

Transport (Amendment of Queensland Road Rules) Bill 2006

Explanatory Notes

General Outline

Short Title

The short title of the Bill is the *Transport (Amendment of Queensland Road Rules) Bill 2006*.

Policy Objectives of the Legislation

The objective of this Bill is to amend Section 266 of the *Transport Operations (Road Use Management – Road Rules) Regulation 1999* to create a legal requirement that all child restraints sold, hired and professionally installed in Queensland are by an accredited business with certified sales people and/or installers.

These amendments seek to reduce the rate of child fatalities in Queensland that are a direct result of an unsuitable child restraint being used and/or being installed incorrectly in the vehicle. They aim to do this by ensuring that all parents and carers are given the best advice on selection, use and installation of suitable child restraints for their child and that any parent/carer wishing to have their child's restraint professionally installed can do so with the knowledge that the installation will be performed to the required standard by an accredited business.

Reasons for the Bill

Queensland Transport has identified road accidents as the largest single cause of child deaths in Queensland. A significant factor contributing to this is children who are passengers in vehicles involved in motor vehicle accidents.

On Queensland's roads in 2004, 6 children under the age of 6 were killed and 312 injured whilst passengers in motor vehicle accidents across the State. Of these 318 children killed or injured, 301 had a fitted child restraint in the vehicle with 93% of the children positioned in their restraint.

In the 1999 RACQ Report, *Child Restraint Advice and Fitting Service in Queensland*, 40% of parents/carers were not using the correct restraint for their child's height and weight whilst the children were under 3. In children aged 4 to 7 years that figure rose to 58%, and alarmingly, 94% of parents/carers believe that adult seat belts are suitable for children under 7 years.

The RACQ also found that 35% of parents/carers indicated they would never seek professional advice with the installation of child restraints, with 78% believing child restraints are easy to install. The Queensland Ambulance Service has found installation problems in more than half of all baby capsules they have inspected, while the 1999 RACQ research found that 30% of the child restraints surveyed in South East Queensland had one or more installation faults and of these, 75% of the faults were life-threatening in the event of a motor vehicle accident.

Child restraints are available for sale or hire in a variety of outlets across the State ranging from automotive stores to supermarket/variety stores to specialist baby stores. Only 20% of restraints in the RACQ research were purchased by parents/carers from a specialist baby store and then parents/carers felt that only 15% of sales staff were 'very well informed' about the restraint's use and installation.

It is for these reasons this Bill has been brought before the House. Child restraints are being used by the vast majority of parents/carers, but in many cases they are not the correct restraint for the child's height and weight and they have not been installed correctly in the vehicle, thereby reducing the child restraint's effectiveness and possibly doing more harm than good in the event of a motor vehicle accident.

Achieving the Objectives

The objectives of the Bill will be achieved through regulating all businesses and their employees that sell, hire or install child restraints.

Business Accreditation

Businesses wishing to sell, hire and/or install child restraints must apply to Queensland Transport for accreditation. Businesses accredited by Queensland Transport to sell, hire and/or install child restraints will be deemed an accredited child restraint retailer, hirer and/or installer.

For accreditation as a Child Restraint Retailer or Hirer, the business must ensure that there is at least one employee who is certified in child restraints and available for consultation during business opening hours. The business will also need to display Government approved signage, its Government issued certificate of accreditation and ensure that its accreditation is renewed every two years.

For accreditation as a Child Restraint Installer, the business must ensure that all employees who install child restraints are accredited. The business will also need to display Government approved signage, its Government issued Certificate of Accreditation and ensure that its Accreditation is renewed every two years.

Employee Certification

All employees who wish to be certified in child restraint selection, use and installation, must have successfully completed the Government approved course which will be available through an approved Registered Training Organisation such as Queensland TAFE. Employees must be able to produce current proof of their qualification at all times whilst involved in the sale, hire or installation of child restraints.

Child Restraint Regulation

Queensland Transport will deal specifically with the enforcement of child restraint laws and will be responsible for providing expert information and advice regarding child restraints to accredited businesses, certified individuals and to Parents and Carers. Queensland Transport staff working within the area of child restraint accreditation will need to be trained and child restraint specialists will need to be employed/contracted by Queensland Transport to conduct business accreditation and also to review decisions regarding child restraint integrity, should disputes arise.

Administrative Costs

The legislative amendments in this Bill will impose some cost to implement. Queensland Transport through its normal licensing operations should be able to handle this process. Staff training will be required to obtain their qualification and become certified in child restraint sale and installation.

Fundamental Legislative Principles

This Bill is consistent with fundamental legislative principles as described in the *Legislative Standards Act 1992*.

Consultation

Thorough consultation has been conducted with RACQ, members of the business community who sell and install child restraints and a number of parents and carers.

Notes on Provisions

Clause 1

This clause states that the short title of the Act is the *Transport (Amendment of Queensland Road Rules) Act 2006*.

