



**EXTRACT FROM
PARLIAMENTARY DEBATES**



HANSARD

LEGISLATIVE COUNCIL

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Mr Melhem

Western Metropolitan

Speaking on a Bill

**WORKPLACE SAFETY LEGISLATION AND OTHER MATTERS AMENDMENT BILL
2021**

Mr Melhem (Western Metropolitan): I also rise to speak on the Workplace Safety Legislation and Other Matters Amendment Bill 2021. I will try not to repeat some of the comments made by previous speakers detailing what sorts of changes we are making to the existing legislation, but it is quite an important area this bill is looking at: amending and fine-tuning the current legislation to make things much easier for injured workers to be able to access workers compensation and also enable WorkSafe Victoria inspectors—and there are some elements I will come to later on—to do their job to make sure workers are safe, to make sure workers, when they go to work, are able to go home in the same condition. I think that is very important.

WorkSafe inspectors can issue a provisional notice to cease work currently—for example, if there is an immediate danger to the health or safety of workers. The amendment talks about enabling a notice when there is the potential to lead to a safety risk or a health risk, so basically providing that extra layer or extra flexibility by providing for our health and safety reps and WorkSafe inspectors being able to do that. Sometimes there is a fine line, and I have witnessed that in my previous job; there is always an argument between employers, workers, unions and even WorkSafe inspectors in relation to what the level of danger or risk is in a particular workplace when there is an incident. That has created a lot of debate where health and safety representatives could issue a provisional notice to cease work, for example, and the employer's view is that there is no immediate risk.

But there is potential risk, and WorkSafe inspectors will have to adjudicate between the health and safety representatives and the employers in trying to find a solution. Some employers might turn around and say, 'There's no immediate risk, so therefore we don't need to stop work'. The risk is that if that argument is accepted in some instances accidents or incidents do occur and people get hurt. These changes I think give flexibility to WorkSafe inspectors so that if they are satisfied that there is a potential risk, they will make that judgement.

In my experience WorkSafe inspectors have over the years had good judgement. They do not want to put businesses out of business, and they do not want to put workers at risk either. They are always looking for the happy medium, mindful that business needs to continue to operate in a safe manner, because in the back of their mind they want to make sure workers are safe in the workplace. I want to use this opportunity to give them a shout-out and say they have been doing a great job in the

last whatever period of time. I know there have been a lot of investments in recent times by the Andrews Labor government to increase the number of inspectors to make sure WorkSafe has enough resources to do its job. I want to pay tribute to the wonderful work that WorkSafe inspectors do on behalf of Victorians. I know in my previous life I did not always agree with some of their decisions, but most of the time they get it right. I also want to take this opportunity to pay tribute to the health and safety reps, who do voluntary work and do tremendous work in keeping workers safe.

The other part of the bill talks about giving access to workers in relation to silica. In May 2019 the Andrews Labor government unveiled a nation-leading and comprehensive silica action plan. Silica-related diseases have a huge impact on workers. Ms Terpstra was touching on that earlier. I know unions have been campaigning for many, many years to make sure that is covered through a number of things. We all have beautiful Caesarstone in our kitchens—these wonderful benchtops and so forth—but we forget one thing—

Mr Ondarchie: Is it named after you, Caesarstone?

Mr MELHEM: Apparently so, Mr Ondarchie. We forget one thing: a lot of workers have suffered a great deal in cutting these benches, because most of it is engineered stone, and they die from it. They develop a horrible disease and then they die from it. So, I am pleased with the action plan we have put in place. We have banned some of that work and we have introduced some strict rules and regulations to make sure we are not further exposing workers to that horrible disease. I am pleased with the changes.

We also need to recognise that it is not just about preventing disease. In my view good health and safety legislation is designed to prevent injury and prevent diseases in workplaces. That should be our number one priority: prevention. We should not be focusing on saying, ‘You’ll be right. You’ll get yourself killed or lose an arm or develop a cancer or whatever from work, and then we’ll just pay you or pay your family’. That should not be the focus. Our number one priority should be about preventing these injuries and diseases to make sure we do not put workers in harm’s way. But we know we cannot have zero injuries and zero diseases. We would love to. A lot of companies in a lot of jurisdictions work towards zero harm. But from time to time unfortunately people get injured, and people develop diseases. In that

unfortunate situation we need to make sure that there is enough compensation in whatever scheme we have got in place to make sure we look after these injured workers or people who develop those injuries.

