

**PETROLEUM LEGISLATION AMENDMENT BILL 2001**

*Second Reading*

Resumed from 14 June.

**HON BARRY HOUSE** (South West) [9.25 pm]: The petrol pricing mechanism in Australia has been a mystery to everyone who lives in this nation. It has been a source of anger and frustration at various times, due to the way in which this essential commodity is priced. I am sure that I do not need to remind members that the major issues relate to the overall price of fuel and price fluctuations. We need to be careful about protesting too much about the overall price of our fuel products as we are relatively well off, when compared to many other places.

Other issues relate to the rapid price fluctuations over the past few years, the amount of excise collected on fuel and the day-to-day - and in some cases, hour-to-hour - fluctuations in fuel prices. For many members of this House, particularly those from country areas, the major issue is the huge disparity between metropolitan and country fuel prices. To most members it is the major issue. In the major regional centres such as Geraldton, Kalgoorlie, Port Hedland, Albany and Bunbury petrol is priced at 10c, 15c or even 20c above metropolitan prices. There is no logical explanation for the degree of difference in prices between city and country areas.

On Friday I did a spot check of fuel prices as I drove from Perth to the south west. In Perth, the price of unleaded petrol was between 82c and 83c a litre. In Mandurah it was about 1c dearer. The price in Bunbury was about 91c a litre; Busselton was 94c a litre; and it was 102c a litre in Margaret River. I cannot explain the reason for a difference of 20c a litre between a relatively civilised area in the south west and the Perth metropolitan area. The transport costs alone do not account for the difference.

This was a major issue in this Parliament and the community last year. It resulted in a select committee being established in the other place. The Court Government introduced legislation to implement a maximum wholesale pricing system, along the lines of the recommendation in the select committee report. It has been left to the Gallop Government to implement it: that is when some of the wheels started to come off the system. The legislation also introduced a system of monitoring and transparency. It established a system known as FuelWatch, with which we are now familiar. On our television screens and in our major newspapers we can see the FuelWatch system itemise fuel prices in a particular locality.

That has increased awareness in the community and, in that sense, it has done a good job. It has also done a good job in monitoring day-to-day price fluctuations. I maintain that it also has provided a cheap source of advertising for the cheapest fuel outlets; those outlets have done well by that mechanism. My only criticism of the FuelWatch system is that it does not expose the general community to some of the major issues associated with petrol pricing. It does not alert city people to the prices of fuel for that day in, for example, Bunbury, Kalgoorlie or Geraldton. It would be far more educational for the general community, particularly in city regions, to not only have a list of 30 service stations that sell fuel at differentials of 1c or 2c, but also to know what the price of petrol is that day in some of the major regional centres. City people might then get an idea about some of the anger that is expressed in regions outside Perth. When they travelled outside the city, they would not be so surprised and just about have a heart attack when they lined up at a petrol bowser and discovered that \$50 worth of petrol did not fill their tank. They have become accustomed to buying fuel at a much lower price than have people in the country.

Members all know that fuel plays an important part in the lives of those who live in country regions, probably more so than for those who live in city regions. Country people do not have the luxury of public transport and, therefore, they need fuel to get from place to place; it is an essential item. To a degree, the FuelWatch system has successfully raised people's awareness of fuel prices; however, it has not successfully addressed any of the major issues. It has neither successfully reduced the price of fuel, nor has it successfully lowered the differential between city and country prices. Indeed, some people might argue that the differential has increased since the FuelWatch system was introduced. It has not had a major impact in that sense except to make more people aware of the prices of petrol.

Petrol prices became an election issue. The Court Government was the incumbent and the responsibility to reduce petrol prices was one of the factors heaped on its shoulders. Obviously, it was one of the factors for which we copped some flak from the electorate on 10 February. The federal Government responded to that situation by forgoing the February fuel excise increase. That amounted to about \$500 million off its budget, if my memory serves me correctly. However, that disappeared in a puff of smoke overnight with another increase of 1c in the price of petrol. The federal Government should have removed the consumer price indexation from fuel; that would have had a more long-term beneficial effect for Australian consumers.

During the election, the current Premier promised the earth. He said that he would reduce the price of fuel and fix other major issues associated with petrol pricing. However, since the election we have seen very little

difference in the price of fuel. The difference in the price of fuel has been imperceptible over the past year or two, compared with what has happened since 10 February. Prices continue to fluctuate wildly in some cases. It is coincidental and is good karma for the Government that prices are currently as low as they have been for some time.

