

TRANSCRIPT

STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

Inquiry into the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015

Melbourne — 30 May 2016

Members

Mr Joshua Morris — Chair

Ms Colleen Hartland

Mr Khalil Eideh — Deputy Chair

Mr Shaun Leane

Mr Nazih Elasmr

Mr Craig Ondarchie

Mr Bernie Finn

Participating Members

Ms Samantha Dunn

Staff

Secretary: Dr Christopher Gribbin

Witnesses

Ms Gemma Kernich, Unit Manager, Programs and Planning Advice, and

Mr Andrew Parkinson, South Australian Department of Planning, Transport and Infrastructure (*via videoconference*).

The CHAIR — I begin by opening this hearing of the Standing Committee on the Economy and Infrastructure. Thank you for agreeing to provide evidence to us today. The committee is hearing evidence today in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015 and the evidence today is being recorded. All evidence taken today is protected by parliamentary privilege; therefore you are protected for what you say. However, if you go out and repeat the same things, these comments may not be protected by this privilege. At this point I will hand over to your good selves. If you would like to make some introductory comments, then we will follow those up with some questions from the committee. Over to you.

Ms KERNICH — I do not know that we have got any introductory comments.

The CHAIR — No introductory comments?

Ms KERNICH — We have actually written a submission. I am afraid I am not sure if it has actually made it to you as yet, that is all.

The CHAIR — We have some background here about what has happened in South Australia, so we may well have received it. Are there any comments you want to make about what has happened in South Australia with regard to these laws?

Ms KERNICH — No. You can just fire away.

The CHAIR — You are just happy to run off with some questions?

Ms KERNICH — Yes. We do not know what you know.

The CHAIR — Not a lot. We might start. In terms of the implementation of these passing distance laws, what do you think is important to take into account if Victoria were to implement them?

Ms KERNICH — I think an education campaign is going to be quite important to make sure that people understand what the changes are and how they work. We quite closely followed what Queensland had undertaken and used their FAQ and education material, including videos, and edited them for our own purposes. That proved quite valuable. Our regulation change was only one of two laws that changed in relation to cycling, and this one received a lot less public interest than the other, which is in relation to footpath cycling. So this was the quieter one.

The CHAIR — So in terms of the footpath cycling, was it outlawed? What happened there?

Ms KERNICH — No. We now permit all-age cycling on footpaths in South Australia following several other states that have had the same. That was one regulation change, and then the overtaking changes was the other — passing.

The CHAIR — The possibility of a law change here in Victoria is certainly receiving considerable attention and the like. Do you think your law change almost went through under the cover of darkness as a result of the other law change? What was the reason for the lower public interest in this particular law change?

Ms KERNICH — Both changes were generated from Citizens' Jury here in South Australia. I think the 1-metre one or the passing bicycles one people could understand the common sense of it a lot easier. Perhaps that might be why it has probably received less inquiries or talkback or complaints compared to footpath cycling. It is less contentious. As to why, it is hard to really pick.

The CHAIR — With regard to one of the changes that is being proposed as part of the legislation we are looking at at the moment is the ability for cars to cross double white lines if they are overtaking a cyclist. Is that the case in South Australia? Is that permissible under the regulation that was implemented?

Mr PARKINSON — Yes, it is. Victoria's is almost identical to South Australia's model in that the motorist will be allowed to drive to the right of the centre of the road if there is no dividing line, will be able to cross the dividing line if there is one — may straddle lanes if you want. There is a road rule about being required to stay in one lane or one line of traffic only. That is also forgiven, I suppose, if you are passing a cyclist. The Victorian model differs from the South Australian in that it is an addendum to passing an obstruction, so it is sort of the same. It treats the bicycle as a moving obstruction, whereas we do not in South Australia. We just say if there is

a bicycle there, you are exempted from these other laws of staying to the left-hand side and so on if you are passing the bicycle. It is not an overtaking law; it is a passing law, so you pass more than a certain distance, because overtaking has its own definition under the road rules. It means we are coming from behind, passing to the right and keeping going back in front.

The CHAIR — Yes, indeed. Okay. That is an interesting point to note, that there is a distinction there. We have heard that in Queensland, where this rule has been implemented, there have been relatively few incidents where motorists have been fined for breaking this particular rule. I am wondering what the numbers are looking like in South Australia with regard to the number of people who have been found to have contravened the law and as a result have lost demerit points and been fined.

Ms KERNICH — That is not within our jurisdiction; we do not have those figures. We can say, though, when the law came in on 25 October 2015 that the police did have a three-month education period where they were using their judgement as to whether someone would receive a fine or not, so we do not have any figures.

The CHAIR — So that was effectively a three-month grace period in which people were warned about contravention of the law rather than fined?

Ms KERNICH — Yes. That was the intention. There might have been some instances — I am not sure — as to whether or not they did fine someone for doing something blatant, but that is the police's business.