Also, one of the areas the bill talks about is looking after the children who are dependent on the injured person. It is currently set at age 16, and that will be extended to 25. I think that is a welcome change as part of this legislation in relation to the family support benefit which as my colleague has spoken about is an anomaly now. I am pleased it has been fixed so we can look after the children of these injured workers or workers who actually develop these diseases. The bill also will continue the household help services payment already being received by a worker with an accepted claim where they die as a result of their work-related injury, for six months after their death—so we are basically looking after the people left behind. I think that is a welcome change.

I did speak earlier about the prohibition notices, so I will not go into those again. But incident notifications; that is another area. The bill will amend the Occupational Health and Safety Act 2004 to include a broader range of matters considered to be notifiable incidents. That again is another grey area. At the moment, if you have an incident, how severe is that incident? What is the threshold, the trigger, to notify WorkSafe? I mean, I would probably go too far in saying any near misses should be notifiable, but on the other hand people say, 'Look, you don't want to go and inundate WorkSafe for every near miss you might have'. But I think it is important to expand on the current list, and this bill will do that.

For example, infectious diseases and illnesses is an important one. There has been a lot of debate in the last two-and-a-bit years about COVID-19 and where WorkSafe responsibility comes in and where Department of Health responsibility comes in. Even in this chamber there have been a lot of questions by the opposition to government in relation to that: whose responsibility is it—is it the health minister's, is it the WorkSafe minister's—and which department is it? I think clarifying that—even in workplaces or companies where there is a bit of confusion about whether or not there are health directions and who administers them; so, what the employer's responsibility is—is important.

But I go back to the near misses and increasing the definition of ‘near misses’, because you could have a near miss and an employer could think, sometimes with good intention—I do not think any employer, any human being, would wake up one morning and go to work when they are operating a business and say, ‘I’m going to hurt someone today; I’m going to cause the crane to collapse and kill someone’. No-one does that. You would have to be a psycho to do that—and unfortunately, we have them from time to time. But the important thing is I think 99.99 per cent of employers and managers want to do the right thing. No-one would want to wake up one morning and say, ‘I’m going to go and injure a worker’. But it is important not to downplay some of the near misses, so that will get fixed as part of this.

The other changes, which I will address in the last few minutes, are in relation to the Firefighters’ Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Act 2019, which has caused a lot of angst amongst firefighters and amongst people in this state—and I know it is a very emotional issue. What I say in relation to this is: I want to congratulate all the firefighters who have fought hard for many, many years to get presumptive rights put in place. I am so proud to be a part of this government, the Andrews Labor government, who introduced that bill to this house. We made it legislation. And I remember my colleague on this side Colleen Hartland. We did not agree on a lot of things, but that is one thing I want to acknowledge: the good work she did in that space to make sure we got that.

But where I disagree with the United Firefighters Union is denying the 90-odd maintenance workers or mechanics access to that. Whilst I understand the emotion behind some of the arguments, I think this bill addresses the issue that there are 90 or so mechanics who should be able to access that. Now every firefighter is entitled to access that scheme, including volunteers, including forest firefighters. There are certain criteria you still must meet to access the fund, so I am not sure about the argument that this could deplete that fund. I do not think the argument is there. I understand there is emotion about it—I respect that—but I think it is the right change and the right amendment to make sure we are not leaving these people behind. I come from a background where you do not leave workers behind, you do not leave any worker behind. It does not matter who won the benefit in the first place. I think these workers are entitled to access that. Hopefully no-one will access it. I go back to the point I made earlier: a scheme should not be designed around ‘If something happens to you, well, don’t worry. We’ll just pay you or pay your family

compensation'. It is about preventing it from happening in the first place. That is the best tool we can use and deploy to make sure no-one needs to access any compensation. But unfortunately, I live in the real world, and people get injured from time to time or develop diseases because of their occupations, and when the need arises, they should be compensated and looked after.

With these comments I commend the bill to the house. I want to commend Minister Stitt for the good work she has done in this space to make sure we have some fairness in the workplace.