

Queensland Law Society submission to School Transport Safety Task Force

Queensland Law Society has taken a high profile in the school bus safety campaign and the following letter is their submission to the Task Force:

28 May 2001

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**The Chairperson
School Transport Safety Task Force
PO Box 238
Fortitude Valley Qld 4006**

The Queensland Law Society submission to the School Transport Safety Task Force should be read in conjunction with the submission from the Australian Plaintiff Lawyers Association.

Preamble:

At 8am on 7 March 2001 a school bus spun 180 degrees and flipped onto its roof after colliding with a truck south west of Rockhampton. More than 20 children on the bus were injured, some critically.

In the accident, children were tossed in the air and thrown about like rag dolls inside the bus. One child was knocked unconscious as she was flung out of the bus. She was rushed to intensive care at Rockhampton Hospital.

Others suffered cuts, fractures, bruises and internal wounds when they were thrown about inside the vehicle as it went out of control.

None of the passengers was wearing a safety restraint because there is no law in Queensland which requires school buses to be fitted with seatbelts.

Introduction:

Queensland has a unique opportunity to lead Australia in the issue of school transport safety, and by doing so protect the lives of present and future generations of schoolchildren.

This can be achieved through the State making the country's first commitment to comprehensively upgrade the safety standards of school buses.

The Queensland Law Society, representing the State's solicitors, believes the legal profession has a duty to speak up on behalf of Queensland children, who do not have a voice or a vote to influence change on their behalf.

In the Society's view the lack of any effective laws for the safety of children on school buses is discriminatory against children and a clear breach of the United Nations Universal Declaration of Human Rights (1948).

Consequently the Society, on behalf of Queensland schoolchildren, is calling for law changes to require:

- The fitting of seatbelts in every school bus
- Eliminate overcrowding on buses by banning children standing in a bus
- Only two children to occupy two adult seating positions in a bus
- Enforce better visibility of flashing lights on the rear of buses
- Following traffic to slow or stop when children board or alight from a bus

Background:

Every school day thousands of Queensland children travel to and from school by bus. In rural areas some of that travel is on open roads at speeds of up to 100kms per hour.

Overcrowding on buses is common and the buses themselves range from recent to quite aged vehicles, in various states of maintenance and condition.

Children are allowed to stand in the aisles of school buses and three young children are required to occupy two adult seating positions in the buses. None of the children riding aboard school buses are protected by any form of safety restraint.

In this aspect, school bus travel is unique in Australia. Those same children, if riding in a car, are required by law to wear a seat belt, for safety reasons. The same children, if riding aboard an interstate bus, would also be legally required to wear a seatbelt.

The fitting of seatbelts in automobiles has been compulsory since 1972, and compulsory in all interstate buses built since 1994.

However school bus safety measures have been neglected and in the meantime childrens' lives are put at real risk on a daily basis.

In the 2001 school year to date there have been six school bus crashes in Australia. In one, the driver died. In another, a 15 year old student was killed. One of those school bus crashes happened in Queensland in March when a bus flipped onto its roof. More than 20 children on the bus were injured, some of them critically.

News reports spoke of the children being tossed in the air and thrown about like rag dolls in the crash. The fact there were no fatalities owed more to good luck, rather than safety measures.

Successive legislating authorities have chosen to ignore the evidence of past tragedies such as the bus crash at Kuranda, near Cairns, in 1987 when eight children were killed. This crash should have been the State's wakeup call to action, but almost 14 years later the requirements for school bus safety are effectively unchanged.

In that same period several catastrophic passenger coach crashes occurred in Queensland and New South Wales. These include:

- Grafton, NSW (1989) - 20 dead
- Kempsey, NSW (1989) - 35 dead
- Tamborine, Qld (1990) - 11 dead
- Gateway, Qld (1994) - 12 dead

These crashes led to law changes requiring the fitting of seatbelts to all interstate coaches. They also influenced changes to the Australian Design Rules, enforcing the fitting of seatbelts to all interstate buses manufactured after 1 July 1994.

The Queensland Law Society believes the issue of school bus safety should have been addressed at this time. Curiously, it was ignored, the legacy being double standards for bus safety - seatbelts for interstate passenger coaches, but no safety restraints for school buses.

In the Society's view this is quite unacceptable, discriminatory against children and a breach of the United Nations Universal Declaration of Human Rights (1948: Article 3: Everyone has the right to life, liberty and security of person. Article 16 (3): The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.)

By permitting children to travel, unrestrained, aboard school buses in situations where danger is present, the Society believes the state is failing to provide adequate protection and security as outlined in the UN declaration.

We must now, as a matter of urgency, address the anomaly.

Until we do, we run the risk every day of another Kuranda or Gateway or Tamborine crash, somewhere in Queensland.

This is one of the reasons the Queensland Law Society, with other professional organisations such as the Plaintiff Lawyers Association and the Queensland Bar Association, have publicly called for an urgent and comprehensive Statewide upgrading of school bus safety.

