

DRAFT SECOND READING SPEECH

HON. MICHAEL FERGUSON MP

Police Offences Amendment (Prohibited Insignia) Bill 2018

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

This Bill delivers on the Government's election commitment to prevent outlaw motorcycle gangs that persist in criminal activities, from wearing their club colours in public.

Madam Speaker, this Government remains committed to combatting the scourge of methamphetamine and its links to outlaw motorcycle gangs in Tasmania. The 2017 Australian Criminal Intelligence Commission research report on organised crime, acknowledged that outlaw motorcycle clubs (OMCGs) are entrenched in the importation, manufacture and distribution of methamphetamine in Australia, with many of them using legitimate industry to conceal their activities and grant them the appearance of respectability.

Madam Speaker, serious organised crime and the illicit drug trade does not just affect individuals, but the safety and livelihood of the entire Tasmanian community. In 2015, the Australian Crime Commission estimated the cost of serious and organised crime in Australia to be at least \$36 billion a year. Even more concerning than the financial costs, are the devastating social and health costs from the illicit methamphetamine trade.

Tasmanian OMCGs, such as the Rebels, Outlaws and Bandidos are part of worldwide gang franchises. These are franchises with significant global criminal histories.

Police intelligence indicates that OMCGs are major participants in the importation and trafficking of methylamphetamine in Tasmania. This drug trade is an impetus for volume crime such as burglaries and armed robberies, which are committed to pay off drug debts. Since 2000, senior gang members in Tasmania have been responsible for, and charged with, some of the most significant methamphetamine importations in the State's history.

Equally of concern to the Government, is the use and escalation of serious violence by members of rival gangs, or even the same gang in public places, to protect what they view as their 'patch'. This violence is indiscriminate and often puts the public at significant risk. Since what has been referred to as the Milperra Massacre in 1984, when seven people, including a young girl, were killed in a brawl between the Bandidos and Comancheros, fire bombings, drive-by shootings and public brawls linked to OMCGs continue to occur.

For example, in 2009 a violent public brawl between two OMCGs at Sydney airport resulted in several injuries and one death. This year, in the Hunter Valley region, there have been six public shooting incidents and two Molotov cocktail attacks since January. New South Wales police attribute all of these incidents to a feud between two rival OMCGs.

Madam Speaker, in the past Tasmania has benefitted from being an island, and has been spared some of the harm caused by OMCGs. However, technological advancements and strong action by other states has resulted in a displacement effect, with members leaving those states for locations viewed as softer targets. In the last decade, OMCG membership and the number of national runs in Tasmania have increased. Conversely, states such as South Australia, who have enacted strong anti-gang laws, have seen a significant decline in membership and violence.

Tasmania Police advise that during the recent Bandidos national run in Tasmania, that both the Bandidos and the Outlaws attended a public event in Devonport. Police had to deploy significant resources after receiving intelligence that the Outlaws intended to protect their turf, and were prepared to resort to violence to do so. Police were subsequently forced to intervene after members of the two gangs started abusing and threatening each other.

In another example from October 2017, the Rebels chose to utilise Tasmania for their national run. This resulted in approximately 300 members attending our State. Despite being advised they would receive strong police attention, Tasmania Police still seized illicit drugs and weapons from members. Rebel members also returned positive drug tests for cocaine and methamphetamine while driving. During the run, Tasmania Police believe that a person received significant life threatening injuries at the Rebel's Hobart Clubhouse, and that investigation remains open.

Madam Speaker, most organised crime groups seek to hide their existence from the public, but the high visibility of OMCGs makes them unusual. In May 2018, the Australian Institute of Criminology

published its *Organised Crime Research in Australia 2018* report. In the report it was noted that OMCGs share a similar characteristic to another notorious organised crime group, the Japanese Yakuza. Both groups operate in a manner that is clearly visible in the community. The Yakuza through their tattoos, and OMCGs through their patched jackets and apparel.

Worldwide, OMCGs operate publically, with clearly badged jackets called colours displaying their club logo and accompanying '1%' badge. OMCGs rely on money, power and fear to thrive. Their greatest weapon is publically visible intimidation, which is why when they are debt collecting they wear their colours. Their colours are also used to threaten people and deter them from reporting crime or testifying in court. It is not necessary to utter a specific threat when wearing an Outlaws, Rebels, Black Uhlans, Devil's Henchmen or Bandidos jacket, because the jacket, with its patches and insignia, speaks for itself.

