



SECOND-HAND VEHICLE DEALERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. A. PICCOLO (Light) (17:19): I rise in support of this bill, the Second-hand Vehicle Dealers (Miscellaneous) Amendment Bill 2023. As I am sure is the case with a lot of other MPs, the two areas of complaints I get in my office in terms of consumer products are shonky workmanship in houses, etc., and cars. Generally speaking, I have young people come and see me about the car they purchased, which turned out to be a bit of a lemon. Some dealers are quite good at making sure the contracts are written in a way that deprives the customer of consumer rights, or they are done in a way that the car is sold just below an amount and certain warranties do not apply.

The cheaper the car, often the younger the person is who needs to purchase one, and they are the ones who often get hurt the most and actually have the least recourse. Anything that actually improves consumer protection for people buying cars should be supported. As I said, the other one is not so

much for young people, although it could be, but for adults buying their first home, where the workmanship is less than satisfactory.

Over the last couple of years, it would be fair to say that I have received more complaints about shonky workmanship on houses than I have in the previous 14 or 15 years. There may be some reasons for that. I suppose contract prices have been fixed, and sometimes costs have gone up and so perhaps some builders have decided to cut some corners to actually make ends meet. Some of the stories I have heard, if they are half true, are pretty worrying. One person had a house where their ceiling collapsed before they actually moved in. One would worry about the quality of the workmanship of the rest of the house—downpipes, gutters, etc., which are of pretty poor quality; a whole range of issues.

As I think was mentioned by the member for Elizabeth, the two most expensive items people invest in in

their lives are probably their home and their car. They are the two in that order, amongst other things, but those two are quite important. We are dealing with one of those today, which is cars. Unfortunately, as I mentioned, the people who are hurt the most by misrepresentations regarding the state of a vehicle are the people who can least afford it, because often they are buying second-hand cars and often they are buying cars at the cheaper end of the scale. Hopefully, this bill will improve the consumer protection rights for younger people or anybody who is purchasing a car.

My understanding is that this bill has arisen as a result of advocacy by the industry through the Motor Trade Association. Having said that, I am also advised that some of the suggestions that have been made actually also improve the consumer protections for people purchasing cars. So it is good to see that what industry wants and what consumers need actually in this case match up and help remove some of the red tape from the industry but also improve the quality of consumer protection for the consumers. I understand that some of these amendments have been advocated by the industry going back to 2016 and have been promoted through the business. I am also glad to see this minister has taken up these changes and brought them before us to look at.

I will talk briefly about the overview of the bill, and then I will go into some more details of the bill itself. One of the key areas which has been discussed already is when the odometer has been played around with, and the actual mileage—is it still called mileage, or is it

kilometrage—is not recorded. I have sat in a number of cars where the odometer does not actually move. When I have been a passenger, I have always been interested in knowing what is the actual mileage in the car. It could be that the person does not care or they are just seeking to make sure they get a better resale value.

It is an important issue, though, jokes aside, because it can do two things: firstly, it can misrepresent the age of the vehicle and how much the car has done; but, secondly, it can also misrepresent when servicing and safety checks have to be done, which can be quite dangerous to the person who is actually driving the vehicle. I know very little about cars. I do not even know what people do to wind back the mileage, etc., on a vehicle—I have no idea. All I know about cars is the colour, how many doors they have, how many seats they have and where you put the petrol. That is my knowledge of cars, but it is clear that this happens in real life.

What has been recommended is that the penalties for tampering with the actual mileage of a car need to be changed, which I agree with. Also, in this bill the government has introduced a compensation scheme for victims of tampering. Currently, victims can only obtain compensation when a dealer has been convicted of an offence. Where it is a private seller, no compensation is available under the act.

The bill also seeks to make some other changes regarding disclosure requirements for defects not subject to duty to repair. There are certain provisions regarding waiving rights for duty to repair, waiving and

cooling-off rights and amendments to disclosure requirements for previous owner details. I will now go into a bit more detail and into some of the rationale behind some of these changes.

Under new section 23A, under part 4 of the Second-hand Vehicle Dealers Act 1995, dealers and auctioneers selling cars on behalf of dealers have a duty to repair a defect that is present in the vehicle or appears in the vehicle after it is sold. There are number of exceptions to this requirement, including vehicles over 15 years old or which have been driven for more than 20,000 kilometres before the sale. Dealers and auctioneers selling cars on behalf of dealers will now be permitted to disclose defects in the vehicle that will not be subject to the duty of repair.

What is happening here is that as long as a disclosure is made, a person then makes a judgement as to whether they are prepared to pay that price for the car or not pay that price and also perhaps seek to have the vehicle repaired before they buy it. Certainly, the disclosure is important but the disclosure is also subject to the vehicle remaining safe to drive on a road. I think a requirement of all vehicles to be sold is that they are in a form that is safe to be on the road.

In one case I had of a young person, in his view he could not drive the car after a few months, but apparently, because of the price he paid, it was just under the threshold where warranties kick in or rights kick in. Even though it was not a huge amount, he lost all his money because he had no recourse. These amendments also bring South Australia up to date with

similar arrangements in other jurisdictions and align with consumer guarantees in Australian Consumer Law.

Under section 33(2), waiving duty to repair rights, purchasers are currently able to waive their right to have a defective vehicle repaired under section 23, duty to repair requirements, by signing the prescribed document. Under these amendments, section 33 will be removed. It will remove the ability to waive this right to have a vehicle repaired under the duty to repair. This approach brings South Australia into line with Australian Consumer Law requirements that purchased vehicles must be of acceptable quality and fit for purpose, and I think this is an important change. It is important that people understand that any product you buy, whether it is a car, etc., should be of acceptable quality and fit for the purpose for which it was purchased.

In regard to waiving and cooling off rights, under section 33 of the current act a consumer intending to waive their right to the two-day cooling-off period after a vehicle sale must sign a prescribed form in the presence of a witness other than the dealer. Under the proposed changes, document 2—which is the prescribed form—is retained to ensure that consumers are clearly informed about the implications of waiving their entitlement to the cooling-off period, but the purchaser will no longer require an independent witness to sign the document.

Previous owner details are something that I had not really thought about. This is actually, when you think about it, not

necessarily a bad thing. Under sections 16 and 20, dealers and auctioneers will not be required to display the name and address of a previous vehicle owner on notice of for sale forms under changes to those sections. However, a potential purchaser will still be able to access the information on a request to a dealer or auctioneer, and failure to provide the information will attract a maximum penalty of \$5,000.

In circumstances where the information is not reasonably available, Consumer and Business Services will not take any enforcement action against the dealer or auctioneer where, for example, the vehicle has been purchased in another state where the requirement to disclose the previous owner's details does not apply. These amendments seek to streamline sales, preserve the privacy of previous vehicle owners and ensure that consumers have access to information to support their purchasing decisions.

In this case, I am glad to see that there is still a right to that information. If a potential buyer is a bit concerned about how many other people have previously owned this vehicle and how it has been used, I think that is important information which they can still seek. I seek leave to continue my remarks.

Leave granted; debate adjourned.