

**JOINT STANDING COMMITTEE ON
DELEGATED LEGISLATION**

**ROAD TRAFFIC CODE AMENDMENT
REGULATIONS (NO. 2) 2010**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH,
MONDAY, 6 SEPTEMBER 2010**

Members

Mr Joe Francis (Chairman)
Hon Robin Chapple (Deputy Chairman)
Hon Alyssa Hayden
Hon Jim Chown
Ms Janine Freeman
Mr Paul Miles
Mr Andrew Waddell
Hon Helen Bullock

Hearing commenced at 10.03 am**CRACKEL, MS LINLEY****Principal Policy and Strategy Officer, Office of Road Safety,
sworn and examined:****THOMPSON, MRS CLAIRE****Senior Research Officer, Office of Road Safety,
sworn and examined:****TAMIGI, MR VINCE****Acting Director, Strategy and Policy, Driver and Vehicle Services, Department of Transport,
sworn and examined:****WICKS, MS SUZANNE****Chief Executive Officer, Kidsafe WA,
sworn and examined:**

The CHAIRMAN: On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or affirmation.

[Witnesses took the oath.]

The CHAIRMAN: Have you signed a document entitled “Information for Witnesses”?

The Witnesses: Yes.

The CHAIRMAN: Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and it may mean that material published or disclosed is not subject to parliamentary privilege.

Obviously we sent you some preliminary questions, and they have been answered already. Thank you, Linley. Would you like to make an opening statement?

Ms Crackel: Not at this stage.

The CHAIRMAN: Thank you very much for coming. We had some questions about these issues. This committee’s role is to scrutinise these kinds of regulations to ensure that they are made under the powers of the Parliament. A few members wanted to ask some questions.

Mr P.T. MILES: With everything that you guys do, you refer to the Australian/New Zealand standards. Do you have any input into creating those standards?

Ms Wicks: If you are referring to the Australian/New Zealand standard for child restraint systems, yes, I represent Kidsafe on that standards committee.

Mr P.T. MILES: Do you have input on what should be the standard? We have had discussions not just about your regulations but about others too. Everybody keeps referring to the Australian/New Zealand standards, which is run by a private organisation. We just wanted to know whether you had input into those and how you had input into those.

Ms Wicks: I am not sure if you understand how standards and standards development works. Standards Australia has a number of standards committees for each standard that is developed. Those standards committees are cross-sectoral. They involve a lot of people. They have consumer representation on them, so they get a very broad perspective in the development and review of standards. Does that start to answer the question for you?

The CHAIRMAN: Assume I know nothing about them!

Ms J.M. FREEMAN: There is a question about standards. We have not resolved it in this forum. I understood that they used to be pretty much owned by the commonwealth government. A commonwealth body used to run it and now a private body runs it. That is why we are asking. We have come across this in many instances.

Ms Crackel: I understand that Standards Australia is owned by all the jurisdictions, so the commonwealth and all the states. The standards development process is quite cross-sectoral, so government agency people are represented in the development of a particular standard, including industry people and a range of people. That is still a government-controlled process but what is being privatised is the actual certification of products against the standard.

Ms J.M. FREEMAN: And the publication as well.

Ms Crackel: The publication is done by SAI Global, which is a private arm of Standards Australia. That company can certify a product against a standard but it is not the only body that can do that. The development standards are still relatively government-controlled but the actual certification of products against that standard is a wider market now. I am not sure whether that clarifies your concerns. The message is that the development of the standards and the requirements are widely consulted within government and industry so you get a good product or standard.

[10.11 am]

Mr P.T. MILES: Just on that, when you are determining a seat size or whether a seatbelt is to be anchored to a car or not or whether to use the car's own safety features as well, do you guys actually have input at that level or is that then done at a national government level?

Ms Crackel: We do not, as government agencies here in WA, but there are government representatives from other road agencies for example, that are on the Child Car Restraint Standards Sub-Committee. As Sue said, it is industry wide—there are a whole range of people on that committee, so is not just government determining this, it is input from the industry as well and obviously interest groups like Kidsafe for example.

Hon JIM CHOWN: On that point, in regards to the practicality of having three booster seats or safety seats for children aged over seven across the back seat of a car—bearing in mind that in today's society mums and dads do work, and they do plan on many occasions to have a group so whatever partner looks after them can get back into the workplace in a number of years—has anybody ever sat down and put down three of these seats across the back seat of a medium car? I was unaware of the slimline seats and I have looked them up and I cannot see any dimensions on them. My office, since these regulations were mooted, has had a number of phone calls especially from country people, concerned about the legality and the legal issues of driving with three children

under seven in the back seat. In the UK, and I note here that it is also stated, you are allowed to put a child above five in the front seat with the appropriate restraints. You state here that the office at the level of WA supports the option of carrying somebody that age in the front seat with a booster seat, and these regulations would later be amended when agreed to at a national level. You are having a two-way bet here. Currently, when these regulations come into power, if you put someone in the front seat you will be breaking the law, but from a practical point of view, on many occasions, people will do that.

Ms Crackel: In relation to that comment in the transcript, that was in relation to having the option of putting the child in the dickie seat, in the cargo space.

Hon JIM CHOWN: I am talking about a sedan; I am not talking about a wagon.

Ms Crackel: Giving the option of putting the child four to seven in the front was only in relation to choosing between whether to use the dickie seat or the front seat. There is still the policy intent to have a child in the rear seat if it is a sedan.

Hon JIM CHOWN: So there is no option at all?

Ms Crackel: For under-fours? No.

Hon JIM CHOWN: There is no proposed option to have somebody over the age of four or five in the front seat of a car?

Ms Crackel: Between four and seven, if the rear seats are already filled by children under seven, then the child over four can go in the front seat.

Ms J.M. FREEMAN: If you have got two in the back, and the restraints are regular size, not slimline ones and you could not source them, and you have got hand-me-downs and all that sort of stuff, you are not going to be able to put someone between four and seven in the front seat, otherwise you will be breaking the law.

