drunk a bottle of whisky or had a glass of beer, people will reach a peak blood alcohol level very rapidly—within about an hour of having had that drink. The decline of .016 per cent an hour is a reasonable estimate of the reduction in the blood alcohol level over time. It obviously varies between people.

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It is interesting to see that the percentage of people involved in fatal accidents has changed so dramatically. During my time at the Government Chemical Laboratories, one of my roles was to look at the statistics of the blood alcohol and other drug levels in drivers killed in road traffic accidents. Back then—I will not tell members how many years ago, but it was a few—about 45 per cent of drivers had a blood alcohol level of over .08. About half the drivers who were killed were sober and about five per cent fell between .05 and .08. In fact, the .05 level was based on what is called the psychomotor skills. The Victorian Transport Accident Commission has been the leader in this area for many decades. It does some outstanding work. It put out a good paper in which it lists the range of the different effects of alcohol. But .05 is about the point at which we start to see the impact on those psychomotor skills, so balancing and coordination. At the time, the .05 limit was seen to be the right limit. But if we look at that limit in relation to road fatalities, that was the least represented group.

[Member's time extended.]

Mr W.R. Marmion: There is an issue with that study because a tiny bit of alcohol actually makes you more alert. Is that right?

Dr D.J. HONEY: I do not think so. It depends on the test. I encourage people who want to study this to go to the Victorian Transport Accident Commission website. It refers to a range of different effects such as divided attention, vigilance, tracking, perception, vision and the like—they are all affected at different levels. Drowsiness is perhaps the most profound one. Even at low levels, alcohol makes people much more likely to drop off to sleep, as some of us may have noticed when we have a glass of wine while sitting in front of the telly on a Friday afternoon.

Mr J.E. McGrath: In the minister's address on this bill, it was said that drink-driving is a key factor in around one in five fatal crashes and one in 10 serious injury crashes in Western Australia. What level would all those people—those one in five and one in 10—have been? Can we find out what level they would have been? Would they have been over .08?

Dr D.J. HONEY: I believe that that statistic is based on the .05 level. Having said that, as members in this place would know, offences for P-plate drivers is .02, but that would be above .05.

I was surprised at the plethora of changes. It is interesting that members talk about the complexity of the calculation. That is an indictment on our schools, and perhaps we should have a question for the Minister for Education and Training, because it is quite a simple arithmetic calculation of .016 per cent up an hour for two hours and .016 per cent down thereafter, but I appreciate that when people are doing things quickly, it can sometimes be a bit discombobulating. There are a range of offences, but the blood alcohol content would be above .05 per cent. As I said before, if members think about it statistically, given that 80 per cent of fatalities do not involve alcohol, and in that case, 90 per cent of accidents do not involve alcohol, some of those other factors could have played a part in those, including people who are affected by alcohol. There is no doubt whatsoever though that the factors around the massive reduction in fatalities from 1980 to 2018—the enforcement of drink-driving laws and speeding laws—have been absolutely profound. They had huge impacts. In the last few years, more than anything else, it is probably the technology of cars, air bags in particular, that have had a profound impact on fatalities. I suspect that the reduction in fatalities probably understates the seriousness of some accidents, just because technologically cars are now so much better at coping with accidents. Other technologies, such as automatic braking and automatic lane alignment, will take this to another level again and dramatically reduce fatalities.

Mr J.E. McGrath: What matters now also is that if you're drifting on the road, it will get you back on—the really modern cars with lane alignment.

Dr D.J. HONEY: Yes; cars with lane alignment are going to be very important to reduce fatalities.

As I said at the outset, obviously there has been a major reduction in fatalities, and clearly the focus on drink-driving has to be recognised as having a major impact on the reduction of alcohol-related fatalities. Clearly, this move as a matter of public policy is really designed to sheet home that message to not drink and drive. It would be important to educate people as part of this legislation. I think that this law will wipe out that cultural practice of people having that last drink before they leave the pub, but maybe it would be worthwhile educating people, and the police seem to do very well with that. Maybe police know that if someone has that quick drink before they leave, once this law comes in, there could be a lot more people being charged for drink-driving who were really trying to do the right thing and were unaware that there could be a negative impact. As I have said before, we also need to focus on the causes of that other 80 per cent of fatalities that do not involve any alcohol at all. Historically, the focus on both alcohol and speeding has had a dramatic impact on a reduction in fatalities, but if we are going to get it down to that target of zero, we now have to focus on those other areas as well. Otherwise, I commend the government for the legislation.

Mr Peter Katsambanis; Mr Kyran O'Donnell; Dr Tony Buti; Dr David Honey; Amber-Jade Sanderson; Mr Peter Rundle; Mr Simon Millman; Mr Mark Folkard; Ms Jessica Shaw; Ms Cassandra Rowe; Mrs Jessica Stojkovski; Mr Chris Tallentire; Ms Janine Freeman; Mrs Michelle Roberts

MS A. SANDERSON (Morley — Parliamentary Secretary) [5.03 pm]: I also rise this evening to contribute to the debate on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019, and commend the minister for bringing this legislation into the house. I am glad to see that it is fully supported across Parliament. It is important legislation in our armoury against drink-driving in Western Australia. One of the reasons drink-driving is so disappointing, if you like, and tragic when it happens and causes fatalities, is that it comes down to an individual's choice. It is not an accident that someone over the limit gets into a car and drives; it is a conscious decision that they made to get into a car over the limit, or having had a drink. That is what makes these incidents with drink-drivers particularly sad. As pointed out by colleagues before me, drink-driving is attributed to one-in-five fatal crashes. That is quite high; it is too high. When we couple that with the fact that it is a personal choice of that individual to get in a car having had a drink, it is completely unacceptable. It is a scourge in our community. It is a cultural issue in Western Australia and across Australia. There are a number of other dangers on the road, and we have to have a multi-pronged approach to those. Mobile phone use and distraction is a significant issue in the community. Just the other day I was driving across a very busy road into another street. A woman was attempting to come out of that road to turn onto the other side of Beaufort Street. Obviously, the wait was too tedious for her, because I could see her continuing to look down on her mobile phone while she tried to navigate this really treacherous intersection on Beaufort Street. It is pretty horrifying. We need to embrace the technology that comes with a lot of those dangers. We all need to have better responsibility for turning off our phones. Obviously, people make mistakes on the road that can have fatal consequences, but drink-driving in particular is an individual choice.

This legislation will remove the countback, and as previous colleagues have identified, research from Curtin Monash Accident Research Centre estimates that around 20 per cent of drivers avoid charges altogether by using this archaic aspect of our legislation, which no other state or territory has. We should have zero tolerance for this. It is a cultural issue. The member for Cottesloe talked about the "roadie", the one before a person goes, the one for the road—having a drink before they leave the pub. I have a relative who would spend hours in the evening at the local tavern drinking beer and they would drive home. I questioned him about this. It was a suburban area with no major roads, and not far, probably a kilometre and a half. When I questioned him about this, he said, "The van knows its way home." That is terrible, but that is the culture. A lot of these guys, his friends, would sit in the tavern all night and drive home. It was absolutely accepted. No-one questioned it; no-one questioned each other. They all participated in this, and that is repeated across the state and country. It is pervasive.

We accept alcohol readily as a form of socialising. Those who do not drink are often seen as being wowsers or wet, or not really getting into the party. People will often say they feel uncomfortable if someone is not drinking and they are participating, which is really quite sad. The advertising associated with alcohol also has a lot to answer for. Just as we ruled out tobacco advertising, I would like to see us one day rule out alcohol advertising. It is something that creates an enormous burden on the health system. It can be incredibly damaging and in many ways targets a lot of younger people.

Access to good quality and affordable public transport is also an issue. It is slowly improving and certainly people from suburban areas have to drive to get to events, particularly in the city. I hope that over the next few years Metronet will help manage that and provide people with better options than drink-driving, but essentially, if someone is going to drive, they should not drink—full stop. There is no excuse for it. We saw some action under the previous government with the introduction of the alcohol interlock scheme, which I commend the previous government for. But it is an after-the-fact response, after someone has already been caught with high blood alcohol content, or are particularly high-risk or repeat offenders. It is an after-the-fact response when someone has been caught drink-driving, and we need to deal with the education and the issue before someone drunk gets in a car to drive.

Drink-driving has directly affected by family. Members in this place, particularly those who have served as first responders and who have seen for themselves the absolute tragedy that this can cause, may or may not recall that a number of years ago very early in the morning on Australia Day, a ute crashed into a house in Merriwa in the northern suburbs and landed on a baby sleeping in his cot. That baby was my cousin's baby, Nate. It was absolutely horrific. The ute was driven by a woman who had been drinking all day. She made several stops during the day. At the last stop, her friends tried to hide her car keys because she had said a number of times, "I'm going to drive home." The woman rummaged around the house and found her car keys. She got in the car and attempted to drive home. However, she bounced off a kerb, lost control and ended up in Nate's bedroom. My cousin and his wife were woken by a huge explosion. They could not find their eight-month-old son. The ute was where his cot should have been. Nate was under the wheel of the ute. The ute went through two rooms. It went into Nate's room, over Nate, and into the next room where it pushed my cousin's older son's bed up against the wall. The older son was faced with the ute, with its lights on, in his bed. That scene is incomprehensible to parents when they put their children to bed at night because that is where they should be the most safe. My cousin desperately tried to get Nate out from under the ute. The family will never recover because there is no recovering from that. They have done

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their best to move on with their lives. The woman was rightly charged and faced court. She spent a small time in prison. She has dependent children, so yet another bunch of lives was ruined. It is an appalling case, but what is most appalling is that she made a conscious decision to get in her car and drive and inflict tragedy on that family. That is what people do when they drink-drive. They take choice away from other people who are on the road. My greatest fear is not necessarily my own driving; rather, it is the driving of other people. If my family is on a road trip, I fear a drunk driver on the road or a driver with driver inattention. They take the choice away from other people who are doing the right thing. Every person who has a licence and a car has absolute responsibility to make sure that they are safe and that they are doing everything to make sure that others are safe.

I commend the Minister for Road Safety for introducing the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. I will never accept drink-driving—there is no excuse for it in the world—and I have no sympathy for people who participate in it because, quite frankly, I have seen firsthand the devastation it can cause. I commend the bill to the house.

MR P.J. RUNDLE (Roe) [5.13 pm]: I rise briefly to support the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. The Nationals well and truly support it because we know the damage that is done in regional areas, but also metropolitan areas; it is the same for everyone. I certainly believe that this bill has been a long time coming. I congratulate the government for bringing it on. It will bring Western Australia into line with the rest of Australia.

As most members know, I come from Katanning in the wheatbelt. I think most members are aware of the higher than acceptable number of accidents in the regions. I think that comes down to two elements—fatigue and drink-driving. The RAC's campaign of the elephant in the room, which focused on both driver fatigue and drink-driving, has been well advertised over the last several years.

Another thing I applaud is the likes of the WA Country Football League. The league that I am closest to, the Upper Great Southern Football League—there are four different country football leagues in my electorate of Roe—puts a real focus on this issue and puts out the message about being responsible and of not drinking and driving. I have been impressed with the way its message has had an impact on people in the local football clubs in our association and the other three associations in the electorate of Roe. Football matches are held at five o'clock on a Sunday afternoon. At about 6.00 pm or 6.30 pm there is a presentation and everyone has a drink along the way. People are now getting their family members to make sure that someone is the skipper and there is a lot of moderation. That message has been passed right through. I applaud the WA Country Football League, which has seriously taken on this issue.

Everyone in regional WA has a story about a relative or friend who has either been severely injured or died as a result of drink-driving. I can think of many. There was an incident in Bruce Rock only a year or so back. A couple of young guys left the pub at around 11 o'clock at night. They did not make it 100 metres up the road before running into a Western Power pole. Unfortunately, they both passed away. I am sure that everyone in the wheatbelt and in the metro area has a similar story.

Turning to the legislation, the back-calculation is quite a bizarre method that Western Australia has relied on over the last 30 or 40 years. It relies on people telling the truth about when they had their last drink. It has been quite interesting to look into it a bit further. When we had a briefing the other day, I learnt, curiously, that people could almost manipulate their reading by telling or not telling the truth. I am sure the member for Kalgoorlie is an expert in back-calculation. Back-calculation has to be done and, obviously, that puts the onus on police officers. I found it quite interesting because, to be honest, I have never been picked up for drink-driving. Until the briefing, I was not aware that back-calculation came into it and that it is potentially easy to manipulate the result. The Curtin Monash Accident Research Centre outlined that 20 per cent of drivers have their charges downgraded or get off them altogether, which is quite an interesting element.

I have a few statistics. We know that random breath testing operates in the regions and at the moment there are 550 random breath testing machines in the country and 950 preliminary breath testing devices in the metro area. There are many out there, but when we come to the next level of machine that will be used, which is the police evidentiary machine, there will be 170 and they will be at every police station, which I think is great. I am sure more money will be spent. I am sure the Minister for Police is on top of that. I think those units cost in the order of \$10 000, so they are not cheap. However, it is important that those machines are well and truly available and spread throughout Western Australia. Those specialist units will be in not only every police station, but also police cars so police officers will have the opportunity to take that evidentiary breath test on the spot. I believe that is an efficient arrangement, and from a regional perspective I think that that is the way to go. We need to get on board with what the rest of Australia is doing. It is good for the community, it is good for the police force and, much more than that, it is better for everyone else on the road. As the member for Morley said, we are worried about the innocent victims, the families, who do

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nothing wrong but are taken out for no good reason whatsoever. From the perspective of the Nationals, I agree with the legislation and support it. I also congratulate the police minister on her twenty-fifth anniversary today. Well done.

MR S.A. MILLMAN (Mount Lawley) [5.22 pm]: I start by congratulating the Minister for Police; Road Safety on her twenty-fifth anniversary. I commend her for all she has done for the people of Midland and Western Australia in her two stints as the Minister for Police.

I want to canvass three issues in the time I have this evening, simply summarised as follows: firstly, that the McGowan Labor government has demonstrated once again its ability to get on with the job and make sure that our regulatory framework is up to date; secondly, that road safety is a complicated issue that requires a mature, coordinated and considered response and that this government is uniquely placed because of its legislative and policy framework to tackle road safety issues; and, thirdly, that this Road Traffic Amendment (Blood Alcohol Content) Bill 2019 strikes the right balance between rights and responsibilities. I will deal with those issues in turn.

Some members have already made contributions and a lot of what I am going to cover has already been canvassed. I thank opposition members for supporting this amendment and I am glad that this amendment has the support of the whole house. I think it is fair to say that a key concern of the government is that it wants to make sure that the regulatory framework is up to date. As other members have alluded to, in particular the member for Roe who just finished his contribution, it is high time that this amendment was brought forward. It is time for us in Western Australia to catch up with the rest of the nation. Every other jurisdiction in the country has done away with the outmoded and antiquated method of blood alcohol calculation. I understand that this matter has been raised by the Western Australia Police Force on a number of occasions. The member for Kalgoorlie has already made his contribution as a former police officer and I think the member for Burns Beach will make a contribution to the debate as well. I will be interested to hear in the course of that contribution just how long and how often he as a police officer has been seeking this amendment to make our roads safer.