The Queensland Law Society's position is also supported by the Law Council of Australia and by various law society and bar groups throughout Australia. This underscores the Queensland Law Society's view of school bus safety being a nationwide issue.

Funding:

In the opinion of the Queensland Law Society, the State's schoolchildren have been poorly served on the question of bus safety.

State Governments throughout Australia subsidise school bus travel and therefore benefit from a system which encourages the maximum number of students aboard a bus.

Overcrowding is the inevitable result which, in the Society's view, is a dangerous practice in terms of bus safety.

Funding an integrated program to upgrade safety standards in the State's school bus fleet has appeared to become an integral issue in itself, and an effective barrier to any commitment so far to begin such a program.

The Queensland Law Society acknowledges any State-wide bus upgrading program will cost a substantial sum of money, to upgrade vehicles in the existing fleet and fund new coaches. However in the Society's view the key issue is not what it will cost to make buses safer, but rather what value do we place on the lives of our children?

Children represent Australia's most valuable, and vulnerable, resource.

Industry experts advise the current bus fleet can, in most cases, be fitted with the necessary safety devices and restraints. A typical cost, to retro-fit an existing bus, is thought to be in the vicinity of \$30,000 to \$35,000.

A significant and overlooked aspect of this retro-fitting is its economic value to Queensland firms. Companies specialising in such work are already operating in Queensland and a state-wide bus upgrading program represents enormous economic and job creation potential for Queensland.

Irrespective of the costs involved the Queensland Law Society says the safety of our children is worth any price and the need stemming from this belief should take precedence over budget and accounting issues.

Bus safety should be a shared State and Commonwealth Government responsibility. At present State governments, which subsidise school transport, argue upgrading costs should be a Commonwealth Government responsibility. The issue thus bounces between the two tiers of government, with neither willing to take a lead. As a result, children's lives are put at risk on a daily basis.

In Queensland the State Government has committed itself to a \$280 million upgrade of Lang Park football ground in Brisbane, which it proposes to fund through an increased tax on poker machines.

Although no detailed research has been done on the total cost of upgrading the Queensland school bus fleet, Government sources last year speculated the cost at between \$322 and \$556 million. This included installation of seat belts to the existing bus fleet and the purchase of new buses to satisfy demand generated by banning standees.

If this is so, the expenditure on Lang Park represents almost the entire cost of the Government's lowest bus upgrade cost estimate.

The prime responsibility of a Government should be the safety and welfare of its citizens. Therefore the Queensland Law Society believes taxes on poker machines could be better spent for the good of the wider community by channelling them toward funding the upgrading of school buses.

The Society believes by doing this, the State Government would be making a tangible commitment to school bus safety, for the good of the whole Queensland community - now and in the future.

In addition, the State Government has also had the opportunity this year to launch the bus upgrading program, through the additional \$48 million in Commonwealth funding achieved at the Treasurers' meeting in Canberra in April.

This unexpected windfall could appropriately be used to help fund the first stage of a progressive state-wide upgrading program of the school bus fleet.

The Queensland Law Society acknowledges the enormity of the program means it cannot reasonably be funded and completed in a single year, but what is essential is that a commitment is made now - and work begins as soon as possible.

The timetable and annual budget for a phased upgrading program cannot be determined until there is first a commitment to upgrading school bus safety.

The Queensland Law Society believes one of the major contributions the School Transport Safety Task Force can make is to recommend this program, and determine an achievable timetable for the work to be done.

The Government's own estimates put the likely bus upgrade cost at \$70 million to \$160 million initial cost for the first year and \$21 million to \$33 million each year thereafter over a 12 year period.

In the Society's view these expenditures are manageable, especially if the funding is in concert with a shared responsibility with the Commonwealth Government or through new initiatives such as drawing on State poker machine revenue.

The Queensland Law Society believes until this issue is resolved, the urgency for school bus safety upgrading will continue to be secondary to the issues of costs and who will take responsibility for the program.

Summary & Recommendations:

The value of seatbelts as a lifesaving safety restraint has long been recognised at Government level. Seatbelts have been compulsory in cars since 1972 and, as the result of several horror bus crashes, compulsory in all interstate buses built since 1994.

It is specious to pretend seatbelts are not therefore essential in school buses. It seems cost in this issue outweighs conscience.

The Queensland Law Society endorses and aligns itself with the key recommendations contained in the submission from the Australian Plaintiff Lawyers Association.

The Society's recommendations are summarised on page one of this submission.

The Society also recommends the School Transport Safety Task Force recognises the need for school buses to be made as safe for child passengers as humanly possible.

The Society also calls on the Task Force to recommend to Government law changes requiring all school buses in Queensland be fitted with approved seat belts.

Raoul Giudes
President
Queensland Law Society
GPO Box 1785
Brisbane Qld 4001

Media contacts:

David Wilson:- Ph: 3842 5903, Mob: 0408 707 251

Daphne McKenzie:- Ph: 3842 5847, Mob: 0417 717 689