

WESTERN AUSTRALIAN MARINE AMENDMENT BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 6: Part 3A inserted —

Debate was interrupted after the clause had been partly considered.

Mr R.S. LOVE: I have just got to do a little bit of gardening. This desk keeps popping out on me.

We are talking about clause 6. I think at the end we were discussing a situation in which someone with a skipper's ticket was on board with another person, the owner of the boat, who also had a skipper's ticket and was presumed to be in control. If I remember rightly, I think the minister gave an adequate answer.

Mr D.R. Michael: Yes.

Mr R.S. LOVE: Well, I am glad the minister thinks he has.

Mr D.R. Michael: I concur.

Mr R.S. LOVE: He concurs with me, very good. I turn to proposed section 75AD. It is entitled "Person is incapable of having proper control of vessel". I know that intoxication beyond a level whereby a person could be expected to have reasonable control of a vessel is referred to further down in the bill. Are there other circumstances in which a person would be deemed to not be capable of control?

Mr D.R. MICHAEL: The inclusion of the word "includes" means that it would apply in other circumstances.

Mr R.S. LOVE: Could the minister give me an example of such a matter? Could it be that a person is unwell? Could it also be that a person is asleep at the time? Could he give a couple of examples?

Mr D.R. MICHAEL: I think the member has kind of nailed it in one. If he thinks about what we are talking about, someone might have, to use a common phrase, passed out from alcohol. We would end up with that.

Mr R.S. LOVE: We are now looking at "Division 2 — Safe navigation of vessels and alcohol and drug related offences", starting on page 9. There is a whole series of offences, and they are all slightly different in their description and penalties, based on the severity and nature. It is quite understandable on first reading. I do not think that they need a lot of explanation, except that I am a little unsure of the status of one thing that I have noted down: Whether they are similar to or the same as the offences that occur under the current traffic legislation. If there are any differences, could the minister explain what they might be?

Mr D.R. MICHAEL: I am advised that the offences in division 2 are almost identical to the Road Traffic Act, except for the substitution of certain words like "navigation" instead of "driving".

Mr R.S. LOVE: I am just trying to find where this starts. Page 22 refers to "Provisions for offences involving incidents occasioning death, grievous bodily harm or bodily harm". Are these matters necessarily related to alcohol or could they simply be reckless conduct as well? Could the minister confirm whether that is the case?

Mr D.R. MICHAEL: That is correct. It can be reckless conduct as well.

Mr R.S. LOVE: If we look again at page 22, proposed section 75BJ lists a number of defences. Can the minister give me an understanding of one defence? I particularly marked it down for some reason when I was reading it. It is proposed section 75BJ(2), which states —

It is a defence to a charge of the offence for the person charged to prove that the death, grievous bodily harm or bodily harm was not attributable to the fact that the person charged was under the influence of alcohol, the drug, or alcohol and the drug.

Would that be similar to the defence in the road legislation? Is that the same sort of defence provision?

Mr D.R. MICHAEL: It is the same as section 59B(6)(a) of the Road Traffic Act.

Mr R.S. LOVE: Proposed section 75BL is "Defence: Inspector or police officer navigating vessel in certain circumstances". Can the minister explain a little bit about how that defence works? The offence still would have been committed, but an official duty was involved. Why is that seen to be a defence?

Mr D.R. MICHAEL: I am told that it is the same as section 61A of the Road Traffic Act. It provides a defence for police officers and inspectors who are on official duty when navigating recklessly or dangerously. Obviously, that is usually in the pursuit of a vessel. It will apply if the navigation was substantially in accordance with the policy guidelines or directions of the Commissioner of Police or the Department of Transport's CEO and was reasonably in the public interest.

