

## Legislative Council

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### CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL

**The Hon. A. BRESSINGTON** (16:00): In this bill, the government seeks to increase the maximum penalty for trafficking in a controlled drug in licensed venues, raves and other entertainment areas such as concerts from 10 years to 15 years. However, the bill specifically excludes cannabis and hash from the increase in penalties. Despite the overwhelming scientific evidence that cannabis is a harmful drug associated with the onset of schizophrenia and other mental health conditions, the Labor government, in a flashback to the now defunct Woodstock philosophy that cannabis is not a harmful drug, has ignored the harms caused to young people and again ignored the science and medicine.

In promoting the bill, the government pushed its importance in protecting young people from drug pushers but, by excluding cannabis, the government has exposed our youth to the serious mental health issues that science has now proven to be linked to cannabis use. In defending the exclusion of cannabis from the bill, the government stated that it did not want the increased penalty to inadvertently apply to young people. This is despite the fact that, to attract the increased penalty, a person must be in possession of a trafficable quantity or over 100 grams of cannabis.

A trafficable quantity of cannabis is over 3½ ounces, which is over 50 street deals and has a value of over \$1,250. If someone is in possession of such a large quantity at a nightclub or a rave, they clearly intend to sell it to others and should be prosecuted the same as any other drug dealer. That the Rann government refuses to prosecute serious cannabis dealers with the full force of the law proves that it still believes, despite the evidence to the contrary, that cannabis is a soft drug.

I would also like to reiterate some points made by the Hon. Dennis Hood. Just because the statute books provide for a significant penalty, that does not mean that the judiciary will impose that penalty or anything remotely close. Maximum penalties are rarely, if ever, imposed. This is particularly true when it comes to illicit drug offences where short-term nonparole periods and suspended sentences are the norm. As a result, this bill allows the government to yet again appear to be tough on drugs on paper but make little practical difference.

The bill is further neutered by the current decriminalisation of illicit drugs, not just cannabis, as many of the public believe, but also other serious drugs such as cocaine, heroin, ecstasy and practically every other illicit drug. Where a person is found in possession of a quantity less than the trafficable amount, the police must divert the offender under section 36 of the Controlled Substances Act 1984 for assessment. The permitted amounts are set out in schedule 1 of the Controlled Substances General Regulations 2000 with the amounts varying for each substance. As is the case with cannabis, the permissible amounts are generous and verge on decriminalising not just use but also street dealing.

As an example, a person can be in possession of 1.99 grams of methamphetamine which, depending on whether it is in powder, base or crystal form, could cost up to \$1,000 to purchase and could be separated into twenty 0.1 gram street deals, each retailing for at least \$50. This is the same for cocaine, heroin and ketamine or, as I said, every other illicit drug, meaning that, despite the increase, a savvy dealer could escape not only the increased penalty

but also conviction by ensuring that they are never in possession of a trafficable amount at any one time.

I also use this opportunity to indicate my support for the Hon. Dennis Hood's amendment to create an offence for failing to attend an assessment to which they have been diverted in lieu of prosecution for a simple possession offence under section 37L of the Controlled Substances Act 1984. Under the current act, failure to attend should result in the offender being prosecuted; however, as the honourable member indicated, this rarely occurs.

I can say from experience with DrugBeat, we had probably half a dozen people who were in the diversion program who were booked in for appointments to attend for assessment. They did not show up. We notified the police and were told that that would require the issuing of a warrant and it was just all too hard, so those six people did not have to comply with the law at all and there was no prosecution or follow-up for their not attending an assessment. So, they got off with no assessment, no prosecution, no charge and walked away scot-free.

By not pursuing those who have failed to attend the diversionary program, the tenuous distinction between the decriminalisation of illicit drugs and legalisation is absolutely lost. If there is no penalty for being in possession of what are quite substantial amounts of illicit drugs then I ask how this is not legalisation? It is most fitting that the proposed penalty for failure to attend is equal to the penalty for the possession offence. I also indicate my support for the renaming of 'simple cannabis offences' to 'prescribed offences'. While I appreciate the term 'simple' is used as a synonym to 'basic', the 'simple' term, particularly when you consider that only an expiation notice results, conveys a relaxed attitude to the offence.