

## Second Reading

**The Hon. HENRY TSANG** (Parliamentary Secretary) [3.27 p.m.], on behalf of the Hon. Michael Costa: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### Leave granted.

New South Wales has a 2,140 kilometre coastline, 12,500 square kilometres of navigable waters and covers an area of 800,000 square kilometres. It is home to 6.6 million people, 87 per cent of whom live in areas adjacent to the New South Wales coastline. There are more than 450,000 licensed recreational vessel operators and some 217,000 registered recreational boat owners, and more than 18,000 of these operate on Sydney Harbour. In total, the marine industry estimates that more than 1.5 million people enjoy the State's waterways each year. The boating industry in New South Wales is estimated to be worth more than \$2 billion per year.

Boating and other on-water activities provide a source of enjoyment and a livelihood for many New South Wales families. The majority of people who go boating act responsibly. However, the aquatic environment is not without its risks. Tragically, since 1992, more than 275 people have been killed and more than 630 people have been seriously injured as a result of boating activities on New South Wales waterways. This represents an average of 17 fatalities and 41 serious injuries per year. As the affordability and popularity of recreational boating in New South Wales increases, so does the potential for user conflict and accidents on the water. Just recently we saw the risks that exist on the water with a tragic incident on Sydney Harbour that resulted in the death of six people.

Last year two fatal incidents on Sydney Harbour resulted in the deaths of five people. These incidents demonstrate the importance of the Government continuing to look at new ways to improve the safety of New South Wales waterways. The Ports and Waterways portfolio is accountable for building a strong safety culture and reducing the potential for user conflict on New South Wales waterways. As part of my commitment to this responsibility, I propose a number of amendments to the Marine Safety Act that are designed to enhance the safety of the State's waterways. The amendments proposed in the Marine Safety Amendment Bill 2008 will achieve better safety outcomes in a number of areas.

Firstly, this bill proposes various changes to penalty provisions to ensure they adequately reflect the seriousness of the offence committed and to ensure consistency with other legislation. For example, the current penalty for negligent, reckless or dangerous navigation that results in death or grievous bodily harm will be increased so that it is consistent with the penalties for similar offences on the roads. The bill will introduce an imprisonment term for reckless or negligent navigation resulting in death or grievous bodily harm. The current penalty provisions for driving a vessel at 10 knots or more or a personal watercraft at any speed without a licence will also be toughened. The purpose of a boat licence is to ensure that the operator of a power-driven vessel travelling at speed has demonstrated a basic knowledge of waterway rules and safe boat operation.

Unlike roads legislation, the current penalty regime for driving a vessel when disqualified from holding a licence does not address the issue of repeat offences. This bill introduces an imprisonment option for repeat offences of driving a vessel while disqualified so as to reflect the seriousness of this offence. This amendment will again introduce consistency with similar offences under the roads legislation. Another proposed amendment relates to the penalty for negligent, reckless or dangerous navigation on larger vessels such as trading vessels. Since the safety consequence of this offence is far greater on a large vessel than on a small recreational vessel, a sliding scale of penalties, depending on the type of vessel, will be introduced.

A number of other amendments to penalty provisions in the Marine Safety Act are also proposed. These include the penalties for operating an unregistered or unsafe vessel and creating excessive vessel wash. Such amendments are necessary to ensure penalties adequately reflect the seriousness of the offence committed and to ensure consistency with the roads legislation. The bill seeks to further improve safety outcomes on New South Wales waters by giving New South Wales Maritime and New South Wales Police Force officers certain direction-giving powers. The purpose of these powers will be to maintain general on-water safety and to prevent damage to property on or in the vicinity of navigable waters. For example, these powers will enable New South Wales Maritime and New South Wales Police to direct the master of a vessel not to cross a coastal bar during dangerous conditions.

This power could also be used to direct a vessel operator to refrain from entering an area being used for a special aquatic event such as the swim leg of a triathlon. Providing this direction-giving power will implement recommendations by the New South Wales Coroner. Currently there is a deficiency in the legislation that enables a person with a suspended or cancelled New South Wales boat licence to legally operate a power-driven vessel in New South Wales waters by using a boat licence from another State. Current legislation also allows a person with a suspended interstate boat licence to obtain a New South Wales boat licence to operate in New South Wales and possibly his or her home State. This is clearly inappropriate from a safety point of view and is inconsistent with licence requirements on the roads. Therefore, it is proposed that the legislation be amended to ensure that any person with a cancelled or suspended boat licence from any State or Territory in Australia cannot legally operate a vessel in New South Wales.

