

MOTOR VEHICLE DEALERS AMENDMENT BILL (NO. 2) 2002

Second Reading

Resumed from 18 March.

Question put and passed.

Bill read a second time.

Consideration in Detail

Clauses 1 to 9 put and passed.

Clause 10: Section 8 replaced -

Mr D.F. BARRON-SULLIVAN: This clause proposes to repeal section 8 of the Act and insert a new section to reflect the composition of the new board. The board will comprise nine people: a chairman, two people with knowledge and experience of the motor vehicle dealing sector, two people with knowledge and experience of the motor vehicle repair sector, three people representing the interests of consumers and one nominee of the Royal Automobile Club of WA. There is no specific requirement for a rural representative. The minister might say that one of the people from the motor vehicle dealing sector could be from a country area and one or two of the consumer representatives might also be, but there is no specific requirement for rural representation. The motor trades industry is very broad but in regional areas it is the industry that has the most impact and significance in every respect. Country areas are driven by aspects of the motor trades. Has thought been given to some representatives from the consumer and small business sectors being on the board? Why is a nominee of the RAC on the board? In what capacity will the person serve? The RAC is generally seen as the foremost motoring representative body in this State, but it is also an insurer. Some people may ask which hat it will be wearing on the board. If the RAC acts for consumers, we will end up with a board that will regulate the industry but, not including the chairman, half the members will represent consumers and half will represent small business. Because of the depth and breadth of the industry, there is a strong argument to ensure that small business has the dominant say on the board. This is not purely consumer protection legislation; it is aimed at making the industry operate more efficiently. It could be argued that the chairman may have the casting vote but we do not know where that person will come from. It might be someone who the minister would like to see on the board but who has no experience of motor trades. Why is there no specific mention of representation of regional interests on the board? Why is it weighted so heavily in favour of consumers, who may have no intimate knowledge whatsoever of the industry? Why does the RAC have a representative; why is it not included as one of the three representatives of consumers? Other insurers will wonder why one of their competitors has representation on the board.

Mr J.C. KOBELKE: The need for rural and small business representation is something I take very seriously. I have a role in appointing people to a large number of boards and I always try to achieve appropriate representation. If we are too specific with legislation, a range of other groups will want representation as well, and rightly so. A board can end up being too large. With such appointments I ask my office to put together a matrix. A person may be a motor vehicle repairer and dealer; he may have both roles. The main issue is how to get good coverage and how to make sure there are a reasonable number of women on the boards. Rural representation is very important. I give the member an undertaking that I will make sure that there is non-metropolitan representation and small business representation, but it will be done without trying to tie down every specific requirement in the legislation. The other issue related to consumers. The Government made this commitment at the election. As we go through a whole range of boards and committees we will make sure consumers have greater representation because this is predominantly consumer protection legislation. In most cases, consumers should occupy half the membership and we will seek to achieve that. That will not apply in every case. Sometimes the boards may get too big and we may therefore downplay the number of consumers represented, but we will certainly make sure there is ample consumer representation on all such industry boards.

The third part of this clause is restricted to the Royal Automobile Club of WA. The RAC currently has a nominee on the motor vehicle dealers board, so the legislation is just continuing that process. I see that as representative of consumers, not of a particular business arm that is controlled by the RAC. The RAC has a very high standing in our community, it is a very reputable organisation, it provides a valuable service to the community, it is perhaps the best equipped consumer representative agency in the State, and it plays a vital role as a representative of consumers. Therefore, its presence on this board will continue to be most welcome, and I have no problems with that being a requirement under this legislation.

Mr R.F. JOHNSON: My colleague the Deputy Leader of the Opposition has carriage of this Bill on behalf of the Liberal Party, but I could not resist picking up on something that the minister has responded to. The minister said that he is looking at putting consumers on all boards and committees.

Mr J.C. Kobelke: I referred to a greater consumer representation.

Mr R.F. JOHNSON: That is in complete conflict with what we heard in the House yesterday concerning the board of the Western Australian Tourism Commission. There are no consumers specifically on that board. The Minister for Tourism sold the idea of adding two extra members to that board, increasing the number from eight to 10, on the basis that those members have business expertise that will contribute to that very important board, which is predominantly for consumers - the consumers in this instance being tourists, whether intrastate, interstate or international. To some extent the minister's argument is flawed when he says that he wants to introduce consumers to all boards and committees. That was not done yesterday in relation to the board of the Tourism Commission, yet today the minister presents an argument that it should have been the case. The minister may want to change his comment to say that when it suits the Government, it will put some consumers on boards and committees; and, when it does not suit, it will not.

