

ROAD TRAFFIC (VEHICLES) AMENDMENT (OFFENSIVE ADVERTISING) BILL 2022

Second Reading

Resumed from 21 March.

HON KATE DOUST (South Metropolitan) [4.07 pm]: I am going to make some concluding remarks, following up on what I talked about last night when I started to talk about some of the practicalities of the Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022. I remind members that this is quite a niche approach to legislation. It is not going to impact upon the freedom of speech of all and sundry. It is about targeting a particular group of businesses or road users when they elect to put on their vehicles offensive language or offensive imagery. Let us face it, once you have seen something that is pretty toxic or visually offensive, it burns an image in your brain and you cannot get rid of it.

This complaint-based system whereby Ad Standards will raise issues with the CEO of the Department of Transport to take action is, I think, sensible. It is really about quite a targeted group. We have referenced the organisation that kicked off in each state and federally and the complaints relating to the Wicked Campers group, which is still functioning. That it is still functioning speaks to the fact it has taken on board the changes that have been made in each state and has amended the way it presents itself, in most cases. I know Hon Dan Caddy referenced the little bit of kickback that occurred in the past in New South Wales, about a year or so ago. We hope that behaviour will not be repeated.

We see on the roads every day vehicles being used as moving billboards. We have only to go to our parliamentary car park to see how our vehicles are being used as moving billboards to promote members. None of that, of course, is offensive and none of that will be picked up by this legislation, because they are not offensive images.

Hon Dr STEVE THOMAS: Can we divide on that?

Hon KATE DOUST: I remember the member's maiden speech and pulling him up on that, with his issues.

Reference has been made to how long this bill has taken in its gestation to get to us. But, as I talked about last night, when we have a piece of legislation that is moving around from state to state—not uniform legislation, but perhaps mirror legislation—it does take some time, and that is not unusual. At the end of the day, a Labor government finally introduced the bill. The bill has worked its way through the process and, hopefully, today or maybe tomorrow the bill will be passed through this house. We will see what happens.

The bill is relatively straightforward. It sets out a very good set of arrangements for taking a complaint up and working it through a process. The bill will provide ample opportunity for the organisations or individuals impacted by the complaint to make amends and delete the language or imagery that they have imposed upon their vehicle. The bill gives enough latitude for change for improvement. Time will be the test to see how this legislation works, and, hopefully, using that one business as the example, it will set a benchmark or be a model of how to do things differently.

I appreciate the work that the two ministers who I have already referenced have put in to get this bill to where it is at today. I think it is a sensible outcome. Obviously, over time, we will see what else needs to be added, if anything, to improve the legislation or tighten it up. I look forward to the passage of this bill.

HON DR BRIAN WALKER (East Metropolitan) [4.11 pm]: It has of course been some time since the incident with Wicked Campers. Hon Kate Doust mentioned the passage of time, and I am very happy to say that, going forward, I will support the Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022. I think it is important that we have some form of decency in public. I also note that there has not been a repeat of that bad behaviour, which we all agree needs to be tackled. I support the comments made, again, by my esteemed colleague Hon Kate Doust and the reaction that she has as a grown woman when confronted with things that are deeply offensive. This concern, as indeed she has already pointed out, needs to be balanced with the concept of free speech.

I am sure all in this chamber will agree with me that free speech absolutely does not mean the right to say whatever you want. Our rights of freedom are balanced by the responsibilities we owe to those freedoms. We are free people in a free country, but that does not mean that we can say things in a way that is bound to be offensive. We might express ourselves, as an ex-rugby player, in one way in the front of a scrum. As a doctor, I experience certain words at certain times that may well be offensive at the dinner table when returning from the emergency department. But my worry, and the worry of many ordinary Western Australians, is: are we about to throw out good humour? We must be aware that there is a balance. This is a very delicate thing. If I take offence at something, the question is: am I being unreasonable? For example, if I have a picture of the Prophet Mohammed on my car, a fundamentalist Muslim might well take such offence that he or she feels the need to take my head off.

Hon Kate Doust: But that would depend upon how the image was depicted, not necessarily the fact that you have an image on your car.

Hon Dr BRIAN WALKER: Quite so. We have an issue of context here, and it is a subtle thing. Some people might well take offence. I can imagine that some of my fundamentalist Christian friends might well take offence at a 666 or a satanic pentagram painted on a car, and would suggest that it corrupts our children and introduces Satanism into society.

It is a bit of a stretch, but there are people who will be offended when no offence was meant. We need them to have some form of a balance in understanding what is actually offensive. This slogan is a view of the Legalise Cannabis WA Party. The slogan on the back doors of one of the Wicked Campers—please, do not take offence—said —

WEED IS NOT A DRUG, IT'S A PLANT. I'M NOT A DEALER, I'M A FLORIST ...

