

SECOND READING SPEECH

THE HON DAVID O'BYRNE, MINISTER FOR INFRASTRUCTURE

RAIL SAFETY NATIONAL LAW (TASMANIA) BILL 2012

Mr Speaker,

I move that the Bill now be read a second time.

Mr Speaker, the Bill before the House today implements a single national law and regulator for the regulation of rail safety, pursuant to an Intergovernmental Agreement on Rail Safety Regulation and Investigation Reform, to which Tasmania is a signatory.

This reform is a component of the National Partnership Agreement to deliver a Seamless National Economy. Harmonisation of rail safety laws aims to facilitate a single national market for rail services by removing inconsistencies and duplication in the regulation of safety in a transport industry which operates across jurisdictional borders.

Mr Speaker, in 2009 Tasmania introduced the *Rail Safety Act 2009*. This was based on a National Model Bill developed by the National Transport Commission which each State and Territory was to mirror in their rail safety law. This represented a first step in working towards uniformity across all States and Territories. While the *Rail Safety Act 2009* in Tasmania is amongst the most consistent with the Model Bill, it has become clear that in order to maximise consistency across the country it

is necessary to establish a single mechanism to oversee the safe operation of all railways across the country, rather than the existing seven regimes.

In August 2011 the Council of Australian Governments agreed to establish both a single national law to apply across all jurisdictions and a single National Rail Safety Regulator who will provide the rail industry with a consistent and reliable co-regulatory approach in all States and Territories. The agreement was made with the aim that the National Regulator will commence operations by January 2013.

Similar reforms are also currently underway for heavy vehicles and commercial marine safety.

The practical benefits of national rail safety regulation include a single national accreditation regime for rail transport operators and removing duplication of auditing, monitoring and inspection processes. Rail transport operators will only have to respond to one regulator rather than up to seven different regulators as is currently the case. In particular for Tasmania, this will mean improved availability of specialist knowledge to inform decision making and safety investigations.

Mr Speaker, like other recent national reforms such as the National Health Practitioners and the National Occupational Licensing Schemes, this Law is an applied law scheme. This approach is used where referral of power to the Commonwealth is not a desirable option. It requires a host jurisdiction to pass the National Law as a law of that State (generally included as a schedule to the Bill) and then for the other

States and Territories to pass legislation applying the schedule in the host jurisdiction's law as their own law.

South Australia was chosen as the host jurisdiction for the National Law and home for the Office of the National Rail Safety Regulator. The National Law has now passed the South Australian Parliament as a law of that State with the *Rail Safety National Law (South Australia) Act 2012* receiving Royal Assent on 10 May 2012. This Bill applies that legislation in Tasmania.

The National Rail Regulator Project Office has consulted extensively with all relevant stakeholders in all jurisdictions, including rail transport operators, industry associations, unions, the existing rail safety regulators and policy representatives to ensure the National Law will be a workable national approach to rail safety regulation. This has been a significant task.

Mr Speaker, the National Law this Bill adopts, is similar to the existing Tasmanian *Rail Safety Act 2009* which will be repealed. The Law sets out the functions and powers of the National Rail Safety Regulator, and includes objectives of providing for the effective management of safety risks associated with railway operations and to promote public confidence in the safety of transport of persons or freight by rail. It covers accreditation; registration of rail infrastructure managers of private sidings; safety management; provision of information about rail safety; investigation and reporting by rail transport operators; drug and alcohol testing by the Regulator and enforcement officers; train safety recordings; auditing of railway operations by the Regulator; compliance

and enforcement measures; exemptions; review of decisions; and general liability and evidentiary provisions.

Significantly Mr Speaker, because the *Rail Safety Act 2009* in Tasmania is closely aligned to the National Law, local railway operators both commercial and tourist and heritage, will see little change in the way rail safety is regulated in this State. There will also continue to be local regulatory staff based in Tasmania.

Mr Speaker, the Rail Safety National Law clearly expresses the intention that while individual jurisdictions adopt the Law, only one single national entity is created. The Law has established the Office of the National Rail Safety Regulator, which comprises of the National Rail Safety Regulator and two non-executive members, all appointed by the South Australian Minister upon the unanimous recommendation of all Transport Ministers and can include the Commonwealth Minister. The Office will be a single body corporate that operates, and can engage staff, on a national basis.

As consistency is at the cornerstone of the reform, the Bill provides that a regulation made under the legislation may be disallowed if a majority of jurisdictions vote against it. This approach has been recommended by the Parliamentary Counsels' Committee and is supported by industry as providing the greatest certainty that regulations will remain the same in all jurisdictions. If a regulation were to be disallowed in one jurisdiction there would be inconsistent rules for industry and the National Regulator would have to administer several slightly differing

schemes. This would undermine the efficiencies and economies the reform is aimed to deliver.

Mr Speaker, this Bill includes the procedures to be adopted when testing for the presence of alcohol and drugs in rail safety workers. Testing under these procedures will be conducted by police and authorised officers following significant incidents and under the National Regulator's random testing program. Each jurisdiction will apply their own testing procedures which will typically align with those used by police under their respective road safety legislation. The procedures contained in this Bill are those currently used under the *Rail Safety Act 2009*, which refer to the *Road Safety (Alcohol and Drugs) Act 1970*.

Mr Speaker, although Tasmania's railway system is physically isolated from the wider national network, it is open to the potential entry of other rail transport operators and there are advantages to this State in participating in this reform which I mentioned earlier. It is also important this State supports this measure so we too can benefit from the efficiencies a seamless national economy aims to deliver.

Finally Mr Speaker, to place on the record explanations of the provisions of the National Law which this Bill applies, I seek leave to have the second reading speech and the explanation clauses of the Rail Safety National Law (South Australia) Bill as presented to the South Australian Parliament inserted in *Hansard* without my reading it, noting Schedule 1 of that Bill contains the National Law provisions.

I commend this Bill to the House.

South Australian Hansard reference:

http://hansard.parliament.sa.gov.au/pages/loaddoc.aspx?e=1&eD=2012_03_14&c=48