Members have referred to the Curtin Monash Accident Research Centre report. I have not seen the facilities at Curtin but I once travelled to see the facilities at Monash University. It is a fantastic road trauma and research facility, where they literally throw cars at 60, 80 or 100 kilometres an hour into solid objects to evaluate the causes and consequences of road trauma and injury. I commend the researchers at the Curtin Monash institute. People have already referred to this report. When one considers the unfortunate delay of bringing these amendments forward in Western Australia, it is worth considering that this report was done in 2012, and reported in *The West Australian* in 2014. The statistics have already been referred to by a number of contributors in this afternoon's debate. However, over the course of the research period, about 8 000 people were tested, of whom 590 had positive tests, of whom about 118 were over the limit. A significant proportion of those who recorded positive tests were over the limit. In his contribution, the member for Cottesloe highlighted just how significant the numbers were for the people who relied upon the back-calculation to either avoid charge or have their charge diminished. According to research, 26 of those 118 who were over the limit resulted in no charge and 65 resulted in a reduced charge. Despite the size of the sample, a significant number of people had taken advantage of, as the minister described it in her second reading speech, this significant loophole in the current regulatory regime. The evidence is there that this issue needs to be tackled and this loophole needs to be closed.

When we look at the contributions made by all members so far, that becomes patently obvious. However, can I make this point: it is the McGowan Labor government that is getting on with the job of fixing this. It is also the McGowan Labor government that understands, appreciates and recognises that there is no one-size-fits-all approach. These are complicated and difficult issues that require nuanced, idiosyncratic, sophisticated, mature and intelligent responses. This government is uniquely placed to tackle road safety issues. I know that because I can list a dozen ways in which this government and members of this government are dealing with road safety. This government is busting congestion by encouraging people out of their cars and into alternative methods of transport. I see in the chamber the member for Thornlie, who has been an excellent advocate—I acknowledge him today as we are in the midst of Bike Week—for the greater uptake of cycling in our community. If we can get people out of their cars and onto alternative methods of transport, such as public transport or by riding to work, through initiatives such as Bike Week, we are reducing motor vehicle usage, which, in turn, reduces traffic congestion. We have seen the announcement this week of the government's investment in locally manufactured buses, to get more buses onto bus routes so that travelling by public transport becomes a more attractive proposition—WA made, WA-built buses for WA patrons on an expanded public transport system.

This government is building Metronet to provide people with an opportunity to access rail transport. In the neighbourhood and community of the electorate of Mount Lawley we know that the construction of Metronet will ease congestion on our local roads, because it will take pressure off Mitchell Freeway, Wanneroo Road, Walcott Street, Alexander Drive, Beaufort Street and Guildford Road. This government is making it safer for cyclists to use our main arteries by investing in the Principal Shared Path Expansion program. This government is

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making it easier and safer for cyclists to use our roads. This government is investing in congestion-busting infrastructure. In my neighbourhood, in the member for Balcatta's neighbourhood and in the member for Morley's neighbourhood, this government is investing a significant amount of money to fix the congestion at the corner of Morley Drive and Wanneroo Road.

Further south, where the member for Perth's electorate joins those of Balcatta and Mount Lawley, there has been significant investment in Wanneroo Road, Charles Street, Green Street and Walcott Street. The significant investment in these congestion-plagued intersections will actually make our streets safer, as drivers become less frustrated. There is also a 40-kilometre-an-hour trial in the City of Vincent, supported by both the local member, the member for Perth, and the minister, to try to see whether this improves road safety.

We have the wonderful example of "Charlotte's Law" and the increased penalties that now apply to those who display a flagrant disregard for our road rules and the safety of other road users. I will dwell on "Charlotte's Law", because this is a really important issue. The changes were prompted by the tragic death of Charlotte Pemberton and were designed to bring penalties in line with community expectations. It was another great initiative of the McGowan government in terms of getting law reform right. Ms Pemberton was killed by a man who was driving a high-powered motorcycle without a valid licence—I will come back to the issue of valid licences—and travelling at 40 kilometres an hour over the speed limit. The new law lowers the speed threshold to 30 kilometres an hour and allows police to apply aggravating circumstances for driving whilst unlicensed, suspended or disqualified. Prior to these reforms, a person could be charged with aggravated dangerous driving in only limited circumstances, including driving a vehicle at more than 45 kilometres an hour over the speed limit, driving without the owner's consent or driving to escape pursuit by a police officer. They were very limited circumstances.

The government has a legislative reform package that is designed to make our roads safer, the penalties harsher and our laws more reflective of community expectations, which is exactly what one would expect from the McGowan Labor government, given its track record already. The last budget included the impaired-driving initiatives. Impaired driving is another major contributor to road trauma. I think this issue was touched upon by the members for Kalgoorlie, Roe and Armadale. The government is investing in increased roadside alcohol and drug testing, plus a further \$1.8 million has been made available to increase the WA Police Force's driver breath and drug-testing capacity. This year, the WA Police Force is expected to conduct a record number of drug tests.

In addition to all these initiatives, we have passionate and committed local members who are doing what they can for their communities to address issues that arise. In my own neighbourhood, the electorate of Mount Lawley, it can be as simple as getting new pedestrian crossing attendants for the local primary school, whether that be a second crossing attendant on Central Avenue or crossing attendants on Clifton Crescent at Second Avenue in order to make it safer for parents to walk their children to school without the risk of rat-runners coming down these neighbourhood streets. It means lobbying local councils. Members would have seen on Channel Seven news a couple of nights ago that concerns were raised around the accident black spots at the intersections of First and Second Avenues with Carrington Street in Mt Lawley. The member for Morley talked about difficult and dangerous intersections on Beaufort Street. The McGowan Labor government is blessed and replete with a number of backbenchers who advocate and agitate on behalf of their local communities to make their local streets safer, by taking the issue up with local councils. There is no abrogation of responsibility. It might be that these roads fall within the jurisdiction, bailiwick or remit of, say, the City of Stirling, but that does not stop us from taking up the issue on behalf of our constituents and saying that these are important concerns that need to be addressed. These are the things that we are tackling. That is why we are here—to do it. Because of this government's intelligent, sophisticated, nuanced and idiosyncratic response to these issues, it is uniquely placed to speak with authority on the question of road safety.

This amendment strikes the right balance between rights and responsibilities. The test administered now becomes a critical piece of evidence and provides the basis for a successful prosecution. Notwithstanding that, if an accused can call forward the necessary evidence to rebut the evidence collected by the police and that evidence is preferred, that person will be acquitted. This is a vitally important point, because when we make laws, we need to be sure that we strike the right balance between rights and obligations. I do not need to spend a lot of time on this particular philosophical proposition, because members are well aware of my personal views in this direction. The fact is that people are entitled to lawyers who will represent them and advocate for their rights and freedoms, and for those rights and freedoms not to be abrogated. We know that there is nothing quite like the freedom of one's own motor vehicle and being able to drive oneself around. We can all recall back when we were 18 and clamouring to get our licences—some of us can probably remember it a bit more keenly than others. We knew that having a licence and having access to a car would give us the freedom to do the things we needed to do, like going out and looking for our first job or socialising with friends. In the absence of Metronet and significant investment in public transport infrastructure, we are put in a position in which we are reliant on our cars. That is a broader policy discussion, but

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the point is that before we make it harder for people to drive their cars, we need to make sure we are cognisant of the right that we are taking away. I would say this: with great rights come great responsibilities. People who have the right to drive a motor vehicle cannot avoid their obligation to do so safely. Other members have already articulated the point well that if people do not behave themselves and deliberately make the choice to consume alcohol and drive a motor vehicle, then they have made a deliberate choice to put themselves and others at risk, and people in those circumstances need to be subject to the full force and effect of the law. This is the right balance. This is the fair balance that says that these are the concerns that we, as a community, have, and these are the instruments we can put in place to address those concerns. My only lament is that it has taken Western Australia such a long time to arrive at this point.

I am going to use two cases to make this point, as the member for Armadale foreshadowed. One is a decision of the Victorian Supreme Court on appeal from the Victorian Magistrates Court, and the other is a South Australian Supreme Court case on appeal from the South Australian Magistrates Court. The first case is *DPP v Mitchell* [2008] VSC 130. The date of the hearing was 18 April 2008 and the date of the judgement was 22 April 2008.

[Member's time extended.]

Mr S.A. MILLMAN: This was a decision of Justice Curtain. Her Honour was adjudicating on an appeal that had been brought from the Melbourne Magistrates Court. The facts of the case were —

On 21 August 2005 the respondent, Luke Mitchell, while riding his motorcycle in Brunswick Street, Fitzroy, collided with a car executing a U-turn. Mr Mitchell left the scene and went to a friend's house. After some short time, he asked for an ambulance to be called and two ambulance paramedics subsequently attended and conveyed him to St Vincent's Hospital. At 1.30 a.m. a blood sample was taken from him in the presence of the informant. One sample was given to Mr Mitchell's brother and the other two samples were collected from a secured container at the hospital, and one of those samples was conveyed to the Victoria Forensic Science Centre where it was analysed and found to contain a blood alcohol concentration of 0.131%.

Mr Mitchell said that he had had four or five pots of beer—a pot is a middy. The magistrate relied on the evidence of Mr Mitchell in determining that he had not committed an offence, and the Office of Public Prosecutions in Victoria brought an appeal pursuant to section 92 of the Magistrates' Court Act. Three questions were posed:

If admissible evidence is led to establish the blood alcohol concentration of a person charged under section 49(1)(b) of the Road Safety Act, is the magistrate bound to accept that evidence in the absence of any evidence to the contrary? Must the contrary be proved by evidence that is admissible according to law? Is a self-serving statement as to alcohol consumption made in a police record of interview admissible as evidence under section 48(1)(a)? I am talking about 2005–06, so members can see how long the Victorian provisions have been in place. I will summarise the decision to save time; I will not read it all. The Victorian Supreme Court held that the answers to those three questions were yes, yes and no. The point is that the evidence that was taken in the samples was found to be sufficient evidence to give rise to the rebuttable presumption under the proposals that the Minister for Police has brought before this house.

Mr Mitchell did not have the ability to give a statement to the police saying, “No; this is the alcohol that I consumed.” He needed to bring probative evidence that was preferred by the court to set aside the evidence that the police had proffered in support of the prosecution. The appeal brought by the Office of Public Prosecutions in Victoria was successful, as a strict construction was applied to legislation. I note that the provision in Victoria is remarkably similar to the provision in the Western Australian legislation proposed by the Minister for Police, and that will be a question for consideration in detail by, I suspect, the member for Hillarys. So, we already have that jurisprudential lead from the Victorian Supreme Court.

The second case that I will refer to—again, this is from 2011, so I am talking about eight years ago—is the decision of Justice Gray in *Police v Tully*. Mr Peter George Tully was charged with driving a motor vehicle on a road while there was present in his blood the prescribed concentration of alcohol as defined in section 47A of the Road Traffic Act in contravention of that act. He pleaded not guilty. Similar to the problem for Mr Mitchell, the problem for Mr Tully was that the blood alcohol test that the police proffered in support of the prosecution was the probative evidence; it was the evidence upon which the court was entitled to rely. So the magistrate erred when the magistrate preferred the evidence of Mr Tully that his blood alcohol level could not have been above the relevant level. The clarity of the law in Victoria and South Australia has ensured that those who have abrogated their rights by behaving in an irresponsible manner have felt the full force and effect of the law, which, in my view, is the entirely appropriate outcome. Again, I say that Western Australia would not be at that stage were it not for the excellent, assiduous, dedicated and hard work of the Minister for Police, who, notwithstanding her 25 years in this place, continues to treat every day with such vim and vigour that she should be here for a further 25 years!

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Sadly, the 2012 report that so many members have referred to was reported in an article headed “Flaw found in breath testing” by Tayissa Barone in *The West Australian* of Saturday, 23 August 2014. The article starts —

WA’s unique method of calculating blood alcohol levels favours drink-drivers and should be scrapped, research concludes.

The back-calculation process potentially reduces a drink-driver’s blood alcohol level and can mean a lesser penalty.

The article goes on to state —

Lead author Monash University research fellow Belinda Clark said back-calculation did not achieve its desired aim and should be axed.

She found the logic behind the calculation was only applicable for 28 per cent of those who blew over the limit.

... said though few people would actively try to exploit back-calculation, it needed reviewing.

...

Police Minister Liza Harvey said the Government would consider changing back-calculating alcohol levels if it received advice from WA Police and the Road Safety Council.

...

Road Safety Council chairman Murray Lampard said findings in the report that identified a reduction in the proportion of drivers detected with illegal blood alcohol levels were encouraging.

He declined to comment on back calculations.

The former minister handpassed it to the former Road Safety Council chairman, who kicked it into touch, and there it lay until the Minister for Police, the member for Midland, brought these amendments to this house to finally bring WA up to the same standard that every other jurisdiction in Australia enjoys. The minister has done it in a way—I quote from the minister’s second reading speech—that “strikes a fair balance between road safety and fairness”.

There remains one final point to be made before I conclude my contribution. I listened with great interest to the contributions of other members. An interesting point was raised by the member for Kalgoorlie and it obtained the endorsement of the member for Armadale. One of the biggest problems that WA police have at the moment is drivers driving without a valid licence. It is hard to find them and it is hard to catch them. I interrupt my comments by saying that the WA police do a fantastic job of ensuring that we have safe communities and safe roads, and they are assiduous in pursuing people who do the wrong thing. I commend the excellent work of Senior Sergeant Tony Vuleta, who is the officer in charge at Morley Police Station.

Mr M.J. Folkard interjected.

Mr S.A. MILLMAN: Yes. I am reliably informed by the member for Burns Beach that Senior Sergeant Tony Vuleta is the officer in charge at Morley Police Station. He was so good as to come to a community safety forum that the Minister for Police and I organised at the Alexander Park Tennis Club a couple of weeks ago. Unquestionably, our police do a fantastic job. One of the struggles that they face is unlicensed drivers. I listened with some interest to the suggestion that was made by the member for Kalgoorlie and supported by the member for Armadale. The member for Kalgoorlie will forgive me if I get this wrong, but I think he suggested that drivers should be entitled to only one extraordinary driver’s licence in their lifetime.

Mr K.M. O’Donnell: Yes, completely and utterly, my friend.

Mr S.A. MILLMAN: With respect, member for Kalgoorlie and member for Armadale, I disagree —

Dr A.D. Buti: I didn’t say that I supported it; I said that there is much merit in it and we should consider it.

Mr S.A. MILLMAN: I beg your pardon, member for Armadale —

Mrs M.H. Roberts: That’s one lawyer to another!

Mr S.A. MILLMAN: Yes!

Mrs M.H. Roberts: Touché, member for Armadale!

Mr S.A. MILLMAN: Can I posit, member for Armadale, and with respect to the member for Kalgoorlie, four reasons why I do not think this is a good idea. Firstly, as everybody in this chamber is well aware, I am a massive supporter of the separation of powers and the Constitution that governs Western Australia. I think that our judicial

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system—our courts—does an incredibly good job in incredibly difficult circumstances. We cannot know what factors and circumstances a magistrate has taken into account when deciding to grant an EDL. We have no way of having insight into that and we cannot know the particulars of all the cases. Before we constrain the ability of our magistrates to act according to equity, good conscience and the substantial merits of the case, we should give them their due consideration.

Dr A.D. Buti: Will you take an interjection, member for Mount Lawley?

Mr S.A. MILLMAN: I will, but just let me finish those four points; and, if I have not answered the member's interjection before I have finished, he can tell me.

Secondly—I have already spoken about rights and responsibilities and the great freedom that comes with being able to drive a motor vehicle—the adverse consequences for individuals are significant if they lose their licence. They can result in constraints on freedom of movement, loss of employment and significant disruption to not just the driver, but their family and friends. The example that has been given that I think is apposite is the parent who is up at four o'clock in the morning to drive his or her son or daughter to their apprenticeship as a tradie. Madam Acting Speaker (Ms J.M. Freeman), as the member for Mirrabooka, you will have had many people explain to you the significant adverse consequences that can befall a person who has lost their driver's licence. Thirdly, and this is a point I have already made, a growing concern for law enforcement is people driving without a valid licence. At the moment, we know who the extraordinary driver's licence people are. They have a big black and yellow E stuck to their vehicle's windscreen. Everyone on the road knows that that person has an extraordinary driver's licence because they have been driving unsafely or not in accordance with the road rules and have had their licence suspended. By removing the opportunity to obtain an extraordinary driver's licence we encourage these drivers to drive without a valid licence.