Ms Crackel: If the seats do not fit then it is technically occupied, and if the rear seats are occupied by other children under seven then the four to seven-year-old can sit in the front.

Ms J.M. FREEMAN: So you can have a technical argument with the police officer who pulls you over and say “The rear seat is technically occupied even though I have not got three people in the back”; also we are asking people to act in breach of the law. My concern is that the reality of these laws—I understand and do not doubt the good intent of these things—is that we then end up with people acting in breach of laws that we made. So we make a mockery of the laws we have made.

Ms Crackel: Maybe I could get Sue Wicks to comment on the original question, which was about the three children across the back and the ability to do that in cars.

Ms Wicks: It certainly is possible to get three seats across the back of sedans. We do it on a regular basis for people, and assist people to work out what combinations of seats they might need in order to be able to do that. The smallest vehicle we have managed to get three seats across the back of a Hyundai Getz; that is quite a small sedan. Without wanting to potentially contradict anything that Linley said, the intent certainly is that if you have two seats and two children in restraints in the back seat of a sedan, and there is physically not that space to get that third seat in, then the child between the ages of four and seven is permitted to sit in the front provided they are appropriately restrained. Have I clarified that better for you?

Hon JIM CHOWN: Is that stated in the regulations?

Ms Wicks: Yes.

Ms J.M. FREEMAN: No.

Hon JIM CHOWN: No, I do not think it is.

Ms J.M. FREEMAN: That is not stated, is it?

Hon JIM CHOWN: Not in my reading.

Ms Crackel: It is the same wording in all the other states and maybe there is some clarification required. If all the rear seats are occupied by children also under seven, then the child four to seven can go in the front seat. So I guess what you are looking to see is what a definition of “occupied” is.

Hon JIM CHOWN: That is right.

Ms Crackel: There is not a definition of that so maybe it requires further clarification.

Ms J.M. FREEMAN: No child under four can sit in the front.

Hon JIM CHOWN: At all, full stop, ever.

Ms Crackel: No, that is right.

Mr P.T. MILES: Do you guys then brief or train police officers in exactly what you have just said? As Janine said, when you are standing on the side of the road with a police officer saying, “Well I think you could have had that seat placed in the back”, and you are using the argument that you cannot technically get it in the back for whatever reason, do you teach or train police officers to deal with that type of situation?

Mrs Thompson: They have been involved in every step of the process: they have been on our committee since the end of 2008 and have regular contact with Kidsafe who provide the opportunity to train them. We provide them with publication materials and all the websites have pictures showing the sizes and shapes of the appropriate restraints. So they have every opportunity to be fully briefed.

Ms Wicks: One of the posters we have produced as part of the communication process has gone to police stations around the state and we do have regular contact back from some of the stations wanting more information.

Hon JIM CHOWN: How do we get this amendment made to the regulations that clarifies the occupation of the rear seat to allow somebody over the age of five to sit in the front seat? I ask for the reasons Janine stated. As a country member, I am aware that a lot of mothers travel long miles and some of them do have three children under the age of seven. The last thing they need is to be coming home after school and be pulled up by the local policeman and have to put up an explanation or be charged.

Ms Crackel: There is certainly opportunity to add further clarification to any sets of regulations in future amendments.

Hon JIM CHOWN: Would they be advertised on all the websites, all the paraphernalia and all the documentation that is going out to inform people?

Ms Crackel: The information already talks about whether the rear seats are occupied and I guess that at the moment there is a judgement as to whether it is the occupied. Certainly, police have been given enough information to determine whether —

Hon JIM CHOWN: In the idealistic world that you are purporting here, you would go out and plan to have your three children under seven, and then you would go and buy your slimline seats and put them in your Hyundai Getz. That does not happen in the real world. You go out and buy a normal seat or one that you can afford, which may not be slimline, and then the next child arrives and then the next child arrives. So throw out \$300 worth of seating at the time when you cannot afford it, you go out and do slimline seating for your small car. It does not work. There needs to be some ability, under these regulations, for people to make very considered decisions. We all believe that mothers and parents take full responsibility for the safety of their children in motor vehicles or anywhere else, but they need some ability to have a little bit of movement, in regard to their discretion, around who sits in the front seat if the child is above five years old.

[10.20 am]

Ms Crackel: I will just make a comment. For parents or families, when a new child comes along, they have obviously planned well ahead in advance what car they will have and what seats. Hopefully most of these decisions will have already been made so that the car they have will have the three seats they require for their children. I guess what you are suggesting is that when they have unexpected extra children that they do not plan for.

The CHAIRMAN: I guess the situation is that there are families that are far less fortunate than others who only own one small car. If they already have two kids and they have bought two of these seats, and they are \$100-odd each and they have a third child to come —

Hon JIM CHOWN: They are \$159 before GST.

The CHAIRMAN: — for some families that is a lot of money. They do not have the luxury of saying, “I am going to sell my small car and buy a bigger car so it can fit three bigger seats across it”, or because now they have to fit three slimline seats they go and sell the other two on eBay or the *Quokka* and then buy three slimline ones. If the regulations have the intent—I emphasise the word “intent”—to say that if you are in that situation, you can put the older child who meets the age category in the front seat, so you do not have to go and sell the other two old ones and buy three new seats, the argument comes down to definition. Or what we do with your intent and also how we define “occupied”. Now, if the police pulled me over and I had a bag of groceries on the bag seat, I very well could argue that the back seat was occupied by my groceries. Does the definition of “occupied” say it must be a child in a child seat?

Ms Crackel: It says “occupied by other children under seven”.

The CHAIRMAN: Okay. It may just be a simple matter of clarifying the definitions here and educating people, because as it stands, when these regulations come into force, if someone in my electorate got pulled over and fined and because they did not win the argument with the police officer they took it to court, the only defence they have right now will be your transcript of evidence here. That is not really, I guess, a situation that we could call ideal.