Members might agree from the outset that humour is objective. I found that funny and accurate. It would certainly have given me a chuckle if I were to pull up behind the van at the lights. But someone else might well take offence at that. Weed is an illegal drug. We have our outdated drug laws of course, but they are still drug laws and people can very well take offence at the thought that illegal drugs are being proposed in a free society. Will a complaint raised against that vehicle have merit in court or will it be laughed out of court? These are questions that we have no answer to. Nothing is stopping us from agreeing that egregious, offensive advertising that would offend any sensible, sane and reasonable person is not acceptable in our streets. Therefore, it might be useful in the Committee of the Whole House to go through some of the ideas that might give some kind of protection to free speech while setting a boundary beyond which is unacceptable.

A lot of our Legalise Cannabis WA Party members would be keen to hear the answer to that specific example of the person not being a dealer but a florist. That slogan would make a lot of sense to some people looking up that example. If that were the case, this bill goes too far and it is not middle of the road, to coin a phrase. But we ought to be aware of transcending the bounds of freedom of speech while at the same time accepting that awesome responsibilities come with that same freedom.

In this community, no-one wants to see references to rape or violence. I particularly have a problem with shock-value slogans. They are the very worst kind. Shock value also goes beyond to things such as the radio shock jocks who take pleasure, if you like, at raising people's ire by vilifying or abusing certain groups of people. But it is also important to take this opportunity to reassure ordinary Western Australians that we are not the humour police. We are not out to stomp otherwise innocent and harmless fun all in the name of political correctness. I am sure that this is not the intent of the legislation, but I would like some reassurance that this is in fact what is intended. There has to be a sensible middle ground, and I am hopeful that that middle ground is within reach. I would appreciate some reassurances of that before we vote this piece of legislation into the statute book.

With that I give notice to the government that I intend to support this legislation.

HON SANDRA CARR (Agricultural) [4.17 pm]: I rise to speak on the Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022. I will not make reference to the company that inspired the legislation, but I will share a story about a journalist named Lucy Clark. When Lucy Clark wrote an article in 2008 raising the issue about the advertising slogans on those vans, the company took a particular response, which brought it to the brink of criminal charges. The company created the van that said —

DEAR LUCY ... I CAN ALREADY IMAGINE THE GAFFA TAPE ON YOUR MOUTH

The slogan was put on a van and sent down to Byron Bay where Lucy Clark lived.

Hon Lorna Harper: Shame!

Hon SANDRA CARR: I know.

That reminds me of a news article that I read yesterday about a court session in which an alleged male offender was said to have stood outside his ex-partner's house holding a noose. I see those things as parallel and indicative of the problems we in society have of the objectification of, and violence against, women.

The police informed Miss Clark that she had grounds for criminal charges, but she instead chose to lodge her complaint with the Ad Standards board. To her credit, that was a very dignified response, I must say. It is of course the standard that you walk by that is the standard you accept, which is why I find the comments made across the floor yesterday somewhat troubling.

The ACTING PRESIDENT (Hon Steve Martin): Honourable member, I apologise. There is a conversation taking place in the middle of the member's speech. Please, if we could refrain from that.

Hon SANDRA CARR: Thank you, Acting President, for your protection.

I found the comments from across the floor particularly troubling. They were an example of what is known as cognitive dissonance. The comments were made by Hon Nick Goiran. He quoted a peer reviewed article saying the issue with this kind of advertising is that it results in greater self-objectification, increased support of sexist beliefs, greater tolerance of violence against women and diminished views of women's competence and humanity. He said

that the bill tests how committed we are to empowering young girls and women. Without mentioning it he was talking about sexism and misogyny. I say to Hon Nick Goiran: we will not be lectured on sexism and misogyny by you. We will not—not now, not ever! I was in the chamber when Hon Nick Goiran delivered arguments about safe access zones. I was there when “The Clan” messages became public. I was there when he stood silently in those WhatsApp chats that actively undermined the roles of women in his own party. He said nothing. It is the standard that you walk by that is the standard you accept. The eyes of the world are on the member’s Facebook page. Minister Ellery pointed out at the time the member’s use of the hashtag “rule of law” and the dog whistle it connotes to a group of people who behave in a highly agitated, aggressive, abusive and threatening manner. It was inciting violence and reflected on the member as a senior member of his party—his words have an impact. If he does not believe me —

Point of Order

Hon JAMES HAYWARD: I wonder about the member’s reflection on Hon Nick Goiran in terms of a personal statement she just made.

Hon Sue Ellery interjected.

The ACTING PRESIDENT (Hon Steve Martin): Members! I will seek advice. I believe the member is referring to remarks that are on the public record and I do not believe it is a point of order.