National boating fatality studies conducted on behalf of the National Marine Safety Committee for the period 1992 to

2004 concluded that the most common contributing factors in fatal boating incidents were error of judgement and alcohol. Alcohol was involved in at least 35 per cent of fatalities investigated in the earlier study, and 40 per cent in the later study. The later study found that 47 per cent of vessel operators involved in fatal boating incidents were positive for alcohol. It is clear the consumption of alcohol has the same safety implications on the water as on the road. Despite this, the current alcohol and drug provisions on the water are inconsistent with those that apply on the roads. This situation is clearly inappropriate. The general water traffic provisions in the Marine Safety Act in relation to alcohol, speeding, distance-off and negligent navigation type offences do not apply to any type of Defence Force vessel. This is appropriate for commissioned Defence Force vessels, which are formally designated as an operational warship in order for them to carry out their day-to-day functions.

However, this is not appropriate for non-commissioned vessels such as small supply-type vessels, which may be used like any other vessel on the harbour to transport goods or persons on the water. This bill introduces amendments to clarify that non-commissioned Defence Force vessels should be required to comply with the Marine Safety Act. It is not intended that this provision apply to Defence Force personnel who are engaged in military exercises. This amendment will also serve to preserve the current application of general water traffic laws to non-commissioned vessels contained in the Maritime Services Act 1938 and the Water Traffic Regulations. I also note the New South Wales roads legislation does not exempt vehicles belonging to the Australian Defence Force from its operation. This amendment will therefore also ensure consistency between the legislation that applies on the road and the water. The Marine Safety Act currently provides for the continuation of existing certificates and licences through the marine safety licence framework. These include vessel registration certificates, survey certificates for commercial vessels, boat driving licences and marine pilots' licences.

The arrangement whereby a vessel greater than 30 metres in length can be operated without a pilot in a pilotage port provided the master holds a certificate of local knowledge will now be included. Greater efficiency in port operations will also be achieved through a number of changes to provisions relating to harbourmaster and marine pilots. Currently, in order for a pilotage vessel to move within a pilotage port without a pilot on board, a written exemption order must be provided to the relevant harbourmaster under a sub-delegation from the New South Wales Maritime chief executive. As this process is unnecessarily cumbersome, it is proposed that the Marine Safety Act be amended to allow such a vessel to move within the port without a pilot on the basis of a verbal approval from the harbourmaster provided the movement is recorded in the ship's log. This bill will also provide the option for more than one person to be appointed to exercise the harbourmaster's functions to ensure that a harbourmaster is available at all times.

These proposed amendments to pilotage and harbourmaster provisions in the Marine Safety Act will improve efficiencies and simplify the administration of both roles. New South Wales Maritime has consulted extensively with the port corporations in relation to these amendments. The proposed amendments will also allow for the making of regulations in relation to the crew to be carried on a commercial vessel. Appeals and reviews of crewing determinations will be subject to appeal by safety crewing committees in the first instance and, if necessary, to the Administrative Decisions Tribunal. In addition to improving safety on the State's waterways, another key aspect of this bill is the introduction of a number of amendments to facilitate the implementation of the National Standard for Commercial Vessels. This standard will be the principal technical standard for commercial vessels and is gradually replacing the Uniform Shipping Laws Code. The progressive development of this standard is a national initiative, which provides a common national standard for the design, construction, crewing and operation of commercial vessels.

Under the current provisions of the Marine Safety Act, New South Wales Maritime is responsible for the inspection of public ferry wharves and can, if necessary, issue a notice to improve, or prohibit the use of, a wharf. To improve the effectiveness of this process, the proposed amendments will allow New South Wales Maritime to require a report from an appropriately qualified engineer to satisfy itself that a wharf complies with the relevant design, construction and safety requirements. It is also proposed that New South Wales Maritime be provided with statutory protection from liability when it relies on such certificates. The increasing popularity of boating in New South Wales and its possible adverse safety consequences have resulted in a clear need for ongoing evaluation of the marine safety legislation. This bill highlights the New South Wales Government's commitment to improve the safety of New South Wales waters and the administrative efficiency of its legislation. I commend the bill to the House.