

ROAD TRAFFIC LEGISLATION AMENDMENT (INFORMATION) BILL 2010

Assembly's Amendments — Committee

The Deputy Chairman of Committees (Hon Brian Ellis) in the chair; Hon Simon O'Brien (Minister for Finance) in charge of the bill.

The following amendments made by the Assembly now considered —

No 1

Page 10, after line 29 — To insert:

- (3) A person —
 - (a) to whom information is disclosed under subsection (2); or
 - (b) who is employed or engaged by a person to whom information is disclosed under subsection (2),must not use the information for a purpose other than the authorised purpose for which it was disclosed.
Penalty: a fine of 100 PU or imprisonment for 12 months.

No 2

Page 11, after line 16 — To insert:

- (3) A person —
 - (a) to whom information is disclosed under subsection (2); or
 - (b) who is employed or engaged by a person to whom information is disclosed under subsection (2),must not use the information for a purpose other than the road safety purpose for which it was disclosed.
Penalty: a fine of 100 PU or imprisonment for 12 months.

No 3

Page 26, after line 1 — To insert:

- (3) A person —
 - (a) to whom information is disclosed under subsection (2); or
 - (b) who is employed or engaged by a person to whom information is disclosed under subsection (2),must not use the information for a purpose other than the authorised purpose for which it was disclosed.
Penalty: a fine of 100 PU or imprisonment for 12 months.

No 4

Page 26, after line 16 — To insert:

- (3) A person —
 - (a) to whom information is disclosed under subsection (2); or
 - (b) who is employed or engaged by a person to whom information is disclosed under subsection (2),must not use the information for a purpose other than the road safety purpose for which it was disclosed.
Penalty: a fine of 100 PU or imprisonment for 12 months.

Hon SIMON O'BRIEN: I move without notice —

That the amendments made by the Assembly be agreed to.

In doing so, I thank members for their previous support for this bill, which contained a number of initiatives that found support, and indeed some active support, from all sides of the chamber. I am sure we all want to see this statute become law. The Committee of the Whole, as then constituted, also saw some significant efforts by members to ensure that this legislation, as it issued from this place, was the most effective and efficient piece of

legislation that we could produce. I thank members for their participation in that. There was a proposal, for which I acknowledge and thank Hon Ken Travers, which in due course gave rise —

Hon Ken Travers interjected.

Hon SIMON O'BRIEN: Yes, we will get the member to run his eye over all the government's legislation in due course.

The proposal has been taken up, as I indicated it would be during the committee stage. Attention was given to examine the matter the member raised and to give it mature reflection with a view to moving appropriately constructed amendments in another place to deal with it. That has happened. The minister, acting on my behalf—hang on; this is not my bill anymore; I am acting on behalf of the new Minister for Transport. Anyway, my ministerial colleague—

Hon Ken Travers: It was his mistake, not yours, minister!

Hon SIMON O'BRIEN: Yes, we have moved to clean up this bill. I will start that sentence again. My ministerial colleague in another place did indeed see to it that these amendments were progressed. They are the substance of what is contained in this message.

The amendments in general terms were to ensure that there were sufficient safeguards to protect sensitive, private and personal information that fell into the knowledge of anybody who was required to deal with it. I think it is fair to say that, even though we arguably already have sufficient legislative provisions in place to deal with possibly all eventualities, this was at the very least a belt-and-braces mechanism to make sure that all the bases were covered. I am in favour of that when we are talking about such an important issue.

Clause 6 of this bill will insert new sections 8 through 13 inclusive in the Road Traffic Act 1974. We covered those in detail on another occasion. Members will recall that each proposed section deals with the disclosure by the director general of particular information to specified entities, such as the Commissioner of Police, other licensing authorities, the Commissioner of Main Roads and the Fines Enforcement Registrar. Proposed section 12 will empower the director general to disclose information to prescribed persons for authorised purposes, such as to enable the administration of a written law or the performance of a function under a written law. Proposed section 13 will empower the director general to disclose information to persons for road safety purposes. Amendments that have been made in the other place insert specific offence provisions in proposed sections 12 and 13. These will be in addition to the various sanctions that already exist in the Criminal Code and the Public Sector Management Act 1994 relating to the misuse or improper use of, or unauthorised access to, information. Some of these sanctions apply specifically to public servants and government contractors. Others apply to any person. Nonetheless, we see merit in the suggestion that these further offence provisions may be of assistance. That is why we are in support of them.