Madam Speaker, the criminal law has a limited capacity to protect the community from these types of threats. These gangs maintain a strict code of silence and cultivate a brand of intimidation and fear in respect to witnesses that thwart attempts by law enforcement officials to hold offenders to account. Acting on a matter after the damage is done is cold comfort to the victims. This legislation will stop OMCG members from using their colours to stand over members of the public and create fear in the community.

Madam Speaker, I turn now to the detail of the Bill. Clause 4 of the Bill introduces a new offence into the *Police Offences Act 1935* at section 6A, banning the wearing or carrying of prohibited items in a public place. The new offence states that a person who is in a public place, or in a vehicle that is in a public place, must not wear or carry a prohibited item that, if another person were in the public place, would be visible to the other person.

A prohibited item is any piece of clothing, jewellery, or other accessory that displays:

- the name of an identified organisation; or
- the club patch, insignia or logo of an identified organisation; or
- an image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or in association with, an identified organisation.

Madam Speaker, this prohibition will only apply to identified organisations, and not law-abiding motorcycle enthusiasts and motorcycle clubs. A number of prerequisites and legislative safeguards have been put in place to achieve this aim.

Firstly, an identified organisation must be prescribed in regulations on the recommendation of the Minister for Police, Fire and Emergency Management. These regulations will of course be subject to the usual scrutiny and oversight of the Subordinate Legislation Committee.

Secondly, the Minister may only make such a recommendation if, having first regarded the advice of the Commissioner of Police, he or she is satisfied that the wearing or carrying of these items in public places: may cause members of the public to feel threatened, fearful or intimidated; or may have an undue adverse effect on the health or safety of members of the public, or the amenity of the community. The Minister must also have regard to whether any person has, while a member of, or a participant in, the organisation, engaged in serious criminal activity or been convicted of public acts of violence, damage, or disorderly, offensive, threatening or violent behaviour in public. Finally, defences have also been provided in the Bill to allow prohibited items to be worn in public places for genuine artistic, educational, legal or law enforcement purposes.

To become a fully-patched member of an OMCG, one starts as a prospective member. To ensure that the activities of these people can be taken into account, a prospective member is included in the definition of a 'participant in' an identified organisation as defined in the Bill. It is important to note that a prospective member does not mean just anybody. Prospective members are likely, or expected, to be fully-patched members in the future. Certain thresholds need to be met to become a fully-patched member and often this involves the prospective member committing crimes to earn their colours. This allows fully-patched members to not only distance themselves from the taint of any illegal activity but to shield senior members from any legal repercussions.

Madam Speaker, OMCGs on the mainland have demonstrated a resourceful creativity to circumvent laws designed to mitigate the harm they cause. The prescribing of identified organisations by way of regulations is appropriate and allows police to respond to the evolving nature of criminal gangs, whilst still maintaining the appropriate balance between an individual's rights and the rights of the community to be safe and enjoy public spaces free from intimidation, and brawls between feuding gangs.

The Bill will also give a police officer who has reasonable grounds to believe that a person in a public place has committed or is committing a prohibited item offence, to stop that person or any vehicle they may be in, search the person and vehicle, and seize any prohibited items found. Again, I emphasise that law-abiding motorcycle enthusiasts and motorcycle clubs are not affected by these changes.

The Government is absolutely committed to and will continue work on modernising Tasmania's consorting offences, in line with similar provisions in other jurisdictions, to support contemporary preventive policing practices that allow authorities to act at an early stage to prevent, or reduce, serious crime. This effort is strongly recommended by Tasmania Police and the Australian Criminal Intelligence Commission as necessary steps to be able to deal with the scourge of ice, organised crime and horrific violence. It is anticipated that this matter will be brought to Parliament before the end of the year.

Madam Speaker, this Bill sends a strong signal to OMCGs in Tasmania, or those thinking to expand their networks into our State, that their illegal activities will not be tolerated. I commend the Bill to the House.