



Legislative Assembly Hansard,

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MOTOR VEHICLES REPAIRS (ANTI-STEERING) BILL

Bill introduced and read a first time.

Second Reading

Mr RICHARD TORBAY (Northern Tablelands) [10.04 a.m.]: I move:

That this bill be now read a second time.

I believe that this bill is one of the most important legislative proposals to come before the Parliament in the past decade. It seeks to address two major problems confronting the State: first, the safety and quality of motor vehicle repairs following accidents; and, second, the uncompetitive practices by some mega corporations that are endeavouring to reduce small business to economic serfdom in order to satiate their appetites for ever-increasing profits.

Traditionally, the New South Wales Parliament has given high priority to discussing legislation and issues impacting on the motoring public and road safety. We are constantly reminded through the daily media of the toll exacted by death and injury on our roads as a result of excessive speed, alcohol, poor driving and vehicle disrepair. Driver education will always be a priority, but there will always be poor drivers and reckless drivers irrespective of the success of driver education and training. In the area of vehicle safety and vehicle repair and disrepair, significant gains can be achieved in reducing serious injuries and death on our roads.

The vehicle repair industry has a long history of good service and high standards, offering excellent opportunities for tradespeople and apprentices. However, the advent of preferred repairer systems that are tightly controlled by insurance companies has led to a culture that repairs vehicles according to a price and not to a standard of quality and safety. That has been exacerbated by the introduction of web-based tendering and it has created a situation in which industry and its standards are now in turmoil. Preferred repairer systems are used by most insurance companies to exclude the bulk of repairers in this State from quoting on accident-damaged vehicles.

In the case of NRMA Insurance, which, until recently, controlled just short of 60 per cent of the comprehensive motor vehicle insurance in New South Wales, 400 smash repairers were in its preferred system out of over 2,000 licensed smash repair businesses available to do this work. That company has successfully shut out 80 per cent of repairers in this State from the majority of repair work. When the company reviews the performance of its preferred repairers, its principal criteria is price, not safety or quality. Consequently, many repairers are forced to cut corners or do rough and shoddy work in order to retain their preferred repairers badge with that company.

Other insurance companies that run preferred repairer schemes are no different. What is the result? Many cars are being put back on the road that are unsafe and are endangering the lives of motorists and their families. When we purchase an insurance policy we are promised that, in the case of an accident, our vehicles will be returned to the state they were in prior to the accident. The secondary consequence of the preferred repairer systems is that many shoddily repaired vehicles have not been returned to their pre-accident state and their consequential resale value has suffered, which is a fraud on the New South Wales public.

The Motor Traders Association of New South Wales has shown the parliamentary Joint Standing Committee on Road Safety examples of repairs that have emanated from this preferred repairer system that have left vehicles in a grossly unsafe condition. More recently, a motorist complained to the staff of that association that her vehicle had been repaired but that exhaust fumes were filtering back into the cabin. Association staff advised the motorist they would arrange to have the situation remedied or she could take it back to the insurance company and demand that the faulty work be rectified. She elected to take it back to the insurance company. The insurance company had the rectification work carried out, but after it was done exhaust fumes still filtered back into the cabin of the vehicle. We all know that carbon monoxide fumes quickly induce a state of unconsciousness, so this shoddy and unsafe repair could easily have led to major fatalities.

Another example cited to the committee was that of a woman driving off to a preferred repairer shop and the bonnet of her car flew up as she was driving. Another example was that of a man who was forced by the insurance company to drive from Parramatta to its centre in Blacktown with the steering column of the vehicle hanging by a thread. All these outcomes are a result of insurance companies adopting a system that says to the smash repairer, "You will drive down the costs of repair or you will get no more work." The fundamental problem here is that insurance companies are simply forcing businesses in the smash repair industry to close their doors.

