

WESTERN AUSTRALIAN MARINE AMENDMENT BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [5.06 pm]: We were interrupted by question time when I still had a few questions to ask, but I did the best I could this afternoon. I intend to conclude my introductory remarks on the Western Australian Marine Amendment Bill 2023 in the not-too-distant future, and then when we come back we will obviously have this bill and the planning bill in the list of important bills that we are trying to get through. I suspect that when we get back Hon Neil Thomson, as the lead speaker for the opposition, will make a fairly brief contribution and spend a smallish amount of time on the committee stage and we will move forward fairly quickly. In fact, Hon Neil Thomson will not need his full time if he is the lead speaker, so he can be marked down for 45 minutes. I do not expect him to take that time, particularly after today. I think he can be fairly well restricted. I am not sure if any crossbench members are planning to make a contribution in relation to —

Hon Sue Ellery: No, I asked them.

Hon NEIL THOMSON: No, so we will get through that bill fairly quickly when we return for the next sitting week, which will leave us simply the planning bill to get through. It is the opposition's intent to get through that in a reasonably timely manner as well. Although both these bills are reasonably sized, this particular bill is far bigger than the Duties Amendment (Off-the-Plan Concession and Foreign Persons Exemptions) Bill 2023 that we dealt with previously, which contains nine clauses. Although this bill has a lot of pages in it, the number of clauses is not massive at 39. The bill itself runs to 165 pages, most of which relates to —

Hon Sue Ellery: Come on! You can do better.

Hon Dr STEVE THOMAS: I am trying my best. In the few remaining minutes, I will finish going through the minister's second reading speech, which is the way that we have approached this bill all the way through. I note on page four of the minister's second reading speech, which we were discussing before we were interrupted for question time, that the new legislation will apply to recreational and commercial vessels and that any disqualification imposed under this bill will affect only marine qualifications issued under the Western Australian Marine Act. I have raised the issue of the difference between commercial and recreational vessels. Recreational vessels, I would have thought, was fairly obvious. I am not sure whether there is any other form of recreational licence apart from a WA skipper's ticket. For everything else, I assume it is a commercial licence. This bill will capture commercial licences, but only qualifications issued under the WA Marine Act. For example, the questions might be: if someone is issued with, presumably, an Australia-wide skipper's ticket or international qualification, is there a retrospective recognition of the qualification from outside Western Australia's jurisdiction? If there is, under what circumstances are they captured or missed? I would not expect a huge number of people to come in with qualifications. There are some other countries with recreational skipper's tickets, and presumably they will be picked up somehow, so I think that is probably all right. I suspect this might relate more to commercial qualifications, but it is worth checking out precisely when those things apply.

Before question time, we were also talking about how the mechanism of testing et cetera will be undertaken. I will quote from page 4 of the minister's second reading speech before adding to it. It states —

Alcohol and drug testing operations on the water present many challenges that do not arise on road-based operations. The marine environment has a lower density of traffic, operations will need to take place over a wider area, and testing may take additional time. Weather and environmental conditions will also have a greater influence, as intercepting or boarding a vessel in adverse sea conditions can raise safety concerns.

That tends to indicate that there will be a testing regime or activity out on the water. Earlier on, by interjection, the minister stated she was not suggesting a booze boat. I am happy to take the minister at her word on that particular outcome. However, it suggests that an intended outcome of this legislation will be that we will see a significant amount of testing on the water. The minister is right; that poses —

Hon Sue Ellery: Honourable member, they will be directed to the nearest safe place to conduct the testing.

Hon Dr STEVE THOMAS: Okay. That is the next line. It states —

To accommodate the operational complexities of on-water testing, the bill will empower officers to make requirements and give directions to facilitate the marine testing regime. Depending on the time, place and circumstances, an enforcement officer may need to move the vessel to a safe location to safely conduct an alcohol or drug test.

The indication is that that would happen on all occasions.

Hon Sue Ellery: No, it won't be all occasions, but there will be many occasions. There will be occasions when the safest thing to do is direct the boat to the nearest jetty. It might get to that jetty and it is too crowded and you can't do it there, so you direct on again.