Mr R.S. LOVE: I skipped over this one, but it is one I wanted to ask about. Proposed section 75BK states —

75BK Defence: Death or harm not attributable to manner of operation or level of care and attention

- (1) This section applies if it is alleged that an offence involving an incident that occasioned the death of, or grievous bodily harm or bodily harm to, a person occurred while the person charged was navigating the vessel
- (2) It is a defence to a charge of the offence for the person charged to prove that the death, grievous bodily harm or bodily harm was not attributable to —
 - (a) the manner in which the person navigated the vessel; or
 - (b) the person’s level of care or attention when navigating the vessel.

This is where it is a bit different, I think, from the context of a road, which is fairly certain. A driver might run into a pothole, a cow or something unexpected, or someone might step out in front of them, but operating a boat can be inherently dangerous. I am thinking of people coming into the mouth of the Murchison River at Kalbarri; sometimes, that is not an easy operation. How will the conditions of the day and the conditions that might affect the person’s ability to navigate safely come into play for the defence in that case? It may be that it is inherently not an easy task and a mistake is made.

Can the minister explain how that will work in the different circumstances that a marine environment provides?

Mr D.R. MICHAEL: It is a defence if the person navigating can prove that whatever they were doing did not cause the death. An example is, obviously, if someone in another vessel does something wrong. Proposed section 75BH goes through a list of circumstances. Generally, if the person can prove that nothing they did was wrong, that would be a defence.

Mr R.S. LOVE: Could we briefly turn to that? I have been trying to keep up with this. It is a little bit difficult because of the number of provisions. That basically restates the provision. I am thinking about when a storm warning or a strong wind warning is out and there is some danger, but a person takes the boat to go and check the craypots or whatever. Perhaps it is not a wise decision. How will that fit into the hierarchy of the matters the minister is discussing? Someone who decided to go out on the boat might not have listened to the radio and heard that there was a storm warning, but they would still be looking at the conditions. What would happen in that circumstance?

Mr D.R. MICHAEL: In that example, the weather warning would be one of the many factors considered for time, place and circumstance. The person’s decision to go out contrary to a storm warning would be considered.

Mr R.S. LOVE: Would proposed section 75BL also cover—correct me if I am wrong—a person operating a waterski boat with someone waterskiing behind the boat? Would the person waterskiing be in the operator’s charge and, potentially, would anything that happened to the person waterskiing be attributable to the operator under this legislation? Is that correct?

Mr D.R. MICHAEL: That is correct.

Mr R.S. LOVE: I will move on to “Division 3 — Navigation of vessels while under the influence of alcohol or drugs or impaired by drugs” on page 24. Proposed section 75C(1) states —

A person commits an offence if the person navigates, or attempts to operate, a vessel while under the influence of alcohol or a drug to such an extent as to be incapable of having proper control of the vessel.

Alternative offence for this subsection: An offence specified in the Table.

The table refers to matters that are not at the threshold of .15. The term “someone is incapable of having proper control of the vessel” is used. Can the minister confirm whether by definition that is a blood alcohol content of .15?

Mr D.R. MICHAEL: Proposed section 75AE(2) states —

The person is taken to have been under the influence of alcohol to that extent at the time of the alleged offence if the person had a BAC of 0.15 g or above at that time.

Mr R.S. LOVE: That confirms that. Given that, looking at the table, why is there an alternative offence if the person is under the influence to such an extent that they did not have proper control of the vessel? That is what we are seeking to prosecute.

Why would we then have an offence for which, presumably, a lesser standard of penalty would apply, such as that in proposed section 75D(1), which states —

A person commits an offence if the person navigates, or attempts to operate, a vessel while the person's BAC is 0.05 g or above.

Why is that .05 rather than .15?

Mr D.R. MICHAEL: These offences replicate the offences under the Road Traffic Act, including the alternative offences. If a court finds that a person had a lower reading, the person can still be convicted with one of the alternative offences. Someone might have driven into a pylon but have a blood alcohol content that is .08 rather than above .15.

