



Legislative Council

Business Licences Repeal And Miscellaneous Amendments Bill

28/03/2001

Hansard Extract

BUSINESS LICENCES REPEAL AND MISCELLANEOUS AMENDMENTS BILL

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Second Reading

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [8.31 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The purpose of this Bill before the House is to repeal the Business Licences Act 1990 and to make consequential amendments to the following Acts: the Dangerous Goods Act 1975 and regulations; the Motor Vehicle Repairers Act 1980 and regulations; the Road Transport (Vehicle Registration) Regulation 1998; and the Statute Law (Miscellaneous Provisions) Act (No 2) 1991. The Business Licences Act was enacted by the former Government to cover five business licences across the New South Wales public sector. These were: the petroleum retailers licence, administered by the Office of State Revenue; the tobacco retailers licence, administered by the Office of State Revenue; the keeping of dangerous goods licence, administered by WorkCover; the motor vehicle repairers licence, administered by the MVRIC; and the authorised inspection station licence, administered by the Roads and Traffic Authority.

The Department of Business and Consumer Affairs and its successors operated the process, known as the Master Licensing Scheme. However, in 1997, the High Court handed down its decision in *Ngo Ngo Ha v New South Wales*, 1997. In that matter, the High Court was called upon to consider the constitutionality of the New South Wales Business Franchise Licences (Tobacco) Act 1987 in the context of section 90 of the Australian Constitution. The High Court found that the material provisions of the New South Wales legislation, having the effect of levying excises, were unconstitutional for the purposes of section 90. As a result, the New South Wales Government enacted legislation in 1997 to amend the Business Licences Act to remove reference to the petroleum and tobacco retailers licences. The removal of these two licences rendered the remaining licensing arrangements under the Business Licences Act ineffective.

This being the case, the Department of Fair Trading disbanded the Master Licensing Scheme in December 1998 and administration of the licences was returned to the originating agencies. With the development of information technology, the principles of the former paper-based Master Licensing Scheme will be better achieved through electronic service delivery [ESD] initiatives. Honourable members will be aware that the Government has given priority to implementation of an ESD platform under the auspices of *connect.nsw*. The Department of Fair Trading has been actively involved in projects to deliver its own services electronically. The Department already delivers many of its services—such as consumer and trader information, and rental bond information—electronically. The Business Licences Act has ceased to have any practical operation. Its repeal will therefore have no impact on either business or consumers in this State. I commend the bill to the House.

The Hon. M. J. GALLACHER (Leader of the Opposition) [8.32 p.m.]: This House is being asked to support a bill to repeal the Business Licensing Act 1990, which originally covered five business licences across New South Wales. These were: the petroleum retailers licence, the tobacco retailers licence, the keeping of dangerous goods licence, the motor vehicle repairers licence and the authorised inspection station licence. The repeal of this Act again raises the important issue of the tax on petrol. Prior to 1997 the States and Territories levied business franchise fees [BFFs] on petroleum products, alcohol and tobacco. Essentially, they were State excise fees. In 1997 the High Court ruled that such fees were unconstitutional. The Commonwealth Government, at the unanimous request of the States and Territories and, on their behalf,

increased its excise on petroleum products, alcohol and tobacco.

In the case of petrol and diesel, the Commonwealth Government imposed an additional excise of 8.1¢ per litre. This amount was remitted in full to the States and Territories. Where States levied BFFs of less than 1.8¢ per litre prior to the High Court's decision, the States were required to return the difference to motorists. For example, Queensland had no levy on petrol, so it returned the entire 8.1¢ per litre to motorists as a subsidy. Knowing all this, Bob Carr and the Treasurer, the Hon. M. R. Egan, continued to deceive New South Wales motorists by claiming that New South Wales does not receive a share of revenue from petrol. The Commonwealth Government will give New South Wales \$707 million this financial year in fuel tax payments, or 8.35¢ per litre, of which the Carr Government pockets \$660 million.

The New South Wales Opposition argues that the Carr Government should match the 1.5¢ per litre returned to motorists by the Howard Government in recognition that families and businesses are hurting because of high fuel taxes. This would cost the Government \$130 million. We believe that that is entirely justifiable, given the \$1 billion in extra revenue collected by New South Wales last year compared with the year before. The Carr Government could return the full amount to motorists, reducing the price of petrol by 7.2¢ per litre in New South Wales, the amount Bob Carr currently keeps. The Queensland Government returns the full amount to motorists, Tasmania keeps just 5.9¢, Western Australia 6.2¢, South Australia 6.3¢ and Victoria 6.6¢.

The Carr Government is always talking up its five-zone subsidy scheme worth \$47 million for northern New South Wales towns competing with cheaper prices in Queensland. Although, as the Hon. Dr B. P. V. Pezzutti has often pointed out in this Chamber, the subsidy does not always show up in petrol prices in some northern New South Wales towns. If the Premier's and Treasurer's arguments were true and the States received no petrol excise, where does Queensland get the 8¢ per litre it refunds to motorists, and from where does New South Wales get the limited subsidy it provides the border areas in recognition of the disadvantage in New South Wales compared to Queensland? The Opposition does not oppose the bill.

The Hon. I. COHEN [8.35 p.m.]: The Greens support the Government's Business Licences Repeal and Miscellaneous Amendments Bill, which repeals the Business Licence Act 1990. This is needed since the High Court tobacco excise case in 1997 held that States could not tax tobacco. The 1990 Act used to regulate five kinds of licences regulated by the Department of Fair Trading under the Master Licensing Scheme, including tobacco and petroleum. The High Court case ruled that two of them were invalid. The other three licences have now been farmed out to the Department of Fair Trading and are being regulated by its respective agencies. There is now no need for the Act. The Greens are quite satisfied that this repeal is appropriate.

The Hon. E. M. OBEID (Minister for Mineral Resources, and Minister for Fisheries) [8.36 p.m.], in reply: I thank honourable members for their contributions to and support for the bill, which I commend to the House.