Clause 2

This clause states that parts 2 and 3 of this Act commence 6 months after the date of assent.

Clause 3

This clause defines the regulation being amended in part 2 as the *Transport Operations (Road Use Management – Road Rules) Regulation 1999* (the TORUM-RR Regulation).

Clause 4

This clause amends s266 of the TORUM-RR Regulation.

Section 266(2) provides that passengers under 7 years old must be restrained in a suitable approved child restraint unless the passenger or the driver is exempt. This differs from the TORUM-RR Regulation as the age for passengers to whom the section is applicable has been increased from 1 to 7 years old to reflect the ages of children who, according to research done by the RACQ, should still be restrained using a suitable approved child restraint.

Section 266(3) provides that passengers at least 7 years old but under 16 years old and not exempt from wearing a seat belt must be restrained either in an appropriate approved child restraint or restrained by a properly adjusted and fastened seat belt in a seated position. This differs from TORUM-RR Regulation on two accounts:

- (i) the age of passengers to whom the section is applicable increases from at least 1 year old to at least 7 years old in accordance with the amendment to section 266(2); and,
- (ii) subsection (a) is amended so children at least 7 years old who are not of the correct height and weight to be restrained by a properly adjusted and fastened seat belt in a seated position are required to be restrained in an approved child restraint that is appropriate for the child's height and weight according to a manufacturer's height and weight chart is approved by the chief executive.

Section 266(4) sees 'suitable approved child restraint' being substituted with 'an approved child restraint' that is appropriate to incorporate into the amendment to s266(3)(a).

Clause 5

This clause inserts new s266A and 266B. These sections define the requirements for businesses to be accredited by the chief executive as retailers or hirers (s266A) or an accredited installer (s266B), the requirements for these businesses to have certified employees and detail the penalties applicable to businesses and business proprietors that breach these requirements.

Section 266A

Subsection (1) states that a business proprietor must not sell or hire a child restraint unless the proprietor is accredited as a retailer or hirer by the chief

executive and, should the business proprietor not be accredited, the penalty for the first offence is 40 units and for a second or later offence this doubles to 80 units.

Subsections (2) and (3) provide that a business proprietor must apply to the chief executive for accreditation as a retailer or hirer and that the chief executive may grant accreditation for 2 years and provide the business proprietor with a certificate of accreditation.

Subsections (4), (5) and (6) detail the requirements a business proprietor must ensure are met, at all times and for each place of business, to be an accredited child restraint retailer or hirer. These requirements are that at least 1 certified employee must be on duty whilst the business is open and that an approved weight and height chart and sign about child restraint effectiveness and fitting advice be displayed. A penalty for a breach of this subsection is 10 penalty units.

These subsections provide that an accredited child restraint retailer or hirer must clearly display the certificate of accreditation provided by the chief executive at the principal place of business and that certified employees must be able to produce evidence of their qualification while involved in the selling or hiring of child restraints. A penalty for a breach of either of these subsections is 10 penalty units.

Subsections (7) and (8) address renewal of accreditation by the chief executive and provide that upon demonstration that the requirements of subsections (4) and (5) are met, accreditation must be renewed.

Subsection (9) defines terms for the purposes of the section.

Section 266B

Subsection (1) states that a business proprietor must not install a child restraint unless the proprietor is accredited by the chief executive and, should the business proprietor not be accredited, the penalty for the first offence is 40 units and for a second or later offence this doubles to 80 units.

Subsections (2) and (3) provide that a business proprietor must apply to the chief executive for accreditation as a child restraint installer and that the chief executive may grant accreditation for 2 years and provide the business proprietor with a certificate of accreditation.

Subsections (4), (5) and (6) detail the requirements a business proprietor must ensure are met, at all times and for each place of business, to be an accredited child restraint installer. These requirements are that all employees involved in the installation of child restraints are certified employees and that an approved height and weight chart and sign about child restraint effectiveness and fitting advice be displayed. A penalty for a breach of this subsection is 10 penalty units.

These subsections also provide that an accredited child restraint installer must clearly display the certificate of accreditation provided by the chief executive at the principal place of business and that certified employees must be able to produce evidence of their qualification while involved in the installation of child restraints. A penalty for a breach of either of these subsections is 10 penalty units.

Subsections (7) and (8) address renewal of accreditation by the chief executive and provide that upon demonstration that the requirements of subsections (4) and (5) are met, accreditation must be renewed.

Subsection (9) defines terms for the purposes of the section.

Clause 6

This clause amends the Dictionary contained in schedule 6 of the TORUM-RR Regulation. It inserts definitions of *appropriate* in relation to an approved child restraint, *approved height and weight chart*, *registered training organisation* and *statement of attainment*.

Clause 7 and 8

These clauses amend the Transport Operations (Road Use Management) Act 1999. Clause 8 is a standard provision that is inserted whenever a regulation is amended by a Bill.