TRANSPORT (RAIL SAFETY) BILL

First Reading

Hon. RJ MICKEL (Logan—ALP) (Minister for Transport, Trade, Employment and Industrial Relations) (3.36 pm): I present a bill for an act to provide for rail safety, and for related purposes. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Second Reading

Hon. RJ MICKEL (Logan—ALP) (Minister for Transport, Trade, Employment and Industrial Relations) (3.36 pm): I move—

That the bill be now read a second time.

The Queensland government is committed to the effective management and control of risks in order to further improve the safety performance of the state's diverse and growing rail operations. The government also places great importance in promoting public confidence in the safety of transport on and around Queensland's 9,800 kilometres of rail corridor. This bill, based on the national model Rail Safety Bill 2006, will further strengthen existing rail safety legislation, regulatory processes and safety outcomes. In view of the time, I seek leave to have my speech incorporated in Hansard.

Leave granted.

National approach

The Council of Australian Governments has long recognised the need for rail safety reform, including legislative reform, to improve the national consistency of rail safety regulation. Such consistency provides the platform for increased efficiencies by the nation's rail operators, particularly for those that operate across jurisdictional boundaries.

Of even greater importance, however, are the potential improvements to safety outcomes that nationally consistent legislation, regulation and operational practices will provide. The need for further improvements are underlined by the tragic consequences of past fatal rail incidents, such as those that occurred at Waterfall and Glenbrook in New South Wales, and more recently at Kerang in Victoria and Mindi in central Queensland.

The model Bill, an integral component of an overarching rail safety reform package, was developed by the National Transport Commission, in consultation with rail safety regulators, industry, rail unions, and other stakeholders, and approved by Transport Ministers through the Australian Transport Council in 2006.

Safety regulation of the rail industry by Australian State and Territory governments is based on the co-regulatory model. Rail infrastructure managers and operators are required to gain accreditation from a State or Territory rail safety regulator before they can operate in that jurisdiction.

Development of Transport Rail Safety Bill 2008

Development of Queensland’s Bill has involved extensive consultation with the rail industry, including commercial and not-for-profit rail transport operators, rail and associated unions, and relevant state and Commonwealth government agencies.

Government has committed to further consultation with industry, unions and other stakeholders on the supporting Transport (Rail Safety) Regulation, which will also be based on the national model, following Parliamentary approval of the Bill.

I acknowledge and commend the efforts of all who have contributed to this process to date.

Objects of the Bill

The Bill sets out the legal duties and operating requirements to provide for the improvement of the safe carrying out of railway operations, the management of risks associated with these operations and the promotion of public confidence in the safety of transport of passengers or freight by rail.

The Bill builds on the co-regulatory approach through the implementation of a number of regulatory best practices. The Bill’s co-regulatory approach incorporates the core principles of shared responsibility; integrated risk management; transparency and consistency; participation; consultation and involvement; and proportionate, consistent and fair enforcement.

Importantly, the Bill forms part of a system of nationally consistent rail safety laws which are intended to assist in the delivery of a higher degree of regulatory harmonisation across Australian States and Territories.

Impacts of the Transport Rail Safety Bill 2008

As highlighted in the model Bill’s Regulatory Impact Statement, jurisdictional legislation based on the model Bill should further refine and improve the existing co-regulatory structure, as well as its efficiency and effectiveness. The Regulatory Impact Statement also indicates that many of the new provisions should result in a reduction of business compliance costs, with some other provisions contributing to, at most, only minor or modest cost increases.

The largest impact of the Transport Rail Safety Bill will be the further improvements to rail safety through the implementation of key provisions.

Under the new Bill, rail transport operators will continue to require accreditation before they can operate. Mr Speaker, it is worth noting that there are 29 accredited railways operating in Queensland including Queensland Rail, Pacific National and the Airtrain, as well as 13 tourist and heritage rail operations, of which a number of you are avid patrons. This Bill clarifies the criteria for, and purpose of such accreditation, which is to attest that an operator has demonstrated the competence and capacity to manage risks
to safety associated with its railway operation, as opposed to the current requirement to demonstrate competence and capacity to comply with certain administrative standards.

The Bill also legislates the requirements for a rail transport operator’s Safety Management System, the majority of which currently exist as administrative requirements under the National Accreditation Package for rail safety. Such requirements include specific plans and programs for security management, emergency management, health and fitness management, alcohol and drug management, and fatigue management.