Mr R.S. LOVE: Proposed section 75C(1) states —

A person commits an offence if the person navigates, or attempts to operate, a vessel while under the influence of alcohol or a drug to such an extent as to be incapable of having proper control of the vessel.

The minister then pointed me to the provisions of proposed section 75AE. I would have thought it was either one or the other. If it is not in this proposed section, why would the person not be automatically charged or be prosecuted under one of those alternative offences in the first place? Presumably, the whole basis of this is to have evidentiary strength analysis of the blood alcohol content at the time. Having been found to be incapable because the person had a blood alcohol content that was verified by evidentiary strength testing to be at .15, how on earth could the person be prosecuted for a lesser offence?

Mr D.R. MICHAEL: The member is correct in saying that it would obviously be very difficult to defend that charge if someone had a BAC of .15 or above. The alternative offence applies to the evidence of the person's conduct; for example, if they drove into a pylon and, colloquially, the person was a two-pot screamer and did not blow .15. Alcohol affects people differently so, in that instance, they would still be considered to be under the influence of alcohol.

Mr R.S. LOVE: Even if a person was to register a blood alcohol level of less than .15, is it possible that by description of their behaviour it could be inferred they were affected by alcohol to the extent that .15 is expected to affect the average person?

Mr D.R. MICHAEL: Correct. If a person's demeanour is such that they cannot control the vessel, that would stand.

Mr R.S. LOVE: It makes me wonder why we need the testing regimes if we do not take note of the results. Perhaps the minister could explain that.

Mr D.R. MICHAEL: It is easier to prove rather than just relying on demeanour or conduct.

Mr R.S. LOVE: I know people who can drink extraordinary amounts of alcohol and who never seem to be affected by it, perhaps they could have a defence in the reverse! Anyway, I am not suggesting that that is great behaviour, so do not quote me on that one.

The penalties for offences are right through the bill, not just here, but we can get an explanation of this now. Still looking at page 25, it states "for a first offence", and then there is a range of one or more previous convictions et cetera. Could the minister explain a couple of things about that? First of all, is there any interaction between an offence created in another state and one that has occurred in Western Australia? If, again, our friendly person from Queensland had a Western Australian skipper's ticket, committed an offence in Queensland and then came back to Western Australia, could the offence in Queensland—or any other state—be counted as a previous offence?

Mr D.R. MICHAEL: No, it would not be counted in Western Australia as a strike or an offence that would trigger this.

Mr R.S. LOVE: Can the minister also confirm that no road offence would be considered a previous offence in this legislation, or would it?

Mr D.R. MICHAEL: That is correct.

Mr R.S. LOVE: So it is not?

Mr D.R. Michael: Yes.

Mr R.S. LOVE: I know there have not been many, but have there been any convictions under the old section 59 law; and, if so, would those offences count as a prior offence under this new legislation?

Mr D.R. MICHAEL: I am told that in the last five years there have been maybe three or four, and there is no transitional provision, so they would not be counted.

Mr R.S. LOVE: There are different provisions for .05, .08 and .15 and other penalty gradations. I turn to prior convictions. Conviction might not be the appropriate word, I am not sure, maybe it should be "prior offence". Does the prior offence have to be at the same blood alcohol level? If I have had a reading of .08 and now I have one at .05 or .15, what is the requirement? Does the reading have to be at the same level, equal to it or an even worse level? What is the requirement for what constitutes a previous conviction?

Mr D.R. MICHAEL: If a person was charged, for this to apply it would have to be at that level or higher. I am told the applicable period is in the last 20 years. I just gave the example that if five years ago I blew .05 and I got charged and fined, and then today I blew .08, it would not count because it is not at the same level or higher.

Mr R.S. LOVE: Still looking at this same page, proposed section 75C(1) reads —

...

Penalty for this subsection:

(a) for a first offence —

(i) if the person has 1 or more previous convictions ...

How can it be a first offence if a person has one or more previous convictions? I am a little confused by the wording.