My final point is that the policy objective sought by the member for Kalgoorlie's proposition may be more readily achieved by a simple amendment that requires, when determining whether to grant an EDL, that the magistrate have regard to whether one has been granted in the past. I think the suggestion from the member for Kalgoorlie or the member for Armadale was that some people have been granted nine, 10 or 11 extraordinary driver's licences. With that simple amendment, that concern could be immediately vitiated. A magistrate could say that an offender cannot continue to have an extraordinary driver's licence because certain considerations have to be taken into account. As with the fantastic amendment brought forward by the Minister for Police, we do not need a sledgehammer to crack a walnut.

This is a nuanced and idiosyncratic response. It is an appropriate and proportionate response to the policy problem we are faced with. Exactly the same applies to the proposal regarding EDLs; we do not need to go over the top. We always need to search for balance, particularly concerning people's rights and freedoms and how we weigh their duties and obligations. On that point, I conclude my contribution and commend the bill.

MR M.J. FOLKARD (Burns Beach) [5.57 pm]: I rise to speak to the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. Before I do, I would like to wish the member for Midland congratulations on her 25 years in this place. She has probably forgotten more about what has occurred in this place than she cares to remember.

This legislation can be summarised simply as, "What you blow is what you go." I will have a conversation about the member for Mount Lawley's comments. He asked how long the police have been trying to get this amendment through Parliament. I got my first breath operator's certificate on 13 May 1994, and I have that certificate here. We were talking about this amendment back in 1994.

I speak probably from a unique perspective in that in my younger days I caught more "pissy steerers" or drink-drivers than the number of people who have served in this house. I caught at least four a shift in my day when I was hot to trot. The member for Kalgoorlie will know what I am talking about. If I did not catch a drink-driver on each shift, it was a very quiet night.

I will speak tonight about the history of this amendment and how far it dates back. The original Road Traffic Act was introduced in 1911. In those days, we had what was referred to as the Road Traffic Authority, and its members were not police officers. The road traffic officers who worked for the RTA were known as traffic inspectors. I think the member for Kalgoorlie would recall Terry Colby—TC—who was the last of the traffic inspectors employed by the RTA. In 1919, the first drink-driving legislation was introduced into the act. In those days, there was no such thing as breath-analysing equipment. That was to come later. I think it was introduced around 1960. At that time, we relied on observation. I can see the flying impersonation. That was referred to as the sobriety test and it is still used. The member for Armadale spoke earlier about the capacity to convict someone as a result of blowing into a machine. It is not required for a charge of driving under the influence. A driver can be charged based on an officer's observation, on evidence of what has occurred at a crash scene, for example, and then on a sobriety test. Some police stations still have the sobriety test booklet in their stationery cupboards.

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Dr A.D. Buti: The previous police commissioner may not have been aware.

Mr M.J. FOLKARD: Correct. To prove that charge, the individual must be standing in front of an officer. The officer has to ask a couple of questions and make notes of the response. The driver also had to pass a physical test. They had to close their eyes, stand on their left foot and put their right-hand on their nose and repeat that, standing on their right foot and put their left-hand on their nose.

Dr A.D. Buti: We can't do it when we don't drink.

Mr M.J. FOLKARD: I cannot do it when I am sober. We would make note of what we observed during that exercise and if someone was drunk to the point of being incapable of driving a vehicle—that is what DUI means—the evidence could be produced in court. That booklet would contain the notes that we produced in court. Another test was the use of a concentric circle so that the driver would have to start from the centre and follow it to the outside. For someone who is drunk to the extent of being incapable, it is a very hard exercise to do. The result of that was produced to the courts. In my 27 years as a police officer, I undertook only one sobriety test, which was when I was working in Eucla on the Nullarbor. I went to a crash at which a truck had run off the road, but I will get to this later.

Police have four hours in which to take a test to put someone onto a breath-analysing machine. That four hours is critical, because once the time lapses, the evidence we obtain from the blood alcohol reading is invalid. That is set out in the statutes. On the Nullarbor, it would often take three hours to get to the incident site and that would leave only an hour to bring the individual to a machine. In those days, we did not have machines that we could cart around. In that case, we could not get a blood test because there was no doctor and no nurse. We were further than 40 kilometres from the nearest machine, which is the distance set out in the act. If we had tried to get the person to a machine, our four hours would have ticked over, so the evidence would not have been valid. I therefore got the driver to undertake a sobriety test using the old method of hand on nose, standing on one foot et cetera. I used the evidence we obtained at the crash scene of beer cans inside the truck cabinet. Also a witness had seen the driver swerving all over the road prior to the crash. We drew all that material together and put it before the magistrate, Kieran Boothman, and he found that we had managed to achieve a conviction of driving under the influence. In those days, I think the offender got six months suspension of their driver's licence and a \$1 000 fine. We were complimented on our inquiries for that brief.

I digress. In 1974, I managed to find the second reading of the Road Traffic Act introduced by Ray O'Connor. He introduced the legislation that led to the breath-analysing regulations and he introduced the laws that we apply today. At that time, the probationary drink-driver legislation of .02 blood alcohol limit did not apply, nor did the .05 limit. The limit of .08 blood alcohol content and DUI were the two offences that the act provided for.

Interestingly, a couple of provisions were introduced in those times, one of which was the four-hour rule. There are a couple of critical times when it comes to drink-driving—the time of occurrence, the time of last drink and the time of test. All the calculations are based on those three critical times. I will explain later how they work.

Sitting suspended from 6.00 to 7.00 pm

Mr M.J. FOLKARD: Before I continue, I want to address a point that the member for Cottesloe raised in his deliberations over this bill. He referred to blood alcohol rising for a single hour. In actual fact, it is two hours. I refer the member to section 71(1) of the Road Traffic Act, which states that a person's alcohol level rises from the time of the last drink containing alcohol at a rate of .16 per cent an hour for the first two hours until it reaches a peak. It then falls away at a rate of .16 per cent an hour until the alcohol is eliminated from the body.

Dr D.J. Honey: I was not referring to the act; I was referring to actual measurements of people's blood alcohol levels. I knew what the act was. It does not reflect what happens in reality.

Mr M.J. FOLKARD: I would suggest that that may be misleading people in the member's community. I suggest that if I were to get a bottle of wine and a policeman's breathalyser, I would probably win the argument.

Dr D.J. Honey: Mine is based on measurements that I have done and other people have done. I understand what the act says and I did say that in my contribution.

Mr M.J. FOLKARD: As I said, I do not want for there to be any misconceptions in the community.

The four-hour rule occurs from the time of occurrence. That can be when a person is stopped for a random breath test. The time they are stopped is referred to as the time of occurrence. To date, I have used two types of breathalyser machines. I used the original Smith and Wesson breath machine. That was not a self-tester.

Mrs M.H. Roberts: I hope you are not being euphemistic. The Bunbury inspector used to say he was policing this town with his two good friends—Smith and Wesson.

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Mr M.J. FOLKARD: I believe that the manufacturer of both the firearms and the breath analysis equipment is the same. Back in those days we used to have to go to the ChemCentre. I refer to the member for Cottesloe's time at the ChemCentre. We had to pass a competency test in front of a representative from the state ChemCentre before we were deemed confident in that spiel. That was back when the machines were not self-testing. On Thursday, December 24 1987 the Dräger 7110 breath machines were introduced. They have been modernised, but they are the machines we currently use. I have these documents because to prove a conviction at the time police officers needed to produce the *Government Gazette*, their current certificate, and a copy of the government regulations.

The breath-analysing equipment was based on Henry's law, which states that a volatile liquid in a sealed container is directly proportionate to a volatile liquid in itself. That applies to a breath machine because the blood alcohol content in the air in a person's lungs when they blow is measured and used in the calculation.

In his second reading speech in 1974, Mr O'Connor stated —

It is appreciated that that presumption is most likely to be marginally out in any individual case, if breathalysers and blood analyses are to be used as part of the campaign to reduce drunken driving the only alternative is to take the approach used in most other States and in New Zealand whereby the blood alcohol concentration determined at the time of the test is conclusively attributed to the person at the time of the accident or alleged offence.

He meant that when we used the calculation, we were copying legislation from the other states and we introduced the legislation that included the calculation. I refer to that presumption of .16 blood alcohol content rises for the first two hours after the time of the last drink and falls away at .008 thereafter.

The Western Australian law introduced a calculation back to the time of occurrence. We currently have to take into account three times. One is the time of the person's last drink, which is very hard to determine when a person is quite inebriated. We needed to know the time right down to the nearest minute. Very few people were able to prove that. The second time we needed to know was the time of occurrence. That was either at the time of the crash, or the time officers pulled them over for a random breath test or a driving matter. The third time we needed to know was the time of the test. In their wisdom, our forefathers introduced section 71(2), which instructed police to use the time that was most favourable to the driver—hence the calculation.

We had great difficulties trying to get a drink-driver to articulate those times. The easiest to prove was the time of occurrence, because that was taken from the watch of the officer who pulled the person over, and the time of the test, which also used the time from the watch of the arresting officer, but getting the time of the last drink was often the hardest. The most favourable time for those individuals was the time of occurrence, because that set the calculation in the terms most favourable to those who had been caught. That being the case, we often encouraged people, if they could not tell us the exact time and minute of their last drink, to tell us that they did not know because it would be the most favourable time to them if we put them onto the machine. Some people would listen, but some people would not. The nicer of the people tended to say, "Yes, great."

[Member's time extended.]

Mr M.J. FOLKARD: We needed to know the time to the exact minute, so we told them that if they were not sure we would take it from the time of occurrence—when they were pulled over by the police. That made sure that officers complied with section 71(2) of the act. We had to be fair.

It was a formal process. I have met with colleagues from interstate and other jurisdictions over the years. I can say that with the processes the Western Australia Police Force covered in our training and the notes that we made, I never lost a conviction in the 27 years I was in the job—not once. We have a very set process. Once a person goes on the preliminary machine and gives us a positive indication, that process is virtually infallible. I have gone up against some fairly serious legal people over the years. I have had a QC standing on the other side trying to pull us apart, and I have always won. The reason is that I have always followed the processes—a random breath test, then we waited 20 minutes before we put them on to the machine. Again, that was so that the individual got the best outcome. When we put them on to the Dräger, we had to make sure that there was no mouth alcohol so that they got the correct reading of their blood alcohol content, rather than an improper reading affected by mouth alcohol. However, these days the machines are very technical. They will pick up if someone has a hiccup or something along those lines that will draw out a false reading.

When we got there, as the apprehending officer, I would make an introduction. I could almost say it now: "My name is Mark Folkard. I am introducing you to the member for Kalgoorlie. He's an authorised person within the meaning of Section 65 of the Road Traffic Act; he is an authorised breath operator. I require you to stay at this place and to provide him a sample of your breath at his direction." Bang. That would come out in my evidence when I went to court later. The operator would then give his spiel, saying that he was an authorised officer. We

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heard that the member for Kalgoorlie attempted to do it from memory over the years, for which I commend him. The machine that we use now would self-test. It would run a self-diagnosis on itself, and it would come back and say that it had tested all correct, and then it would ask for a sample of breath. The nozzle would then be handed to those individuals and they would blow. There would be a series of stars that they would have to follow, and once the individual got a full set of stars, that was seen as a sample of breath.

Over the years, I had people come up with, “I can’t blow”, and things like that. We held a police open day, and I remember a two-year-old blowing into the straw and managing to get all the stars to go across—so people who said that they could not blow were really having a bit of a lend. In saying that, though, we could adjust the machine to take a smaller sample to achieve the result that was required.

We would be making notes and following everything along the lines, and those notes would form part of the brief of evidence that would go before the court. Then we had to do this calculation. Every time we did it, we would draw a pyramid. We would mark in certain times over this diagram. It would start off, “Time of occurrence”, and we would write the time. “Time of last drink”—hopefully we would write “NK” next to that space, so that would be “not known”. Then we would write “Time of test”. We knew that 20 minutes after the test, we would go up, do the calculation, and with a set of cheat sheets we referred to, we would cover it off in the diagram. Then at the end of the day we did this calculation. Depending on that calculation, we would take off or add on the result of the test.

This law takes away that calculation. It will not mean a lot unless someone had a marginal result—for example, an individual who blew .0801. That is still over .08, and they would still get their licence suspended. By placing this calculation across that back to the time the individual was stopped or when the incident occurred, that calculation would take the individual under that level, bearing in mind it would go up and then start to fall away. So whatever the figure was, the calculation would generally take the individual back under the limit. If the individual was DUI—driving under the influence—and blew .151, the calculation would take them back underneath, so it would be an excess .08 charge. So by removing the calculation, effectively what we are doing—“what you blow is what you go”—is actually increasing the level. This is basically an increase in penalties across the board. That is what the calculation does. If a person is .02 and they blow .021, again, it would take the person back under that amount, which would put them under the limit. With those prescribed offenders or professional drivers who require a zero blood alcohol content, the calculations do not necessarily apply.

The highest reading I ever got was a .31, and that was when I was working at Northam many years ago. That reading was for a female who was driving a car, and she had three unrestrained children running around on the back seat of the car. We stopped her because the children were running about in the car unrestrained by seatbelts.

We stopped her, put her on the machine, and thought: We have a problem here. We took her back to Northam, did the calculation, and she blew 0.31, which is the highest I have ever seen.

Dr D.J. Honey: Close to death.

Mr M.J. FOLKARD: Close—yes; I would think so. But, deadset—she had a coherent conversation; she was steady on her feet.

Dr D.J. Honey: Was she an alcoholic?

Mr M.J. FOLKARD: Yes, the antecedents stated that she was an alcoholic. She had a very strong smell of alcohol on her breath. I do not disagree with the member. Some interesting statistics have come up here tonight, and I do not doubt them. But I can say from my experience in this space and in this time, I do not have a recollection of a fatal car or motorcycle accident in which the driver or the rider did not have some blood alcohol content, drugs, or a prescribed medication in their system. I say that because when we were dealing with a fatal traffic crash, that was one of the figures we always used to give to the coroner. I cannot recall a fatal crash that I attended in which the driver or the rider of a motorcycle did not have some form of blood alcohol content or drugs in their system. That was over 27 years’ worth of policing. If there are other statistics out there that say that they are one in five or whatever, I do not doubt it.

Dr D.J. Honey: I think it has changed dramatically over your career.

Mr M.J. FOLKARD: Yes.

Mrs R.M.J. Clarke: Are you saying that all motorbike riders drink and take drugs?

Mr M.J. FOLKARD: I found that they had some form of it in their system for the fatals that I attended. I would suggest that those who are sober are not being reflected in our road toll, but that is for another conversation.

Over the years, it is interesting that for all the drink-drivers who I took to court, effectively the courts used to feed the figures into a matrix, and we knew that if a defendant had blown a level, say, 0.08, and they blew 0.095, the

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courts had a table to feed the conviction into. That was the prescription. If they blew over, we knew what their fine and suspension would be. That is fairly constant. Justice McKechnie did some work in that space to get some standardisation of the penalties across the board, and I commend him for his efforts.

