



INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

Members present:

Mr J Pearce MP (Chair)
Mr CD Crawford MP
Mrs BL Lauga MP
Mrs AM Leahy MP
Mr AJ Perrett MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms M Telford (Acting Committee Secretary)

BRIEFING—INQUIRY INTO THE TRANSPORT AND OTHER LEGISLATION AMENDMENT BILL

TRANSCRIPT OF PROCEEDINGS

FRIDAY, 23 JUNE 2017

Brisbane

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Committee met at 1.51 pm

STAPLETON, Mr Mike, Deputy Director-General, Customer Services Safety and Regulation Division, Department of Transport and Main Roads

WOODS, Mr Martin, Manager, Transport Legislative Reform, Department of Transport and Main Roads

WROBLEWSKI, Mr John, General Manager, Transport Regulation Branch, Department of Transport and Main Roads

CHAIR: Thank you, gentlemen. We have asked you to come down this afternoon because there are a couple of issues with the Transport and Other Legislation Amendment Bill that we need to straighten out before we can put the report together. You have been told what this is about. Do you have an opening statement?

Mr Stapleton: No, we do not have an opening statement. We have some responses to the four questions put to us this morning.

CHAIR: Deputy Chair, given that you raised the issues and wanted some answers, would you like to take over?

Ms LEAHY: I was going through the amendments, the explanatory notes, the bill and the Dangerous Goods Code, as well. For the benefit of the committee, could you tell us what actually happens now? Infectious substances are contained in the Dangerous Goods Code. Could you take the committee through what happens now, so that we can get an understanding of exactly what the impact of the amendment in the bill means?

Mr Stapleton: In terms of exactly what happens now in transportation of the product, can you talk to that?

Mr Wroblewski: I can put forward two examples that I think might help. These two examples explain the minor quantities of dangerous goods that can be transported. This relates to that change for dangerous goods. It moves it from one page in the existing guide and it puts it into a different place on that page. Part of this amendment alters the pointing to that table. The table still has exactly the same quantities as it did before. It still has the code broken down and the same code descriptions as it has before. However, it points to a different place. I do not know if I made that very clear last time; I probably did not.

Ms LEAHY: I do not think you got to speak on it, John.

Mr Wroblewski: If I can hand those across, that might help. There is also a change in the table name. All the specifics around what a dangerous good is have not changed.

For the infectious substances, there is no change in the movement of infectious substances today or post the adoption of this change as there was six months ago. Again, this was to clarify an issue where there was potentially some ambiguity where someone could misinterpret the way that might have been written. Everything that we have from industry indicates that they have been interpreted in the way that we believe it should have been interpreted. However, the drafting office had said some time ago that we should clean this up and make it more specific, so there is absolutely no possibility of someone incorrectly interpreting it. Does that help?

Mr Stapleton: That was with the carriage of infectious substances in small quantities. There is an exemption outlined there in terms of the labelling. There was a view apparently from the drafting office that it could be misinterpreted that there was an exemption on the infectious substances that did not exist and they wanted it clarified in the legislation.

CHAIR: You are saying that nothing has really changed?

Mr Stapleton: No.

CHAIR: It is still the same as in the current legislation?

Mr Wroblewski: Yes. Both of these pieces are a very technical clean-up. They do not change how much you can carry, how you can carry it or where you can carry it.

Mr Woods: Or what the infectious substances are.

Mr Stapleton: That is not surprising, because often the carriage of infectious substances is actually undertaken by specialist transport organisations that are very familiar with the requirements. They will come out to wherever you are, package it up for you and ensure that all the documentation is correct, and then transport the substance.

CHAIR: I have two documents here. Committee, can they be tabled? They are tabled.

Ms LEAHY: The explanatory notes and the answer to the question on notice did not seem to line up really well in the way this was worded. What you are saying is that the transportation of small amounts of infectious substances, which are listed in that list, will still be able to occur; is that correct?

Mr Wroblewski: Whatever you could previously shift a year ago, you will be able to shift tomorrow. There is no difference in the quantity of goods that you can move or the type of goods and how you must move them.

CHAIR: With time frames and everything, nothing has changed?

Mr Wroblewski: Nothing has changed. The table move was technical. There are different pages and different parts of the code in which it sits, but the quantities inside the table are exactly the same as they were. That table is broken up under various codes of heading; 23, 24, 25, for example. The items that sit inside those various code elements have remained exactly the same. With infectious substances, there was the potential to have ambiguity in the understanding around infectious substances. There was never an intention to be able to move infectious substances.

Mr Woods: The objective of the infectious substances, at least, was that you would not be able to transport any quantity of the items in that list. However, in the Dangerous Goods Code there was this other little table that said if you have a small quantity of a dangerous good, and dangerous goods covers all manner of things and not just infectious substances, you can move up to this small quantity. However, there was another section of the Dangerous Goods Code that basically was intended to set out that you just cannot move infectious substances. What we have done is gone through and clarified that the small quantity exemptions set out in that table do not apply to infectious substances. They will only continue to apply to other kinds of dangerous goods in relation to labelling.