Mr D.R. MICHAEL: It is an exception to what I just said, in that that for driving under the influence, .08 and above would count as a first offence. I add that it mirrors the Road Traffic Act.

Mr R.S. LOVE: When the minister says driving under the influence, does he mean on the road?

Mr D.R. Michael: No.

Mr R.S. LOVE: No; he means driving under the influence on the boat.

Mr D.R. Michael: Yes.

Mr R.S. LOVE: Sorry, can the minister explain that again? I still do not get how that works. If it is a first offence, how is there a previous conviction?

Mr D.R. MICHAEL: This is when someone is charged with navigation under the influence—DUI, or NUI! Again, if today I blew .15 or .16, but previously had blown .08 or .09, these penalties would come in.

Mr R.S. LOVE: The minister says there has to have been a conviction at a blood alcohol level equal to or greater than a certain level, but once .08 has been hit, it does not matter, it is a previous disqualification if there is a subsequent charge at .15. Is that exactly what the minister is saying?

Mr D.R. MICHAEL: That is the effect of it, yes.

Mr R.S. LOVE: I turn very briefly to proposed section 75CB “Defence: Under influence of drug prescribed or administered for therapeutic reasons”. Are there any conditions in which that would not be a reasonable defence, for example, if there was an overdose above an expected level? I expect there is some experience of this on roads. I imagine there are known levels of what would be acceptable under a therapeutic prescription. Would someone have to prove the amount they were prescribed? How complex does that get for the current operations under the Road Traffic Act?

Mr D.R. MICHAEL: If someone was prescribed a drug, they would have to prove that they were never warned of the side effects of the drug, which I presume would be very difficult. Again, this is from the Road Traffic Act. If someone was prescribed OxyContin, the warnings are on the packet. The doctor would have told them the warnings and, when they pick it up, it is on the packet that they should not drive or operate heavy machinery—that kind of stuff. I presume it would be a difficult defence but it is there nonetheless.

Mr R.S. LOVE: I refer to penalties and disqualifications on page 39. We see there a more comprehensive listing where instead of being .05 or .08 and .15, there are gradations of one or two points. Is this mirrored in the road legislation with a similar type of gradation?

Mr D.R. MICHAEL: I am advised that the whole table is the same as the one in the Road Traffic Act.

Clause put and passed.

Clause 7: Part 3B inserted —

Mr R.S. LOVE: I refer to part 3B, “Testing for alcohol and drugs” and page 49. It states —

authorised drug tester has the meaning given in section 75EB(1);

That is someone who is a police officer or an inspector certified by the chief executive officer under subsection (3), on page 52. Is it possible that the CEO of the department could authorise officers other than employees of the department to be drug testers?

Mr D.R. MICHAEL: Some of the current inspectors are officers who might be from other agencies like Rottnest Island Authority and Fisheries, who do some of this work now. The policy position at the moment, with no suggestion it will change, is that only Department of Transport marine officers will be included in this.

Mr R.S. LOVE: Correct me if I am wrong; did the minister not say that Rottnest Island Authority officers will be testing?

Mr D.R. Michael: No.

Mr R.S. LOVE: I thought it had been mentioned in the briefing that they may be testing in the near future.

Mr D.R. MICHAEL: Theoretically they could under this legislation, but there is no plan for that to happen.

Mr R.S. LOVE: Thank you. What about fisheries officers? Are they similarly not going to be involved?

Mr D.R. MICHAEL: Correct; it is the same again. Theoretically they could be, but the intention is that only DoT marine officers will have the power.

Mr R.S. LOVE: Thank you, that is interesting. I refer to page 54 and the “Power to require breath sample for preliminary breath test following incident”. Can the minister explain this a little bit? There seems to be a contradiction, in a way. Subsection (2) of proposed section 75EF reads —

The inspector or police officer may require the person to provide a sample of breath for a preliminary breath test.

