

RETAIL SHOPS AND FAIR TRADING LEGISLATION AMENDMENT BILL 2005

Committee

Resumed from 20 June. The Deputy Chairman of Committees (Hon Ray Halligan) in the chair; Hon Kate Doust (Parliamentary Secretary) in charge of the bill.

Clause 6: Section 10 amended -

Progress was reported after Hon George Cash had moved the following amendment -

Page 8, line 6 - To insert -

(3ad) A person who is a registered apprentice shall be exempt from the application of this section.

Hon GEORGE CASH: Last night, when the committee was dealing with this clause, I moved this amendment, but I had noted previously that there might be a better place in the bill in which to place it. The parliamentary secretary has given consideration to the matter overnight, and has given me a copy of an amendment that is couched in better terms for insertion in the bill. In giving it to me, the parliamentary secretary underlined the fact that the government still does not agree with the amendment. However, there is, in my view, a better part of the bill in which to place this amendment. Therefore, I seek leave of the committee to withdraw the amendment that I moved last night, with a view to moving a new amendment.

Amendment, by leave, withdrawn.

Hon GEORGE CASH: I move -

Page 4, after line 26 - To insert -

(da) in paragraph (bc) after “shop”, in the first place where it occurs, by inserting -
“

but excluding any person who is employed at the retail shop as an apprentice, as defined in the *Industrial Training Act 1975* section 4(1)

”;

We have spoken to the amendment on a number of occasions. I thank the parliamentary secretary for having this drafted in the manner in which it is now presented. Since the parliamentary secretary gave me this amendment, perhaps she has changed her mind and now recognises the importance of apprentices in this particular industry and may find it within her heart to support the amendment. I want to encourage apprentices to be employed in Western Australia, and that is the object of the amendment.

Hon KATE DOUST: Hope springs eternal, Hon George Cash.

Hon Norman Moore interjected.

Hon KATE DOUST: If Hon Norman Moore wants to pursue that line of argument, I will raise a few of my own conspiracy theories. The government has not changed its position. Whilst we acknowledge the importance of apprentices in the industry, I have outlined that as at April this year, about 660 apprentices are employed in this state. Only a few of those apprentices fall within this category. I will advise members who support this amendment of my concerns. The first is the issue of identification. It is already of great difficulty for inspectors who go on site to do the head count of employees who are on the shop floor at any given time. That number of employees has been increased to 13. If an inspector goes on site to head count 13 people and there are more than 13 people on the shop floor, how will he know whether someone is an apprentice? What happens if a person does not have his or her papers or says he or she is a casual? It will put more pressure on the inspector because he will have to undertake a time and wages check to ascertain who is and who is not an employee. By the time the inspector finishes that check, the same number of employees may not be on the shop floor. I understand that is already a problem for inspectors. They go into a store to do a head count, and all of sudden there is a lot of scurrying to places outside the shop. The department has explained that to me. Therefore, identification is a concern. Another concern is the actual enforcement of this proposed amendment by the department to determine which category the apprentices fall into. I have outlined the potential difficulties with this amendment.

The other clarification that I raised with Hon George Cash is the nature of the apprentice who will be employed. The amendment refers to “any person who is employed at the retail shop as an apprentice”. Members know that in retail shops there can be apprentice mechanics and hairdressers. Would it preclude those apprentices from being added to the number of people working in a retail shop? The amendment is vague. The type of apprentice who will fall into this category should be put on the record. For example, the apprentices working in this type of retail shop would be butchers or bakers.

Hon George Cash: And pastrycooks.

Hon KATE DOUST: Pastrycooks come under the category of an apprentice baker. It must be understood that they cannot use fitter and turner apprentices and hairdresser apprentices to bolster the numbers, and say that because they are apprentices they can work in that business. That would be a concern. It does provide the potential for that to happen. I have worked in the industry, and over the years I have seen some very interesting things that members would not expect to happen.

Nothing would surprise me. At the end of the day, the government's position has not changed. We will not support the amendment. We believe that small retail shops have been very successful after the outcome of the referendum. This bill is about reinforcing the decision of the referendum. I believe it is opportunistic to seek a further expansion of the number of people who can work on the floor of these types of shops. It will cause difficulty for other smaller stores and may cause others to argue for the total deregulation of trading hours. We do not support the amendment because we believe there is already capacity to employ apprentices within the current number of employees. Nothing has prevented or precluded these types of employers from engaging apprentices if they so choose. We do not believe this is an acceptable path to go down at this time.

Hon MURRAY CRIDDLE: I have made my view on this issue known. The National Party has received feedback from the industry. We have undertaken wide-ranging consultation on the issue. Nothing has changed for the National Party. It is interesting to note that, since I have been putting this view, I have not received a phone call from anybody to say that I am on the wrong track, but some people have told me that I am on the right track. It is interesting that that position is being reflected by others. If these operators want to get into the big league, let them get into the big league; let them join the two big operators. There will be no cap. We have increased the number of employees from 10 to 13, and now they want to be able to have as many apprentices as they like.

This is the first time I have seen the amendment. I would like to have a good look at the definition of "apprentice" in the Industrial Training Act 1975. Obviously, if we are to rely on that definition, there does not need to be a definition in this legislation. However, I would like to know what the definition states, and perhaps the parliamentary secretary can tell me. I looked up the definition of "apprentice" in the dictionary. It states that an apprentice is one who is bound by legal agreement to work for another for a specified period in return for instruction in a trade, art or business, or who is learning a trade or occupation, especially as a member of a labour union. That is an interesting finish to the definition. If there were a requirement that the number be increased, I can see no reason that it could not have been included in the previous amendment. This seems to be an opportunistic manoeuvre to get more people into these particular trading houses.

Progress reported and leave granted to sit again, pursuant to sessional orders.