In addition, clause 12 of this bill will insert proposed section 103. Proposed section 103 will create an offence provision that applies to any person who is or has been engaged in the performance of functions under the Road Traffic Act 1974 and who misuses information. The entities to whom the director general must or may disclose information under proposed sections 8 through 11 inclusive are public servants and/or government contractors. Under proposed sections 12 and 13, however, a prescribed person seeking information for an authorised purpose or a person seeking information for a road safety purpose might be a public servant, a government contractor, a commercial entity or a private individual. To create a completely robust legislative framework, the amendments create offences that will apply to a person to whom information is disclosed under proposed sections 12 or 13 and to a person who is employed or engaged by that person. It will be an offence to use information disclosed for a purpose other than the purpose for which the information was disclosed. The penalties reflect those penalties that will apply for an offence against proposed section 103.

Finally, identical amendments have also been made to clause 21, which amends the Road Traffic (Administration) Act 2008, to ensure the continuation of the amendments we are proposing to make to proposed sections 12 and 13 if and when the road traffic reform suite of legislation, of which the Road Traffic (Administration) Act 2008 forms part, commences operation. I thank members for their assistance in the progress of this bill and indicate that we should support the proposals contained in the message.

Hon KEN TRAVERS: I rise to indicate that the WA Labor Party will support these amendments. As the minister has rightly pointed out, the amendments arose as a result of the debate we had during the committee stage of the bill in this place. The amendments close a potential loophole in the misuse of the information. Obviously, I think prevention is better than cure, and I would hope that, if information is being disclosed, the government will ensure that there are rigorous processes for assessing the organisations to which that information will be disclosed prior to it being disclosed. Having said that, it is still good to have these provisions, which will make it clear that it is an offence to misuse that information once it has been obtained.

I know that my colleague Hon Ed Dermer is getting increasingly concerned that this chamber is now receiving amendments from the other place to legislation initiated in this place. At the end of the year we do not want to have statistics showing that the other place has amended more of our legislation than we have of its.

Hon Ed Dermer: The junior chamber must keep its place!

Hon KEN TRAVERS: Hon Ed Dermer has expressed his grave concerns to me outside the chamber along the lines that he has just pointed out by interjection that we need to keep the junior chamber in its place. With those words I indicate that WA Labor supports these amendments. I appreciate the government again taking the opportunity to seriously address the concerns that were raised. All too often when these concerns are raised they have been ignored. We have seen other road traffic legislation in which the minister in the other place has chosen to ignore the legitimate concerns that were raised by the opposition, and we ended up down the track having to bring in new legislation to correct it.

Hon Simon O'Brien: It has been a good exercise.

Hon KEN TRAVERS: This has been a good outcome. The opposition raised the issues, and the government addressed them. I hope that is a sign of a new way of thinking by the government. There are some ministers in the government who put on blinkers, and because the opposition raises an issue, it must be a bad thing and not to be supported. I note these amendments, and the changes to another part of this bill that were made when Hon Simon O'Brien was the minister to the way in which photographs will be given to the family of the deceased. We ended up with better legislation and we achieved the same goal, which was the desire of the opposition and the government. We came up with a better mechanism as a result of the dialogue between the government and the opposition. With those words, the opposition is more than happy to support the amendments that have been proposed by the minister.

Hon ALISON XAMON: The Greens (WA) also support the amendments proposed by the minister, and we echo a lot of the sentiment just articulated by Hon Ken Travers. The Greens think it is always wiser to err on the side of caution when it comes to such sensitive information as that which we have been discussing in this bill. The Greens support the amendments, which are consistent with the concerns raised by the Greens in debate. I support the motion.

Question put and passed; the Assembly's amendments agreed to.

Report

Resolutions reported, the report adopted, and a message accordingly returned to the Assembly.