

SECOND READING SPEECH
THE HON GRAEME STURGES, MINISTER FOR
INFRASTRUCTURE

Traffic Amendment Bill 2009

Mr Speaker,

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

I am pleased to present to the House today the *Traffic Amendment Bill 2009* which has two main purposes.

Firstly, it is proposed that the Act be amended to ensure that the legislative basis for the Road Rules which are currently comprised in the *Traffic (Road Rules) Regulations 1999* is more compatible with the technical processing of the State's EnAct legislative drafting system. The amendment will mean the Office of Parliamentary Counsel will no longer have major difficulties processing future amendments to the Road Rules.

Secondly, it is proposed that the Act be amended to allow some local rules that currently sit in the Road Rules to be elevated to Act level. It is considered that these rules should not continue to be

retained as subordinate legislation as they address behaviours where serious consequences could result from breaches or involve activities that warrant the seizure of items or the issuing of permits to control the activity.

Mr Speaker, the Office of Parliamentary Counsel uses the Enact System to draft legislation. EnAct applies rigid rules to the legislative drafting process to help maintain consistency within legislation and to streamline the process. EnAct distinguishes between the different drafting tasks undertaken such as Bills, Regulations, Rules and Orders and uses the rules built into the system to populate drafting templates and to generate cross references and amendment wordings relevant to those tasks.

Section 31A of the *Traffic Act 1925* provides for regulations to be made. However, the provisions of the regulations, and references to them, are to be referred to as "rules". This is a unique situation that the EnAct system does not cater for. Because the drafting task is to draft "regulations" the drafting system expects the provisions, and any references to them, to be referred to as regulations and as a result the internal references generated by the system or cross references, are to regulations. These references are important in that they aid the drafting of the

legislation and they also create the hyperlinks which provide access to the legislation on the Tasmanian Legislation Website.

Mr Speaker, the Office of Parliamentary Counsel spends a considerable amount of time manually editing the field codes that contain the references so that they refer to rules. Having to refer to the provisions as rules also present a problem when generating any amendment legislation. The system will generate amending legislation referring to regulations and again Parliamentary Counsel must manually edit the legislation so that references are to rules. Editing amending legislation can be complex if extensive amendments are involved which is not only a time consuming task but often requires the need for technical assistance to be provided to the drafter.

By providing for rules to be made under section 31A there will be no requirement for any manual intervention by the Office of Parliamentary Counsel to complete the drafting task.

Mr Speaker, the proposed amendment to Section 31A of the Act has become more important due to the impending expiry of the *Traffic (Road Rules) Regulations 1999* on 30 November 2009 under the *Subordinate Legislation Act 1992*. It is intended to review and remake the Road Rules prior to that date including

Tasmania's implementation of a number of new provisions. This task involves adopting a large number of amendments stemming from agreements made by Australian Transport Council Ministers, including myself, to change the Australian Road Rules. By agreeing to the amendments, the drafting task associated with these new road rules will become that much easier for the Office of Parliamentary Counsel.

Mr Speaker, as mentioned previously the other aspect of this Bill involves elevating a number of provisions from the Road Rules to Act level.

These provisions have been contained in the Road Rules since 1 December 1999 with most being part of past subordinate legislation that is now redundant.

A number of the provisions involve powers for Police or authorised officers to seize speed detection devices, vehicles and traffic hazards that are caused by lights or reflectors and procedures they must follow in doing so.

In the case of seized vehicles Police must also follow processes involving the removal, storage and disposal of such vehicles including disbursement of any funds raised from any eventual sale

of the vehicle. Seized speed measuring devices and seized vehicles suspected of being involved in an accident may be examined and used in evidence in any proceeding under the Act.

In the case of hazardous lights and reflectors Police or authorised officers may direct a person to eliminate a hazard caused by a light or reflector and if that direction is not obeyed the person may be guilty of an offence. The officers may then take steps to remove the traffic hazard including entering premises.

Quite clearly Mr Speaker, there are road safety, traffic management practical and evidentiary reasons why Police should be able to seize vehicles, speed detection devices and hazardous lights or reflectors under the circumstances detailed in each provision.

Mr Speaker, the Bill also contains provisions aimed at ensuring that without lawful excuse people do not obscure or tamper with traffic control devices such as traffic signs, road markings or traffic signals or to make illegal road markings.

These provisions aim to ensure that nothing is placed or displayed on or near a road that might obscure, interfere with or prevent a driver from seeing a traffic control device. They also prohibit people from altering, defacing, damaging, destroying or removing

traffic control devices and from marking or placing anything on a road that purports to be a road marking.

Potentially Mr Speaker, the consequences of deliberately or irresponsibly tampering with, removing or obscuring a traffic device or making an illegal road marking could be quite serious and result in a crash or disruption to traffic.

The final provision in the Bill Mr Speaker, relates to the use of a loudspeaker on or from a vehicle. In order to ensure that loudspeakers are not used on or from vehicles without some form of control or notice, this provision provides for senior police officers to issue permits for their use.

In issuing the permit consideration must be given to matters including the safety and convenience of the public and anything else that is relevant in the circumstances. If the activity is of a political character senior police officers must have regard to the principle that people should be free to engage in lawful political activities.

As with the other provisions mentioned above there are also procedures to follow for the issuing of the permits and certain conditions that apply to the permit itself and for its use.

Mr Speaker, I commend this Bill to the House.