Going forward, I have to say, this is a brilliant piece of legislation. From a policing perspective, I would love to see senior officers take over some of those roles. At the moment, we can suspend licences on the spot for 28 days so people can get the court suspension in that space. Traffic infringements are being issued now. This is not the government's opinion, but my personal opinion as a long-serving police officer: we need to get some of these people out of court processes so that possibly a senior officer with the rank of sergeant could issue the suspensions and the fines to take away the court processes in that space, to get the suspension starting immediately and to get the fine applied immediately through a traffic infringement notice. We are not far away from that now, because we issue traffic infringement notices for some drivers in the 0.05 space, but I think that will change to bring conformity across the country. Whether we do that is something to think about in time. I suggest there would be significant cost savings in doing it that way within the court processes.

MS J.J. SHAW (Swan Hills) [7.20 pm]: I begin by adding my congratulations to the long list of congratulations that have been provided this evening to the member for Midland, the Minister for Police; Road Safety, for her outstanding parliamentary career. As the longest serving woman member of Parliament in Australia, she is certainly someone to look up to. I add my congratulations to her for her stellar career. Whilst preparing my speaking notes on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019, I took a good look at how the minister administers her portfolio and what a masterclass the minister's management of road safety provides on what it is to be a road minister, how to look after road safety and how it stands in contradistinction to the efforts of previous ministers for road safety, but more on that later.

This bill obviously makes a significant change to the calculation of blood alcohol concentration, a change that I was very surprised had not been made long ago. The methodology was introduced some 40 years ago—I had just been born. There has been absolutely no change since then. As someone who grew up and learnt to drive in New South Wales, I could not believe that such an archaic methodology was still in place in Western Australia. As the minister pointed out in her opening remarks, drink-driving is a key factor in one in five fatal crashes and in one in 10 serious-injury crashes. Those crashes have cost Western Australians \$3.6 billion over the last 10 years. This is a very important matter to address. Getting serious about tackling drink-driving is something that this government takes very seriously.

Over the last 40 years, since this methodology was first introduced, the testing methodologies and the technology has moved on. It is far more reliable than it used to be and we can get far more accurate, on-the-spot results. The back-calculation process that is included in the current legislation enables people to manipulate the results, which means that a lot of people are getting away with drink-driving who absolutely should not. The bill replaces the back-calculation with a rebuttable presumption, striking a fair balance between operational efficiency and fairness to the accused by allowing a defence in appropriate circumstances when the court is satisfied that the blood alcohol level of the driver at the time of the offence was lower than that alleged by the prosecution.

This bill is important to me because it directly affects my constituents. We live at the top end of the Swan Valley and my electorate extends right into the Perth hills. There are a number of wineries in that area. People come into my electorate and to areas adjoining my electorate to visit world-class vineyards, pubs, distilleries and breweries and then drive home. Frankly, if people are drink-driving through my patch, I want something done about that. It puts my constituents at risk. It is very important that we take meaningful action to address the road safety of not only my constituents, but all Western Australians.

The legislation is characteristic of Labor's responsible and research-driven approach to road safety. Essentially, under the old test, a driver would blow into the device, they would get a reading, and if it was positive, they would be taken into a truck to do a second test and a back-calculation would be applied using some formulas that bear no resemblance in reality to either people's biological chemistry or even the real world. Nonetheless, those standards were used to allow people to lower their liability to be charged under the relevant legislation.

A study was undertaken by Curtin University in 2013. Researchers rode along with WA police and observed the testing process. They found that of the 8 435 drivers tested with WA police, 119 had a blood alcohol content over the legal limit on their first test. The back-calculation process led to 26 people not being charged and 65 drivers receiving a reduced charge, so 76.4 per cent of drivers who were over the limit on their preliminary breath test received a lesser charge or no charge at all out of all the drink-drivers in the survey. Most of those drivers had lower BACs between their preliminary and their evidentiary tests. This is not taken into account. A driver can still say that they had their last drink two hours ago and receive the maximum discount. The system was based on fiction rather than on a hard scientific fact. No enforcement regime should be set up in such a way.

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One of the other things to keep in mind is that if a driver is successful in getting away with drink-driving, that is they successfully avoid detection, studies have demonstrated that this has a great effect on a driver's decision to engage in subsequent illegal conduct. The current system is encouraging people to just try their chances and game the system, which leads to further risk-taking, which over time obviously exposes us all to quite considerable risk.

Given the importance of road safety in my electorate, and how this important blood alcohol content issue is in particular at the top end of the Swan Valley and into the Perth hills wine region, I decided to look at how these types of initiatives come to pass. I do not have a background in policing or road safety, unlike many members in the chamber this evening. Indeed, we have been regaled with war stories of being on the beat and administering the test. Obviously, we have also heard some incredibly tragic and moving stories about people whose lives have been touched by drink-driving and tragic circumstances that members' families have experienced. Not having a background in the area, nonetheless, I thought I would see how these road safety initiatives come into being, the sorts of policy considerations and processes that are applied and, as I alluded to earlier, how a minister administers a portfolio and the relationships between the key agencies in road safety. I look at every piece of legislation that passes through this place as an opportunity to understand more and more about the mechanics of government. It is very interesting to look at this issue and understand that it is longstanding; it has been around for a very long time.

When I was learning to drive in the mid-1990s, it was unusual that this methodology was applied in WA and nowhere else. I understand that the Road Safety Council raised this with the then Minister for Road Safety in 2015 and absolutely nothing was done. No action was taken despite the Browne report into the management of the road safety portfolio and the structure of the institutions and the mechanisms that should apply. Nothing was done. Complete abject neglect and delinquency of duty was displayed. However, this minister reviewed the evidence, looked at the science, looked at the experiences in other jurisdictions and took a sound, thorough, reasoned and rational approach to the policy development process. She consulted with the Road Safety Council, developed this proposal through the Road Safety Commission and presented this proposal to Parliament. That is the way policies should be developed—in a thorough, rigorous, analytical, accountable and defensible way, but that is unfortunately not what we have seen through previous administrations, particularly with previous ministers for road safety. I believe that the McGowan government should be commended for adopting robust, rigorous and thorough approaches to introducing these changes and developing road safety initiatives.

It is my understanding—I stand to be corrected by the Minister for Road Safety—that a minister's first duty on becoming a minister is to identify the acts they are responsible for administering. Their first duty is to understand what they are in charge of. The second thing they should do is identify their powers under those acts. What can I do? What am I empowered to do under those acts? The next thing, and probably the most important thing, is that a minister needs to understand what steps they need to go through in order to exercise those powers. That is pretty fundamental. What can I do? What do I need to do in order to do what I am empowered to do? Then, probably even more importantly, when presented with proposals for legislative change or business cases by agencies, I would have thought it would be very important for a minister to ask the right questions and to ask the hard questions in order to ensure that all steps have been appropriately stepped through and followed before unquestioningly accepting a piece of paper put down in front of them, signing away and maladministering funds potentially worth hundreds of millions of dollars. I would have thought that would be the first duty of every minister.

When I look at how this piece of legislation has been developed, it would seem to be a masterclass in how to develop and implement policy, and bring things into this chamber. I would argue that it is about the minister doing her job. More of us should take a leaf out of her book and do our job. We have all seen how terribly things go wrong when ministers cannot be bothered doing their job properly; when they maladminister and are neglectful of their tasks. When millions of dollars are at stake and when thousands of lives in Western Australia are at stake, I do not think it is too much to ask that ministers do their job. I think that ministers who have not should be held to account for that.

If a minister does not do their job, we end up with farcical occurrences like the arrangements we saw in the dying days of the Barnett government with respect to the Western Force arrangements and the agreement between the Road Safety Commission and RugbyWA. The previous Minister for Road Safety should be absolutely hauled over the coals for neglecting her duty; her absolute abject maladministration of the portfolios in her charge and her disgraceful conduct when she was the Minister for Road Safety. It was an extraordinary lack of competence and an extreme neglect of her ministerial duties.

I contrast that with the current Minister for Road Safety's conduct and the approach she has taken. I would like to make some observations about the administration of the road trauma trust account under the previous Minister for Road Safety. It has all been a great learning experience for me. I have examined the way that the Road Safety Council Act is structured and how the Road Safety Council is constituted. The council has on it 12 eminent and very knowledgeable Western Australians who are responsible for providing advice to the minister. They can

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provide recommendations on particular initiatives in the road safety portfolio and they can provide responses to ministerial initiatives. They can provide a view about whether a project is appropriate to pursue under the road trauma trust account. The road trauma trust account, during the dying days of the Barnett government, had \$177 million in it. The money within that account was raised through speed and red-light camera tickets and was to be administered or issued under the minister's decisions having regard to the Road Safety Council. The position of the Road Safety Council was to be communicated to the minister by the chair of the Road Safety Council. The minister, as I said before, must always have to mind the Road Safety Council's views on various initiatives before dishing out funds under the road trauma trust account.

[Member's time extended.]

Ms J.J. SHAW: With respect to the Western Force sponsorship agreement, this did not happen. The Western Force sponsorship agreement was signed the day before the Barnett government went into caretaker mode. The entire process that I outlined previously was thrown out the window. In that particular instance, the Road Safety Commissioner completely bypassed the Road Safety Council. He did not consult with it at all. A hurriedly cobbled together \$1.5 million deal was shoved in front of the minister. She did not do her job. She did not take the time, or clearly had not ever taken the time, to understand the acts that she administered, the powers under those acts, and the processes needed to be stepped through in order to exercise the powers under that act. She unquestioningly accepted the position of the public servants providing her with the recommendations. That is an absolute neglect of duty. A minister is not just there to keep a seat warm; they actually have to put some work into it. They have to make sure their department is providing good quality advice and they have to ask the hard questions. The fact that under the entire duration of that organisation's existence there was clearly a complete misunderstanding of what her role was with respect to those agencies is absolutely disgraceful. There was a clear lack of understanding of the acts she administered, the powers she had and the processes of governing the exercise of those powers. She failed.

As part of my attempt to gain a deeper understanding of exactly what went wrong under the Barnett's government's administration of the road safety portfolio, I had a good look into both the Langoulant inquiry's findings and also the Corruption and Crime Commission's subsequent report. Both reports found that the former Minister for Road Safety was neglectful and that there were major problems with respect to the \$1.5 million Western Force deal. No regard was had to the council. The money was taken away from the electronic school zones sign program. That was a great thing. They should be proud of that. The minister rushed unquestioningly into a deal, on advice that she swallowed holus-bolus.

Dr D.J. Honey interjected.

Ms J.J. SHAW: I am not taking any interjections. I can understand why one of the newly elected members might be a little uncomfortable being exposed to the paltry competence of one of his parliamentary colleagues, but it really is quite a serious matter to identify and call out such terrible administration.

The special inquirer, Mr Langoulant, said that he was concerned. I will dig a quote out. He was concerned that "no cogent explanation was provided as to why this agreement was entered into in such haste". It is a really interesting read. If anybody wants to have a look at how the road safety portfolio is administered in Western Australia, I would strongly encourage them to have a good look through the Langoulant review from page 569 onwards. It provides a very good account of how things can go terribly wrong if a minister does not understand what their job is or how the acts they are responsible for are administered. The special inquirer said that he was very worried about why the agreement was entered into in such haste. He also made a comment towards the back end of the report. He looked at the decisions that were made and whether it was a good application of funds. There is also a bit of commentary about swallowing holus-bolus what Western Force said the actual value of the \$1.5 million was. The minister just accepted that the value of the product would total \$2.676 million. The special inquirer said —

Whether or not the arrangement with the Western Force constituted a good or appropriate one for the State, the means by which it was effected was, in the view of the Special Inquirer, likely unlawful.

It was so bad that it was not even lawful. That is absolutely shameful. The special inquirer highlighted this conduct and made a series of suggestions that led to the Corruption and Crime Commission launching an investigation into the matter. It does not get much more serious than that. It really is quite shameful that the Corruption and Crime Commission had to look into the conduct of this whole sorry affair. The Corruption and Crime Commission made another point that is very important to appreciate. It noted —

Hundreds of millions of dollars—mainly from speed camera traffic fines—go into the RTTA every year to advance road safety initiatives. Funds are required to be allocated in accordance with the Road Safety

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Council Act 2002 and the Minister is to have regard to recommendations of the Road Safety Council before allocating funds.

The CCC clearly stepped through what should be obvious to any prudent minister who took the time to understand the acts that she was responsible for administering. The CCC report then notes —

In 2016/2017, the then Minister allocated the entire 2016/2017 RTTA budget, which was in excess of \$177 million, without regard to a recommendation from the Council.

The then minister completely ignored the expert body that had been convened specifically to provide her with advice on these issues. She accepted the advice of the chair of the council, without questioning, in accordance with her legal duty, whether any of these initiatives had been considered. She swallowed it whole.

The CCC report goes on to state that the conduct of the bureaucracy in not consulting with and not facilitating the process with the Road Safety Council led the then minister into acting beyond her power. The report continues —

This had fatal flow on effects to any redirection of funds to the Western Force.

The \$1.5 million redirected to the Western Force came from a portion of 'underspend' of \$14.5 million that had been allocated to Main Roads Electronic School Zone Sign project.

The then minister just accepted that this was appropriate, the day before the former government went into caretaker mode. She introduced changes to increase the allocation of funding from speeding fines into the road trauma trust account. She then stood on the hose, without any regard for the way in which she was supposed to administer the act. The then minister then basically pork-barrelled right before the election and facilitated this absolutely inappropriate redirection of \$1.5 million from the road trauma trust account to the Australian Rugby Union. That is disgraceful conduct. The former minister deserves to be held to account for her woeful neglect of her duties as a minister of the crown. This CCC report makes fascinating reading. It has been very instructive for me to, firstly, read the relevant legislation and understand how these things should be administered, and, secondly, read these reports and understand how these things were administered by a former minister who has been a member of this place for quite some time and should absolutely know better.

I would like to reaffirm that this legislation is very important to the people of Swan Hills. Road safety affects all of us. My electorate comprises 1 000 square kilometres. Some of the roads in my electorate are the most dangerous roads in Western Australia. In fact, the RAC has said that Toodyay Road has been voted as one of the top 10 most dangerous roads in Australia. In my electorate, road safety is key. We are the gateway to the north along Great Northern Highway and through Bullsbrook. We are the gateway to the wheatbelt along Toodyay Road. Great Eastern Highway runs adjacent to my electorate. My electorate is a significant transit link. We are at the top end of the Swan Valley. Drink-driving affects us all. Therefore, road safety needs to be taken incredibly seriously.

I would like to thank the Minister for Road Safety for the significant support she provided to my electorate when I was first elected by putting a considerable amount of funding into upgrading the Toodyay Road intersections with Stoneville Road, Roland Road and O'Brien Road. Toodyay Road had been considerably underfunded for many years. Despite the fact that this was an ongoing issue, the repeated representations made by my community fell on deaf ears. The McGowan Labor government takes road safety very seriously.

In addition to all the wonderful initiatives of the McGowan Labor government around road safety, the government is also tackling crime and community safety in my electorate. The actions of the Minister for Police are having a significant impact on crime. According to the statistics, the total number of offences in Ellenbrook fell from 2 324 in 2016–17 to 2 053 in 2017–18. We have had fewer assaults, burglaries, thefts, property damage, arson incidents, drug offences and breaches of violence restraining orders. This is an amazing result considering that the population in my community grew by 60 per cent between the 2011 census and the 2016 census. The City of Swan projects a further 72.3 per cent growth by 2036. The reason this situation has improved is that the Minister for Police is prioritising my area. The minister is not only improving road safety but also seriously tackling community safety by increasing the number of police officers on the beat.

I would like to congratulate the Minister for Police for her leadership in redressing the long overdue problem in the calculation of blood alcohol concentration. The minister's leadership in this portfolio shows a clear distinction between this administration and the previous administration in how policy is developed and the road safety portfolio is administered. That is very comforting, given the millions of dollars at stake in the road trauma trust account, and, most importantly, the millions of Western Australian lives that need to be protected on Western Australian roads.