Debate Resumed

Hon SANDRA CARR: Thank you, Acting President. On the same day that Minister Ellery made that statement about dog whistling—it was about the time of COVID—I was sitting in the President’s gallery in tears over a completely different matter. I was angry about that and I was angry about the reason I was in tears. It was because one of the Liberal Party’s candidates had on that same day referred to me as loose on a newspaper’s public Facebook page. It was the Liberal candidate for the seat of Geraldton, Rob Dines. A number of people in the community expressed considerable outrage at that and made contact. He made a form of apology. I say to Hon Nick Goiran that those behaviours and attitudes to women, those standards that he walks by, enable and embolden that kind of behaviour. There is no place for that kind behaviour nor standing to pay lip-service to one set of standards, yet enacting a wholly different set of standards oneself.

The member criticised the laws as limited and narrow. I find that profoundly ironic when his world view is limited and narrow. He said that the bill is a test of how committed we really are to empowering young girls and women. His criticism of the slogans on the vans was constantly about the way girls look at them and the impact it would have on them. I find that greatly ironic as well. As a male would he not talk about the attitudes and the impact of men and his responsibility as a male to address those things and the responsibility not to walk by the incredibly low standards he constantly sets for himself.

I thank members across the floor for supporting the bill, but I would thank them even more deeply and profoundly if they would adjust their own behaviours and perhaps even make the apology that the Leader of the Liberal Party has suggested they make.

HON SHELLEY PAYNE (Agricultural) [4.24 pm]: I would first like to thank Hon Sandra Carr for her comments just now. I will stick to the Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022 for the moment.

It is a pleasure to stand in support of this bill and I thank the government for bringing it to the house. As members know, I live down in Esperance. We have beautiful white beaches and beautiful turquoise water. We used to see these vans parked at West Beach. We were trying to work on tourism in Esperance and lift how we look, so people going down to this amazing beach and seeing these camper vans had a really negative impact on what Esperance is. Hon Dan Caddy talked about it being sexist and misogynist. I think those are not even the words for it; these vans are outright disgusting. I am really pleased that we are taking this action.

We heard some comments from Hon Nick Goiran about why we are not doing more and why we had not done enough yet. I want to say that when this issue came up, we were not in government, and nothing was done. It started between 2008 and 2012, when a number of complaints were made to the standards board, which is now known as the Australian Association of National Advertisers, resulting in a petition with over 125 000 signatures in 2014. That was before we were in government. It was not really until we came to government that, in 2019, all the ministers met and committed to a national approach to deal with this offensive advertising. It is great that we will implement this reform along with the other states. If we do not do it and they have done it, we will end up with all the vans here, so it is good that we are moving ahead with this legislation.

I want to thank the Australian Association of National Advertisers for the work that it is doing to help us with this. It has a code of practice. This process will work by people making complaints to the Australian Association of National Advertisers. They can make complaints online directly. The association has a code of practice that outlines how the advertising complained about breaches the code.

Hon Kate Doust; Hon Dr Brian Walker; Hon Sandra Carr; Hon Shelley Payne; Hon James Hayward

I will talk about how the complaints system will work. People will make a complaint directly to Ad Standards and then it will make a determination about it. It has a complaints process. Once it is determined that an ad breaches the code it will obviously be forwarded to the advertiser as well as the Department of Transport. That is when the Department of Transport will get involved and make a decision on whether to issue the licence warning notice to cancel the vehicle's licence if the advertiser has not taken off the advertising deemed to breach the code.

I am pleased with this bill. It will protect our community, young people, minority groups and victims of domestic violence from being exposed to this terribly sexist, discriminatory and really, really offensive and disgusting advertising. I thank the government for moving ahead with this legislation.

HON JAMES HAYWARD (South West) [4.27 pm]: I stand to speak on the Road Traffic (Vehicles) Amendment (Offensive Advertising) Bill 2022. As pointed out by other speakers, we really have to do this in Western Australia because other states are already doing it, and if we do not get on board, effectively, it will mean those vans will be licensed out of Western Australia and usurp the legislation that has been put in place in other states. I think Hon Kate Doust mentioned in her piece that WA always seems to be last. I do not know why we were last to get on board with this. This issue has been around for a long time, since the early 2000s, from memory.

Hon Dan Caddy: When you were in government—the Liberal–National government.

Hon JAMES HAYWARD: I do not think that in 2001 there was a Liberal–National government, but I thank the member for his interjection.

This is a novel approach, I must say. It is a bit of out-of-the-box thinking. Some of the issues around its implementation will be problematic and I am not sure that they have been thought through. But, as I said, we do not really have an option because the other states are moving this way. We do not want to undermine what they are doing, so we need to get on board. There are some issues around cost. I look forward to committee to get an understanding of how the cost structure will work. Probably unlike other members, I have had content put before this committee previously. I have a bit of an understanding of how it works and how the process runs.

In those days, people had to pay a fee to make an application to have something reviewed. I am not sure whether that is the case today. I had a look on the website, but I was not able to confirm that. We need to understand whether people will have to pay to make a complaint.

Debate interrupted, pursuant to standing orders.

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