**DANGEROUS SUBSTANCES BILL 1979**

**Legislative Council, 6 February 1979, pages 2327-8**

 Second reading

**The Hon. D. H. L. BANFIELD (Minister of Health):** I move: That this Bill be now read a second time.

The purpose of this Bill is to ensure that regulations can be made to ensure the safe keeping, handling, conveying, use and disposal of any toxic, corrosive, flammable or otherwise dangerous substances. It was 70 years ago, in 1908, that an Inflammable Oils Act was enacted by this Parliament to regulate the keeping, conveying and sale of inflammable liquids. In 1960, when it became clear that liquefied petroleum gas would be used extensively, the Liquefied Petroleum Gas Act was passed to regulate the storage, conveyance and quality of liquefied petroleum gas.

Since then other flammable, toxic and corrosive substances have come into use, and in a number of cases are being conveyed on our roads. The Government has been concerned that there is no legislation to ensure the safe keeping, handling, conveying and use of these dangerous substances. Rather than have a number of separate Acts, each providing for the control of one particular type of liquid or substance, it has been decided to introduce a comprehensive Bill. The Bill will enable the Inflammable Liquids Act and the Liquefied Petroleum Gas Act to be repealed. However, the Bill does not apply to poisons which are regulated under the Food and Drugs Act, to explosives which are regulated under the Explosives Act or to radioactive substances which are regulated under the Health Act.

When the Bill was being drafted it became clear that the administrative changes that would be needed to give full effect to the widest possible scope of the Bill could not be justified. It appears far simpler, from both a legislative and administrative point of view, to leave the provisions relating to the control of poisons, explosives and radioactive substances as they are.

The Act enables regulations to be made to bring any dangerous substances within its ambit. Examples of substances to which it is proposed the Act will apply are flammable liquids, cryogenic liquids (below minus 150 degrees Celsius), flammable or poisonous gases, acids and swimming pool chemicals, all of which are highly dangerous if not kept, handled, conveyed, used or disposed of in a safe manner. At present there is no control over any of these substances except for petroleum based flammable liquids and liquefied petroleum gas, although it is known that all these substances are being transported by road in the State in vehicles and containers that are not required to conform to any minimum standard of safety.

There is legislation of a similar nature in the United Kingdom; New South Wales and Tasmania also have similar legislation in force, the Dangerous Goods Act, 1975, and the Dangerous Goods Act, 1976, respectively. However, the scope of both of those Acts is wider than that of this Bill because explosives, poisons and radioactive materials are regulated by those Acts.

The International Standards Organisation has recently adopted a code of practice on which it is proposed that regulations under this Bill will be based. The regulations made under the New South Wales Dangerous Goods Act have adopted the International Standards Organisation classifications of dangerous goods or substances. The provisions of this Bill together with the proposed adoption in the regulations of the International Standards Organisation classifications, will greatly assist in the longstanding need for uniformity between the States in regulating the safe transport and storage of dangerous substances. I seek leave to insert in Hansard the Parliamentary Counsel’s report on the Bill without reading it. Leave granted.

Parliamentary Counsel’s Report

This Bill is designed to incorporate in one Act provisions for the safe keeping, handling, conveyance, use and disposal of toxic, corrosive, inflammable or otherwise dangerous substances. It is proposed that the provisions of this measure would regulate the matters presently regulated under the Liquefied Petroleum Gas Act, 1960­ 1973, and the Inflammable Liquids Act, 1961-1976, which it is proposed would be repealed. In addition to applying to inflammable liquids and liquefied petroleum gas, it is intended that the measure would apply to other dangerous substances such as acids, anhydrous ammonia, chlorine, carbon dioxide and poisonous gases, all of which are highly dangerous if not kept, handled, conveyed, used or disposed of in a safe manner. At present there is no control over any of these substances although it is known that each of these substances is, for example, being transported by road in the State in vehicles and containers that are not required to conform to any minimum standards of safety. It should be pointed out that the measure, if enacted, would not be applied to poisons which are regulated under the Food and Drugs Act, to explosives which are regulated under the Explosives Act or to radioactive substances which are regulated under the Health Act.