MS C.M. ROWE (Belmont) [7.49 pm]: I rise to make a contribution this evening to support the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. As other members have articulated and expressed, drink-driving

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is a very serious issue in our community. People who get behind the wheel with a blood alcohol level above the legal limit are risking not only their own lives, but also the lives of other drivers on our roads, to such an extent that one in every five fatal crashes in Western Australia involves drink-driving. Therefore, it is critical that avenues to address this issue and, hopefully, save lives on our roads are explored and executed by governments on all levels. That is exactly what this Labor government is doing right now. Other members have detailed the devastating effects of drink-driving and the loss of innocent lives. That is heartbreaking. It is made even more so because it is entirely avoidable. Drink-driving wrecks lives. That is why I personally have absolutely no sympathy for drunk drivers.

This bill seeks to finally bring Western Australia into line with the remainder of the country. The current drink-driving legislation allows for the retrospective back-calculation of blood alcohol content. This calculation dates back 40 years. It is estimated that this process, which provides a loophole for drink-drivers, has allowed around 20 per cent of drink-drivers not to be charged at all. That is not good enough. Our community deserves better. Of course the methods and technology addressed in the original Road Traffic Act 1974 have advanced significantly. Therefore, it is well and truly time for this amendment bill to become law in Western Australia.

A 2014 study by Monash University stated that the back-calculation process applied to blood alcohol content evidentiary tests in Western Australia required review and did not achieve its desired aim. It went on to say that, to the contrary, it was found to have favoured drink-drivers and should be ceased. The former Liberal–National government would have clearly received a copy of this report and its findings in 2014, yet it failed to implement amending legislation during its time in government, despite the evidence and recommendations to do so. I think that is a real shame. Our government, however, is working really hard to improve Western Australian road safety laws and tackle drink-driving head on, by bringing this long overdue legislation to the Parliament today.

I, too, would like to take this opportunity to acknowledge the work of the Minister for Police, especially today as she celebrates 25 years as a member of Parliament—congratulations to Hon Michelle Roberts—and her commitment to reducing accidents and fatalities on our roads as well as making sure that penalties for dangerous and reckless driving are in line with community expectations, which, in the past, they have not been. This was especially evident in the passage of the Road Traffic Amendment (Driving Offences) Bill 2018—or, as it is known, “Charlotte’s Law”—to which I was happy to contribute last year. This law imposes tougher penalties for dangerous and reckless driving that results in fatalities. The minister is also dedicating increased funding for roadside alcohol and drug-driving testing, which looks to deter this reckless and dangerous behaviour on our roads. That should be commended, and we should all acknowledge the fantastic work of the minister in addressing these really important issues.

According to the Monash University report into blood alcohol concentration levels of night-time drivers in the Perth metropolitan area, 8 435 tests were conducted over a six-week period, of which seven per cent returned a positive blood alcohol content, and 1.5 per cent contained BACs over the legal limit. The back-calculation process that was applied to these evidentiary tests resulted in 26 drivers not receiving drink-driving charges and 65 drivers receiving reduced BAC level charges. To reiterate, this testing occurred for only a short period—over six weeks, for three days a week and three hours of testing a day. I will let members do the sums on that, but they can only imagine how many drink-drivers in WA are escaping penalties or receiving lesser charges as a result of this really outdated legislation that allows the back-calculation process. This is well and truly out of step with community expectations, as others have attested to as well, and it is about time we sought to address it. It is a serious issue; those who drive with a BAC above the legal limit should be punished accordingly and face the full force of the law. Closing the back-calculation loophole will enhance the effectiveness of random breath testing. It will increase the responsibility of the driver, hopefully to reassess their choices when choosing whether to get behind the wheel after consuming alcohol. It takes away the opportunity for drivers to manipulate their readings and work in contradiction of the purpose for which the method was originally intended.

Even though alcohol is a common factor in road traffic accidents and general road safety in Western Australia, the Australian Institute of Health and Welfare “National Drug Strategy Household Survey”, released in mid-2017, showed that Australians are becoming more moderate and more responsible drinkers. Compared with results obtained in 2007, our attitudes towards drinking and driving responsibility has changed considerably, in a positive direction. DrinkWise Australia believes that this is due mostly to community education and, although our drinking habits have improved, six per cent of us still drink every day, and most of us drive every day. According to DrinkWise, in reality there is no such thing as safe drink-driving. I think the member for Cottesloe implied that after one drink people’s capabilities are impaired, they are increasingly tired and it is difficult for them to make quick decisions and react quickly. The strict laws around drinking and driving across Australia, I believe, work hand in hand with the community education efforts, and our attitude to drinking and driving must be to remain really vigilant to continue the positive trends we have seen over the past 10 years. Our changing attitudes towards drinking and driving are literally changing lives, particularly for younger people, who, statistics show, are significantly reducing their risky

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drinking behaviours, according to DrinkWise. That is a real positive we have seen, and it has happened over many decades, particularly in the last decade. It has a lot to do with education through ad campaigns and the like.

Our legislation needs to remain in step with community attitudes towards drinking and driving, and this amendment bill provides for this. Community attitudes are met with changing community expectations, and it is important that our legislation keeps pace with those. Current technology now more accurately measures the blood alcohol content, so that a reading taken at the time of evidentiary collection can now be safely regarded as the reading used for the basis of the charge, instead of relying on the outdated and ineffective method of back-calculation. Technology provides an accurate reading of blood alcohol content at the time it is measured, and the community expects that that is what the law would provide for. Although our attitudes to drinking may be changing, sadly the statistics on road safety tell a vastly different story. Reassuringly, since 1999, overall road traffic fatalities have decreased in Western Australia, from 217 in that year to 158 in 2018. That figure is from the Western Australian Road Safety Commission. However, although our legislation, community education, road safety and vehicle design, among other factors, continue to have a positive effect on overall road safety in Western Australia, as at 18 March 2019, there have been 36 road fatalities across Western Australia, compared with 25 at the same time in 2010. One in five of those fatalities has been impacted by blood alcohol content. The Western Australian community needs to remain aware of safety when driving, and our drinking habits. We hope this amendment will be a further deterrent, providing the legislative means to improve that death toll. Even one fewer death will prove the necessity and importance of this legislation.

For the Western Australian community to maintain and grow positive trends in attitudes to drinking and driving, Western Australia should be in step with other Australian states and territories that have already updated their methodology around blood alcohol. We need to make sure that we are accurately measuring blood alcohol content at the time that an incident occurs. This is clearly a very overdue change. With the ever-increasing demands for police resources, it is also critical that our legislation makes the process of managing traffic offences related to blood alcohol content as efficient and effective as possible for our police. It is important that drivers with a BAC reading are held accountable for their actions. This amendment removes the ability for a driver to rely on a back-calculation method as a means to escape that accountability. As a safeguard, the amendment will keep the use of the back-calculation method, if a BAC finding is defensible, allowing for the rebuttal of a BAC charge. If we, or our loved ones, are victims of a traffic accident in which blood alcohol content is a factor, we would really want that reassurance that the legislation supports the most accurate method of measuring blood alcohol concentration at the time that the evidence is taken. However, we also want to know that the responsible driver does not have access to a loophole that reduces or even absolves them of their responsibility. We want to know that, just because the accident occurs here in Western Australia, the responsible driver does not have the means to escape his or her responsibility just because the accident happened here and not in any other part of Australia.

It is important to note that the cost to the community of drink-driving accidents over the last 10 years was around \$3.6 billion. That is really significant. As I have already mentioned, it is a major factor in fatal crashes and of major injuries in crashes. Blood alcohol content doubles the risk of being involved in a traffic crash, compared with a person who has not had a single drink. To me it is very clear that the Road Traffic Amendment (Blood Alcohol Content) Bill 2019 is absolutely vital. We need to continue to send an unequivocal message to the community, and that is: do not drink and drive. I commend the bill to the house.

MRS J.M.C. STOJKOVSKI (Kingsley) [8.00 pm]: I rise to make a contribution to the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. A lot of my parliamentary colleagues have spoken tonight about the technicalities of this bill, and I will also speak to that, but I would like in the first instance to talk about road safety in a broader sense.

Analysis undertaken by Curtin University and the McCusker Centre for Citizenship highlights that Western Australia's average alcohol consumption is higher than the national average, which is an unenviable position to be in, but it is also higher than the world standard. We have had an increase in the number of alcohol-related fatalities on our roads, from 18 per cent in 2011 to 32 per cent in 2016. I acknowledge that the percentage subsequently decreased to 22 per cent in 2017, but that is still 35 alcohol-related deaths that could have been avoided had whoever was driving not consumed alcohol beforehand.

Alcohol is the highest contributing factor to road crashes in Western Australia. The crash statistics for 2017 showed that 161 people were killed on WA roads. That is the equal lowest number on record—a fact that, I would suggest, provides very little comfort to the friends and family of those killed. I happen to be a friend of a family who has had a family member killed on the road. Although there was no alcohol involved in that particular incident, if there had been it would have been all the more traumatic for them and us. A preliminary summary of the crash statistics for 2018 shows that there were 158 fatalities, and 35 of those deaths could potentially have been avoided had one or more of the people involved not consumed alcohol.

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While I was doing my research, I was struck by the statistics around the time of day when crashes happen, and who is involved in crashes. It strikes me as somewhat strange that the highest number of fatalities happen on Friday nights and that men aged between 20 and 29 years are the most affected demographic. I hope, for the sake of everyone involved, that alcohol is not pushing up those statistics, but I fear it is. People have a very long week at work and have a few drinks before they head home to their friends and families. It strikes me that Friday nights are a very dangerous time for a group of people who, as the research shows, have a bit of a feeling of invincibility; they think it will never happen to them. A lot of them acknowledge that they understand that drink-driving is bad, that they should not drink and drive and that even if they have had only a couple of beers at the pub on a Friday night, they really should not get in their car. They acknowledge that; they know that, but unfortunately some of them still do, and that is what is showing up in our statistics.

The back-calculation process results in an estimated 20 per cent of drink-drivers avoiding charges. I cannot imagine how a family member of somebody who has been killed by a driver under the influence of alcohol would feel about that. If that person can find a loophole and become part of that 20 per cent who gets off, I cannot imagine the pain and anguish the family members of the person killed would go through. This process favours drink-drivers and it should be removed. The former government was advised about this; it either chose to not listen or it was doing other things that it deemed more important. No other state or territory in Australia has this back-calculation process, and it is strange that we still have it. For me it is just another example of Western Australia having to play catch-up after the former government's mismanagement of this state for eight and a half years.

We often talk in this chamber about the Barnett government's mismanagement of finances, education and health, but it seems odd that it did not think that something as bipartisan as ensuring that people are safe on our roads was an important thing to address. It is clear that on this issue the former government was again asleep at the wheel. We have only to compare the former Attorney General, who between 2013 and 2017 brought 22 pieces of legislation to the Parliament, with our wonderful Attorney General who, in only two years, has brought 28 very important pieces of legislation to the Parliament. They include legislation that deals with some of the wrongs that were done in our communities over the years—the wrongs that were done to victims of child sexual abuse and the wrongs that were done to men whose only crime was to love another man. These important pieces of legislation, which make up the foundation of our communities, were brought to Parliament by our current Attorney General—28 pieces of legislation compared with 22 over the entire time the former Attorney General held that office.

I also offer my thanks and commendation to the Minister for Police; Road Safety for bringing this legislation to the Parliament. It is supremely important that we look after everyone on our roads.

Sorry; I am finding it a little hard to concentrate with the chatter over there.

It is not surprising to me that our government is bringing in this type of legislation, because the McGowan Labor government is tough on crime and road safety. I can only say that the reluctance of the former Liberal government to act on this issue is unsurprising when we look at its former Treasurer and Minister for Transport, Troy Buswell, who I believe was convicted of driving his car whilst drunk. He was travelling home from a wedding when he crashed into three parked cars and the gatepost of his house while driving his ministerial car. What disturbs me most about that was the fact that he did not own up to it straightaway; he did not even resign from the frontbench for two weeks. It was only after a witness came forward to shed light on the incident and the media got hold of it that it was brought into the public sphere.

Mrs M.H. Roberts: Member, I don't think he actually was convicted of drunk-driving, although most people had come to the conclusion that that was what he was doing. He was drinking at the wedding he attended and then he did a lot of crazy driving after that. My understanding is that he went to his home unit but he locked the door and they didn't pursue it. He was subsequently charged, I think, with careless driving and maybe one or two other offences, and I understand he pleaded guilty to those offences.

Mrs J.M.C. STOJKOVSKI: Thank you, minister. Yes, it actually says in my notes that there were 11 traffic offences; it does not stipulate drunk-driving, so my apologies for that. But it seems he was drinking at this wedding and caused some substantial damage on his way home. The concerning thing from a government point of view is that it was not brought to light at the time it happened. Only after a witness came forward was it brought to light, and then he resigned from the frontbench. Of equal concern—something that I think shows an attitude of disrespect for the processes around here—was that his chief of staff actually hid the details. The Corruption and Crime Commission subsequently stated in its report that she hid the details of the crash on the night.

I find that very troubling because our roles should be performed with the utmost dignity and in the best interests of the people whom we serve. Things such as road safety are a basic right that we should all expect in the community.

I move on to what is a stark contrast, I suggest, for the McGowan Labor government. This legislation is another stone in the ever-increasing foundation of Labor's commitment to road safety. To recognise this, we have only to

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look at some of the road safety measures that Labor has brought in, such as safe passing laws, also known as “slowmo”. As a wife with a husband who works in the construction industry, I know how dangerous it can be for people working in construction, particularly those who work in civil construction. They are on our roadsides and potentially in the firing line. We brought in laws that require people to take heed that someone is on the side of the road doing a job. Obviously, that extends to police, ambulance workers and Fire and Emergency Services workers. Anybody who has to be on the side of the road to do their job needs to be protected.

When the 50-kilometre-an-hour urban speed limit was introduced, there was some discussion about whether it was required. After having been in Japan recently and seen urban street limits of 30 kilometres an hour—granted Japan has different types of housing and roads—I can see very clearly how beneficial the lower urban speed limit is. It is appropriate to trial 40-kilometre-an-hour speed limits in some business and residential areas. WA always has been a car state, but it is not and should not be the future for WA. If we want to make sure that we have vibrant communities in which people can walk around and cyclists can use the roads safely, we need to make changes that can change the behaviours of the community.

I am also very pleased that we increased the funding for driver drug testing. I have seen a number of people on the roads and have wondered whether they were under the influence of something, because there just seemed to be no rhyme or reason for the way that they were driving. Other road users, who may be doing the right thing, might lose their lives because drivers out there think that it is their right to drive after they have been drinking or taking drugs. It is not good enough. I have to agree with my colleague the member for Belmont: we need to take this very seriously. We in Parliament can control this. We can do things to help prevent this.

Probably the most important piece of legislation on road safety that I have been involved in, and was very proud to be involved in, since being in Parliament was “Charlotte’s Law”. That case was profoundly sad because the person who killed Charlotte was able to get away with it to an extent because of certain things being missing—other loopholes in our laws. Whether it is through legislation that is introduced by the Minister for Road Safety or the Attorney General, I am proud to be part of a government that is looking at these loopholes and closing them, because that is what our community expects. They expect us to move with the times and to be forward thinkers and see where our legislation is lacking and to try to fix those issues in the legislation.

I read with interest something that the Minister for Police said; I believe it was last year in a media statement or a media interview. She said —

“We’re going to be embarking upon a new road safety strategy [and it is] one that we’re going to be consulting the community about next year because it’s not just about enforcement, it’s about people taking responsibility themselves,” ...