Hon N.D. Griffiths: I hope you congratulate us on that.

Hon BARRY HOUSE: If the Government had had anything to do with it, I would be happy to congratulate it, but it did not. As I understand it, current prices have a lot to do with world prices out of Singapore and our exchange rates, and little to do with government policy.

This legislation follows on from the previous legislation and is the so-called first response of the Gallop Government to the fuel-pricing situation in Western Australia. The Opposition will be supporting this legislation without any great enthusiasm. We will support the legislation by not opposing it, if that makes sense, because the legislation is merely window-dressing. This legislation demonstrates to the community that the Government is doing something about petrol prices. The Government obviously set out to convince the community by introducing this legislation that it was addressing this issue and had responded to the report by the select committee. I suppose in that sense the Government has delivered what it set out to do, but make no mistake, this legislation will not make an appreciable difference to the petrol pricing industry or to the consumer.

This legislation extends the right for 50-50 purchasing to all franchisees and retailers. I understand that it reaffirms the intention of the original Act in 1982, which set out to provide a 50-50 provision for franchisees only. This legislation had a very chequered and unsuccessful history throughout the 1980s, until the Supreme Court in 1991 upheld a challenge by BP against one of its franchisees trying to purchase 50 per cent of his supplies from another primary supplier. BP won that case in the Supreme Court in 1991, which effectively meant that the 1982 legislation did not have any teeth and could not be enforced.

This legislation also extends the 50-50 rule to liquefied petroleum gas and diesel. It increases the maximum penalties fourfold to \$20 000 for individuals and \$100 000 for corporations, and it closes a loophole - in section 22J of the prices Act - which requires advance notification of daily prices and increases penalties for breaches in that area.

The minister in his response might expand on how this amendment will function. I can understand the technicalities, but I want to know how it will achieve the outcomes we want it to achieve - better petrol pricing, more surety about petrol pricing, and a smaller discrepancy between city and country petrol pricing.

The legislation also allows retailers to run down their primary supplies of some products in order to stock supplies from a new supplier under the 50-50 rule, if required. Why would anybody bother, because the expense and inconvenience that a retailer would have to go through to take advantage of the provisions of this legislation would, in my estimation, rule that out for 99.9 per cent of retailers. Therefore, this legislation includes a provision that nobody will take advantage of. Retailers will not take advantage of the 50-50 rule because they will require extra capacity, which is expensive. The infrastructure needed for the extra capacity will not be provided by major companies. That will preclude many people from being able to afford it.

Risks are involved in draining tanks and adding a different brand of fuel. I do not know much about petrol pumping, but I know that sludge sometimes accumulates at the bottom of fuel tanks.

Hon Peter Foss: There was a problem with avgas in Victoria.

Hon BARRY HOUSE: That was my next point.

Hon N.D. Griffiths: Hon Barry House is able to deliver the speech well enough without Hon Peter Foss's help.

The DEPUTY PRESIDENT: Order! One person has the floor; that is, Hon Barry House.

Hon BARRY HOUSE: Avgas is an example of fuel that was contaminated throughout Australia, but more critically in the eastern States. That caused fear throughout the aviation industry.

Probably the most frightening aspect of this problem is that the liability for damage to a customer's vehicle due to mixed, contaminated fuel rests with the retailer, not the supplier. I cannot see why any retailer would want to run that risk.

The other factor that will prevent retailers taking advantage of the 50-50 rule is that the mixture of new fuel with fuel from the primary supplier can be sold only as unbranded fuel. That will mean that all evidence of a brand must be removed from the service station before it can sell the fuel. How many unbranded service stations are around the State now? I cannot think of one. Retailers will face enormous expense and inconvenience if they want to remove all evidence of their brand on their service outlet. It would be impractical and almost impossible. They would have to cover all their signs with hessian bags and cover all the symbols on their

browsers belonging to BP, Shell or Caltex. They would even be unable to use dockets that contained company names.

Hon Ray Halligan: They are logos.

Hon BARRY HOUSE: Yes. For the life of me, in the real world, I cannot see any retailer taking advantage of this provision. Mixing fuel is unlikely to be attempted by many people. In effect it is a Clayton's provision. It sounds good, but it is like the drink one is having when one is not having a drink. The provision will have no teeth.

In summing up, the legislation provides for certain things to happen in the industry in the almost complete certainty that they will not happen.