Subsection (3) reads —

The inspector or police officer must conduct a preliminary breath test of the person.

What is the import of those subsections, which seem to be slightly contradictory with “may” and “must”? In what circumstances is it “may” and in what circumstances is it “must”?

Mr D.R. MICHAEL: Subsection (2) says the inspector or police officer “may require” a sample of breath. If I was an inspector, I say the member needs to blow into here, please. Subsection (3) says that if I am the inspector, I have to do the test to you. It is about conducting the test. Does that make sense?

Mr R.S. LOVE: Yes, it is very specific, but yes. In the final bit about this, compliance with requirements to leave the vessel and give in the keys, lanyards or some other object are in the provisions set out at proposed sections 75GE and 75GF. Do these provisions mean we would expect to see a person’s keys be taken from the vessel? Presumably the vessel is left at a jetty, at some landing or some other place; it is not put on a trailer or anything like that. Is the return of the keys an automatic permission for that person to use the vessel?

Mr D.R. MICHAEL: To go a little bit further, proposed section 75GE(2) states that the police officer or inspector will give the keys back to someone who is entitled to lawful possession, authorised to navigate the vessel—that is, they have the required qualifications—and responsible and able to navigate the vessel properly. Proposed subsection (3) states that the inspector or a police officer may require the person to provide a sample of breath for a preliminary breath test to make sure that they able to take the keys and navigate away.

Clause put and passed.

New clause 7A —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7A. Section 79 amended

After section 79(2) insert:

- (3) The regulations referred to in subsection (1) may make provision for applying, adopting or incorporating, with or without modification, the Prevention of Collisions Convention.

Mr R.S. LOVE: Proposed section 79(3) states —

The regulations referred to in subsection (1) may make provision for applying, adopting or incorporating, with or without modification, the Prevention of Collisions Convention.

I take it that that is a standard guide on the proper navigation of vessels, in terms of who gives way and which side of a marker one goes et cetera. Is that the intention for including that provision?

Mr D.R. MICHAEL: I think what the Leader of the Opposition said is correct. The amendment is to ensure that the regulations provide that the Convention on the International Regulations for Preventing Collisions at Sea can be adopted with or without modification to ensure that it can also apply to inland waters, such as lakes.

New clause put and passed.

New clause 7B —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7B. Section 99 amended

- (1) Delete section 99(1)(k) and insert:

- (k) providing for the licensing of owners, masters, operators and crew of pleasure vessels and prescribed vessels, including —
 - (i) issuing licences; and
 - (ii) authorising the chief executive officer to grant exemptions in relation to licences; and
 - (iii) assessing the competency of people to hold licences;
 - (ka) providing for schemes for assessing the competency of people to hold licences in relation to owners, masters, operators and crew of pleasure vessels and prescribed vessels;
- (2) After section 99(2) insert:
- (3) The *Interpretation Act 1984* section 43(8)(d) does not limit subsection (1)(k) or (ka).

Mr R.S. LOVE: For the benefit of the chamber, can the minister outline the requirement for this new clause?

Mr D.R. MICHAEL: This amendment will enhance regulation-making powers with respect to providing for a recreational skipper's ticket.

Mr R.S. LOVE: I have a further question on the skipper's ticket. The issuing of a skipper's ticket provides the authority to use a vessel. We have gone through a lot of disqualification clauses in our earlier discussions. Just out of interest, and if the advisers might happen to know, what is the penalty if a person is found to be driving a boat without a skipper's ticket, and does that penalty increase if the person has had it disqualified?

Mr D.R. MICHAEL: If we can do that under clause 9, I will get the answer for the member.

Mr R.S. Love: Okay.

New clause put and passed.

New clause 7C —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7C. Section 100 amended

In section 100(2)(b) after “64C,” insert:

64D,

New clause put and passed.

New clause 7D —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7D. Section 107 amended

In section 107 delete the definition of *marine qualification*.