I agree 100 per cent with this statement because I think we can do a lot around enforcement, but people need to take responsibility for themselves. I am very pleased to be working with the minister’s office to bring a road safety forum to the people of Kingsley. Residents have come to me repeatedly with road safety concerns, particularly around speeding. We are doing everything within our power to address the issues and help the local council put in speed reduction measures. Giving local people information also empowers them to take responsibility for themselves. I thank the minister for working with me on that particular focus.

A few years ago, long before I was in Parliament, I worked for the RAC and we ran the very first bstreetsmart event. For those members who are not aware, this is a very confronting event. It is put on at the RAC Arena for years 11 and 12 students to provide them with as much road safety information as possible.

[Member’s time extended.]

Mrs J.M.C. STOJKOVSKI: This event gives 16 and 17-year-olds the information that they need to make decisions. A lot of them are about to get their licences and they will turn 18 in the next couple of years and be able to drink. I find it odd that we give our children drivers’ licences and the ability to drink within the same few years. The event that I was involved in staged a crash in which a group of friends went out for a fun night and the designated driver, unfortunately, decided that he would have a couple of drinks because it was just a couple of drinks and he would be fine. The event shows the students through multimedia and a live presentation what happens when the emergency services arrive at a car crash. It is very confronting and very harrowing. The scenario in the particular event that we held was that the young people had crashed into a motorcyclist and killed him. It went through the emergency services having to use the jaws-of-life to cut them out of the car. It went through what the paramedics had to do to assess not only the young people in the car, but also the motorcyclist who had been killed. Then it progressed to what happens at the hospital. The doctors from Royal Perth Hospital came in and gave a no-holds-barred account of what happens when they see traffic accident victims coming through the emergency department. There were lots of gory details, and I can tell members that more than one student fainted

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from the sheer shock of what was being described. I think this is part of the education. We cannot shy away from the fact that we have road crashes and that almost a quarter of them are because people choose to drink and drive. This is a very powerful mechanism by which to teach our young people. I think it feeds into what our government is doing around educating the community on how to take responsibility for themselves.

I hope that when we roll out the road safety forums, they are well attended and that the people who attend them also take the message of looking after themselves and their loved ones on the road. Losing somebody to a drink-driving incident really brings it home, but we do not want everybody to have to go through that. My message to my daughter, who is only nine years old at the moment, but when she is old enough to be out and partying with her friends, is—I am sure every parent in this chamber and in Western Australia would echo this sentiment—I would rather that she calls me at three o'clock in the morning and I go pick her up than have a police officer knock on my door to say that she has been killed. That is my contribution tonight.

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [8.20 pm]: I rise to speak on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. I offer my full support for the bill and recognise that it is part of this Parliament's further tightening of the legislation around alcohol abuse and drink-driving in particular. I can recall a period when to say that you were drunk at the time was an excuse for bad behaviour. It is even in the lyrics to a Pink Floyd song, *Money*. In an outro line we hear somebody say, "I don't know; I was really drunk at the time." It was from the 1970s and that attitude perhaps belongs in that era. As pleasant as the music may have been, those attitudes do not relate to our society today in 2019. Attitudes towards alcohol have changed and that is why we need to tighten the law, such as in the legislation before us.

We might say that the previous government should have addressed this issue, but it did not. It has taken the Minister for Police and the McGowan government to tighten these laws. At long last, there will be some improvement to the current system. There used to be a retrospective calculation of blood alcohol levels, which are changing at long last. We are becoming consistent with other jurisdictions around Australia. We are changing to a system in which an evidentiary approach is taken. Someone's blood alcohol content at the time of driving is measured and unless there is proof to the contrary, that is the reading that is used. At long last, we are seeing this change. It is fair to say that 20 or 30 years ago, the equipment that was used might have been of a variable standard and we might not have had the same level of robustness in testing. It was necessary to test someone on the side of the road and then have them switch to more sophisticated equipment for a more precise reading. The prosecutions would go from there.

On the nature of testing, breath testing is the primary means by which blood alcohol content can be tested but, of course, it can also be done via blood and urine testing. We now have very precise, accurate equipment and those days are long behind anybody who is looking to get off on a charge based on a technicality.

It is also very important to look at the different blood alcohol levels that are being applied. Some categories—P-platers—are not to exceed a .02 per cent blood alcohol reading. That is a good thing as well. Western Australia is now a jurisdiction in which the level is .05 blood alcohol per 100 millilitres of blood. That is an improvement as well. There was a time when we were at .08. It is interesting to look at these levels. For example, .05 could be expressed in terms of parts per million—the equivalent of 500 parts per million. I know that sometimes members opposite get a little bit caught up when we talk about the amount of carbon dioxide in the atmosphere, saying that we need not worry too much because carbon dioxide makes up only 0.04 per cent of the atmosphere. In fact, that is in the same order as the changes we are now seeing from .02 to .04. I think everyone in this place accepts that if a blood alcohol reading goes up to .05, we have a serious problem. It is the same with the atmosphere. We accept the impact on the metabolism because of what can seem like a very small change. We know that alcohol can have that very dramatic impact. It is the same with the earth's atmosphere, just to put that into perspective. It is an interesting relativity that we are talking about the same orders of magnitude and the same sorts of numbers.

People have, in the past, indulged in risk-taking behaviour and that risk-taking has been exacerbated by the amount of alcohol that they have consumed. We know that alcohol removes inhibitions that people may have. It also leads them to take greater risks and that is perhaps the greatest impact on a person who is behind the wheel of a car. We know that when people have alcohol in their system, they are twice as likely to have a crash as a person without alcohol in their system. That is a frightening fact. We know that somewhere between a fifth and a quarter of those terrible fatality statistics are caused by alcohol. I know we can look to the general downward trend that we have seen in road fatalities. I can recall that when I first got my driver's licence in early 1981, the state's road toll was about 350 deaths a year. Now, of course, it is substantially lower but we have more road users. At the time, I remember we also had a Road Traffic Authority—the RTA. It was always called as such. Police officers at the time in the 1980s, and perhaps into the 1990s, were called RTA rather than police. Now I think they have come together. The WA Police Force traffic branch was located at Plain Street. It was the base for all our police traffic branches. The stories that they would have to tell police officers about the terrible things they see on the road as a result of the abuse of alcohol would be incredibly distressing. I can quite understand why we have cases of

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post-traumatic stress disorder when people have had to encounter, during their working lives, some awful scenes in attending road traffic accidents. That would stay with people for life. I feel for police officers because of the traumas they have to encounter on a very regular basis in dealing with road fatalities and road crashes in general.

I hope that this legislation will further help the change in our Western Australian culture towards a culture that sees alcohol, yes, as something that we can enjoy from time to time, but not something that has to be a part of absolutely every occasion. My area has had a number of very well attended community festivals. We just had the Illuminate Night Party festival where the Cat Empire performed.

That alcohol-free event was attended by around 8 000 to 14 000 people. I am not sure how many people attended in the end, but it was a huge attendance at Gosnells oval and it had a very good family atmosphere. It was very enjoyable and a real delight to be there on a balmy Saturday evening. It is an example of how we are moving away from the idea that in order to have a good time at an event we have to have alcohol. Another event in the City of Gosnells is the Fusion Food and Culture Festival. It has moved from Langford to Beckenham. The festival really draws on the diversity of cuisines we have in the area due to its rich multicultural heritage. Again, it is an alcohol-free event that promotes the LiveLighter message of healthy eating. The festival enables people to enjoy all sorts of cuisines, there is no alcohol and everyone has a fantastic time.

I enjoy a glass of wine from time to time, but we can progress in our culture the idea that we do not need to have alcohol at every single event. I think the changes in this legislation will help to get into people's minds that general change in attitude towards alcohol as an essential ingredient in having a good time—alcohol is not critical to how we need to behave. Another component in our changing attitude towards alcohol is our multicultural communities, because they are masters at having very successful wonderful events that do not rely on alcohol. It is not all the multicultural communities. I know that if I were to attend an event put on by the Scottish community, it would be likely that some drams would be drunk. But sensible precautions would be taken to ensure that people have a safe means of getting home and there would be no question of people driving if they are anywhere near the .05 limit. Now with this legislation, people will be even more cautious around that. That is a good thing. People will remove any doubt by saying, "I'm not driving tonight. I'm gunna use a taxi, perhaps an Uber, rely on friends or sleepover." Those are the different options that people have available if they have had too much alcohol and a need to avoid driving.

As a keen cyclist, I acknowledge that this is Bike Week. We had a very successful parliamentarians' cycle ride this morning. It was wonderful to have the Minister for Transport; Planning with us and the members for Dawesville and Bateman along with some upper house members. It was bit early, the start was 6.30 am at the steps of Parliament, but it was an enjoyable ride. It is a sad fact, though, that a number of cyclists have been killed. I can think of one cyclist who was killed at Leighton Beach by someone who was well over the limit. That person's death is commemorated each year by Tim's Ride. I occasionally see people wearing the Tim's Ride jersey. Indeed, at Leighton Beach there is a white ghost bike sculpture in memory of Tim. I recall that the person who killed him initially disappeared. Then, when they were caught, the person tried to say that they were drunk at the time, I believe. That sort of excuse did not wash. It is terrible that we have people who take this kind of risk and put other people's lives at risk.

Thankfully, we have this government. I again commend the Minister for Police for the wonderful work that she has done. One could say that she has done more than any other minister to make the lives of people who ride bikes safer. The minister brought in the safe passing distance laws. If a motorist is passing a cyclist at up to 60 kilometres an hour, they must give the cyclist a one-metre berth. If a motorist is passing a cyclist at over 60 kilometres an hour, they must give them a metre and a half. We have changed the laws so that if it is safe to do so—and only if it is safe to do so—a motorist can pass a cyclist by going over a continuous white line or continuous double white lines. I have noticed that people are making very sensible and careful use of that provision to safely pass bike riders by giving them a really wide berth and more efficiently get about. This is in keeping with experiences elsewhere. I have had the opportunity to ride in Spain, where this law is in place. It makes an enormous difference. That a motorist must give a very wide berth to a cyclist is firmly entrenched in Spanish culture, and they do so incredibly well. I would have to say that we still have a way to go to find that level of consistency when it comes to respecting cyclists. We are a little way behind the level of respect for people on bikes that we see in Spain. I suppose that is another part of our culture that we need to modify further, but overall we have seen a really dramatic improvement in the way that cyclists are respected on the road. There is just that tiny minority who unfortunately spoil things, and that is something we are yet to work on and improve.

This legislation will send a very strong message to the broader community that there is no place for people taking risks and trying to get away with drinking more than they should. The legislation is coupled with the advertising campaigns we see telling us that a police officer is on every corner, on every backstreet and on every rat run to possibly catch out people. It is incredibly important that a campaign like that runs concurrently with this legislative change. It backs up the legislation and really entrenches in people's minds that we are serious about blood-alcohol

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concentrations. No doubt about it, alcohol can be a very addictive drug. In many ways it is perhaps one of the most abused drugs we have in our community. That is why we need to look at the amount of alcohol advertising allowed to take place around our city at sporting venues and the like. I sometimes see quite conflicting messages. Big corporations, like Carlton and United Breweries, like to sponsor sport and say that they are contributing to healthy living, but at the same time they want to have their advertising encouraging increased alcohol consumption. I believe many sporting codes still rely on alcohol advertising. I know there is an argument that in a country setting the local footy club might need sponsorship from the local pub, but that is different from the bombardment of advertising that can come from big multinational brewers that want to advertise on sportsgrounds and at sporting venues.

[Member's time extended.]

Dr A.D. Buti: You cannot watch an AFL game without probably 30 to 40 per cent of the ads being for beer.

Mr C.J. TALLENTIRE: Thank you for that, member for Armadale. I must admit that I have not watched an AFL game lately. Probably one reason is that I find advertising so repulsive; it is just awful. It is a sad reflection. Sporting codes need to look at the sort of advertising that they allow because it is probably working on people's view of the sport and putting people off. The only football team that I support is the Gosnells Hawks.

Dr A.D. Buti: Many years ago I was captain of the Kelmscott colts team that beat the Gosnells Hawks by one point in the grand final!

Mr C.J. TALLENTIRE: Local football teams do a wonderful job of engaging people in a healthy sporting activity. I have to admit that sitting down watching sport is not my cup of tea. If that experience is further deteriorated by a bombardment of advertisements promoting things like alcohol, the sporting codes really need to look at that. They could perhaps broaden their supporter base.

Dr A.D. Buti: What about Tour de France and wine?

Mr C.J. TALLENTIRE: I do not see the advertising of wines at the Tour de France, member for Armadale. The abuse of alcohol at events needs to be looked at. As I said earlier, first and foremost it is about this Australian cultural view that for an event to be enjoyed, it has to include wine. We can do better than that. We need to realise that there is a time and a place for the enjoyment of alcohol, but it does not need to be at every single occasion. People will then have the option of being able to drive home safely and arrive at their destination without endangering the lives of others, or indeed themselves.

This is very good legislation. It brings us into line with other jurisdictions. It amends the Road Traffic Act and it will see us further progress towards being a state that is working hard to reduce alcohol abuse more broadly, but especially on our roads. I will conclude there.

MS J.M. FREEMAN (Mirrabooka) [8.41 pm]: I, too, rise to speak about the Road Traffic Amendment (Blood Alcohol Content) Bill 2019. I would like to start by recognising the Minister for Police; Road Safety for bringing this bill before us. I particularly congratulate her on her service to this Parliament and her dedication to the portfolios that she holds, and her knowledge in this area which has been built on over the years. Her knowledge was already very substantial when she first came here, and has been built upon. This legislation has been well thought out, and brought into this Parliament with the expertise of this minister.

My son was born in 1996 and the minister was elected two years before that. In those days I lived around Leederville. I remember the Minister for Police as the member in that area, and also when she went to Midland. The people in that area speak highly of the minister. I congratulate the minister on her 25 years.

Mrs M.H. Roberts: Your son probably has his driver's licence by now.

Ms J.M. FREEMAN: Well and truly! My son turned 23 the other day. He is two years behind the minister.

Mrs M.H. Roberts: Lots of young people do not get their driver's licence now until they are 25 or older.

Ms J.M. FREEMAN: That is true. There are two people in my office who are in their mid-to-late 20s. Although one of them has left now, one still has not got her driver's licence and the other, who does have her driver's licence, refuses to drive because she prefers public transport. She has found that more difficult, having moved to Maylands. To get to Mirrabooka from Maylands, she has to get public transport into the city, and out to Mirrabooka. As the crow flies, those two suburbs are not that far away from each other. That is where the convenience of driving comes in. The minister is right: many young people choose not to drive, which is probably quite sensible given the stresses and strains of driving and the costs of keeping a car. My son took a little longer to get his driver's licence. I think he got it in his early 20s.

I also congratulate the government on its stance on alcohol. We know the impact that alcohol has on driving and the impairment that alcohol causes. We are changing this law because we know that alcohol is a dangerous and

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debilitating drug for many people—or for all of us, if we go over certain drinking limits. It impairs our judgement and cognitive ability, and increases our risk of getting cancer. It risks many aspects of our health and wellbeing, not just when we drive. I want to commend the McGowan government for its media announcement in June 2018 about alcohol advertising. A commitment was made to reduce alcohol advertising as contracts come up in rail and on digital billboard advertising. My understanding is that alcohol advertising on train infrastructure stopped in about June 2018 and it will be phased out from buses in March 2019. As we speak, we will start to see less alcohol advertising on our buses. It was only a small amount; it was only about two per cent.