The legislation also introduces a review clause, for which the Liberal Opposition can take some credit. The Opposition in the other place proposed a review clause, but the Government did not accept its wording. As a result, a standard review clause was inserted similar to that contained in other legislation. That clause puts an obligation on the minister to review the legislation and to table the report of the review in Parliament. That is one piece of accountability that the Opposition can claim some credit for.

In a nutshell, there we have it. It is a piece of legislation that will satisfy the Western Australian public -

Hon N.D. Griffiths: We want to satisfy the WA public.

Hon BARRY HOUSE: It is window dressing. It will satisfy the WA public that the Government is concerned and doing something. The Premier and the minister will be able to get up and say, "Yes, we have introduced legislation to that effect in the Parliament." The fact that it is completely toothless and does not achieve any of the outcomes is beside the point. The legislation is a bit like fairy floss: if you bite into it, there is nothing there, there is no substance to it at all.

The Opposition will support the Bill because it is unlikely to do any harm. That is the other aspect; if it were going to do any harm, we would not support it.

There are a few things I want the minister to explain. I want him to explain exactly how the legislation will keep prices down. I want him to address major community concerns by explaining how much it will bring prices down. I want him to explain how it will reduce the daily price fluctuations. I want him to explain how it will reduce the city-country discrepancy - this is the most important issue to me. I cannot see how it will have any effect but I hope to hear from the minister and to have him on record saying exactly how it will achieve those things. Regardless of this legislation, the major problems in the industry still exist and I will be very surprised if they do not continue to exist in the future. Those major problems are the price discrepancies.

More importantly, in recent days, it has emerged that there is a threat to the viability of a couple of very important independents in the industry - Gull and Liberty. They are very unhappy with the whole situation and they are very important independents in our community. We do not want to lose them; we do not want to see them unfairly penalised. They still cannot buy their fuel wholesale, at the same prices as franchisees in the industry, from the major oil companies. Everybody in WA is restricted to buying from BP anyhow.

The other point that must be made is that the Government has still not implemented a clear policy on mandatory price boards. I want to know when it will develop this policy through regulation and implement it. It has been extremely slow to act on that. The previous legislation that was introduced by the Court Government last year set the policy and established the framework. It was then left, following the change of Government, for this Government to implement it. So far, we have seen an extremely slow and ineffective response. That is something that the Government must get its act together on as well.

The Government claims that this legislation will provide a benefit to the State through more branded sites being able to source fuel elsewhere other than from the major oil companies. In that way the major oil companies, I suppose, feel a little threatened - I imagine they feel as if they are being mauled by a rabbit at the moment. This legislation will really have a minimal, at best, impact on their industry, which they control. I cannot see this legislation making any significant impact on the industry. There are some major uncertainties in everyone's mind about petrol pricing in this State. We certainly want it addressed. The framework has now become a combination between the previous Government and this Government. This is another step in that process, but it is a step without teeth. I want to hear from the minister whether I have missed something in the legislation, whether I have completely misunderstood the provisions of the legislation and whether something in the legislation, which has completely escaped me and all my colleagues, will make it a lot more effective than it seems.

**HON M.J. CRIDDLE** (Agricultural) [9.50 pm]: I will make a couple of quick remarks, as Hon Barry House has covered the issue quite extensively. The differentiation in prices between the city and the country is the

principal issue. Even the local barber in my country town explained to me the major problem there. The local operator of the service station explained how he puts 10 cents on top of the price of the fuel he buys and that is the price he charges for fuel. The problem is that the price of fuel in the country is 20 cents a litre higher than the price in the city. I can see no advantage in this legislation that will change that situation. The Government has an enormous challenge on its hands, and I would like to know from the minister just what in this Bill will overcome those issues.

The National Party in the other House, with the cooperation of the Government, amended section 4(3)(h) of the Petroleum Retailers Rights and Liabilities Act to allow the brands to be mixed. However, section 4(3)(g) provides that one tank must be for a primary supplier only. If we removed that paragraph, we may get somewhere.

I certainly support the objective of the Bill; that is, to address the community's major concerns about fuel prices. The Bill was drawn considerably from the recommendations and findings of the Select Committee on Petroleum Products Pricing in Western Australia in its report "Getting a Fair Deal for Western Australian Motorists". The select committee recommended actions such as requiring retailers by law to put up the pricing boards. Why was Albany chosen? There are 22 outlets. The pressure on those 22 outlets could see the demise of some of them. Perhaps the minister can explain to me what benefit can be found in covering the issue particularly in Albany?