Mr Stapleton: The critical thing is that it is in relation to the labelling. It is not preventing the transport of the goods. It is that it cannot be transported without the correct labelling, which we understand is happening in most cases anyway.

Mr Woods: If you were going to move a small quantity of an infectious substance, before these amendments—so, as it stands now—you would still be required to have placarding and you would be required to have the appropriate documentation in place. If there was an accident and an emergency services vehicle had to deal with it, for example, they would be able to see that a dangerous infectious substance is being transported. With small quantities of other kinds of dangerous goods, you do not have to have those requirements. You do not have to comply with those requirements. Does that assist?

Ms LEAHY: I want to be clear, because from the way that the legislation is written it looks like the door was opened slightly to transport small quantities of infectious substances; correct?

Mr Stapleton: Without labelling; that is the critical thing. At no point were we stopping the transport of the infectious substance. It was about the labelling of the substance, which was the issue that was raised. When they actually checked with industry, industry said, 'In actual fact, we have interpreted it as we do need to label'. They were saying, 'We were doing it'. The drafting office said, 'We still think you need to get the clarification in place nationally'. That is what this is about: putting that clarification in, to make sure that no-one can misinterpret what the requirement is.

CHAIR: It all has to be labelled.

Mr Stapleton: Yes, it all has to be labelled.

CHAIR: So it has changed a bit?

Mr Woods: It is technically changed, but in practice all of this legislation is nationally consistent and it is put together through national maintenance groups with the National Transport Commission. They work closely with industry. The understanding of everyone up to date has been that, if you are transporting any amount of an infectious substance, you comply with the Dangerous Goods Code requirements and that small quantities table was intended to apply to other things. Because there

were particular sections in the Dangerous Goods Code that are meant to deal with infectious substances, it had previously been read that that applies for any amount of an infectious substance. We have just gone through and clarified that the table does not apply.

CHAIR: I totally agree with what you are doing, but ‘technically changed’ means that it has changed. It is as simple as that.

Mr Wroblewski: The intention and the way that it was written always had that requirement. It depends on the way in which you read the code and you apply it. The intent was always that. The previous work that was done always said that this is the way it will be. This is just cleaning it up to clarify that this is the way it is. The way it was previously written—and I am going to pick on numbers—there was maybe a one per cent chance you could go, ‘Hang on a second, I think I am going to apply it this way, even though it said over here that you couldn’t move these things in that way’. This gets rid of that one per cent chance of going—

CHAIR: Which is a good thing.

Mr Wroblewski: Yes. We have not changed any intent from what we had. We believe it was right, previously. This is Parliamentary Counsel saying, ‘You need to take a look at that, as there is some possibility that maybe you may misinterpret the way it has been written’.

CHAIR: Ann, you have done a good job in picking that up, but I do not think there is anything to worry about. What is your question?

Ms LEAHY: I am interested in clause 58. Correct me if I am wrong: is the intent to amend the legislation so that you can still transport small quantities, but they are to be labelled?

Mr Stapleton: It is to reaffirm that intent, yes.

Ms LEAHY: That is the intent. When you go through clause 58, the insertion states—

(b) the transport of a load of dangerous goods if—

(i) the dangerous goods are not, and do not include, infectious substances ...

To me, that reads as if infectious substances are gone. Let us make sure that we have the clauses right.

Mr Wroblewski: We will go back and double check all of that, but the intent was that you could not move this item this way. It will be exactly the same tomorrow. If there was an element of an infectious substance 12 months ago that you could or could not move, the way you can or cannot move it tomorrow will be exactly the same as it was previously. This is just trying to remove any link that says you may apply the dangerous goods table to the infectious substance.

Mr Woods: Clause 58 is amending a section in the Transport Infrastructure Act that provides for small quantity exemptions and calls up the table that we have been talking about. Essentially, it is clarifying that the dangerous goods that are potentially exempt from the regular dangerous goods requirements do not include the infectious substances.

Ms LEAHY: That is then saying that your infectious substances are totally separate to a dangerous good, so they have come out of the Dangerous Goods Code; is that right?

Mr Woods: For the purpose of this section only, so if you were to go to section 440 it talks about exemptions from the requirements of the transport of dangerous goods. Basically, it is saying that the things in that table are small quantities of dangerous goods, so you do not have to worry about the labelling requirements.

Mr Stapleton: It is only the exemption table that the dangerous goods have been removed from. It is only that specific table that outlines the quantities that can be transported without labelling.

Ms LEAHY: You have lost me there.

CHAIR: It is all over the place.

