



SECOND-HAND VEHICLE DEALERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. A. PICCOLO (Light) (17:06): When I last spoke, I talked about some of the changes and how even though they were suggested by the industry some of them were obviously quite beneficial for consumers as well. I think I had just got to the hire car history, the proposed sections 16 and 20.

At the moment, my understanding is that dealers and auctioneers will not be required to display the name and address of the person to whom a vehicle was previously leased as a taxi or hire car on the notice of sale of a vehicle under changes to sections 16 to 20 of the act. However, dealers and auctioneers will be required to provide these details on request from a prospective purchaser, 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 enforcement

action against a dealer or auctioneer, for example, where the vehicle has been purchased in another state where the requirement to disclose previous lessee details does not apply.

These amendments also seek to preserve the privacy of previous vehicle lessees, whilst also ensuring that consumers have access to information to support their purchasing decision. Again, on the one hand it removes red tape, but secondly it also enables a right to the consumer to access the information if they believe they need it.

Also under section 34(1), which I just touched upon previously, the penalty for tampering with details of the mileage covered by the vehicle will be increased from \$10,000 to \$150,000 for first and second offences and \$150,000 and/or imprisonment for two years for third and subsequent offences.

The tampering of a vehicle to alter the mileage it has undertaken is probably one of the more serious offences you can actually do in terms of withholding important information to a purchaser because, obviously, with the number of mileage comes issues around the safety of the vehicle, the servicing of the vehicle, and that sort of information is very important.

I think every consumer has a right to know what mileage that vehicle has covered. As I said, it causes significant harm to consumers and allows unsafe vehicles to circulate on our roads. These amendments to section 34 of the act will see South Australia leading the nation with the toughest penalties in Australia for tampering with the vehicle in that way.

Section 7(1) deals with increased penalties for unlicensed dealing. For the first or second offences by natural persons, the penalty for unlicensed dealing will increase from \$100,000 to \$150,000. For third or subsequent offences, the penalty will increase from \$100,000 or 12 months' imprisonment or both, or \$250,000 or two years' imprisonment or both. The maximum penalty for body corporates will also increase from \$250,000 to \$500,000 under section 7 of the act. Increasing these penalties may deter more individuals from flouting the law and better protect the community and licensed dealers from this harmful activity.

There are often, in the papers and markets, etc., people who actually sell vehicles on a regular basis where they are not really necessarily private vehicles. I think

unlicensed dealers provide consumers with less protection but it also actually does damage to those licensed dealers because it actually hurts the licensed industry. I think these penalties are appropriate. On the one hand, it protects the legitimate industry and weeds out the rogue elements on the other.

Under the new section 34A, for the provision of false and misleading statements about mileage readings, a new offence will be created for false and misleading statements about the accuracy of the readings on vehicles. A maximum penalty of \$30,000 or two years' imprisonment will apply to a person who knowingly makes a false or misleading statement about the accuracy of the vehicle's mileage reading to a purchaser or prospective purchaser.

At present, only dealers can be prosecuted for the false and misleading statements about mileage readings under relevant provisions of the Australian Consumer Law. The new offence in this proposed section 34A intends to deter private sellers from engaging in the same misconduct. I say misconduct because, again, that is an important part of decision-making for purchasers who actually want to buy a vehicle.

Section 34, which is a new provision, enables compensation for mileage tampering. Currently, victims of mileage tampering can only obtain compensation where a dealer has been convicted of a tampering offence. Where a private seller is convicted of the same offence, no compensation is available under the act. Under this amendment to section 34, courts

will have the capacity to order compensation for a person who has purchased a vehicle with a tampered mileage reading from a private seller where the private seller has been convicted of a tampering offence.

Compensation will relate to any disadvantage suffered by the purchaser, including costs incurred or likely to be incurred to rectify the reading on the vehicle. I think this will also hopefully deter those people who are not licensed to sell vehicles and encourage them to actually conduct themselves in an appropriate manner.

To achieve all of this, the commissioner will be given additional powers. Under section 34B, the Commissioner for Consumer Affairs will receive new powers to direct a person to rectify a mileage reading or refrain from selling or disposing of a vehicle with an altered reading unless the commissioner has provided written approval or the vehicle's mileage has been rectified.

The new section 34B in the act will ensure that vehicles with an incorrect mileage reading are not allowed to continue circulating in the community and misleading potential purchasers and compounding the issues around safety as well in the longer term. There are some other things the commissioner has to do to rectify that, but he will have the power to take those matters further.

Under sections 3(2) and 23(7), dealing with electric and hybrid vehicles, the duty to repair vehicles will be expanded to cover the main propulsion battery for hybrid and electric vehicles within the

statutory warranty period, recognising the growing popularity of these vehicles in South Australia and the need to have equivalent protections for those vehicle owners. The duty will apply to electric and hybrid vehicles purchased before or after the commencement of the amendment act, which I think is an important new provision as well.

Under schedule 3, clause 3(2), the purpose of the Second-hand Vehicles Compensation Fund will be expanded so that the fund can be used for education, research or reform programs that benefits dealers, auctioneers, salespersons or the general public. Under changes to schedule 3 of the act, any proposed expenditure on these programs will still require the approval of the minister. I think this is a useful use of that money because I think the greater the education the better the understanding consumers have of their rights, and also the responsibility that people selling the vehicles have is important. If you can actually get people to do the right thing, you do not have to spend money on enforcement proceedings, etc.

There is some additional information required in the contracts of sale under section 17(1)(a). This amendment aims to reduce the red tape and provides greater flexibility to the dealers, whilst retaining important information for consumers about their rights and obligations under contracts of sale.

In the few seconds I have left, we are catching up with the new world. This section deals with fax communication. Section 18B of the

act will be amended to remove the option of fax communication for purchasers providing written notice to a dealer of their intention to rescind a sale contract during the cooling-off period. Section 51 will be amended to remove the option of fax communication for service of documents. These amendments reflect changes to communication practices in the industry, including the increased use of email and the declining use of fax communication, which I am sure a lot of dealers probably do not use. With those comments, I support the bill.