Hon Barry House: Why don't they do it generally?

Hon M.J. CRIDDLE: Yes, why does the Government not do it across the board?

There is obviously a stimulation in the liquefied petroleum gas market as well. It is positive to see the definition of "motor fuel" extended to include liquefied petroleum gas. The Bill in its current form is unworkable, particularly for country fuel retailers. I am concerned about the requirement for a second bulk fuel tank, which just puts prohibitive costs on country retailers. In many country areas, service stations have one fuel tank for one grade of fuel and one fuel tank for another grade. This seems to indicate that the service station proprietor would need one fuel tank for fuel from the primary supplier and have his unbranded mix in the other one. That is the way we will get competition. I do not think people will be bothered with that situation. I would like the minister to explain that issue to me.

The Government is saying that retailers will need the permission of the owners of the bulk storage and dispensing equipment before making alterations. Why would the owner - normally the fuel company - give permission? I do not think it will. The Government may argue that its amendments to section 5, subsections (4), (4a) and (5) of the Petroleum Retailers Rights and Liabilities Act address the problem of permission not being given, by allowing the retailer to approach the commissioner and, if necessary, go through an appeals process to determine whether the refusal is reasonable. From my point of view, retailers will not have the time, the resources or the confidence in the process to enter into such an appeal process.

The amendment Bill should be amended by deleting the reference to the retailer getting permission from the fuel company to make alterations to the bulk storage and dispensing equipment. References to the retailer requiring the permission of the landlord to make certain alterations should be retained, so that the rights of a landlord are not diminished. However, it makes no sense at all to grant the fuel company the right to refuse to permit the retailer to make alterations so that he can dispense fuel under the 50-50 arrangement.

The other issue is the review clause. A review every three years, from my reading of the text of the Bill, will give the minister the power virtually to do whatever he chooses. I would like to hear the minister's comments on that issue.

Although this legislation is in place, I understand BP Australia Ltd supplies all fuel in Western Australia. Under arrangements made with the various companies, including the small companies, BP fuel is distributed throughout Western Australia. We all get the same fuel, and I wonder whether there will be any advantage whatsoever in this Bill.

**HON ROBIN CHAPPLE** (Mining and Pastoral) [9.56 pm]: I rise to talk on the 50-50 legislation, which I believe is tinkering at the edges of reality. I refer members to a *New Scientist* report of 23 September 2000, in relation to the message about protests over fuel prices in Europe. It reads -

One message of the protests is that it would be political suicide for governments to make fuel pricey enough to really cut CO<sub>2</sub> emissions.

I am sorry that the Opposition, although it has some concerns with the legislation, is not prepared to put its money where its mouth is.

I refer to the second reading speech by Hon Nick Griffiths for the motivation for the Bill. It reads -

The Government has used the committee's report as the blueprint for its package of reforms.

I turn to the report of the Select Committee on Petroleum Products Pricing in Western Australia titled "Getting a Fair Deal for Western Australian Motorists" and point out that one of the findings was -

Regardless of the future of world parity pricing, it is essential that a coordinated effort is made to break the nation's dependence on petroleum products by promoting alternative natural sources of energy.

Lowering the price of fuel will not do that. I also note two other points. Under recommendation 13 the finding is -

A positive State Government involvement to stimulate the LPG market and pursue alternative fuel options, especially CNG and LNG would provide much needed competition to the traditional petroleum markets.

Recommendation 14 reads -

That the State Government develop a strategy, in conjunction with private sector participants, to promote the use of alternative fuels such as LNG and CNG, especially for freight use;

That the use of alternative fuels such as LNG and CNG, be promoted, especially for freight use . . .

In dealing with the 50-50 legislation, the Greens (WA) have talked at length with many service providers in remote communities and across this State. We have also talked - even up to three hours ago - with petroleum companies to get their feelings on the variations. The idea is that we will allow petroleum retailers to get 50 per cent of fuel stocks of their choice from an alternative supplier. It will close the loopholes in the Petroleum Products Pricing Act 1983 and force all retailers to display the day's price in advance. The Greens (WA) do not have an issue with retailers showing the day's price. However, officers in the Ministry of Fair Trading could not say whether there would be any price reduction as a result of this legislation. Why are we going through a legislative program from which there will be a zero outcome?

Debate adjourned, pursuant to standing orders.