

ROAD TRAFFIC AMENDMENT (VEHICLE LICENSING) BILL 2001

Committee

The Deputy Chairman of Committees (Hon Kate Doust) in the Chair; Hon N.D. Griffiths (Minister for Racing and Gaming) in charge of the Bill.

Clauses 1 to 29 put and passed.

Clause 30: Section 3 amended -

Hon N.D. GRIFFITHS: I move -

Page 14, lines 17 to 19 - To delete the lines and insert instead -

“motor car” means a vehicle that is not a motor cycle and that is designed —

- (a) mainly to carry people; and
- (b) to seat not more than 8 adults (including the driver);

“motor cycle” means a vehicle that —

- (a) is designed to travel on 2 wheels; or
- (b) although not designed to travel on 2 wheels, is designed so that the driver sits astride it, or part of it, in a manner similar to that customary for a vehicle designed to travel on 2 wheels;

Clause 30 of the Bill seeks that “motor car” and “motor cycle” have the meaning given by regulation. The Standing Committee on Legislation was of the view that those definitions should not be put in place by way of regulation, but should be in the Act. The amendment I have moved seeks to accommodate those concerns of the standing committee.

Hon M.J. CRIDDLE: I bear in mind the enormous wisdom of the committee, but these arrangements could readily be dealt with by regulation. We never know what might arise from time to time and we may want to narrow the application of this amendment rather than extend it. It is a personal view, but I have expressed it on more than one occasion. I would prefer to see this in regulation, and I will vote in that direction.

Hon N.D. GRIFFITHS: Hon Murray Criddle has expressed an appropriate view. It is a judgment call. I am mindful of his experience and wisdom in these matters, but it is the Government’s position that the committee’s proposal is the appropriate way to go.

Hon M.J. CRIDDLE: Will the minister assure me that any agricultural implements that go on the road will not be affected by the amendment? I would like to be assured that this amendment will not affect changes in agricultural machinery that occur from time to time.

Hon N.D. GRIFFITHS: I note the terms of the question asked by Hon Murray Criddle. I understand from his question that he was referring to agricultural implements. We are dealing with motor cars and motorcycles. The advice given to me is that there is no cause for concern.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 31 to 33 put and passed.

Clause 34: Section 76CB amended -

Hon N.D. GRIFFITHS: I move -

Page 15, lines 17 to 24 - To delete the lines and insert instead -

inserting after the definition of “eligible vehicle” —

“

“First Schedule to the Road Traffic Act 1974” means the First Schedule to the *Road Traffic Act 1974* as in force immediately before the commencement of the *Road Traffic Amendment (Vehicle Licensing) Act 2001*;

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The report of the Standing Committee on Legislation recommends -

... that clause 34 ... be amended so that the definitions of “eligible vehicle” and “specialised equipment” are expressly included in the *Stamp Act* 1921 rather than being defined by the regulations.

The amendment seeks to put that recommendation of the committee into effect.

Hon M.J. CRIDDLE: Can I have an explanation of “eligible vehicle” and “specialised equipment”?

Hon N.D. GRIFFITHS: The first schedule in the Road Traffic Act sets out in some detail the matters that will be the subject of this category of eligible vehicle. It is contained in just over four pages and begins with a caravan motor propelled, caravan trailer type converted, dolly trailer, external power vehicle, forklift truck, mobile crane, motorcar, motor carrier, motorcycle, motor wagon, omnibus, plant trailer, trailer, semitrailer, tow motor, tractor prime mover type, tractor other than prime mover type, tractor plant, tow truck, etc. It would take some time to read it, but I will do so if Hon Murray Criddle wishes. I am also happy to provide him with a copy.

Hon M.J. Criddle: Is the amendment to the Act rather than the regulations?

Hon N.D. GRIFFITHS: It is set out in the first schedule to the Road Traffic Act. This definition, which will lead to these categories of vehicle being liable for stamp duty on transfer, will go into the Stamp Act. That is consistent with what the Standing Committee on Legislation sought to have achieved.

Hon M.J. Criddle: What implication will that have for fees that may be incurred in any further licensing arrangement?

Hon N.D. GRIFFITHS: There is no change to the present arrangements.

Hon M.J. CRIDDLE: I refer to the point I raised about the previous amendment dealing with various vehicles or drawn apparatus on the road and the fact that the Act would need to be amended should the form of vehicle or apparatus that travels on the road change.

Hon N.D. GRIFFITHS: I note the point. Whether something goes into an Act or regulations is based on a judgment call. I also note that there is greater flexibility with regulations. The proposition Hon Murray Criddle mentioned has merit. However, the Government has decided to accept the committee’s view on this. The definitions set out in the first schedule are considered to be very wide. For example, reference is made to a motor wagon being any motor vehicle not being a motor carrier or a motorcycle, or a locomotive or a traction engine that is constructed for the conveyance therein or thereon of goods and merchandise. These are very broad descriptions. It is not meant to impede the carrying on of proper activity, nor should it impede operations in the agricultural industry.

Hon M.J. CRIDDLE: The minister has almost justified the point I was raising. Why is the Act being amended if it is not meant to impede anything? Why can we not include it in a regulation that will allow changes to be made readily rather than having to amend an Act. This Act has been years coming to Parliament. We are establishing a mechanism that needs substantial redrafting and reintroduction to Parliament for it to be enacted.

Hon N.D. GRIFFITHS: These definitions are contained in the Road Traffic Act. If we wanted to vary the definition, it would be a matter of amending that Act. Whether the process is inflexible makes no difference. Hon Murray Criddle was making what I see as a philosophical point no doubt based on his experience as a minister that, at least in theory and I suspect on many occasions in practice, it is better to have matters dealt with by regulation. However, in this instance the view of the committee is that the matter should be appropriately addressed through the Act. The definition is contained in the schedule to the Road Traffic Act. I note Hon Murray Criddle’s appropriate point of view. However, we should agree to differ.

Hon W.N. STRETCH: This refers back to a debate we have had many times on Henry VIII clauses. In the absence of the Chairman of the Standing Committee on Legislation, it is worth clarifying that the committee felt strongly that where possible we should move away from the Henry VIII concept of leaving the powers to ministerial discretion by regulation because of some of the excesses that occurred in the past over many years, if not centuries. The preference has been, where possible, that things be spelled out in the Bill. We appreciate that this causes a certain inflexibility in responding to rapidly changing circumstances. By the same token it protects the legislative body against ad hoc decisions by ministers. In the past some ministers have unfortunately run off the rails and made amendments by regulation and had to be pulled back by the regulatory scrutiny process of the House, which ends up being nearly as cumbersome and time consuming as amending a parent Act.

As the minister said, whether the law is by regulation or legislation is very much a matter of philosophy. The standing committee very strongly favours spelling things out in legislation so that poor, unsuspecting citizens can pick up an Act of Parliament, if such is their wont, and interpret the Act reasonably clearly without having to refer to a large body of regulations, to which in many cases they do not have access. That is the background to

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Hon Nick Griffiths; Hon Murray Criddle; Hon Bill Stretch

the Legislation Committee's general objection, although we accept it causes difficulties for ministers. In two or three years we on this side of the House may not put that argument!

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.