The CHAIR — Okay. Certainly. Thank you. I will hand over to Mr Leane.

Mr LEANE — I am just intrigued about the all-age cyclists being able to be on the footpath. It is not part of our reference, but if you do not mind me asking, what sort of checks and balances were put around that when that was opened up to all ages to ride on the footpath as obviously the conflict with pedestrians?

Mr PARKINSON — The road rules are really set up to allow cycling on footpaths, and you may prohibit them under a local law if you wish. That is what South Australia did until last year. We prohibited all adults until about 2014, and then the regulations were changed to allow people over the age of 18 accompanying a child to ride on the footpath, and then all ages were allowed in October 2015. The road rules were set up to allow cycling on footpaths. If you have a look in rules 250 and 252, they require the cyclist to keep to the left. They require the cyclist to give way to any pedestrian that is on the footpath. In South Australia we also have the requirement to warn the pedestrians of danger if it needs to be averted. We are sort of going back to a position where the road rules said you are allowed to. We repealed the prohibition, if you want.

Ms KERNICH — Which is in line with Queensland, Tasmania, the ACT and the Northern Territory, and as of a few weeks ago Western Australia was following suit.

Mr LEANE — Have you noticed a change of behaviours? Have there been more cyclists on the footpath rather than the road since, as you said, taking away the prohibition?

Ms KERNICH — It is difficult to measure. I think it is because it is something that people were already perhaps doing. There are more people that are feeling more comfortable to do so. Some of the advocacy groups have formed surveys of their members to ask whether they are riding on the footpaths more or less, and I think they are noticing a slight increase, but it is not something noticeable in the CBD. It is not something we are measuring. It would be difficult to measure anyway.

Mr LEANE — Fair enough.

Ms HARTLAND — Do you have any preliminary results of what difference the change to law has made in terms of numbers of accidents or incidents with cyclists?

Mr PARKINSON — The police have informed us that, and it is anecdotal, there has been an increase in the observable distance afforded to cyclists by motorists. That is anecdotal only.

Ms HARTLAND — So will you be collecting any kind of data to look at how it is or is not working?

Ms KERNICH — Obviously we collect crash statistics as part of ordinary business. We have only had the change in laws for seven months now, or however long it is. There is at least a four-month lag in data coming

in, and it is such a small period statistically that it would be very difficult for us to determine anything yet. It was not a trial; it just is what it is. Those things we would be monitoring as we go forward in time, as we do with all crashes.

Ms HARTLAND — I was interested in one of your remarks about this being common sense and that is why you think there was general acceptance in the community of this. Can you talk a little bit more about what the education campaign was or why you think it is that people saw this as just being common sense?

Ms KERNICH — Yes. When people have asked, ‘Why should I give them a metre?’ or, ‘This is too much distance’, and you say, ‘Well, what do you think would be a safe distance to overtake people’, most people sit there and go, ‘Oh yeah. That sort of makes sense’. Or, ‘How am I ever going to get past someone on the road; there is never enough room’, and you say, ‘What did you do before?’, and they said, ‘Broke the law overtaking them’. In some respects it is sort of a logical argument for people when they start to understand. Provided they understand that they can actually cross double lines or move to the wrong side of the road to afford that distance, most people seem to reconcile that it is logical, it is how they were driving anyway. Indeed as part of our regulatory consultation it came quite strongly in some of the responses that it is what people felt that they were doing as a safe driver. Do you want to add to that?

Mr PARKINSON — I will add that there is a heavy proviso in the South Australian law for the passing manoeuvre that the motorist must have a clear view of approaching traffic and to be able to make the manoeuvre of driving to the right of the side of the road or crossing double lines, it must be safe to do so. It is a heavy disclaimer: must have a clear view of approaching traffic; must be safe to be able to perform the manoeuvre of getting to the right of the side of the dividing line.

Ms KERNICH — We did do a regulatory impact statement on these regulations. They are publicly available on our Department of Premier and Cabinet website. I am not sure if you have been able to access those, but it is about 30 pages long, which might help explain some of the background that was prior to the regulations being changed. Since then we have used some creative that we borrowed from Queensland on how to overtake and when it is appropriate. Queensland framed their education campaign a lot around reducing the number of deaths and injuries. Ours is slightly more skewed towards making it more comfortable for more people to cycle safely, so a lot about comfort and not wanting to be frightened or scared on the roads.

Ms HARTLAND — Thank you.

The CHAIR — Thank you. I think you have pointed us in the direction of some important documents there. I would be particularly interested to read that RIS with regard to the impact of that change; I think that will be quite useful for us. At this juncture, I thank you very much for taking the time to provide evidence for us today. You will receive a copy of the transcript of today’s evidence for your proofreading. Those transcripts will ultimately make their way onto the committee’s website. Once again, thank you very much for taking the time to provide evidence to the committee today.

Ms KERNICH — Thank you.

Witnesses withdrew.