Mr R.S. LOVE: Could the minister give the reason for the deletion of the definition of “marine qualification”?

Mr D.R. MICHAEL: This amendment will delete the definition of “marine qualification” from section 107 of the Western Australian Marine Act, which covers information-sharing provisions. Section 3, which is proposed to be amended by this bill, will apply that definition to the whole act.

New clause put and passed.

New clause 7E —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7E. Section 114 amended

Delete section 114(3)(b) and insert:

(b) must not exceed —

(i) in relation to an offence under Part 3A or Part 3B or section 124GS(2) —
\$2 000; or

(ii) in relation to any other offence — 20% of the penalty specified for the offence.

Mr R.S. LOVE: Perhaps the minister can give a very brief explanation of this.

Mr D.R. MICHAEL: This amendment will effectively provide that marine offences can have modified penalties consistent with their counterpart offences under road law.

New clause put and passed.

New clause 7F —

Mr D.R. MICHAEL: I move —

Page 106, after line 14 — To insert the following new clause —

7F. Section 123 amended

Delete section 123(3) and insert:

- (3) The Minister, the chief executive officer, the Commissioner of Police, and the State are also relieved of any liability that any of them might otherwise have had for another person having done anything as described in subsection (1).

Mr R.S. LOVE: Can the minister briefly describe the reason for this?

Mr D.R. MICHAEL: This amendment will provide that the protection from liability for actions done by persons in good faith when performing functions under the act will be consistent with road law.

New clause put and passed.

Clause 8 put and passed.

Clause 9: Part 8A inserted —

Mr R.S. LOVE: Proposed part 8A deals with disqualification notices and outlines the penalties for driving when disqualified. Is the penalty different from the penalty that applies if someone is found to be driving without a skipper's ticket? Also, will disqualification apply to someone in a little dinghy with a two-horsepower Seagull motor on the back of it, for which someone does not need a skipper's ticket?

Mr D.R. MICHAEL: The current offence for navigating on a skipper's ticket vessel without a skipper's ticket is a \$200 fine. If a person is disqualified due to alcohol or drugs, there will be a new offence under proposed section 124GS.

Mr R.S. Love: Okay.

Mr D.R. MICHAEL — by leave: I move —

Page 108, after line 12 — To delete the fourth row of the table and substitute —

s. 75DD(1)	Navigation of vessel while BAC is 0.08 or above and prescribed illicit drug present
s. 75HB(1)	Failure to comply with requirement: Breath analysis, blood sample or stop vessel or navigate to specified place
s. 75HC(1)	Failure to comply with requirement: Incident occasioning death, grievous bodily harm or bodily harm

Page 109, lines 2 and 3 — To delete “75CA(1) or 75DA(1)” and substitute —

75CA(1), 75DA(1) or 75DD(1)

Amendments put and passed.

Clause 9, as amended, put and passed.

Clauses 10 and 11 put and passed.

New clause 11A —

Mr D.R. MICHAEL: I move —

Page 146, after line 5 — To insert —

11A. Section 133 amended

In section 133(5) delete the definition of *authorised person* and insert:

authorised person includes —

- (a) an inspector; and
(b) in relation to a suspected offence under Part 3A or Part 3B or section 124GS(2) — a police officer;

Mr R.S. LOVE: I seek a brief explanation of this clause.

Mr D.R. MICHAEL: This amendment will give police officers who are not also marine inspectors the same enforcement power as inspectors for the alcohol or drug or the safe navigation offences proposed in the bill. This will allow a police officer to require a vessel owner to provide details that would identify who was the person in charge of a vessel at the time an offence under the act is alleged to have been committed.

New clause put and passed.

Clauses 12 and 13 put and passed.