Hon JIM CHOWN: Have you looked at the regulations in the United Kingdom in regard to this matter? In the UK our mid-size motor vehicle is considered large by the majority of the population and the Honda Getz is probably more the norm.

Ms Crackel: These were national rules, so these are —

Hon JIM CHOWN: No. My question was, “Have you looked at the regulations in the United Kingdom in regard to this matter?”

Ms Crackel: The national rules looked at rules around the country. In the process of developing the national rules, which we are adopting —

Hon JIM CHOWN: Yes, but they are Australian rules.

Ms Crackel: Yes, but part of the process was actually looking at rules from other jurisdictions around the world. Certainly there was a lot of evidence put forward in terms of the age breakdowns, and four and seven years were considered to be the most appropriate ages for Australia. I am not sure why five was not chosen. I would have to compare the original regulatory impact statement done nationally to give you an answer.

The CHAIRMAN: It is just one of those things. It is probably not really an age thing, but a size thing at the end of the day and you have to turn around and say that the average size of a child between this age and that age is this.

Ms Crackel: That was all in a —

The CHAIRMAN: You can have a very large four-year-old and a very small seven-year-old, and the seven-year-old will be smaller than the four-year-old.

Ms Crackel: Certainly, with the cut-offs at four and seven years, 95 per cent of children at four were fitting within the range of seats for boosters and child restraints, so those ages were chosen on that basis and a lot of isometric data of children's sizes and that sort of thing.

Hon JIM CHOWN: Just one final question on this—from me anyway. What is the restriction to having a child in the front passenger seat due to, and why?

Mrs Thompson: It is a safety issue. Children are far safer in the rear of the vehicle. International studies have shown significant benefit to being in the rear of a vehicle, particularly as a very young child. I think we are arguing here on the basis of strong international evidence. Did you want to add anything, Sue?

Ms Wicks: That is exactly right.

Hon JIM CHOWN: So it has nothing to do with the passenger airbag, or anything like that?

Ms Wicks: It is —

Hon JIM CHOWN: Because in this country that is considered as a secondary device for safety and seat belts are primary. Whereas in the US, of course, their airbags come out at two or three times the velocity of here, because there are no regulations in regard to wearing seat belts.

Ms Wicks: I do not want to divert this, but if you go right back to 2007 when the regulatory impact statement went around, there was discussion in the regulatory impact statement about what age and size you should allow a child to sit in the front seat. There was certainly considerable discussion at that point about whether four was acceptable, whether seven was acceptable and whether it should even go to 10 years of age, simply because of that size factor that you have just spoken about as well. The primary reason around not putting children in the front seat is, as Claire said, a safety issue. It is a very high-risk seating position for anybody, so why should we put children at more risk by putting them in that front seat? The airbag issue is a secondary issue, because certainly for shorter people—adults as well children—there is potentially that risk from the airbag as well.

Ms J.M. FREEMAN: I have had a look at the regulations and I cannot see how much the fine is.

Mrs Thompson: It is \$500 for the driver for the first passenger and then -

The CHAIRMAN: Three hundred dollars for the children!

Mrs Thompson: The driver receives a \$500 fine if the passenger is unrestrained and an extra \$100 for each additional passenger that is unrestrained. The way that the penalties are set up depends on —

Ms J.M. FREEMAN: But what if they are restrained, but not exactly according to the modifications that we are putting through in this regulation?

Mrs Thompson: Then, technically, they are considered unrestrained.

Hon JIM CHOWN: I do have another question. And I am not totally satisfied with the answers, by the way. These are national regulations. What ability—Vince, I am asking you this question—does your department have to amend these regulations so they will conform more to the requirements of Western Australia, bearing in mind this state comprises one-third of the nation and parents with three children—as I have been talking about—do travel hundreds and hundreds of miles on their own as the primary adult —

Ms J.M. FREEMAN: With three kids screaming in the back.

Hon JIM CHOWN: Absolutely! It is all very well talking about safety in the back seat, but there are other issues. There is a campaign running behind closed doors about what happens with road safety right now, and having three children squeezed up in the back of a Getz between here and Geraldton can be quite a horrendous experience.

Mr Tamigi: The Department of Transport via the Minister for Transport has delegated responsibility for the Road Traffic Act and the Road Traffic Code, in which these regulations sit. In the matters of the road code, the minister is guided by the advice of the Office of Road Safety in these matters. Whilst the minister has the delegated authority, he is guided by the advice and the recommendations given by the Office of Road Safety. I really cannot say more than on that—that is the process. It is obviously a ministerial decision, but he is guided by the research, the appropriate consultation and everything that would normally go along with any sort of amendments.

Hon JIM CHOWN: There is provision to make amendments so these regulations will conform more to Western Australian requirements as opposed to taking the national approach? Is that your answer?

Mr Tamigi: The minister has delegated responsibility and can amend the regulations as he sees fit. However, he is generally guided by the research and whatever may be the trigger, whether it is a national consistency, but yes.

The CHAIRMAN: There could be a COAG–ministerial council agreement to say we will implement certain regulations?

Mr Tamigi: There are numerous triggers, if I can call them that, that lead to regulatory changes—whether that is COAG as part of the transport ministers group or road safety initiatives that are worked on and addressed by the Office of Road Safety; they all come into the mix and the minister makes the ultimate decision.

[10.30 am]

Ms J.M. FREEMAN: Is there a COAG agreement?

Mr Tamigi: In this case—no, I do not believe so.

Ms Crackel: It is an intergovernmental agreement through the Australian Transport Council; so it is not a COAG agreement.

The CHAIRMAN: It comes under the transport minister —

Ms Crackel: Transport ministers and road safety ministers are all on there.

The CHAIRMAN: Andrew, did you have a question about baby seats?

Mr A.J. WADDELL: Yes.

The CHAIRMAN: We will come back to it. I want to ask, while we are on this one —

Ms Crackel: Can I just add in response to Mr Chown that in terms of amending the regulation, there is a local Western Australian traffic law group. When it receives proposals from the national group, we sit down together with transport, police and a whole range of agencies. At that stage, we try to ensure the proposals reflect WA conditions.

