

[Home](#) » [Hansard & Papers](#) » [Legislative Assembly](#) » [19/11/2004](#) »

NSW Legislative Assembly Hansard

LICENSING AND REGISTRATION (UNIFORM PROCEDURES) AMENDMENT (PHOTO ID) BILL

Page: 13302

Bill introduced and read a first time.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [3.26 p.m.], on behalf of Ms Reba Meagher: I move:

That this bill be now read a second time.

Applying for a licence can be a complex and time-consuming process. Application forms must be completed. Supporting documents and evidence must be gathered and provided. In some circumstances, tests must be undertaken. For a limited number of licences, an applicant must also provide an identification photograph. Having a photograph taken is an added time-consuming burden. This bill gives a licence applicant an option that reduces this red tape. The Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Bill gives an applicant for certain specified licences the choice of reusing an existing photo held by the Roads and Traffic Authority or attending a motor registry to have their photo taken. Whichever choice applicants make, their photograph will be securely stored by the Roads and Traffic Authority. It will be available only to the licensing authority for very specific purposes set out in this bill.

The principal objectives of the bill are to improve customer service by giving a licence applicant the choice of reusing an existing photograph on other licences; to improve the integrity and security of photograph identification issued by New South Wales licensing authorities, reducing opportunities for identity theft and fraud; to protect the privacy of a person who provides an identification photograph to a licensing authority; and, importantly, to enable more effective use of the Roads and Traffic Authority infrastructure and resources for taking and securely storing identification photographs. The Licensing and Registration (Uniform Procedures) Act 2002 provides a framework for consistent administration of New South Wales government licences. Parliament has already applied the Act to licences issued under 29 pieces of legislation.

The Act sets standard procedures for submitting and processing licence applications. It also sets standard procedures for licence administrators when they are determining an application, including the processes used to request information, the time periods for making a decision and notifying an applicant. The Act gives licence applicants the right to have decisions reviewed by the Administrative Decisions Tribunal if a right of review is not already in place for a licence. This bill extends the Licensing and Registration (Uniform Procedures) Act to enable more effective administration of requirements for identification photographs. The term "licence" in this speech is a generic one and includes registrations, certificates, permits and other related terms.

I turn now to the detail of the bill. The bill applies to licences listed in schedule 3A to the Licensing and Registration (Uniform Procedures) Act. Schedule 3A lists licences administered by the Commissioner for Fair Trading and the WorkCover Authority. These licences are issued under the Home Building Act 1989, the Property, Stock and Business Agents Act 2002, chapter 9 of the Occupational Health and Safety Regulation 2001 and the Explosives Act 2003. The bill does not require anybody to provide a photograph. Any requirement will continue to be through the legislation that establishes the licence. The Commissioner for Fair Trading and the WorkCover Authority can currently require a photograph for these licences under the relevant licensing legislation. This bill simply enables access to a photograph held by the Roads and Traffic Authority if either of these licensing authorities decides to implement a requirement for a photograph. Further licences can be added to schedule 3A.

Legislation establishing a licence can amend the schedule. This includes a regulation, where the licence is established by a regulation. This approach is flexible but also ensures appropriate scrutiny of a decision to use the service. The Department of Commerce has identified more than 15 categories of licence or registration in New South Wales where a photograph is currently required. This is in addition to the photograph required for a driver's licence. The range is quite broad: It extends from surveyors registered with the Board of Surveying and Spatial Information through to the holder of a firearms licence. Many occupations in the transport industry also require an identification photo, including tow truck drivers, taxidriver and masters of commercial vessels. These licences can be added to schedule 3A if this is considered appropriate after experience is gained with the initial licences.

The bill enables the Director-General of the Department of Commerce to enter into photo-access arrangements with the Roads and Traffic Authority and licensing authorities. The director-general can then provide an information technology service for licensing authorities that links to the Roads and Traffic Authority and uses that existing infrastructure for taking and storing photographs. This is similar to arrangements that are currently in place between the Commissioner of Police and the Roads and Traffic Authority for firearms licences and security industry licences. The photo-access arrangements with the director-general will enable the Roads and Traffic Authority to exchange information with a licensing authority to verify the identity of a person being photographed or to correctly locate an existing photograph, disclose a photograph to a licensing authority to assist in verifying the identity of a person making a licence application, take and store a photograph

of an applicant who chooses not to use an existing photograph, provide a photograph to a licensing authority—either an existing photograph, such as a driver's licence, or one taken for the licence—and receive fees as payment for the service.

The arrangements can also authorise a licensing authority to provide identification information to the Roads and Traffic Authority. This is necessary to ensure that the correct photograph is provided. The Director-General of the Department of Commerce acts as an information and service broker, providing secure access to the Roads and Traffic Authority by licensing authorities and linking this to other information technology services for the production and management of licences. In some circumstances it may make good business sense to use private sector service providers—for example, using a commercial data centre to store licence records in much the same way as banks and financial institutions provide for secure services.

The bill makes it clear that the director-general must not enter into arrangements with a service provider unless he or she is satisfied that the arrangements protect privacy. The arrangements must make appropriate provision for compliance with relevant information protection principles in the Privacy and Personal Information Protection Act 1998. Privacy and security have been key concerns in the development of this bill, and the Privacy Commissioner has been consulted through all stages of its development. The bill prevents a photograph from being stored or used except for the purpose of reproducing the person's likeness on a licence or certificate, helping to identify a person making an application under the licensing legislation, undertaking lawful investigations by the licensing authority or conducting criminal proceedings under the licensing legislation into offences under the Crimes Act for false and misleading information, and performing a function required for the photo-access arrangements, such as verifying a person's identity or printing a licence.