One difficulty we face is that a lot of advertising on our bus shelters is administered by local governments. We really should be speaking to local governments about reducing alcohol advertising on bus shelters. I do not know whether the City of Stirling ever contemplated that or had that debate. The member for Balcatta may be able to enlighten me further. We are in this place to pass this bill because there are serious issues around alcohol consumption. Alcohol consumption is linked to violence and a whole series of other aspects in our communities. We need to be cognisant that if we want to talk about limiting drink-driving, we need to limit the promotion of dangerous alcohol consumption in our community. Frankly, it would do us no disservice to have a rational, reasonable, well researched and well thought out debate around alcohol pricing and whether the government wants to follow what has been done in the Northern Territory with minimum alcohol prices. Those things are really very much a part of us standing here and saying we will enact these particular changes to the legislation. It is a broader discussion about alcohol.

Like the member for Thornlie's community, the Mirrabooka community is diverse. The 2016 census revealed that 20 per cent of the community in the suburb of Mirrabooka follow the Islamic faith. While we pause to think about that, I would like to put on record that the white supremacist terrorist attack on Friday has hit deeply in that community and it has come together strongly. One of the things that the community is very strong on is its belief and conviction not to drink—that is, not drink alcohol, because of course they drink water and soft drinks. That means that many of the inconveniences that they suffer when they are stopped on the roadside to be breathalysed are the result of the culture of the community that they have come into. That is an existing culture that fully promotes and probably over-imbibes in alcohol. It thinks it is odd if alcohol is not available at a function. The member for Carine was with me the other night at a festival with the Gujarat Samaj community. It was not for Navratri, because that is in October, but it was a demonstration of the celebration of Navrati. I remember that the first time I went to a Navratri festival and saw the dancing, one of the leaders in that community said, "This is so fantastic. It is so important for us to show our children that it is possible to have a lot of fun without alcohol." There was no alcohol at that festival, and we had a delightful time dancing and celebrating and enjoying the occasion.

It is important to recognise that we are making these changes in a society in which the culture is that drinking alcohol is the norm. In the communities I represent, alcohol is not the norm, to the extent that the major liquor barn closed down because there was not enough demand. There used to be a huge liquor barn on Chesterfield Road, but that was not sustainable in the community. We now have only small liquor store in Mirrabooka Square, and a big one in Balga, just off Wanneroo Road. I grew up in a classic Australian meat-and-two-veg house, and beer was drunk regularly. It is quite refreshing to be in a community in which alcohol is not the norm. It certainly challenges the way in which we look at our laws. I am not suggesting that there are not some people in the Muslim, African or Gujarat communities who drink alcohol. However, we need to look at what we can learn from those communities and how we can change the norm so that the idea of getting plastered from the effects of alcohol is not socially acceptable, and so that our peers do not allow us to make the excuse that we are intoxicated and therefore incapable of doing many things in our community.

I accept the idea that has been put by some members that drinking alcohol is an individual choice, but I do not think it is that simple. The societal norm and peer group pressure does not support the idea that it is just about individualism. I have an occupational health and safety background. Drinking alcohol is a safety hazard. It is a risk for the community. We need to do a systemic analysis and look at how we can prevent people from driving a car when they are intoxicated. Drink-driving is a key factor in around one in five fatal crashes and one in 10 serious injury crashes in Western Australia. We can change the law so that when people are breathalysed, the reading that is taken at that time is the reading that will determine whether they are prosecuted and get a penalty fine or lose their licence. The member for Burns Beach summed up this legislation very eloquently when he said it is the "What you blow is what you get" law. We can change the law. However, would we not prefer to change the fact that people in our community think it is acceptable to drink and drive? How do we change the culture and the norm? It is not impossible to do that. The member for Thornlie and I have talked about the fact that in many cultures, it is the norm not to drink. It is socially unacceptable to drink alcohol. In some cultures, it is socially acceptable to drink a small amount of alcohol and enjoy the ritual of having a glass of wine, without the other

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cultural aspect that seems to pervade our community. I remember a song that was around in the 1980s when I used to go dancing —

Don't ask me why I smoke
I don't know
But I drink to get drunk ...

Several members interjected.

Ms J.M. FREEMAN: I could sing it, but that would be terrible, and we cannot get singing into *Hansard*. I am interested in the idea that it is individual choice. Why do people drink and drive? Frankly, we need to do more research into what motivates people to drink and drive. Members have talked about the availability of transport. If we had a zero blood alcohol limit, it would be the case that people are choosing to drink and drive. However, often people drink and drive because they think they are under the limit. There are some good studies around that idea. There was a Dutch study in 2018 on explicit and implicit attitudes to driving. I do not have the reference here, but people can google it. The people who were surveyed were all young men. It was quite a large survey group. All the people who were surveyed said that they would not drive over the limit, but they would drive if they believed they were under the limit. Part of the problem is the 0.05 limit. That means that unless people have a device to test themselves, it is a judgement call. We all know that when we drink, the first thing that goes is our judgement. We only need to ask a former Treasurer of this place what happens when we drink. We lose our judgement. That can have a terrible impact. That was a very unfortunate situation for the former member for Vasse.

[Member's time extended.]

Ms J.M. FREEMAN: That is a good illustration of a person who was well respected in the general community for his intellect and capacity and was seen as a future leader. He clearly had an illness, and alcohol fed into that to impair his judgement. We declare a limit of .05 or .08 per cent and say that if people exceed that limit, this will happen to them. We say to people that they must make a judgement call, and if it is wrong, we will penalise them. Would it not be better if we just came clean and said that what we really want—some people have said it here—is for them not to drink, and we do not want them to drive if they have been drinking alcohol? Would that not be much more honest to the community we represent? I get that it would be really hard to tell people that because we live in a culture that is about drinking alcohol, but it is something that we need to start discussing. It will not happen today, and it will not happen in the time of this government, and may not happen in the time of a few governments, but we cannot keep sticking bandaids on this problem

In a *Psychology Today* article published in 2017, asking whether too much information increased the risk of drink-driving, the author, Romeo Vitelli, PhD, pointed out that many things that people do—smoking, eating the wrong food, not exercising enough—are against our better judgement. We are not rational beings, despite the fact that economists would like us to be. We are not the kind of rational beings that people think we are. The article states —

For people who have been drinking, the need to get home by the most direct method (which typically involves driving), can make them downplay the actual risks associated with being impaired on the road. When it comes to public service announcements about the negative consequences of impaired driving, they may often decide to disregard or distort the message that is conveyed and assume that the negative consequences don't apply to them for whatever reason.

This article was based on a research study published in the journal *Health Psychology*, volume 36, issue 9, September 2017, by Mark Johnson and Catalina Kopetz about the unintended effects of providing risk information about drink-driving. I went to have a look at that document, and the abstract stated that the article —

... examines the motivational conditions under which providing risk information can exacerbate rather than decrease potential drinking drivers' willingness to drive while impaired.

The conclusion stated —

These findings have important implications for impaired-driving prevention efforts. They suggest that at least under some circumstances, risk information can have unintended negative effects on drinking and driving decisions.

Basically, that study found that some people do not make decisions based on risk of injury or penalty, but on convenience, and they make concessions and a judgement call that is impaired because they have been drinking alcohol. The conclusion continues —

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The results are consistent with the motivated cognition literature, which suggests that people process and use information in a manner that supports their most accessible and important motivation despite potentially negative consequences.

I find that really interesting. This is absolutely needed, and we need to bring ourselves into line with the rest of the country. I applaud the introduction of this legislation, but we also need to look at other aspects to ensure that people who are at risk of falling foul of this legislation are stopped from getting into a car. I have an article called “The Behavioral Economics of Drunk Driving” by Frank Sloan, Lindsey Eldred and Yanzhi Xu. It is a rather large document containing lots of variables, and it has been a while since my economics has been up to all of those things, so I am going to read mostly from the abstract, and some of the conclusions. The abstract states —

This study investigates whether drinker-drivers attributes are associated with imperfect rationality or irrationality.

It used data from eight United States cities and found —

... that drinker-drivers are relatively knowledgeable about DWI —

That is, driving while intoxicated —

laws and do not differ on two of three study measures of cognitive ability from other drinkers ...

Those who drive under the influence of alcohol had the same cognitive abilities as people who did not drive under the influence of alcohol. It is not as though they were less capable of making rational decisions, but drink-drivers are less prone to plan events involving drinking. Here is something we should be looking at. If they are less likely to plan events, should our educational material not start talking about how those people should plan? Should we not be doing things around that to encourage them to make a plan? If they are going to drink, they should plan ahead. As the abstract states —

Drinker-drivers are less prone to plan events involving drinking, e.g., selecting a designated driver in advance of drinking, and are more impulsive.

The member for Morley told a tragic story about Nate, and we have had Nate’s law. It is such a tragic story that someone who had been drinking alcohol to excess went and found her keys and got into a car and killed a child, because her behaviour, so altered by alcohol, was so impulsive that she did something with consequences that no-one in that situation would like to see. The authors of the study talk about this as hyperbolic discounting. We have these people who are likely to drink alcohol and drive over the limit.

“The Behavioral Economics of Drunk Driving” studied eight cities in the US using variables, coefficients and all the things I hated when I did my economics degree, and found that drink-drivers discounted their incapacity. I am a lover of Freakonomics, because I think that sometimes that idea of behavioural economics is a really good summary of how these things work. The findings of the study they quoted on Washington data—a study done by Benjamin Hansen, an economist at the University of Oregon—suggested that increased sanctions for drink-driving, such as lower permissible blood alcohol levels, longer licence suspensions, ignition lock systems and harsher fines, are likely to have an additional deterrent effect. It is good to know that there are behavioural economists who say that it is worthwhile doing all this stuff. On one hand, we know that drinking alcohol will impair our judgement and may make us do things that are hyperbolic discounting of the effects of what might happen, but on the other hand Benjamin Hansen says that he computed that raising penalties by about 10 per cent would reduce drink-driving by about four to seven per cent. We need all these tools to ensure that we are safe. I am not suggesting that we do not.

I want to acknowledge the work done by the Education and Health Standing Committee in previous parliaments, between 2008 and 2017. I was not on the committee at that time. The committee did quite extensive work on alcohol consumption in our community. It made a recommendation that the Parliament and the community consider reducing the blood alcohol limit for driving to .04 per cent, based on the World Health Organization’s impairment guidelines. That is worth considering.

I just want to finish off with something that the Commissioner of Police said on the radio. I am paraphrasing because I do not have the quote here, but he was on talkback radio and there were a lot of people calling in saying, “Oh, people on mobile phones; this is terrible.” The member for Cottesloe was also saying, “People on mobile phones; this is terrible.” The Commissioner of Police said that if people in our community were as concerned about people speeding on our roads and driving under the influence as they are about people talking on mobile phones, we would be a lot safer. I am not suggesting for one moment that it is okay to use a mobile phone while driving, but if people exhibited the same level of frustration with people who speed and people who drive drunk as they do with people who use their mobile phones, and helped to create a culture in the greater community in which it was completely unacceptable to get behind the wheel when impaired by alcohol, we would all be safer on the road.

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Hopefully, we would see a reduction in the number of people who blow in the bag. The member for Burns Beach said what you blow is how you go. What was it?

Mr M.J. Folkard: What you blow is what you go.

Ms J.M. FREEMAN: Okay. We would like to see a lot less blowing so that a lot fewer people go, because a lot fewer people are on the road while alcohol impaired.

MRS M.H. ROBERTS (Midland — Minister for Road Safety) [9.11 pm] — in reply: I congratulate everyone for their fantastic contributions. I also give heartfelt thanks to those members who have congratulated me on 25 years since my election to this Parliament. When I was first elected some 25 years ago, it really was an election-to-election proposal. Indeed, within a few months of being elected, there was a boundary redistribution that completely abolished my seat, so I was not even sure I would get beyond three years, let alone 25 years. But I certainly appreciate the comments that a very many people have made today, and the many messages I have received.

A lot has changed in that 25 years, and tonight's debate on the Road Traffic Amendment (Blood Alcohol Content) Bill 2019 has illustrated one way in which things have changed. I know that attitudes towards drink-driving and a lot of road safety measures have changed dramatically over those 25 years. Sadly, 25 years ago many people thought it was okay to drink and drive and that if you got away with it, points to you, and if you got home safely, you were a legend. If you sped and got somewhere more quickly, good on you was the general attitude.

They say that Parliament is a reflection of the people, and I think that still is very much the case. The attitudes that we saw and heard in the community that we were part of back then were reflected in the Parliament of the day. Members were very reluctant to take measures that imposed on people's liberties. I have seen a number of examples of that over the time I have been in Parliament.

Although I was not in Parliament in the 1980s when the original drink-driving laws came in, I am certainly old enough to remember some debates about it. Indeed, before entering Parliament, I had a number of different jobs, one of which was working for former minister Hon Kay Hallahan, albeit in very different portfolio areas—the areas of planning and local government. But I was always a pretty close observer of what was happening in Parliament and the various issues being debated. I remember a very robust discussion on this issue in the Parliament, particularly in the Legislative Council, and particularly by country members, when the .08 blood alcohol limit was brought in. There was great concern that, amongst other things, the country pub would die because people would not be able to go on the weekend or of an evening to the local country pub or the local footy club and then drive home afterwards. Either people would go there and not buy alcohol or they would not go at all, and we would see the country pub die.

I think there has been considerable evolution since then. In days gone by there were big campaigns about having a skipper for the evening; that was one of the ways in which the legislation was sold: the rest of you can drink—three, four or five of you—but one of you has to be the skipper for the night. The general tone of the message was that one person had to take a hit for the team, have a night off drinking, and get the other people home safely.

People have made some really excellent contributions during the course of the debate today, and I found every one of them interesting in at least one respect. For example, in the final contribution, the member for Mirrabooka, like a couple of earlier speakers, talked about the actual problem being alcohol; a number of other speakers also hinted at that. That is not to say that I do not enjoy a drink. Many, if not most, people here enjoy having a drink from time to time, but it is about moderation and planning not to drive if you have a drink. We are fortunate now in that most of us have lots of alternatives in that sense.

People's general drinking habits have changed. Someone talked about the six o'clock swill, and we still see it portrayed in some historical Australian movies. The blokes would be down the pub for the set hours before the pub closed, and then they would find their way home drunk. This was not my personal experience in my family, but I have spoken to many people my age who said that back then as kids they would often go down to the bowling club or the local country pub with their father, and they would either play in the beer garden or sit in the car and be brought a few bags of chips or whatever else, and dad would drink for hours before driving them home for dinner. That was a pretty common experience in my younger years, certainly; without doubt. Teenagers or people in their 20s or 30s or older would routinely drive home after having more than a couple of drinks. In doing so, they put their lives and the lives of other road users at risk.

I think that is a message that we have finally got through to people. As a couple of members have said—the member for Gosnells, amongst others—the real issue here is that the crash is avoidable. Some people refer to them as accidents; I do not. I refer to them as crashes or events. Just about every road death in Western Australia is avoidable. There are some in the community who have the view that, "Well, accidents happen" or "The actual rate's not too bad; it's been coming down over the years, so it's like a bit of a lottery: you take a risk when you

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cross the road, drive your car, or go on a plane. No matter what you're doing, you're taking some form of risk." Some people will say things like, "Well, when your number's up, your number's up." I do not accept that for one moment, because I have been reading and learning in this road safety space for many years now, and I know that the changes we make here in Parliament make a difference. The issue becomes that if we reduce the road toll by 20 people a year, we never know which 20 people they were and which 20 families have not been affected as a result of the changes we have made. We had to make a decision back in I think 2002 on introducing some lower urban speed limits, for example. A lead had been taken in the late 1990s and early 2000s—around 2000, 2001—particularly in Victoria, but I think New South Wales and Queensland were also moving in the direction of 50-kilometre-an-hour speed limits for residential areas. There had been a couple of large-scale trials. We looked closely at a large-scale trial of 50-kilometre-an-hour limits on residential streets in Victoria, which involved a number of large local government authorities. The proposal at the time was to look at perhaps conducting some large-scale trials here in Western Australia to demonstrate the benefits to the community and then moving to a further stage of potentially applying it universally across the metropolitan area. I had a view that if we were going to end up at that point—we had started behind; the other states had the jump on us—and we went through that process, we would always remain two or three years behind some of the other jurisdictions and therefore the benefits of having that in place would arrive later.