The CHAIRMAN: Before I come to you, Andrew, and while we are on people secured in cars—we will come back to baby seats or child seats in a second—I want to ask someone to clarify the current situation for me. I have read some of these regulations and some of the previous regulations and I am a little bit lost. If I had a station wagon with two front seats and three seats across the back, is there any way that I can put more than five people in that car at the moment? Is it possible to have four in the back—that is, three people wearing seat belts and a fourth person in the back unsecured in Western Australia? Also, on that question, is it still legal in any way to carry people in the back of a ute?

Ms Crackel: Under current law and before 1 October, if these amendments come in, you can carry two in the front and three in the back —

The CHAIRMAN: And a extra person across the back seat —

Ms Crackel: —in a station wagon, and someone else can be put in the car if they can fit. If there was no —

The CHAIRMAN: If all the seatbelts are taken?

Ms Crackel: At the moment, yes.

The CHAIRMAN: What about the very back of the station wagon? Can they go in there; right at the back?

Ms Crackel: In the station wagon they can sit in the back, in the cargo space with the luggage and all that.

The CHAIRMAN: Even if there is no seat belt?

Ms Crackel: Yes, with no—that is what the current law currently allows.

The CHAIRMAN: Can they go in the boot of my sedan?

Ms Crackel: Well, yes—but I think there are other laws about that. As long as the other person does not interfere with the driver's controls—they are not sitting on the gear stick; that sort of thing, I guess.

The CHAIRMAN: So if they are happy to sit on each other's laps I could put five across the back seat.

Ms Crackel: Most people already think the law is that you cannot put extra people in the car and we are happy with that at this point.

Ms J.M. FREEMAN: But these regulations will change that.

Ms Crackel: These regulations say one seatbelt—I mean, everyone in the car has to be seated in a seat with a seatbelt on. So there is no sitting in the luggage space of your car. Under these new laws, if you want to carry more than five in a station wagon, you will need to get an extra row of seats in the cargo space. You will have to have them retrofitted.

The CHAIRMAN: I have seen them facing backwards in station wagons.

Ms Crackel: Yes.

Mrs Thompson: Some face forwards.

Mr A.J. WADDELL: I want to come back to the question of the standards and the comment that I think you made about people not in an approved restraint being considered to be unrestrained. This question of approval comes to mind. What happens when a device or a particular type of seat or whatever becomes unapproved? I mean, it is found to be not meeting a certain standard?

The CHAIRMAN: It ages; yes.

Mr A.J. WADDELL: As time goes on and standards continue to evolve, with a stroke of a pen will a bureaucrat somewhere in the eastern states basically wipe out an entire set of vehicle restraints, and thereby turn people into lawbreakers?

Ms Crackel: The regulations as they stand recognise Australian standards for approved child restraints back to 1991.

The CHAIRMAN: Yes.

Ms Crackel: Which is, you know, they are getting to be 20 years old, at this time.

Obviously, there are revised standards every time and we continue to recognise the previous versions for the very reasons you have mentioned—so we are not suddenly outlawing a standard of seats that have been around for a long time. Having said that, the 1991 standard covers a child restraint that is 20 years old and you would be questioning anyone wanting to use that. But, it is allowable.

Ms Wicks: The ACCC actually referenced the 1995, 2000 and 2004 versions of the standards, so it is actually quite generous of the Road Traffic Code to allow the 1991 version of the standard.

Mr P.T. MILES: I do not know whether Andrew mentioned this because I was talking to Jim, but with the ability to hire these seats and/or buy from op shops or whatever, how does that come into play with the new regs? Obviously, they have to be of a certain standard. Nobody at home really knows what those standards are; they are just hoping that there is a sticker on the side that says it is a standard. What the number means is nothing. I do not know whether you can google the number and it will tell you that it is a valid standard. So, if you just go into a second-hand shop—you may not be able to afford to buy a new seat—how do you go with that?

Mrs Thompson: We would be advising people to choose the seat that does have the standard sticker on it. That is certainly what the law is going to refer back to. That is the way that you can tell whether or not it is an appropriate restraint. Certainly, if somebody brings in a seat from another country and it does not have that sticker on it, they can be penalised for transporting a child in that seat.

Mr P.T. MILES: When we brought my son home, we hired a baby capsule from the hospital, but I do not think all the hospitals do that any more because the standards are changing and they do not want to get caught up in some sort of legal nightmare.

Ms Wicks: There are a number of both private and not-for-profit hire services throughout Western Australia. We certainly operate one of those. Red Cross operates a hire service and there are any number of private enterprises that also run hire services. I cannot speak for everybody, but I know our service, along with Red Cross and a number of the private enterprise services, is certainly very conscious of the age of our hire seats. Anything over about six years of age is discarded/destroyed, and that stock is replaced so that we are maintaining currency. Also, if you are providing a good service, you inspect each seat as it comes back to make sure that it is still in good condition; that it has all its parts; and that nothing has been damaged in the time that it has been away.

Ms J.M. FREEMAN: In your answers to some of our questions, you talked about—I am not sure if it was Kidsafe or Road Safety—an organisation making an approach to Lotterywest and it saying that it could not fund any profit-based organisations. In your discussions, is Lotterywest able to fund Red Cross or Kidsafe or any other organisation. The problem I have is that the Red Cross does not come out to the part of the world that I represent—in terms of where it provides a service. I know that you can go to the Red Cross, but it is not physically there for a group of people. Is Lotterywest able to fund, for example, the number of not-for-profit agencies in the Mirrabooka area that deal with people getting drivers' licences—which is another problem in itself? And can I advise them that they might be able to get Lotterywest funding to set up a library, such as the one you are talking about?

Mrs Thompson: I will answer that one. Yes; Lotterywest funds not-for-profit, local government and charitable organisations, and organisations for a charitable or benevolent purpose. So any organisation that fits that criteria can receive funding. It will not provide funding for actual seats that end up with individuals; they have to be for community use.