Mr Wroblewski: The table that you have in front of you shows the small amounts of dangerous goods that can be carried. That table does not apply to infectious substances. That table was never meant to have been applied to infectious substances. There is another area inside the act that talks about infectious substances and deals specifically with infectious substances. There was the possibility that if you read both of those pieces and did not read the piece about infectious substances first, correctly or clearly, you might think that the dangerous goods table applied to infectious substances. It does not. It never was supposed to. It was never meant to. There was never any belief that it did. It was the way that we previously drafted the wording inside the legislation that allowed the potential for some ambiguity.

Ms LEAHY: The question I am getting at is this: will infectious substances stay in the Dangerous Goods Code?

Mr Stapleton: Yes.

Mr Wroblewski: Yes, they have their own area inside the Dangerous Goods Code. It is more than a section. There is a whole element inside there that talks specifically about infectious substances and the transport of infectious substances. That has not changed.

Mr Woods: Just to summarise, if that is okay, the transport of infectious substances continues to be covered under the dangerous goods rules. However, we have just clarified that the small quantities exemptions that apply to other kinds of dangerous goods will not apply for infectious substances. That was always the intent. This is just making it very clear that that is the case. Does that assist?

CHAIR: With respect, it is not very clear to me. I think that you guys have a bit of a job to do to set it out in a simple form, so that people understand it. We will also make a recommendation that the minister clarify that in his second reading speech. From listening to you there, it is pretty confusing, as far as I am concerned.

Ms LEAHY: I am further concerned. I had a look at the national group that you were referring to. They are all based in Victoria. I am sorry, but they have absolutely no idea about Queensland. They all sit in Victoria. I tracked through to try to find the regional and rural ones, as well. There is no link on the website. I suggest you go and look at that. You cannot get to whichever the rural and regional advice group is, because the link to your departmental website does not work. You should track that through. There is a lack of consultation on this. The example I use is this: the mailman is going out west to Quilpie where there is a Hendra virus situation. Hendra virus is covered under the UN division 6.2. A small quantity of that has to be transported, to get a decision on it. It is a small quantity. How do you do it? I think the door was left open to allow that small quantity transport, for some reason. I know Parliamentary Counsel is saying that it is a technical amendment and to close the door, but I think it was left open for some reason.

Mr Stapleton: The transportation of that small quantity was always permitted. There was just a requirement that it be labelled and that is still the same under the amendment.

Ms LEAHY: What we just heard here, though, is that it will have its own section, and because it will allow small quantities to be transported there will be a different section under the Dangerous Goods Code. I think that is where it gets complicated.

Mr Woods: With the Hendra virus example, I have spent a little bit of time with my team trying to understand what exactly does happen. We have talked to contacts in Biosecurity. Our understanding is that, as soon as there is a call to a vet or a suspicion of Hendra virus, Biosecurity is called and things start getting coordinated so that it can be locked down. It is not our area. I do not know that we even now have a situation where somebody would have a suspected product that may be Hendra virus and that they would transport it without the labelling or the like. I think it has to be coordinated and Biosecurity gets involved.

CHAIR: They do not know what it is when they send it off for testing. It might not be declared as Hendra at that stage. Once it is declared Hendra virus, the whole situation changes. A lot of horse owners complained to another committee I was on about how long it takes to get properly tested. Once it is tested and confirmed, then it is Hendra virus.

Mr Woods: As far as we understand it, and this is from the conversations that we have had, there would not be the movement of that virus without some labelling requirements. If it is an unknown—

Mr Stapleton: The answer would be, yes, if it is unknown.

CHAIR: Or if it is being sent for testing as Hendra virus.

Mr Stapleton: It depends on how it is suspected, Chair. If there is a suspicion of Hendra virus, they have to declare.

CHAIR: That is true, but there is a lot of argument around that.

Mr Stapleton: It depends on how it is diagnosed.

Ms LEAHY: I have had experience with anthrax, which is not actually under that prescribed list. That list is another issue, because you do not really find yellow fever and those things in this country. There is a bit of a problem with the list, as well. Getting suspected anthrax samples out from west of St George was extremely difficult, because nobody wanted to touch it. It does create those difficulties.

I agree with the chair that we really need to make sure that it is very clear, because it was ambiguous in the explanatory notes, the answer to the question on notice and exactly how the clause reads. We really need some serious clarification around that.

CHAIR: That would be lovely. You guys are so cooperative. Thanks very much for coming up. We appreciate it. Ann, you have done a good job picking up on the potential for a misunderstanding of what it all means. We need to tidy that up. We will leave it up to you guys and the minister's second reading speech to sort it out.

Ms LEAHY: Consultation with those things makes it clearer. I cannot reinforce that enough.

Mr Stapleton: We will pass that on to the National Transport Commission.

CHAIR: I declare this briefing closed.

Committee adjourned at 2.12 pm