**DANGEROUS SUBSTANCES ACT AMENDMENT BILL 1987**

**Legislative Council, 19 March 1987, pages 3529-30**

Second reading

**The Hon. C.J. SUMNER (Attorney-General**): I move: That this Bill be now read a second time.

I seek leave to have the detailed explanation of the Bill inserted in Hansard without my reading it. Leave granted.

Explanation of Bill

The Dangerous Substances Act provides for the safe keeping, handling, conveyance and use of toxic, corrosive or flammable substances and has been in operation since July 1981. The Act places a high duty of care on persons who keep or convey large quantities of dangerous substances and authorises the making of regulations which, in the main, adopt various standards of the Standards Association of Australia to provide detailed safety requirements.

This duty of care is commensurate with the very high potential for injury to persons and damage to property associated with the storage and transport of large quantities of dangerous substances. A serious accident does occur from time to time, which serves as a reminder of the necessity for the observance of the comprehensive measures that are required by the Act to ensure the greatest degree of safety to persons and property from uncontrolled dangerous substances.

The present maximum penalty for breaches of the Act and regulations is $1 000 and, while that level of penalty was considered appropriate when the Act was assented to in 1979, it is now considered to be totally inadequate as a penalty for offences which could result in death or serious injury and destruction or pollution of property. The Bill amends the Dangerous Substances Act 1979, to increase the maximum penalty for the offence of failing to take proper precautions with respect to a dangerous substance in order to avoid endangering the safety of any person or property to $40 000 in the case of a body corporate and $8 000 or two years’ imprisonment or both in the case of a natural person. The maximum penalty for keeping or conveying a dangerous substance without a licence is increased to $30 000 in the case of a body corporate and $4 000 or one year imprisonment in the case of a natural person.

It is the Government’s view that the maximum penalty under the Act should reflect Parliament’s resolve to ensure that all reasonable safety precautions are observed by those responsible for the control of dangerous substances. The introduction of imprisonment as a penalty will allow the courts to provide for cases where gross dereliction of duty is proven and serious injury or death results. The Bill increases the penalties in relation to other minor offences under the Act from $1 000 to $4 000.

Clause 1 is formal.

Clause 2 amends section 9 of the Act. The maximum penalty for the offences of hindering an inspector, failing to answer questions put by an inspector and failing to comply with a direction given by an inspector is increased from $1 000 to $4 000.

Clause 3 amends section 10 of the Act. The maximum penalty for the offence of divulging information obtained while engaged in the administration of the Act is increased from $1 000 to $4 000.

Clause 4 amends section 11 of the Act. The maximum penalty for the offence of falsely representing that one is engaged in the administration of the Act is increased from $1 000 to $4 000.

Clause 5 amends section 12 of the Act. The maximum penalty for the offence of failing to take care in relation to a dangerous substance is increased from $1 000 to $40 000 in the case of a body corporate and $8 000 or imprisonment for two years or both in any other case.

Clause 6 amends section 14 of the Act. The penalty for the offence of keeping a dangerous substance without a licence is increased from $1 000 to $30 000 in the case of a body corporate and $4 000 or imprisonment for one year in any other case.

Clause 7 amends section 18 of the Act. The penalty for the offence of conveying a dangerous substance without a licence is increased from $1 000 to $30 000 in the case of a body corporate and $4 000 or imprisonment for one year in any other case.

Clause 8 amends section 26 of the Act which provides that, where a body corporate is guilty of an offence against the Act, the members of the governing body and the manager of the body corporate are also guilty of an offence. The amendment is consequential to the amendments to sections 12, 14 and 18 of the Act. It provides that the relevant penalty for such an offence is that applicable to the offence of which the body corporate is guilty when committed by a natural person.

Clause 9 amends section 30 of the Act. The maximum penalty that may be prescribed for an offence against a regulation is increased from $1 000 to $4 000.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.