Ms J.M. FREEMAN: So they cannot do it— if the seats are not going to end up with individuals, they cannot do this sort of library or rent out-type scheme that Kidsafe has?

The CHAIRMAN: They can, but they have to be given back.

Ms Crackel: They can; as long as it is a hire scheme—not a donation or something.

Ms J.M. FREEMAN: Okay; so they can do it as a hire scheme. That is really what I was asking.

Mrs Thompson: Really, the way Lotterywest is set up is more for community vehicles and restraints within community vehicles. It can provide funding for community vehicles—for those vehicles to be retrofitted and seats to be provided for use in those community vehicles. We also

have the WA local government RoadWise program that offers the community grants scheme, which provides funding for hire and loan schemes. We have just increased the funding eligible for child car restraint hire and loan schemes and the Road Safety Council has just approved an extra \$50 000 to go towards that scheme.

Ms J.M. FREEMAN: To be really clear—I will ask another question on this later—lotteries pretty much will not do the hire scheme.

Mrs Thompson: No; that is right.

Ms J.M. FREEMAN: Okay. But the road council funding that we have in here—the extra \$50 000—will be able to be used for a hire scheme. And when does the grant process for that open and when does it close? Or is it just a continual process?

Mrs Thompson: It is a rolling one, and it usually takes about three months to get through that process.

Ms J.M. FREEMAN: Okay.

Mrs Thompson: It is ongoing.

Ms J.M. FREEMAN: And is that just available on the website? Where else is it available?

Mrs Thompson: There is a reference on the RoadWise website. There are RoadWise offices in every region and they have all been made aware of this change.

Ms J.M. FREEMAN: Yes. Where is the RoadWise office in —

Mr P.T. MILES: In the northern suburbs—yes?

Ms Crackel: RoadWise in the metropolitan area is obviously based at WALGA, but there are RoadWise officers in the north and south metropolitan area.

[10.40 am]

Ms J.M. FREEMAN: Where is that?

Ms Crackel: For the north metropolitan region, you would contact the RoadWise office in West Perth, for example; but in the regions they are located in particular —

Ms J.M. FREEMAN: Is there one in Perth and one in the regions?

Ms Crackel: Yes, there is one in one of the regions.

Ms J.M. FREEMAN: We were thinking that you were saying that they were in the regions, and we are thinking that we are regional.

Mr P.T. MILES: Yes; where the real people live.

Ms Crackel: The regional officers for WALGA are based in their region in —

Ms J.M. FREEMAN: In West Perth; in the nice leafy green.

Mr P.T. MILES: Yes, they got this nice tower thing built down here.

Ms Crackel: No, we are not saying that; we are saying regional RoadWise officers live in the Pilbara, based at a council, for example.

Ms J.M. FREEMAN: No, we are talking about the Wanneroo, Mirrabooka and Nollamara areas, and they have to come into the leafy greens in West Perth.

Ms Crackel: Leafy greens, West Perth, yes.

Ms J.M. FREEMAN: That is really what we were saying. I have to say that my concern about this has been the impact that it would have on some of the people I represent in areas such as Nollamara and Mirrabooka, who are predominantly newly arrived humanitarian refugees. They have large families; they plan to have large families; and six children is considered to be around the number

that you plan for. They do not quite plan for them the way we plan for them by going out and buying a new car and stuff like that, they just have babies—that is what they do. I am probably making a stereotypical assumption about a lot of people, but from conversations I have had, people are surprised when I tell them I have one child—they go “Oh!”.

Mr P.T. MILES: Yes; inferior!

Ms J.M. FREEMAN: Yes, that is right.

The CHAIRMAN: There is great market for second-hand Taragos.

Ms J.M. FREEMAN: Yes, that is right. Before I came here I did a bit of research with some of the community agencies that deliver services to those communities; they are not aware of any of the changes. They do not read mainstream media—in fact, they pretty much read things on the internet—as most of them have English language skills that are not up to that standard. They are good with baby seats and they have an acceptance that baby seats are needed, but, basically, once the baby can sit up they do not use them, and there is a real issue with older kids of three and four years of age. I am interested to know whether any consultations around this were had with OMI, particularly given they had transport consultations in June 2010. Were you at those consultations with the communities at that time; and, how do you intend to get into those communities to tell them about a major change that will have a major financial impact on them?

Mrs Thompson: Sue Wicks attended the forum.

Ms Wicks: I attended that forum for the Office of Road Safety. I was there, primarily, to respond to any questions that came up about this change of legislation; there was not one question or comment about it throughout the whole afternoon.

Ms J.M. FREEMAN: Is that because they did not know about it?

Ms Wicks: No; the forum was told at the very beginning that there was an opportunity to talk about the new legislation and that I was there. I was asked to identify myself so that people could see who I was, and, not one question was asked about it for the whole afternoon. They were primarily interested in how to get licences and public transport issues, and that was it.

Ms J.M. FREEMAN: Licences are the big issue in the community; there is no doubt that that is one of the major issues because of the way we have established how to get a licence. If you are a newly arrived humanitarian refugee who has been driving around in Kenya for a period of time and you have four kids and you suddenly come here and you have to go through the hoops to get licences, it is a big issue. It is really interesting that you say that no-one asked a question; that would actually confirm what I think, which is that they do not understand the implications of these regulations—that really concerns me. I am interested to know how and what sort of issues there are to deal with that.

Ms Wicks: Actually, at the time I did speak very briefly with people from OMI; I indicated that we were very willing to help get that message out through those various community groups. There are certainly a suite of resources that have been printed in other languages through School Drug Education and Road Aware that actually talk about what sorts of restraints you should be using at different stages. They have only recently become available—probably in the past two months—but the mechanisms are there to inform people.

Ms J.M. FREEMAN: But they are mechanisms that are paper based, and given that —

Ms Wicks: Sorry to interrupt, but these resources were actually developed so that there is minimal text in the brochures and they are primarily image based, so we are trying to address some of those issues with literacy levels.