The bill also places restrictions on the release of a photograph. A photograph can be released only to the person shown in the photograph if the release is provided for in another law, for a lawful investigation by the licensing authority or for the conduct of criminal proceedings, or when performing a function required for the photo-access arrangements. The release of a photograph for an investigation or for criminal proceedings must be done in accordance with any protocol approved by the Privacy Commissioner. Sections 14 and 15 of the Privacy and Personal Information Protection Act give a person the right to access and correct personal information held by a public sector agency. The bill makes it clear that this right must be exercised through the Roads and Traffic Authority rather than a licensing authority or the Department of Commerce. This will simplify administration and help to maintain the integrity of the photo database.

Schedule 2 of the bill amends part 5 of the Roads Transport (Driver Licensing) Act. These amendments enable the Roads and Traffic Authority to participate in the photo-access arrangements. Existing privacy and security protections in part 5 of the Road Transport (Driver Licensing) Act will continue to apply to the driver licensing scheme. This bill complements those provisions by establishing protections when a Roads and Traffic Authority photograph is used for another type of licence.

The bill benefits people who provide an identification photograph to a licensing authority. Their privacy is given increased protection. Their identity is protected and they can be assured that their personal information is stored securely. They have the option to reuse an existing photograph for other licences, reducing application times and red tape. The community also benefits. Security features used for photograph licences will make forgery difficult. Fraud prevention will be improved. Licensing authorities will have access to a secure service for managing photographs. Facilities at the Roads and Traffic Authority that are currently available only to NSW Police will become available to other agencies. Compliance with privacy requirements will be simpler to achieve and the administration of licensing will be improved. I commend the bill to the House.

Mr CHRIS HARTCHER (Gosford) [3.37 p.m.]: The Coalition has not had an opportunity to consider the Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Bill. Notice of its introduction was given earlier this week and it is being debated at 3.40 on Friday afternoon. As a consequence, the Coalition reserves the right either to support the bill or to seek to amend it in the Legislative Council. The bill appears to be unexceptional, but we have not had the opportunity to consider it carefully nor to consult any interested parties about it. Photo identification is becoming an increasingly important and complex issue in our society. The idea of standardising such identification, at least at the New South Wales level, certainly has superficial appeal. The safeguards that the Parliamentary Secretary outlined in the second reading speech appear to improve on the existing process.

The New South Wales Government must start developing with the Federal Government protocols for a standardised photo identification system and a standardised photo retention system within a national database. Some years ago the Hawke Government attempted to introduce a national identity card. It was well before the tragic events of September 11 and at the time there was not sufficient community support for the introduction of such a card, which was given the somewhat grandiloquent name of the "Australia card". However, the recent concerns about national security and the introduction of a large amount of legislation dealing with issues such as the regulation of the sale of tobacco products, entry into licensed clubs and obtaining licences, which all require some form of photographic identification, highlight the need for standardisation on a national level. The idea of standardising these processes at a State level is valuable, but there is no reason that they cannot be nationally standardised. The United Kingdom Government is proceeding, following the circulation of a white paper, to establish a national identification scheme.

The idea of a national scheme has obtained acceptance throughout the world. Australians travelling overseas are required to produce photographic identification and to comply with the requirements of other nations in relation to proof of identity. For the past two months, every traveller entering the United States of America has had to consent to a photograph being taken to be stored in a national database. They must also have two thumbprints taken that will also be stored on the database. It is a very fast, high-tech procedure. Travellers have their photo taken while they have their thumbprints recorded, and the process does not involve ink. Australia will probably implement a similar process to ensure proper identification, not only using photographs but also palm or fingerprints. That will need to be done on a national basis.

As I said, this legislation standardises procedures and allows for the collection of photographs on a statewide basis rather than on a departmental basis. It is unobjectionable and probably welcome. The next step is a national identification process. I urge the New South Wales Government to collaborate with the Federal Government in the production of a white paper for discussion, as was done in the United Kingdom and as was not done with regard to the Australia card proposal presented by the Hawke Government. After the debate and when a national consensus is reached we will be able to move towards the storage of photographs and other identification information on a national database. That would be a considerable advance. The Opposition does not oppose the bill but, because of the lack of opportunity for proper consideration, it reserves its rights in relation to it.

Motion agreed to.

Bill read a second time and passed through remaining stages.

NSW Legislative Assembly Hansard, 19 November 2004, Pages 46 - (article 14)

[« Prior Article this day](#) | [Next Article this day »](#) | [Full Day Transcript](#)

[Legislative Council](#) [Legislative Assembly](#) [Members](#) [Joint Services](#)

[Home](#) [Hansard & Papers](#) [Committees](#) [Legislation](#) [Library](#) [Phonebook](#) [Admin Resources](#)

- Subjects:
[Identity](#); [Motorists](#)
- Speakers:
[Stewart Mr Tony](#); [Hartcher Mr Chris](#)
- Speech Type:
1R; 2R; Bill; Debate; Motion
- [Printing Tips](#)
- [Print selected text](#)