

## Legislative Council

Thursday, 4 June 2009, Page 2600

### SECOND-HAND VEHICLE DEALERS (COOLING-OFF RIGHTS) AMENDMENT BILL

**The Hon. A. BRESSINGTON** (15:49): I rise briefly to indicate my support for this bill. This bill primarily seeks to give secondhand car purchasers the right of a cooling-off period of two days, during which time they are to be granted access for the purposes of a test drive or other vehicle inspection. It must be noted that the right of a cooling-off period may be waived. Ultimately, this is sensible. One would not seek to lock in a person who has made a deliberate trip from a remote location to a metropolitan or regional centre for the purpose of purchasing a vehicle to wait for two days unnecessarily.

However, I am concerned that it will be more than this select group who opts out of the statutory protection the government is seeking to provide. Unlike the cooling-off period provided for by the Fair Trading Act 1987—specifically contracts resulting from telemarketing where receipt of goods purchased, to my understanding, does not rescind the right to a cooling-off period—a person purchasing a secondhand motor vehicle who takes possession on the day of the purchase is required to waive that right.

On most occasions, the purchase of a motor vehicle is significant and a person of maturity, or more appropriately a person who has been fleeced before, will see the cooling-off period as a useful time to review their purchase. More exuberant customers will see it as an impediment to taking possession of their new vehicle. However, ultimately, that is their choice to make, and the bill does ensure that this is an informed choice, with section 18B(2) requiring the purchaser to rescind in writing.

The bill also provides for an expanded definition of dealer and attaches several additional rebuttable assumptions designed to catch those operating a quasi dealership from their home premises. I am hopeful that this will result in such dealerships coming under the scrutiny of the principal act and the Office of Consumer and Business Affairs. To my mind, this is where there is real potential for abuse and swindle, and it is these consumers who need the protections offered by the Secondhand Vehicle Dealers Act 1995.

I am also supportive of the government's move to transfer responsibility for determination of a claim on the Secondhand Vehicles Compensation Fund from the Magistrates Court to the Commissioner for Consumer Affairs. There is no doubting that our court system, particularly the Magistrates Court, is under stress and, while I do not envisage that this move will significantly alleviate that burden, it will contribute as well as offering several benefits to consumers.

I take this opportunity to indicate to the council that I will be moving an amendment to this bill that will require secondhand vehicle dealers to arrange for an inspection not dissimilar to that provided by the RAA to be conducted on all secondhand vehicles, and to make the results known to prospective purchasers upon

request and to all purchasers prior to the finalisation of the contract of sale. The intent of this amendment is quite simple: full disclosure of any defects that the vehicle may have.

However, in my opinion, several other benefits will be derived. For example, if an inspection report identifies a significant issue this will, due to the report being available to the consumer, have to be reflected in the asking price—something that may not necessarily have occurred otherwise. The inspection will also assist dealers to identify obligations or potential obligations arising from part 4 of the act. This is particularly true for cars of a value less than \$3,000—those which are not normally subject to an obligation.

I believe this to be a sensible amendment offering real protection for consumers, and I will be seeking the support of members during committee. In saying that, I support the second reading of the bill.

Debate adjourned on motion of Hon. R.P. Wortley.