Ms J.M. FREEMAN: My other concern is that \$500 is a hefty fine. I understand why we are doing this, but I am of the view that education is always much preferable to regulation in terms of these sorts of areas, and most people do want to keep their children safe—that is why they came here in

the first place. Is there any capacity in the regulations for the fine to be waived for hardship reasons, or is there any other way it can be waived on the basis that \$500 will mean that they will go into breach and have a debt? These are not families who can afford a \$500 fine.

Ms Crackel: The \$500 fine is the seatbelt fine, regardless of whether it is a child, and the fine has not been changed in these regulations. That is the infringement penalty, and, like any infringement, they will obviously have the chance to go to court and explain their circumstances.

Ms J.M. FREEMAN: That means that the fine will increase if they are found guilty.

Ms Crackel: Certainly, if they go to court and are found guilty again, then the fine increases. Under the regulations, at this stage there is no capacity to argue extreme hardship for an infringement penalty either.

Mr A.J. WADDELL: What is the predicted outcome of this regulation in terms of impact on injury and death on the road?

Mrs Thompson: I believe one child under the age of seven dies and another five are injured in WA every year. It is not a huge number, but in terms of cost to the community—just looking at a basic level of cost—we are looking at over \$4 million. It is a large saving to the community, but it represents only a small number of individuals.

Mr A.J. WADDELL: Is it predicted that there will be a definite impact, in that those incidences you are talking about would not have been fatalities if these regulations had existed?

Mrs Thompson: Yes.

The CHAIRMAN: Was that one fatality and seven injuries?

Mrs Thompson: One and six.

The CHAIRMAN: Is it something like that?

Mrs Thompson: Yes, something of that order, yes.

The CHAIRMAN: Did they result from young children not being properly secured or not being in proper capsules?

Mrs Thompson: That is correct.

Ms J.M. FREEMAN: Will the funds raised from the \$500 fine just go into general revenue? Will no funds from that go back into educating people or assisting people to comply with child safety restraints regulations?

Ms Crackel: Yes, that is right. Only speed and red-light camera infringements go into the road trauma trust fund; all other fines from all other Road Traffic Code offences go into general revenue.

Ms J.M. FREEMAN: But if the regulation specified that it would go back into education —

Mr A.J. WADDELL: No.

Ms J.M. FREEMAN: No? I have just been told it cannot.

Ms Crackel: Another mechanism would have to do something different.

Mr P.T. MILES: I have a question about something Janine touched on before about the advertising. Obviously, I do not have a problem with us increasing safety; I have already gone out and bought a second seat for my car because I pick up my son, but my wife may drop him off at school and we need two seats, even though he is six years old. A lot of parents I know at my son's school still do not know this is coming into effect; it is being advertised in mainstream media, and, as Andrew and Janine said, not everybody sees that or watches that, and I have seen it online, on, I think, the Perthnow website. Have you guys thought of giving every child up to year 2 a leaflet to be passed on to their parents that tells them that they need to be seated in a booster seat or a child seat?

Mrs Thompson: Communications are going out to schools, but not to the level that you are talking about—not a pamphlet to go to every child. We have used radio adverts, press adverts, online adverts, and articles in parenting papers; mail-outs have been done to childcare centres, after-school operators, Aboriginal communities, car hire organisations, and to the taxi board and Taxi Council of WA. We have done checking stations through Kidsafe. We have also got activities happening through McDonald's—checking stations happening through there. I think we have done a fairly good job of trying to cover our bases.

[10.50 am]

Mr P.T. MILES: So when did you start that?

Mrs Thompson: The very first time the media portrayed any change in this legislation was in August of last year.

The CHAIRMAN: I heard a radio ad about two weeks ago saying there was going to be a checking station set up at Cockburn Central shopping centre or something like that.

Mrs Thompson: And that was done through SGIO and Kidsafe.

Ms Wicks: That was us.

Mrs Thompson: That is right.

Mr P.T. MILES: But it is still very new; you started this in August. Obviously, we are still getting feedback. For us it is quite new and we are probably monitoring that sort of info through our offices daily so we know what is coming through. An easy one would have been to provide every child a leaflet of some sort. Just sending a poster to school and putting it on a pin-up board is not going to let a parent know that they need to do it.

Ms Wicks: If I can perhaps add to what Claire has just said, an email went out through the education department about a week ago—so, yes, a little bit late, but it did go out—that was advising all the schools of the change and gave them the opportunity to order brochures. The way schools tend to do that kind of information is one brochure with each school newsletter, so it is not necessarily each child but it will at least get to each family.

Mr P.T. MILES: You only need it up to year 2 because that is where your seven-year-olds are.

Mr A.J. WADDELL: I suppose this takes a lot of flexibility out of people's ability to organise their lives though, does it not? At my child's school there is a network of parents and we do carpooling. Often if one of us gets stuck there is somebody you can call and say, "Hey, can you take such-and-such home with you?" Suddenly, that option is not available unless they have this restraint in the back of their car already. I cannot call up my mother and say, "Hey, can you come pick up my daughter today because I'm stuck in Parliament", because she does not have it in there. What flexibility can we insert into these provisions so that people actually have the ability to still carry out their lives in a reasonable way? I appreciate that no-one's going to argue that this one child's life or the six or seven who are going to be injured are not valuable—obviously, we would not like to do that—but if we take away the community's ability to actually operate, what is going to be the consequence on the other side for all of that? Are children going to be stranded at schools—what happens? Does this mean that there will be more cars on the road travelling simply because, clearly, you cannot carpool and if there are more cars on the road, does that not increase the chance of accident and injury?

Mrs Thompson: This is going to require a considerable amount of planning and we do not deny that. We are the last jurisdiction apart from the Northern Territory to bring this in; every other state in Australia has had this in for several months. The Victorians have had in since November last year.

Hon JIM CHOWN: It is not an argument to what Andrew is addressing.