Hon Dr STEVE THOMAS: I fully accept that, but the impression I got before was that there would not be testing on the water on a boat. I think what the minister is saying with this —

Hon Sue Ellery: Not a booze bus-type, just everyone pull over.

Hon Dr STEVE THOMAS: Yes, exactly. When it is safe to do so, a police boat could stop a recreational boat for a breath test, for example. Presumably, officers will use the same tests as police in a roadside vehicle test. That should probably be another question we will get to.

Hon Sue Ellery: It's the same kind of testing. Yes.

Hon Dr STEVE THOMAS: When we get there. I am not trying to delay next week, but when we get there. One would assume they would be tested with the same materials, but if there is a variation, that might be useful to know. I can understand how a booze boat would probably be a crazy thing to try to implement, if for no other reason than pretty much every boat has a marine radio. The first thing that would happen is someone would say a booze boat is parked out the front of Queen Elizabeth —

Hon Kate Doust: Betty's jetty.

Hon Dr STEVE THOMAS: Betty's jetty. Yes, I was trying to think of the official term for it. It seems a bit disrespectful to call her that since she has passed away, but anyway. The first thing someone would do is they would go to the two-way radio and say there was a booze boat sitting out front. Everyone with a radio on the river would realise that. I think it would be remarkably surprising if a single person could be caught by a booze boat sitting there. It makes sense that the government is not going to go down that path.

The only indication was perhaps that there was not going to be on-boat on-water testing. I think there are obviously circumstances in which that would occur. I suspect that there would be more on-boat on-water testing on inland waters than there would be if it was sent and directed somewhere else. It is just for the sake of convenience. If it is only a question mark and it is not reasonably certain that the person is operating the vehicle under the influence of either drugs or alcohol, sending them to a jetty might take half an hour to get to. Even if it is not a big distance, an officer cannot travel very fast on the Swan River. It takes half an hour to get a person to a testing point. As the minister said, if that point cannot be used, they then have to go half an hour to the next point. It makes sense to me that in the first instance, the officer would seek to and attempt to conduct a test on the water where the boat is pulled over. I think that would probably be a safe outcome in a large range of circumstances. I absolutely understand that there will be circumstances in which the officer does not. That makes sense to me.

I have a couple of last-minute things to say before I sit down. On page 4, the minister's second reading speech states —

This bill will give the ... Transport and police officers the necessary authority to effectively and appropriately respond to individuals whom they believe are incapable of safely navigating a vessel ...

Police officers makes sense. I am interested to see what the role of transport officers will be in the testing regime that the government will put in place. Are there specific transport transit officers? Are we talking about the kinds of powers that a transit officer has on the rail lines, for example? The rail transit officers have some level of police powers—not all levels, but some components. Is it the case that transport department officers will play a role in this? I think it would be worth identifying which officers that might be and under what circumstances that will apply. I think it needs to be said.

The bottom of that paragraph says what the minister has reinforced several times today. It states —

It is not the intention of the government to use these powers to undertake random breath test-style testing on our waterways.

I suspect that the house will pass the bill on Tuesday. If not, and we go straight to the Planning and Development Amendment Bill 2023, it will certainly pass next week. That is a commitment of the opposition. It is a fairly short time frame. It appears as though the legislation might allow for an RBT-style approach, even if it is not the intent of the current government to do so. I am assuming that the government would be empowered to conduct booze boat-type activity under the legislation that we are about to pass, even though it is not necessarily the case that it is intended. I guess that sometimes happens with legislation.

With all the best intent in the world, the government can say, "We did not intend at any time to engage in that sort of booze boat activity. We were not intending to put random breath testing in for officers." If the government was going to do it, I suspect it would make sense to do it at the boat ramp, rather than anywhere else. I guess the argument is: if a person is being RBT-ed at the boat ramp, would an officer get them as driving under the influence or boating under the influence? They have to be able to drive down to put their boat in the water.

The DEPUTY PRESIDENT: Order! Member, I am reluctant to interrupt you, but the time has arrived for members' statements.

Debate adjourned, pursuant to standing orders.