

Statement on behalf of the Motorcycle Riders Association of South Australia.

The *Serious and Organised Crime (Control) Bill 2007* (SA): A serious concern for all South Australian residents and visitors.

The MRA can only support the intent of this Bill where the protection, safety and harmonious living of citizens is of first consideration. It is most unfortunate that this particular bill has admirable intent but will fail miserably in application.

It is Bad Law because even though it is being marketed through the media to get tough on crime it is of such a wide scope that it applies equally to all groups and organizations in this State. It would appear that such comments as “Bikie Bill” are being used to curry support in the public eye even though there is no mention of motorcycles or bikies in the proposal. The MRA is deeply concerned about this as not every motorcycle rider is of criminal intent, in fact, very few are. Just as very few car drivers are.

The media campaign, and this Bill, are detrimental to the image of motorcyclists overall and in essence brands all of us as being the criminal target of this Bill in the public perception.

Besides the fact that this Bill is Bad Law – it can not be held up in a court of law – it attacks the very foundations of our justice system in several key areas.

One example which gives rise of great concern is the amendment stipulating associations. If you have ever had a conviction (say, DUI 30 years ago) and you then associate in any way with anybody else who has ever had a conviction (of any sort) 6 or more times in a 12 month period, then you are automatically guilty under this law and the only punishment afforded is a custodial sentence. So you have already served time and fulfilled the required rehabilitation then you are subject to a “double-dip” effectively for the same offence!

It assumes guilt without trial, it has no judicial review, it targets minority groups and it gives the State the power to dictate the extent and limit of your personal associations. Of further and equal concern is the matter of evidence required by the prosecution. It has been changed from proof beyond reasonable doubt (say 95%) to simply the balance of probability (51%). To add insult to injury here the prosecution is not obliged to submit the evidence to the court that it has used to make the charge. This is just plain wrong and to which there is no defence.

The Law Society and the South Australian Bar Association have issued a joint statement saying it is: “An unacceptable abrogation of the rule of law and fundamental rights.” The Democrats have stated this is “open to abuse, will be resisted by the judiciary, is disproportionate” and suggest that it will not work [in practice].

The MRA agrees and supports those opinions.

Paul Kuhn
MRASA Road Safety Officer & Chair Special Sub Committee
12 March 2008

References:

The actual Bill:

<http://www.legislation.sa.gov.au/LZ/B/CURRENT/SERIOUS%20AND%20ORGANISED%20CRIME%20%28CONTROL%29%20BILL%202007.aspx>

The Law Society and the Bar Association have released a joint statement:

[http://www.sabar.org.au/pub/Serious%20and%20Organised%20Crime%20\(Control\)%20Bill%202007%20-%20Comment.pdf](http://www.sabar.org.au/pub/Serious%20and%20Organised%20Crime%20(Control)%20Bill%202007%20-%20Comment.pdf)

The Democrats home page: <http://www.sa.democrats.org.au/>

Find Sandra's Open letter to Motorcyclists: <http://www.mrasa.asn.au/pdf/sandra.pdf>

Copy of Universal Declaration of Human Rights: <http://www.un.org/Overview/rights.html>

Article 6- "an individual before the law"

Article 7 - "EQUAL before the law.."

Article 8 - " right to "due process".

Article 9 - " arbitrary arrest"

Article 11 - presumption of innocence until proven guilty.

Article 12 - right to privacy.

All of these are contradicted in the Bill !! and more.

Copy of Magna Carta: <http://www.britannia.com/history/docs/magna2.html>

as the basis of all modern law.

Article 39 - alludes to "due process" and innocence until guilty Article 40 - right to justice and others.

English Bill of Rights 1688 (our only law about our rights!!)

<http://reactor-core.org/english-bill-of-rights.html>

This one is more complex but,

Article 1 (part1) - dispensing with Federal Law and International Law by State Law is not allowed.

Article 9 (part2) - freedom of speech

and inherent within the document.

OCSAR (Office of Crime Statistics And Research)

http://www.ocsar.sa.gov.au/docs/technical_papers/MLC20070726.pdf

see page 46 in particular.

Mike Rann, 20 November 2007, Disrupting Bike Gangs

<http://www.ministers.sa.gov.au/news.php?id=2444>

South Australia continues to lead in war on bikie gangs November 22, 2007

Minister for Police Paul Holloway today welcomed the final report by the Outlaw Motor Cycle Gang National Working Group and its recommendations for coordination between jurisdictions on communication, intelligence, legislation and investigation...

<http://www.ministers.sa.gov.au/news.php?id=2467>