Mrs Thompson: But I am saying that they have faced exactly the same situation that we have and it has not caused a major outcry in any other state. WA is in no different a position from any of the other states when it comes to flexibility or trying to structure your life.

Hon JIM CHOWN: I disagree with you. In fact, the Perth metropolitan area is one of the largest cities in the world. People do travel long distances to schools, kindergartens and preschools. It is not Melbourne or Sydney. Quite frankly, yes, this population here in Perth, as I said previously, has many parents who work 40-hour weeks or longer and they do utilise other people to look after their children after school or drop them off.

Mrs Thompson: I think arrangements need to be made —

Hon JIM CHOWN: I think this regulation does take away their ability to be flexible in regard to the welfare of their children and Andrew makes a very good point. As I said previously, I do not see why we cannot amend these regulations to suit this state, rather than go along with the mantra of stating because it has been adopted elsewhere that it conforms to Western Australia's requirements; I disagree.

Mrs Thompson: A seat can always stay with a child; that is a fairly straightforward kind of an approach —

Mr A.J. WADDELL: If you know it is going to happen in advance.

Mrs Thompson: — if you know it is going to happen. As a parent, that would be my response as well; that has always been my response.

Mr P.T. MILES: Leave the seat at the school every day, Andrew, then the school can deal with 1 000 seats.

Ms J.M. FREEMAN: Yes, that is fine, but then you have the situation of whether schools will accept having seats around. Again, has that discussion happened with schools? I understand it is that aspect of taking away some judgement about how to make your child safe by regulation instead of education and that seem to be really onerous for many reasons that concern us, I think.

Mr A.J. WADDELL: It seems to me that if I was a police officer the logical place to enforce this law is right in front of a school as it ends at the end of the day, yet you could be dealing with people who are driving less than one kilometre down a straight road with no intersections whatsoever; in terms of the actual risk, it is negligible, yet that is where your maximum point of enforcement is going to be. I am just concerned about the message that we are sending to the community: it is about complying with the law rather than doing what is right for our children.

Ms Crackel: In that regard I think we need to remember that most parents or people driving around with kids who already want to use a restraint are using a restraint. You are saying there is less flexibility. I guess people already want to take —

Ms J.M. FREEMAN: If they are already doing that, why do we need regulation? If they are already taking the best course of action in terms of their children and their children's safety and then we are going to put these onerous areas on to it, which people from less advantaged backgrounds, or in the country for a different reason, are suddenly going to be faced with a \$500 fine, then an additional \$100, so that it places this massive financial impact on the people who probably can least afford it, why are we doing it that way? I do not understand why the Office of Road Safety—I take my hat off to the Office of Road Safety, it is not an easy job; there is an expectation versus people's desires and wants on roads—is doing it by regulation and not by education and not by taking on what people ultimately and fundamentally want, which is the safety of the children. But, no, we are going down this punitive pathway that places people actively breaking the law.

Ms Crackel: In answer to that I would say that the reason these regulations are being put forward and we are interested in adopting them is that there are people still being injured and not wearing the correct restraint for their age.

Hon JIM CHOWN: Why are we the last state to conform with the national regulations because —

The CHAIRMAN: We are the last state to do lots of things.

Hon JIM CHOWN: Exactly.

Mr P.T. MILES: Because we do it right.

Ms Crackel: Yes, we spend a lot of time actually making sure that the regulations actually meet—and there are no anomalies, for example, that other states might have said, “Well, if we had time again we’d tweak this word.” We have actually done that in ours; that is why we are a year late, I guess, with our —

Hon JIM CHOWN: So regardless of what you have heard at this hearing this morning, do you believe that you are on the right track?

Ms Crackel: Yes we do. Yes, we fully support the intent of these laws and the regulatory approach to them. There are children still being injured in road crashes without wearing the correct restraint for their age. We believe that the majority of people already believe that wearing the right restraint is what they want to be doing for the safety of their own children and that the regulations support that. But in saying that, it also guides and gives extra information and impetus to those who are possibly not aware.

Mrs Thompson: And the law as it currently stands is way behind where we want to be. Currently, we only have children up to the age of one being required to be in a child car restraint; that is totally unacceptable. The law is actually catching up with what most people are already doing; the law is well behind the common practice. We cannot have a —

Ms J.M. FREEMAN: But are you not taking it beyond the common practice? I understand what you are saying; that is fine, okay, we will bring it up to common practice and then educate so that you shift common practice and you can bring the law up to follow. But what you are doing is going: here is common practice, this is how people usually deal with it with the little boosters and someone in the front and the management of those things, but we are going to take it beyond common practice and then we are going to ask everyone to catch up and when they do not we are going to penalise them. We are going to make it punitive and unfair on the people who can least afford it.

Mrs Thompson: Some other countries are legislating up to 10 and 12 because they believe it is the safest possible option for children. We have taken the lowest common denominator here and on the basis of the best advice and the actual size and weight of children, provided the cut-offs where most people can comply very easily and most people are already doing that.

Ms J.M. FREEMAN: But —

The CHAIRMAN: Janine, before you ask the question, I have to remind members of the committee that they cannot actually ask our witnesses questions about policies and opinions.

[11.00 am]

Ms J.M. FREEMAN: I do not know if this is a policy question.

The CHAIRMAN: Just be aware that there are guidelines. It is not an unfettered question and answer session. But ask your question and we will see how we go.

Ms J.M. FREEMAN: My concern is the people who do not fit into the “most” area. It is those people who cannot comply because of the number of kids, cannot comply because of their income, or cannot comply because of their capacity to understand the rules. It is very nice that we can sit here, all of us from our backgrounds, and make those decisions. We are probably already doing that.

I did it with my child, and Andrew does it with his. We are already doing it. My concern is around that. You are not being asked to comment on that.

Mr P.T. MILES: Is Minister O'Brien the minister who is responsible for this whole area, or is it Rob Johnson?

