

TAXI DRIVERS LICENSING BILL 2013

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Amber-Jade Sanderson) in the chair; Hon Jim Chown (Parliamentary Secretary) in charge of the bill.

Clause 9: Causing or permitting unlicensed driver to drive taxi —

Committee was interrupted after the clause had been partly considered.

Hon JIM CHOWN: Hon Ken Travers asked two questions. The response to the first one is yes. The response to the second one is that the person who will be fined will be the person legally responsible, not the employee. While on my feet, Hon Alanna Clohesy had a question on clause 5 and I will give a response to that question in regard to medical certification. An applicant will go to their medical practitioner and request a medical —

Point of Order

Hon KEN TRAVERS: I suggest that if the answer relates to clause 5, rather than confusing people reading the transcript, I am pretty sure we postponed clause 5, so we can come back to it, and I suggest we deal with that answer at that point.

Hon JIM CHOWN: That is fine.

Hon KEN TRAVERS: I realise the parliamentary secretary was trying to be helpful.

The DEPUTY PRESIDENT: Is the parliamentary secretary's response concluded?

Hon JIM CHOWN: Yes, I am more than happy for that to occur.

Committee Resumed

Hon KEN TRAVERS: I understand that the person legally responsible will be fined, but in terms of the operation of this legislation, particularly in the metropolitan area where we have formalised taxi dispatch services, will the body corporate—the company—be charged or will it be the responsible person in that company?

Hon JIM CHOWN: It will be the body corporate. The body corporate does have a legal identity.

Hon KEN TRAVERS: It will be interesting to see how that will physically operate. It could be that people within the organisation who are assisting escape being charged. I thought we should be looking at that.

If taxi management companies allow someone who is not a licensed driver to take a cab, is it intended that they be charged? If they are charged, will the individual who runs that taxi management company be charged or the body corporate that runs that taxi management company?

Hon JIM CHOWN: The body corporate will be charged.

Hon KEN TRAVERS: What section of clause 9 will they be charged under? Will they be charged under clause 9(1)(a) as the body corporate?

Hon JIM CHOWN: That is correct.

Hon KEN TRAVERS: Is there any intention to potentially prescribe clause 9 as an offence under clause 33 that would lead to cancellation or disqualification of a licence?

Hon JIM CHOWN: A taxi management company will not have a taxidriver's licence.

Hon KEN TRAVERS: That is not the question I asked. I understand that. I was asking whether the intention is to prescribe clause 9(1) as one of the offences that would cause someone, if they had been charged under clause 9(1), to have their licence cancelled or disqualified. Is that the intention—to treat this offence as seriously as those offences under clause 8?

Hon JIM CHOWN: No decision has been made.

Hon KEN TRAVERS: I find it fascinating that a person driving a taxi without a licence will automatically be disqualified under clause 33 but the government is saying that it has not yet decided what will happen when a person causes or permits that person to do that. Even though it has the legislation in the house, it has not decided whether that offence is serious enough to preclude someone from keeping a licence. It is appropriate to deal with it now rather than when we get to clause 33—we can have another look at it when we get there—because of how we define it. The questions I have been asking about who will be charged become quite important because

someone may be running a taxi operation through a company structure, thereby allowing people to drive but also being the holder of a taxidriver's licence themselves. They will be able to hide behind the corporate entity and say, "Even though I allowed that to happen, it was not me; it was the company that did it." The parliamentary secretary has just told us that the company will be charged. That person will avoid being charged with an offence of assisting the person. I would have thought that in those circumstances, if someone was responsible for allowing that to happen, they would be the entity being charged, not the corporate entity. I am not even sure why we need subclause (2) if subclause (1)(a)(i) allows both a body corporate and an individual to be charged. Why do we need to even mention a taxi dispatch service? If the legislation can pick up a taxi management company, it can pick up a taxi dispatch service under subclause (1)(a). I do not know whether the parliamentary secretary has an answer to this but I am very concerned that we are not treating a person assisting someone to drive without a licence as seriously as the person who drives without a licence. I think they are both as culpable. We should be stamping down on both of them and treating them with the same seriousness.

Hon JIM CHOWN: The member's comments have some merit, especially in consideration of leaseback holders. The department has ongoing discussions with the industry on matters such as that and disqualification offences.

Hon KEN TRAVERS: I will not labour the point any longer but I think it is pretty extraordinary that we have a bill before the house and the parliamentary secretary is telling us that the government has not finalised its position on the pretty fundamental question of how this clause will operate. I can understand the detail is in the regulations but this is a pretty basic issue. The fact that it is not here is extraordinary. I am happy to move on.

Clause put and passed.

Clauses 10 and 11 put and passed.

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