One of the things put in front of me at the time was some costings for updating the signage on all the local roads and residential streets, and they were significant costs. I asked: what if we just make 50 kilometres an hour the default speed limit? We could take the default speed limit of 60 kilometres an hour to 50 kilometres and then leave the arterial roads at 60 kays, where we still wanted people to travel at that speed. The suggestion was that we would need to do a fair bit of consultation about that. To me, it stood to reason that it was the sensible and right thing to do. We sent out advice to every local authority in the state. I think we sent them a survey and sought their opinions on it, and that started the discussions on that matter. My memory of this era is not great, but I remember that I started school on 14 February 1966, which was the day that decimal currency came in. I do not think that we moved from miles to kilometres with the introduction of decimal currency.

Dr D.J. Honey: "Ease off 35, leave this town alive". That was definitely miles an hour.

Mrs M.H. ROBERTS: The default speed limit was 35 miles an hour, so at some stage—I thought it was around 1970-ish or sometime in the early 1970s—when we moved from miles to kilometres, a decision had to be made about how many kilometres an hour the speed limit should be set at. Thirty-five miles an hour equated to 56 kilometres an hour or something of that nature. They decided to lift it to 60 kilometres an hour, rather than bring it down to 50 kilometres an hour. Interestingly enough, people have done some calculations on how many lives might have been saved had we gone in the other direction back then. However, in moving to that 50-kay limit, I got correspondence at the time that some people's cars would possibly stall if they were driving that slowly and it would add considerable time to their journey. That has not proven to be the case. It was suggested that people would still drive over the speed limit. Yes, that was the case, although we have some information that demonstrates that people drive more closely to the speed limit in those zones now than they did 10 years ago.

We might ask: How do we know how closely people are driving to the speed limit? Is it based on fines? Many members will have seen rubber strips across various roads. I think it was the best part of 20 years ago that government started trying to get that analysis. To run that costs us about \$100 000 a year out of the road trauma trust account. It was cut for the last couple of years leading up to 2017, but I have reinstated it on the advice of the Road Safety Council. From those rubber strips that are put in various local government areas, we learn about drivers' behaviour. The strips are put out on roads that are zoned at 40, 50, 60 and 70 kilometres an hour right up to the 110-kilometre-an-hour zone. Nobody is fined as a result of going over one of those rubber strips, but that information comes back. I might have the numbers out by a kilometre or two, but I can give people the information if they are interested. When the 50-kay limit was first introduced, yes, people were still driving at 56 or 58 kilometres an hour, or more. I think the average was about 56 kilometres an hour in the 50-kilometre-an-hour zones. It could have been 58 in the 50 zones. I point out that probably those same people were doing 68 kilometres an hour when it was a 60-kilometre-an-hour zone, so they probably still had come off by about 10 kilometres. I am told that the compliance in a 50-kay residential zone now is closer to 53 kays. Again, we have seen that benefit over time. There are estimates that that reduction has probably saved about 20 lives a year over the last 17 or 18 years. That ends up being a considerable number of lives.

I continue to make the point that changes that we make in road safety have a real benefit in saving lives and reducing the incidence of injury. I am always keen to lead with some policies and we led with some policies at the last election, and we have already implemented legislative changes. I note that a number of the speakers have commented on those changes. The member for Thornlie is one of the proponents pushing to have the safe passing laws for bicycles, as he talked about. The member for Kingsley mentioned the slowmo laws and that she previously

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worked at the RAC. Slow down, move over—to me, it seems a pretty simple request. The RAC and the police union backed it. Some members may have heard of “Sarah’s Law”. Her dad Peter from New South Wales has been promoting safe passing laws. His daughter was killed because of a situation with a tow truck driver. That is one of the reasons we included tow truck drivers, along with emergency vehicles, in our slow down, move over laws. With both the safe passing with bicycles and the slowmo laws, does everyone do those things all the time? Are they heavily policed all the time? No, they cannot be. Western Australia is a 2.5-million-square-kilometre state. We cannot have police everywhere all the time enforcing the whole Traffic Code at all locations simultaneously. The feedback that the member for Thornlie and I got is that although there are still instances of rage against cyclists, in general, most people are trying to do the right thing and leave a one-metre gap at 60 kilometres an hour or a one-and-a-half-metre gap at the higher speed. It increases people’s awareness of cyclists, and most people do the right thing. We will hopefully reduce the number of crashes between bicycles and vehicles, because cyclists and pedestrians in particular are highly vulnerable.

I was very pleased to hear from a couple of our former law enforcement officers—the members for Kalgoorlie and Burns Beach. They have lived it firsthand. I have spoken to many families who have lost loved ones. The member for Armadale outlined the sad case of the former member for Hillarys’ daughter and the impact it had on their whole family over a period of years. The member for Morley reflected on an incident involving her cousin’s baby. Other members commented on other instances. I have also spoken to police officers, who are the ones who turn up at road crashes. They are the ones who attend the scene and who see the broken bodies, the blood spurting everywhere and the disfigurement, and they need to respond. Those same officers then knock on doors to inform parents or loved ones of what has occurred. Most of those families say one thing to me: that they wish they could have that time again—“if only.” They say if only they could relive five minutes, an hour or the day and make a different choice. For some, that choice needs to be to not drink and drive.

I am pleased that so many of the members who contributed have clearly read the Curtin–Monash Accident Research Centre report about drink-driving and the back-alcohol calculation. Obviously, quite a number of members had done other research about drink-driving. I think at least half of the contributors quoted the figure of 20 per cent of fatal crashes involving people over the blood alcohol limit. Around 160 road deaths occurred in Western Australia in each of the last two completed calendar years. If fatal crashes involving people over the blood alcohol limit could be avoided, it would be 32 people each year whose deaths might have been avoided. In fact, it would potentially be more than that, because in some of the crashes that involved alcohol, more than one person would have died. It is completely avoidable. Towards the beginning of my comments, I mentioned how many people in Parliament had been reluctant to see the original .08 legislation brought in. There was a further round of reluctance when the .05 legislation was brought in. Some people in the community probably still somehow think that .05 is a bit harsh and perhaps they are wonder drivers who are capable of driving over that limit. A number of members have talked about the level of impairment and what it equates to. My advice to those members of the community is that if they will not do it for themselves, they should do it for other road users.

The member for Burns Beach said that this legislation effectively makes the law harsher. Yes, it could certainly be argued that more people will get caught. The research has already demonstrated that there will be a group of people who would have got off under the back-calculation, but who now will not get off. I would argue, though, that a group of people has been unfairly getting off and, for the first time, we will be enforcing the law without any fear or favour. Although the member for Cottesloe suggested that everyone should be pretty au fait with doing some quick calculations and it is not too much to ask, I think it will be beneficial for police not to have to go through that palaver of asking people when they had their last drink and doing the calculation. I think that builds up an expectation with people that perhaps something can be argued in court and perhaps there is an avenue out of the situation. With this legislation, I think we will send a very strong and clear message that what a person blows is what will be counted. That is what they will be charged with and they will need to cop the consequences.

I was also very interested in the member for Mount Lawley’s contribution. Although he made a number of excellent points, one of the ones I thought I would briefly comment on was about the number of people who drive without a licence. I think his comments were instigated by the member for Kalgoorlie’s suggestion that people should not be able to get repeat extraordinary licences. I know that some people have a hard and fast line that no-one should get an extraordinary licence. They think if they do the crime, they should get the time—get the penalty. As everyone is very aware now, I have been in Parliament for some 25 years, so I have met lots of mums and their sons, just about exclusively, who have come into my office because they have been in one form of trouble or another. Some of those boys have driven without licences and some have lost their licences. Either they or their mum explains that they have an apprenticeship and that mum has been driving the son to do his bricklaying apprenticeship. She is driving him from one side of town to the other at 4.00 am and she also potentially has to get another child or children to school a bit later and get to her own job. Public transport is

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not an option from where they live because it is too early in the morning. Bricklayers and many other tradesmen need to be at work by 5.00 am, so public transport is not an option. Sometimes it is because of the tools and equipment that they need to take with them, so even in the afternoon, it is very difficult to take a whole range of tools to and from a job like that. The concern is that sometimes the child will have been striving towards getting an apprenticeship. Potentially, they have been unemployed or been in some other trouble before that and this has been the window of opportunity that will provide them with a future. An extraordinary driving licence in a circumstance like that does provide the opportunity for someone to get to and from employment, potentially to get an apprenticeship or complete their training.

An extraordinary licence is usually subject to quite strict conditions. For example, if someone gets an extraordinary licence, they will get that licence for the purposes of going to and from their work, study or traineeship, but it does not mean that they can drive on a Friday or Saturday night or at some other hours. Those extraordinary licences usually set strict conditions about the time of day that someone can drive and what they can do. On one level, I can certainly see why people might say extraordinary licences should not exist, but, on another level, I suppose it is a little bit like the principle behind alcohol interlocks; it is about teaching people to do the right thing and getting them into good behaviour. The alternative is that sometimes if we make it too hard for people, they will just drive without a licence. I think the member for Mount Lawley made that point. In no circumstances is it ever right for anyone to drive without a licence, but unfortunately people sometimes make those choices.

As a word of warning to most people, the police now have, and have had for some years, automatic numberplate recognition equipment and other equipment. In fact, the ANPR was first introduced in about 2004–05, following on from technology developed in the United Kingdom when, in the old days, they were looking to track numberplates associated with the Irish Republican Army. That technology is highly sophisticated. It links into a range of databases. In the old days, people used to think that they could drive without a licence, and so long as they did the right thing, kept to the speed limit, and did not attract the attention of a police car, no-one would notice. But when ANPR is set up, 1 000 cars can go past it and effectively the machine will ping when it identifies a car that is hit with one of those databases. The hit might be because, for example, the vehicle is unregistered, the regular driver of that vehicle has lost their driver's licence or the regular driver of that vehicle has an outstanding warrant. People need to be aware that their chances of getting caught driving without a driver's licence are much, much higher than they used to be, because the ANPR machines are set up and can effectively scan hundreds of cars an hour.

A number of members commented on the upcoming road safety strategy. Most members appear to be aware that the current road safety strategy is for 2008–2020 and the Road Safety Council is embarking on a consultative process to develop the state's next road safety strategy. I think some preliminary documentation will be put out in the next two or three weeks so that the Road Safety Council can consult widely with the community and get input from the community. I have spoken to the Road Safety Commission about the content it is likely to put out. It is keen to put out some informative documentation that will outline the state of road safety in Western Australia and initiatives currently in place, provide some advice about the current state of play and seek feedback from people on a range road safety matters.

In that vein, I want to thank all members who spoke on the bill for their support and for the very strong support that I received from so many members of my own side. I also particularly want to thank those members opposite who spoke and offered bipartisan support for this amendment bill. In an ideal world, all road safety initiatives should be bipartisan. My aim is to put forward in the road safety space ideas that will be beneficial to the community and that make sense. I am not about wanting to take an unduly punitive approach just for the sake of being punitive, but people who do the wrong thing need to be held to account. I thank the opposition for its very much bipartisan support of this bill. I am hopeful that as we advance the road safety strategy, we will continue to get bipartisan support. From my perspective, I am very keen to ensure that opposition members are fully briefed, get the appropriate documentation and have full opportunity to provide input. Indeed, I want the whole community to have input to this strategy, because by doing so they can have ownership of the ultimate strategy. We want a strategy for Western Australia that saves lives and prevents serious injury on our roads.

In conclusion, I will give members a broadbrush outline—a little on the bill and a little on that strategy that so many members have talked about tonight. For years in Western Australia, around Australia and in other places in the world, the key message from road safety authorities was that the big killers on the road were alcohol, speed and the non-wearing of seatbelts or restraints, and that if we could deal with those big three issues, we would dramatically cut the road toll. I think that the road safety message, and those who have been strongly behind it, has largely worked in WA and around Australia. Those factors are now diminishing factors. Now, far fewer people are drinking and driving, or speeding to excess. Yes, people are still doing crazy speeds on the roads, but they are the exception. Every time I get a report that some motorbike or car is doing over 150 kays on Indian Ocean Drive

Extract from Hansard

[ASSEMBLY — Tuesday, 19 March 2019]

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my heart sinks, because those people are putting so many other lives at risk when they do that. But most people drive to the speed limit, particularly in the metropolitan area.

I think back in the 1960s when the wearing of seatbelts was introduced, people regarded it as some kind of horrendous imposition. Some vehicles had seatbelts only in the front of the car, and people only had to have the seatbelts on in the first instance if they had been fitted to the vehicle they were driving and so forth. Back in those days, they were not retractable seatbelts so they were a bit more of a hassle. But now it is second nature to everyone. Wearing seatbelts has just about universal compliance, particularly, again, in the metropolitan area. There is a small amount of noncompliance in regional areas. Notably, older men appears to be the category that is less compliant with wearing seatbelts in regional areas. By and large, people are wearing their seatbelts, fewer people are speeding and fewer people are using alcohol and driving.

The other key factor—again, a couple of members hinted at this—is the advances in technology and the impact that will have on road safety. People are familiar with airbags, and they clearly save lives. ABS brakes also save lives. Someone talked about sticking to driving lanes. Lane-alert technology alerts a driver if they veer out of a lane. I think the member for Hillarys talked a little about fatigue and distraction, or was it the member for Cottesloe?

Mr P.A. Katsambanis: I think we all did.

Mrs M.H. ROBERTS: A number of members talked about fatigue and distraction. Technology is making our vehicles much safer. We know that those three big areas that have been the focus of so many earlier strategies have largely been addressed, and community attitudes have changed. In order to get attitudinal change for those things that we now see as effectively the next frontier, we need to get people thinking about fatigue and driving while tired. A disproportionate number of people are killed on regional roads. We have put additional enforcement out there, with 25 additional officers in a specialised regional enforcement unit complementing those police who are already in country areas. In a state as vast as Western Australia, enforcement takes us only so far. There will be people driving at night on country roads whose chances of ever being properly enforced are pretty negligible. People need to make a choice. They need to make a choice on their own behalf and on behalf of others. They need to choose to take a break and not drive while tired; to perhaps stop and drink a coffee, or have a rest. If drivers are too tired to drive late at night, they should choose to stay where they are and drive somewhere the next day. That is the next frontier that we really need to get people focused on. There are run-off-road crashes in the country; that is, there is no real explanation for why the car has run off the road and crashed into a tree or the like. When a driving mistake is made on a country road at 110 kays an hour, the chances of survival are not good.

I make the comment in passing that a range of factors make country roads less forgiving. One is that people are by and large travelling at higher speeds; they are not travelling in congested traffic like they are in the metro area. When crashes occur on country roads, the time taken to get to a high-level tertiary hospital for appropriate treatment, in what is called the golden hour of treatment post an incident like that, is much more difficult. My advice is: all the more reason for people to take care.

A member suggested that we need to sell the message of this change. I am very keen to do that. People need to be aware. I think it was the member for Cottesloe who said that people having a drink for the road could likely be caught out. My advice to people is never ever have a drink for the road, or before going out. People can have a drink once they get home, if they like, but do not have one for the road. That is never a good practice and something people should attempt to avoid if they are going to drive. It is only fair to warn people. Once this legislation becomes law—hopefully it will be supported in the upper house—it is only fair to warn people that we have made those changes and, in doing so, remind people of the clear evidence of how dangerous drink-driving is.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

House adjourned at 9.54 pm