Mr Tamigi: Under the delegation issued by the government, Minister O'Brien is responsible for the legislation, namely the regulations under which it sits. Minister Johnson, who is the road safety minister and is responsible for the Office of Road Safety, is working in conjunction with Minister O'Brien in these reforms. But from an approval process, it is sort of a joint approval, from my understanding. Minister Johnson would consider the matter, and he would then refer the matter to Minister O'Brien, who would ultimately give the approval to draft the amendments.

Mr P.T. MILES: Okay. Finally, WALGA is the manager of the RoadWise program, so it obviously gets funded out of the office of one of those ministers to take care of RoadWise?

Ms Crackel: Yes. RoadWise is part of the WA Local Government Association, and the RoadWise program obviously gets funding in kind through WALGA, but it also gets funding for the officers and the regional presence by the road trauma trust fund, which is managed by the Road Safety Council.

Mr P.T. MILES: Thank you.

Hon JIM CHOWN: What sort of consultation took place with preschool groups or mothers or P&Cs with regard to these regulations?

Ms Wicks: The regulatory impact statement that went out in 2007 went out nationally from the National Transport Commission. It was advertised broadly, and there were lots of groups that put comment back to that regulatory impact statement. I cannot tell you specifically how many schools might have commented on it, but the opportunity was certainly there for anybody with a view on this to comment three years ago.

Ms J.M. FREEMAN: Is that public?

Ms Wicks: Absolutely.

Ms J.M. FREEMAN: No; the comments that came back to that?

Ms Wicks: I do not know about that.

Ms Crackel: Yes. The regulatory impact statement has a summary of the consultation. It certainly has a list of who submitted, and a summary of the flavour of the comments received. I will have to check whether it actually verbatim listed all the submissions.

Ms J.M. FREEMAN: Could that be made available to the committee?

Ms Crackel: Yes, we can provide that to the committee.

Mr A.J. WADDELL: I want to turn now to the VDU regulation. The exemption seems to be sought for a specific type of data terminal for the police service. I am just uncertain as to why it would be safe for police officers to have this distraction in front of them but it is not safe for any other profession to have an equivalent distraction in front of them. Why are the police in some way able to deal with it and the rest of us cannot?

Ms Crackel: I guess the mobile data terminal is no different from a taxi dispatch system, for example, and the regulations allow those types of systems to be used. I understand that the mobile type of terminals are there for the dispatching of police to various jobs. So I guess the question is that it does allow other types of groups to use them as well under certain circumstances.

Mr A.J. WADDELL: It is very prescriptive in terms of the technology. I, for instance, am often required by the nature of my work to divert from one place to another, and that would be notified to

me via an SMS or an email. Quite clearly the regulation will not allow me to have a display terminal that has my SMSs and emails popping up on a screen. How is that any different?

Ms Crackel: I would say that the police, and taxidriviers, for example, use that as part of their job to actually get from A to B. Admittedly, you could argue that an SMS for an individual is doing the same thing. I just do not see that as being on the same level. Certainly the police and the taxi industry also have operational policies in the background that monitor how they can use their vehicles, certainly during emergency situations. They have a whole range of guidelines as to how they are supposed to respond. So I guess the answer for me is that this is a completely different level of dispatching, I suppose, than an SMS for a private individual.

Mr A.J. WADDELL: There were some questions about integrated devices. I think that problem is a bit away from this particular regulation, but it is really a bit of a door opener for us. I understand that navigational aids are exempt again from this particular regulation. But we were concerned about devices that are both navigational aids and other things. For instance, this device that I am holding up has a GLP unit on it, but it also can play a video. How does that fall within these regulations?

Ms Crackel: It does not fall within these particular regulations. Certainly the pace of technology is such that the regulations are just trying to keep up, basically, because every time you turn around there is a new device.

Mr P.T. MILES: They never will.

Ms Crackel: Yes; it never ends. Certainly there are other packages in the Australian road rules that are trying to deal with this. The eighth package is coming, which talks about phones being used in a navigation mode. That is part of the next package that will probably come to you. Certainly the ninth Australian road rules package is dealing with iPods and what they should do. So I guess the answer is that the door is open, and we are nationally trying to come to grips with the sort of —

Ms J.M. FREEMAN: And in the intervening period of time, people can be fined.

Ms Crackel: Well, it depends on whether the policy is you do not want them or you do want them. At the moment I would say it is a pretty grey area.

Mr A.J. WADDELL: But given that the police have identified that their existing data devices fall outside of these regulations, would it reasonable therefore to say that virtually any device that is not specifically prescribed as an exemption would also fall outside of this regulation? So, if someone was using their iPhone as a GPS unit, it would also fall outside of this regulation?

Ms Crackel: In the current form, yes; it would not be considered a driver's aid, because it is a phone.

The CHAIRMAN: So I cannot use the GPS on my iPhone to navigate by?

Mr A.J. WADDELL: No.

Ms Crackel: We have a package coming that will deal with that. On the issue about whether people are being fined, at the moment the law in Western Australia says you shall not use a phone in your hand. That basically rules out everything, as soon as you touch a phone. So the next set of amendments are trying to clarify what is using, what functions can be used and that sort of thing.

Hon JIM CHOWN: Will this next package include heads-up displays, radar-controlled cars on freeways, which will probably be around in a couple of years —

The CHAIRMAN: There already is one—a Lexus.

Ms Crackel: They are not visual display units, though—radar-controlled cars—obviously, but they will be controlled by vehicle standards and those sorts of things. But, yes, I accept the committee's thoughts that this is an area that just continues to develop in technology, and the road rules continue to try to keep up, and there are packages in development now that will hopefully address that.

The CHAIRMAN: Thank you very much for your time. Just before you go, I do have to remind you that the uncorrected *Hansard* will be sent to you, and you will get an opportunity to make any corrections to that if there is a mistake in the *Hansard*. I remind you that until such time as the transcript of your evidence is finalised, it should not be made public. Thank you very much.

Hearing concluded at 11.08 am