Clause 14: *Community Protection (Offender Reporting) Act 2004* amended —

Mr D.R. MICHAEL — by leave: I move —

Page 150, line 2 — To delete “(a)” and substitute —

(a)(ii)

Page 150, lines 5 and 6 — To delete “75BA(1), 75BA(2), 75BB(1) or 75BB(3); or” and substitute —

75BA(1) or 75BA(2); or

Mr R.S. LOVE: Could the minister give a brief explanation for this amendment? I know it is procedural.

Mr D.R. MICHAEL: These amendments to the Community Protection (Offender Reporting) Act 2004 are to ensure that the marine offences for dangerous navigation occasioning death and grievous bodily harm will be treated consistently under that act as section 59 of the Road Traffic Act 1974. This means that persons who commit dangerous navigation occasioning death or grievous bodily harm are not considered serious sexual offences for which publication of the offender information is provided for under that act.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 15 to 18 put and passed.

Clause 19: *Evidence Act 1906* amended —

Mr D.R. MICHAEL: I move —

Page 153, after line 7, before the row relating to s. 75B(1) — To insert —

s. 64A(2) Failure of master to comply with render assistance duties in relation to marine incident occasioning death, grievous bodily harm or bodily harm

s. 64A(3) Failure of master to comply with duties in relation to marine incident

s. 64B(3A) Failure of master or owner to give report in relation to certain marine incidents occasioning death, grievous bodily harm or bodily harm

s. 64B(3C) Failure of master or owner to give report in relation to certain marine incidents

s. 64D(4) Failure of responsible person to give information in relation to marine incident

Mr R.S. LOVE: I take it that this is just numbering and providing a bit of an index change and reflecting the changes we are making to the act through the modifications via the amendments on the notice paper; is that correct?

Mr D.R. MICHAEL: I think that is correct. This amendment is to the Evidence Act 1902 to insert into schedule 2 the marine offences for contravening master or owner duties following a marine incident consistent with their road law counterparts. This means that in criminal proceedings for these offences a spouse or ex-spouse of the accused is compellable to give evidence on behalf of the prosecution.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 20 put and passed.

Clause 21: *National Disability Insurance Scheme (Worker Screening) Act 2020* amended —

Mr D.R. MICHAEL — by leave: I move —

Page 154, after line 12 — To insert —

(1A) In Schedule 1 under the heading *The Criminal Code* in the rows relating to s. 284(3)(c) and s. 284(3)(d) delete “vehicle)” and insert:

vehicle or vessel)

Page 155, after line 3 — To insert —

(2A) In Schedule 2 under the heading *The Criminal Code* in the rows relating to s. 284(3)(c) and s. 284(3)(d) delete “vehicle)” and insert:

vehicle or vessel)

These amendments will make minor drafting changes to the Criminal Code as a consequence of the section 284 offence. Culpable driving of a conveyance will no longer include navigating a vessel. This amendment will make clerical update to provisions in the Criminal Code to reflect this. This bill will replace that offence with sections 75B and 75BA, dangerous navigation occasioning death or grievous bodily harm respectively.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 22 and 23 put and passed.

Clause 24: *Young Offenders Act 1994* amended —

Mr D.R. MICHAEL: I move —

Page 160, after line 3, before the row relating to s. 75B(1) — To insert —

s. 64A(2) Failure of master to comply with render assistance duties in relation to marine incident occasioning death, grievous bodily harm or bodily harm

Mr R.S. LOVE: This is a very complex clause and it might need further explanation from the minister. The minister will then be just about at the end of this stage and that will be good timing to ensure that the bill can head off to the other place this week.

Mr D.R. MICHAEL: This is a good opportunity to express my support for a digital clock in here so we know exactly how long we have left!

This amendment is to the Young Offenders Act 1994 to insert section 64A on the marine offence for a master failing to render assistance in a marine incident occasioning death, grievous bodily harm or bodily harm. The same treatment is given to section 54 of the Road Traffic Act. Accordingly, a young person who commits that offence cannot be given a caution or referred to a juvenile justice team and a conviction will normally be recorded.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.