It has now reached the point where these repair costs have been driven down by the insurance company to below what it costs to repair the vehicle in a professional manner that will render a quality and safe repair. The insurance industry has achieved this result through anticompetitive practices. People who do not believe that the industry's practices are anticompetitive should listen to the industry's own words. I will read an extract from NRMA Insurance's *Repair Update* issued on 9 March 2006. This is a newsletter the insurance company sends out to its preferred repairer network. It reads:

It's important to understand the potential impact of this kind of legislation [the Motor Vehicles Repairs (Anti-Steering) Bill] could have. What could it mean to repairers? With consumers able to go to any repairer there will be increased competition amongst the repair industry for work.

The industry's own words acknowledge that anti-steering legislation will bring back competition. Out of the mouth of the insurance industry we have an admission that its current system is anticompetitive. I believe that reinstating competition into the repair industry will be the only way to remedy this dreadful situation. Repairers do not want to cut corners. They do not want to carry out a low standard of work. We all know that desperation can make pirates of good men. Over the past six months the bulk of the repair industry has rejected NRMA Insurance's systems and chosen not to do work for the company. Almost all those in the repair industry are decent, honest, hardworking Australians who are simply endeavouring to put food on their tables and make a living.

The most recent attempt to ratchet down the price, quality and safety of repairs is a system introduced by NRMA Insurance and its parent company, the Insurance Australia Group [IAG]. They have introduced a web-based repair management system, which came into effect in July last year. The system requires policyholders to take their damaged vehicles to NRMA Insurance's care and repair centre for damage assessment. Only certain repairers who are part of NRMA Insurance's preferred smash repairer scheme can bid online for repair jobs. The bids are constructed by means of the repairer viewing photographs of the damaged vehicle on a web site, plus an accompanying scope of works suggested by an NRMA assessor. The lowest quote gets the job. To suggest that such a system could detect every hidden piece of damage, every crash-weakened component, and every potential failure, is a wild stretch of fantasy. It is also a shortcut to disaster, because it puts back on the road vehicles that carry damage not detected and not corrected.

Prior to the implementation of the web-based system of appraisal, the Motor Traders Association of New South Wales, which has some 6,000 business members employing a total of 80,000 people in New South Wales, voiced its concerns that repair standards would decline, along with motoring safety. The association warned that the implementation of the web-based repair assessment system would lead to shoddy workmanship and poor-quality repairs, which in turn would lead to potentially unsafe vehicles being driven on New South Wales roads. The Motor Traders Association says quotes cannot be properly constructed from viewing web-based photographs and scope of works statements. This view was supported through a report commissioned by the Minister for Fair Trading.

The association was adamant that secondary and tertiary vehicle damage could not be accurately shown by photographs on a web site. I believe there has been a lot of community discussion supporting that view. The association is further concerned that the computer-generated authority to approve repairs is based purely on price and not on method and standards. Further, the association is concerned that unqualified insurance assessors are used at NRMA's care and repair centres, where assessors determine which vehicles are driveable or unroadworthy, as well as what parts are used and what areas of the vehicle are damaged.

IAG-NRMA Insurance is not the only insurance company that compels repairers to quote on work from a visual image. Australian Associated Motor Insurers Ltd [AAMI] also runs centres. It requires a couple of repairers to tender on repairs to the vehicles by simply looking at them. The repairer does not get to remove the panels and inspect the underlying damage. AAMI's system is just as dangerous as the IAG-NRMA system to which I have referred. These repairer network systems were highlighted in a *Today Tonight* program screened by channel 7 on Friday 24 March. Disgraceful and very unsafe repairs were reported. Two of the three vehicles shown were repaired by AAMI under its system, and Allianz repaired the third vehicle under its repairer network system, which is similar to NRMA's preferred repairer system.

This is an issue not only for NRMA Insurance but for the whole insurance industry. The entire system is corrupt and needs to be addressed immediately. The Chief Executive of the Motor Traders Association, Mr James McCall, is adamant that the community has suffered not only through having the freedom of choice of repairer disappear, and poorly repaired and potentially unsafe vehicles being driven on New South Wales roads, but also by increased unemployment through pressure on small business and an increasing lack of positions for new apprenticeships in the automotive sector. Body repair shops rely heavily on work that is insurance based.