Mr J.C. KOBELKE: The member has totally missed the point. We are dealing with legislation that will provide for a board that will play an important role in regulating an industry for the protection of consumers. The Tourism Commission Board is about promoting tourism as an industry. Those organisations have very different mission statements. This is one of many boards that falls within the consumer protection portfolio, and specifically regulates an industry for consumer protection. On that basis, consumers should play a significant, if not a dominant, role on the management of the board.

Mr D.F. BARRON-SULLIVAN: I thank the minister for his response. The day I learn to circumvent a question as effectively as the minister has done is the day I should leave this job. Specifically, will the minister acknowledge that people who have knowledge of and experience in the motor vehicle dealing and the motor vehicle repair sectors of the industry could include representatives of major insurance companies?

Mr J.C. Kobelke: Can the member make the question clear? They must fulfil one of these roles. I do not see those people as being representative of the interests of consumers.

Mr D.F. BARRON-SULLIVAN: No. I refer to the category of two persons with knowledge of and experience in the motor vehicle dealing sector or two persons with knowledge of and experience in the motor vehicle repair sector. I refer particularly to the latter. People in the insurance industry have knowledge of and experience in the motor vehicle repair sector, particularly with panel beating and spray painting. Does this provision leave any scope for a person from an insurance company to be appointed to the board?

Mr J.C. Kobelke: I would not see such a representative fitting the criteria; namely, having knowledge of and experience in the motor industry. I will look at people engaged in the industry or who have had many years experience as a participant in the industry. I refer to the two sub-sectors of the industry - motor vehicle dealers and motor vehicle repairers.

Mr D.F. BARRON-SULLIVAN: Importantly, the minister is on the record stating that no representatives of insurance companies, apart from the Royal Automobile Club of WA, will be on the board.

Mr J.C. Kobelke: I do not see the RAC as primarily a representative of insurance companies. Concerning the two criteria of people with knowledge of and experience in the motor vehicle industry, I will look for a current practitioner or someone who recently left the industry but who has a reputation for knowing the industry thoroughly. A similar approach will be taken with motor vehicle repairers and dealers.

Mr D.F. BARRON-SULLIVAN: It is important to have the minister's commitment that he will not put insurance company representatives on the board. Otherwise, the small business sector could be outnumbered on the board. This legislation is about improving the quality of the industry.

Mr J.C. Kobelke: I see no role for a representative of the insurance industry on the board.

Mr D.F. BARRON-SULLIVAN: When the minister decided to include a Royal Automobile Club representative on the board in the context of being a motoring consumer representative, did he assess the RAC's relative turnover in its insurance operations compared with its expenditure on motoring and consumer advocacy operations? Did the minister's office weigh up the extent to which the RAC is involved in insurance as opposed to its motoring and consumer advocacy operations?

Mr J.C. KOBELKE: Obviously I gave some thought to the fact that the Royal Automobile Club has commercial arms. Some people may see that commercial arm as perhaps exerting some influence on the role of the RAC, which is clearly a motorist-based organisation serving the interests of its members; namely, motorists generally in Western Australia. How it separates its commercial interests from the service of its motoring membership is an internal matter for the RAC. I have no reason to question that the RAC handles that aspect in a totally appropriate way. I see the RAC as a valuable and reputable organisation that serves the interests of its huge membership in Western Australia. It puts a great deal of resources into providing services to its membership and the motoring public at large. The RAC clearly is predominantly a consumer-based organisation. If the member

has evidence that the RAC's commercial interest in other areas - for example, its involvement in travel - means it is somehow more about running a for-profit business than serving its membership, he should say so. I have no concerns of that nature at all. It is not only appropriate that the RAC has a direct nominee on the board; it is crucial for the good function of the board that such a reputable organisation with expertise and resources in this area - it is well beyond that found with any other organisation in WA - should make a direct and important contribution to the operation of the board.