Similar legislation has recently been passed in the United Kingdom and the International Standards Organisation has recently adopted a code of practice on which it is proposed that regulations under this measure would be based. New South Wales and Tasmania also have similar legislation in force, namely, the Dangerous Goods Act, 1975, of New South Wales and the Dangerous Goods Act, 1976, of Tasmania.

Clause 1 is formal. Clause 2 provides that different provisions of the measure may be brought into operation at different times.

Clause 3 sets out the arrangement of the Bill. Clause 4 provides for the repeal of the Liquefied Petroleum Gas Act, 1960-1973, and the Inflammable Liquids Act, 1961­ 1976. Clause 5 sets out definitions of terms used in the Bill. A “dangerous substance” is defined as any substance whether solid, liquid or gaseous, that is toxic, corrosive, inflammable or otherwise dangerous and is declared by regulation to be a dangerous substance.

Clause 6 provides that the Crown shall be bound. Clause 7 provides that the measure shall be in addition to and shall not derogate from any other Act. Clause 8 provides for the appointment of a chief inspector and other inspectors for the purposes of the Act. Clause 9 sets out the powers of inspectors. Subclause (1) sets out the usual powers of entry and inspection. Subclause (2) empowers an inspector, with the consent of the Minister, to destroy or render harmless any dangerous substance where he considers upon reasonable grounds that the dangerous substance endangers public safety or the safety of any person. The clause also empowers an inspector to give directions to the person having control of the dangerous substance to take steps to remove or alleviate the danger. Subclause (3) provides that an inspector may exercise the power to destroy or render harmless the dangerous substance without the consent of the Minister if the danger is imminent.

Clause 10 prohibits the disclosure of information obtained through the holding of any office under the Act. Clause 11 prohibits the impersonation of inspectors. Clause 12 protects the Director of the Department of Labour and Industry, permanent Head and other persons engaged in the administration of the Act from personal liability for administrative acts or omissions performed in good faith.

Clause 13 imposes a general duty upon persons to take proper precautions with respect to the keeping handling, conveyance, use or disposal of any dangerous substance. Clause 14 provides for creation by regulation of a subclass of prescribed dangerous substances for the purposes of the licensing of persons who keep such dangerous substances. Clause 15 prohibits the keeping of prescribed dangerous substances except in pursuance of a licence or as permitted by regulation. Clause 16 provides for the grant by the Director of the Department of Labour and Industry of licences to keep prescirbed dangerous substances in premises that comply with the regulations. The Director is empowered to impose conditions upon licences granted under the clause.

Clause 17 provides for the renewal of licences to keep such prescribed dangerous substances. Clause 18 provides for the creation by regulation of a subclass of prescribed dangerous substances for the purpose of the licensing of persons who convey such dangerous substances. Clause 19 prohibits the conveyance of prescribed dangerous substances except in pursuance of a licence or as permitted by regulation. Clause 20 provides for the grant by the Director of licences to convey prescribed dangerous substances. Licences under this clause may also be conditional. Clause 21 provides for the renewal of such licences.

Clause 22 provides that the Director shall not grant a licence or renew a licence if he is satisfied it is not in the interest of public safety to do so. Clause 23 provides for the surrender, suspension and cancellation of licences. Clause 24 provides for an appeal to ihe Minister against any decision by the Director in relation to any licence.

Clause 25 empowers the Director to grant exemptions from compliance with any provision of the Act or regulations. Under subclause (3) of this clause an exemption may not be granted unless the Director is satisfied that compliance with the provision is not reasonably practicable and that the granting of the exemption will not endanger the safety of any person or property. Clause 26 provides evidentiary assistance in respect of certain matters that may require proof in legal proceedings. Clause 27 provides that every person concerned in the management of any body corporate convicted of an offence against the Act shall also be guilty of an offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

Clause 28 provides for a default penalty for each day for which any offence continues to be committed. Clause 29 provides for the forfeiture of dangerous substances in relation to which offences are committed. Clause 30 provides for the summary disposal of proceedings for offences against the Act. Clause 31 provides for the making of regulations regulating the keeping, handling, conveyance, use and disposal of dangerous substances and, in addition, in the case of liquefied petroleum gas, the quality of the gas.

The Hon. J. A. CARNIE secured the adjournment of the debate.