The Motor Traders Association says that IAG is using its predominant market power to implement an unrealistic cost-cutting exercise in the form of tightly controlled preferred repairer systems and through the web-based repair management system, which, it says, is impacting heavily on body repair businesses. In Glen Innes, in my electorate of Northern Tablelands, there were three smash repair businesses but now there is only one. Recently a smash repair business in Coonabarabran closed its doors. This is happening all over regional New

South Wales. When I foreshadowed that I would introduce this bill I was flooded with correspondence from smash repairers right across the State. I would like to quote from some of that correspondence. One smash repairer in my electorate wrote:

We have spent in excess of \$800,000 in setting up a new, well-equipped panel beating, spray painting and panel fabrication business.

The workshop houses the latest in collision repair equipment [and] workspace for 15 cars. The refinish or paint section [has] enough storage or workspace to house three x 40' tourist coaches—IAG's response—go away.

Another smash repairer wrote:

IAG would not even give me the criteria for selection [as a preferred repairer]. Upon inquiry, IAG simply said "closed shop"—we don't need any more preferred repairers—GO AWAY.

A further smash repairer wrote:

IAG have authorised repairs on several buses in the area that have had their paintwork carried out, outside, in the open air, because the preferred repairers paint booths are not large enough to house them.

This action of course is highly illegal, but IAG won't acknowledge that our repair shop even exists.

The repairer pointed out:

Another important issue is, of course, pay rates and times. \$30 per hour is a pittance in a modern workshop. How can I pay good tradespeople reasonable wages, when corporate bullies only throw us breadcrumbs. A plumber or an electrician can come into our shop to work and all they require, to complete their work, is a ute and a few hand tools, and they charge us at least \$60 an hour.

IAG pay us \$30 an hour—materials included—to operate a million dollar workshop.

[*Interruption*]

I am pleased to hear the support of the honourable member for Mount Druitt for this legislation. The repairer continued:

These issues are critical for the survival of small business, particularly in country towns, where unemployment and productive career paths for our school leavers is of utmost importance.

We enjoy helping young kids get into the work place and having them achieve their very best (but) we can't do it with corporate bullies like IAG grinding us into the dirt.

Another smash repairer, a family-owned small business that has operated in the Sydney metropolitan area for nearly 30 years, wrote:

In the last year [our company] has lost 60% of its business and its client base has been decimated due to the NRMA Care & Repair Scheme.

The directors of that company continued:

This Bill needs to be passed by the Parliament urgently to ensure the survival of the car repair industry, which in the last ten years has been decimated, as you are well aware, and also to protect the customers' rights regarding the choice of repairer and the quality of repair work.

That is a fitting comment. He continued:

The NRMA Care & Repair Scheme has caused financial hardship and ruin, unemployment, the closure of many family run small businesses and much stress in working and personal relationships.

He went on to ask me:

Please ensure that the Anti Steering Legislation is debated and passed in Parliament as quickly as possible to resurrect the Car Repair Industry and the customers' rights to use the repairer of their choice. There is still much more to be done before this Industry can stand on its feet and function properly.

In August last year the Motor Traders Association surveyed 159 companies with 1,276 employees. It found that 80 of the companies surveyed had made 148 employees redundant and that 99 companies expected to make at least a further 215 employees redundant. Some 102 of the companies surveyed had reduced the hours of work by employees and put them on annual leave. But it does not end there.

The experience of the Motor Traders Association Apprenticeships Plus and Automotive Group Training indicated that 31 panel-beating apprentices had their employment terminated since the beginning of 2005, the majority of terminations occurring after July. Some 27 spray-painting apprentices have had their employment terminated since the beginning of 2005, the majority occurring after July. Sixteen body repair shops cancelled their request for apprentices with the MTA Apprenticeships Plus within the first two months of the introduction of the web-based evaluation system. These surveys were taken in August last year. The situation has obviously deteriorated rapidly since then and is now much worse.