There are specific provisions within the Bill, however, to complement the requirement for alcohol and drug management plans. These provisions incorporate the power, if considered necessary by the rail safety regulator, to undertake random testing or require rail transport operators to randomly test their workers for the presence of alcohol and drugs.

Another change to the current requirements will be the need for operators to consult those persons who are intending to work on or at their railway premises, both during the initial development of their Safety Management Systems and in the ongoing process of maintaining and updating those systems.

The Bill will also provide for related compliance codes and associated national guidelines currently being developed, which will guide rail safety regulators’ requirements and behaviour and provide rail transport operators with a nationally consistent set of expectations regarding the processes to be followed.

It should be noted Mr Speaker that rail transport operators will have 12 months from the Bill’s enactment date to make any required changes to their Safety Management Systems and associated practices as a result of the new legislation.

An important highlight of the Bill is the inclusion of ‘general safety duties’ that require all rail transport operators and contractors who undertake rail safety work, for specific prescribed railway operations, to ensure the safety of their railway operations, ‘so far as is reasonably practicable’. These statutory duties of care define the required level of safety, make clear which parties have accountabilities for rail safety and are designed to increase the regulatory reach of the Rail Safety Regulator. The prescribed operations to which these duties relate primarily encompass the movement of rolling stock on a railway and activities that affect the safe operation or movement of that rolling stock.

Such prescribed operations generally take place on or within the immediate vicinity of a railway track and do not include operations which take place in workshops or other workplaces away from the immediate vicinity of the track. The general safety duties provisions have been developed to complement Queensland’s other safety legislation, particularly the Workplace Health and Safety Act 1995.

An existing Memorandum of Understanding between Queensland Transport and the Department of Employment and Industrial Relations regarding rail safety will be enhanced upon the introduction of the new rail safety legislation to take into account any resultant changes.

Queensland’s rail safety regulator does possess a full range of audit, inspection and enforcement powers. The Bill will further enhance these powers. However, it will also put in place an array of checks and balances to ensure that regulatory decision-making processes continue to be timely, transparent and nationally consistent.

The Bill also requires rail transport operators to ensure that each rail safety worker, who is to carry out rail safety work, possesses the relevant competencies to carry out such work. Such requirements are designed to ensure that rail safety workers are appropriately trained and skilled before undertaking work associated with specific safety risks.

The Transport Rail Safety Bill, as in the model Bill, includes for the first time a requirement for private sidings to be registered with the rail safety regulator. Private siding managers must also have in place interface coordination plans with the accredited rail transport operator who manages the railway to which the private siding connects, and comply with any conditions attached to the registration of the siding.

As private sidings are currently not required to be registered, a period of three years from when the Bill is enacted has been incorporated as a transition period for this provision.

The Transport Rail Safety Bill, in conformity with the model Bill, also replaces the current mechanism for assessing rail transport operators who wish to be accredited to operate in more than one jurisdiction. The current mechanism, Mutual Recognition, will be replaced with Uniform Administration, which will require rail safety regulators to coordinate decisions on such applications for accreditation and variations to existing accreditations.

The Transport Rail Safety Bill does make a significant variation to the model Bill in regard to the rail-related operations it applies to. A ‘railway’ as per the model Bill also includes monorails, sugarcane railways and a surface railway that is used solely for a mining operation, such as that at Weipa in the state’s far north. These operations are specifically excluded under Queensland’s current rail safety accreditation requirements as they are being regulated under existing Workplace Health and Safety and Mining Safety legislation. In this regard, the status quo will remain and these operations will be exempt from rail safety legislation under the Bill.

Mr Speaker, this Bill has been developed over 18 months and, as previously mentioned, has involved extensive national and interstate consultation with interstate rail regulators, rail operators, unions and associated central agencies. I wish to thank my department of Transport for the work done to date.

I commend the Bill to the House.

**Debate, on motion of Mr Nicholls, adjourned.**

**LOCAL GOVERNMENT AND INDUSTRIAL RELATIONS AMENDMENT BILL**

**First Reading**

Hon. R.J. MICKEL (Logan—ALP; (Minister for Transport, Trade, Employment and Industrial Relations) (3.39 pm): I present a bill for an act to amend the Industrial Relations Act 1999 and the Local Government Act 1993 and to make consequential amendments of other acts. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.