

Legislative Council

Thursday, 28 July 2011, Page 3649

ELECTRICAL PRODUCTS (ENERGY PRODUCTS) AMENDMENT BILL

The Hon. A. BRESSINGTON (17:05):

I rise briefly to indicate my position on the bill. This is a relatively straightforward bill—a good thing for the minister carrying it in this place—that seeks to extend the minimum energy performance standards and the star rating of the energy efficiency regime that currently applies to certain electrical products, gas and, in future, other energy products, such as solar hot water heaters and the like.

The bill gives effect to the decision of the Ministerial Council on Energy to incorporate the existing industry sponsored gas labelling scheme into the statutory regime for electrical appliances, and does so by amending the Electrical Products Act 2000 to cover these appliances and consequently renaming the act to the Energy Products (Safety and Efficiency) Act.

As I understand it, only minimum energy performance standards for gas water heaters have so far been developed, with gas water heaters and cooking appliances to follow in due course. I indicate to the council that I support the existing regime being extended to gas and other energy products. The bill also makes significant changes to the powers of the authorised persons charged with ensuring compliance with the scheme and to ensure the safety of electrical and gas products being offered for sale.

Consistent with other acts—a point I shall return to—authorised persons are to be redesignated as authorised officers, and will be empowered to stop and inspect vehicles; to require persons reasonably suspected—not 'expected' as the minister's second reading contribution suggests—to have committed a contravention of the act to identify themselves; to seize energy products reasonably suspected of contravening the act; as well as the power to demand information about the chain of ownership and invoices and other documents to that effect.

I also indicate to the council that I am supportive of the aforementioned extension of authorised officers' powers. However, the bill also seeks to modify the privilege or right against self-incrimination. While natural persons shall retain the right to silence, bodies corporate will be required to answer questions, whether or not the answer may be self-incriminating.

Following the introduction in this council of the Natural Resources Management (Review) Bill which, as members would be aware, proposes also to remove the right against self-incrimination, I spent much time in considering my view in relation to the power to compel answers, a power which (prior to it is roll-out across statutes establishing myriad authorised officers) traditionally resided with royal commissioners and those exercising similar powers, such as the Ombudsman or the investigator inquiring into the former Burnside council.

Not even our police are given the power to compel answers that may be self-incriminating, yet authorised officers responsible for ensuring the compliance and safety of energy products will be so empowered. The minister, in justifying the bill, relied upon other acts which similarly empower authorised officers, the rationale being—and I quote the shadow minister in the other place, the member for MacKillop:

It is in this piece of legislation, therefore, we can justify putting it into another piece of legislation, and so it flows on.

However, this council has shown that it is no longer willing to blindly invest these powers in authorised officers. As members may be aware, the Minister for Environment and Conservation has indicated that he will be withdrawing the clause removing the privilege against self-incrimination from the Natural Resources Management (Review) Bill, simply because the minister has recognised that the majority of members of this place are not comfortable with authorised officers in that context having such a power.

Yet, in this bill a nearly identical power is being extended to another class of authorised officers and, while the shadow minister in the other place raised these concerns, the provision would have seemingly passed without debate. I cannot justify the inconsistency. So that the debate can proceed, I indicate to the council that I will be moving an amendment to delete the proposed section, specifically section 11(7), and making consequential changes to section 11(6).

Whether we refer the issue to the Legislative Review Committee, as the Minister for Health did in relation to national legislation, or simply have the debate here when I move the amendment, I believe it is time that this council adopted a consistent approach to the protection of the right to silence. That said, Mr Acting President, I support the thrust of the bill and, hence, the second reading, and I look forward to the committee stage.