The Motor Traders Association states that the preferred repairer system and the web-based evaluation system have operated to the detriment of the community interest. Further, the Motor Traders Association claims that the preferred repairer system and the web-based system are tactics designed to increase a corporate giant's profits at the expense of the community at large. The MTA also believes that the motoring public is funding insurance companies' profits by putting up with lower-quality and potentially dangerous repairs and increasing policy premiums. Under huge pressure from the community, IAG has now agreed to restore freedom of choice—or so we thought. Many insurance companies insist they offer freedom of choice of repairer but it is most often not unfettered freedom. I will comment later on the events of this week.

People who go to an insurance company to exercise their right to choose are confronted by a barrage of subtle allegations about the repairer they have chosen, such as, "Well, he's not recognised by us." or "I wouldn't use him if I were you." and other statements designed to create doubt in insured people's minds about the repairer they have selected. Consumers are badgered, harangued and cajoled into accepting the insurance company's system. This is not freedom. Hundreds of repairers have raised these matters with me in telephone calls, emails and correspondence. It is interesting that they also say, "Please don't tell anyone my name because I fear what the IAG-NRMA Insurance will do." That is the sort of freedom we are talking about. This practice must be stopped.

IAG-NRMA Insurance has also indicated that it will use the web-based system only when there is superficial damage to a vehicle. But everyone in the repair industry knows from experience that insurance companies will agree to modify systems while the attention of Parliament, the media and the community is focused on those issues. A media release issued by the Chief Executive of the Motor Traders Association, James McCall, summarises evidence given recently to the Staysafe committee. The MTA has taken the lead in trying to highlight concerns about what is going on, and I think the Staysafe committee has done a good job exposing many issues.

Evidence was given to the committee under oath about what happens when people select their own repairer and whether they have to front up first to IAG-NRMA Insurance. What happened then? One day after that evidence was given under oath, David Brown, the Head of Claims and Assessing at IAG, sent a letter to Mr McCall indicating that the chief executive officer of NRMA Insurance and the chief executive officer of IAG, who made those assertions under oath, had been wrong. He claimed that there had been confusion and misunderstanding.

Parliament must legislate if we are to have any credibility in this debate. The minute we remove the focus of Parliament, this legislation and the Staysafe committee, the companies will return to their previous tactics that were decimating the body repair industry. This bill is important because it brings the corporate giants to account. If we do not act now we will debate the same issues again in the future. We must force the big companies to sign up to the changes and ensure there is some stability to the process. Judging from their conduct and the processes they have followed to date, they cannot be trusted. It is imperative that Parliament legislate to bring this situation under control.

The Motor Traders Association is strongly of the opinion that anti-steering legislation is needed urgently to stop policyholders being steered towards repairers who may not have an association with the policyholders, who may not have the necessary equipment, or who will complete the repairs to a price and not to a proper standard. I took up this issue when the MTA called for anti-steering legislation. I arranged for the drafting of this bill, which I have introduced today. I thank the many smash repairers who have contacted me and the Motor Traders Association, which has kept me informed and advised me about the many issues confronting us.

We must stamp out the process of directing customers to use a particular supplier of goods or services. The body repair industry is halting and under enormous pressure. I think this bill will fix the problems. As I said earlier, most insurance companies have preferred or network repairers and the Motor Traders Association believes their compulsory use is hindering the free market by creating unreasonable and unclear barriers to entry.

I could make many other comments about this issue but I will close with the following remarks. I was contacted by Nathalie Samia, Senior Adviser, Government and Regulatory Affairs at NRMA Insurance. During my time in public life I have hung up on only two people, and Nathalie Samia is one of them. Her telephone conversation with me was highly inappropriate. It was offensive and rude. If Nathalie Samia is a member of the NRMA's public relations department I would hate to think what the strong-arm people in IAG-NRMA Insurance are telling the smash repairers of New South Wales. She is a disgrace, those organisations are a disgrace, and this

concept is a disgrace. It has had an adverse impact on the industry and I urge every member to think seriously about supporting this commonsense legislation. I commend the bill to the House.