Mr D.F. BARRON-SULLIVAN: We are not in any way calling into question the role of the Royal Automobile Club of WA. We are trying to find out whether it has been appointed in a consumer advocacy role or as a participant in the industry. The point is that, either way, I do not think anyone would say that it is representative directly of the small business sector. Three other people on the board are not representatives of small business, and the chairman may not be either. A concern has been raised that this board structure does not allow small business to necessarily have 50 per cent of the say on the board. Bearing in mind that the small business sector has been instrumental in pushing for this legislation and has worked with successive Governments to bring it across the line, I thought the Government would have had more confidence in small business and ensured that it had fair representation on the board. There probably is no need for the minister to respond to my comments. This is one of the reasons that we needed the three-year review period - so that we could see how things panned out to ensure that small business was not swamped by the decision-making process on the board. I trust the minister implicitly - I always do - to ensure that there is fair representation across the board. I am sure that his Liberal Party successor will do the same thing in a couple of years.

Clause put and passed.

Clause 11: Section 10 amended -

Mr D.F. BARRON-SULLIVAN: The quorum of members at a board meeting is five. Again, a situation could arise in which the board makes a decision almost in the absence of any representatives of small business. There could be only one small business representative on the board when the decision is made. Has any thought been given to specifying that a minimum of, say, three of the five people who represent the small business sector must be present at a meeting?

Mr J.C. KOBELKE: No, that has not been considered, simply in light of the way in which the Motor Vehicle Dealers Licensing Board has functioned for some years. It has been a very cohesive board. It has clearly sought to provide protection to consumers, motorists and people purchasing cars. However, it has also been very mindful of the importance of the industry and how it works. Therefore, there has been cohesion. I am very hopeful that that cohesion will continue with the new board format. Therefore, there will be no way in which one group can try to push something through when there is not proper representation at a meeting. I certainly do not think that will happen, and I would be dismayed if it ever did. I do not think we need to tie down the legislation in such detail on the basis that one fears that somehow a key group will not be present at a meeting and that decisions might be made to which it strongly objects. I do not think that is the way boards such as this should operate. I put that clearly on the record. I am sure the board, with whatever new membership it will have, will continue to operate in a way that respects the rights of all individuals on it and ensures they are cognisant of and take into account the concerns and needs of the various sectors of the industry, whether that be small, medium-sized or large businesses, metropolitan, rural or remote consumers or a range of various interest groups. The board will not be involved in playing petty games at meetings by locking out any of those key representative groups.

Clause put and passed.

Clause 12: Part II Division 1 Subdivisions 2 and 3 and heading for Subdivision 4 inserted -

Mr D.F. BARRON-SULLIVAN: Proposed section 12B enables the minister to direct the board in certain respects. The clause specifically precludes the minister from giving any direction in a particular case. For example, if the board were to consider rescinding someone's licence, this clause would prevent and preclude the minister from intervening. The minister is obviously able to give direction in a policy sense. What sort of situations might arise in which this provision might cut in? For example, if some anomalies or problems resulted from this legislation in a small wheatbelt town workshop, would this clause enable the minister of the day to step in and say that he wanted a region, town, industry or whatever to be exempted? I ask the minister to provide an example of how extensive this process of giving directions will be.

Mr J.C. KOBELKE: This is an important principle. At the end of the day, the minister must accept responsibility. We do not want a recurrence of the sham that occurred with the finance brokers issue, when the minister said that the board was responsible and did not take his duties seriously and get involved. The minister must have the power to act when matters arise that impact directly on the community or industry and to which he feels the board is not giving due attention or has gone down a road that he feels it should not have gone down. It is hard to foretell in the ways that it will occur. It is a general principle. It may come back to the previous

matter. If the quorum required for the board to meet was too small, which I do not believe is the case in this instance, the minister might direct the board to maintain representation. I cannot foretell what issues might arise. The power would not necessarily cut in for the minister to make exemptions. Exemptions must be approved by regulation, which the minister must approve anyway, so the minister has that additional power.

Mr D.F. Barron-Sullivan: Could the minister initiate additional exemptions or whatever?

Mr J.C. KOBELKE: That is possible in theory. The minister may direct the board to consider exemptions for a part of regional Western Australia if a problem needed to be addressed. Again, the minister has the power to determine whether those regulations go forward. The form of regulation the board might put forward might not be acceptable to the minister.

Clause put and passed.

Clauses 13 to 25 put and passed.

Title put and passed.