



Legislative Assembly

Driving Instructors Amendment Bill

31/10/2002

Hansard Extract

Second Reading

Mr STEWART (Bankstown—Parliamentary Secretary), on behalf of Mr Scully [4.42 p.m.]: I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Driving Instructors Act 1992 to introduce measures ensuring greater consumer protection for novices learning to drive with commercial driving instructors. Forty-five per cent of learners who presented for the 170,000 driving tests conducted during 2001 arrived with a driving instructor. Research shows that 80 per cent of learner drivers take some lessons with a driving school. There are 3,033 registered driving instructors in New South Wales, including more than 1,500 who are members of the Australian Driver Trainers Association. It is a major industry that is entrusted with the lives of tens of thousands of young and inexperienced drivers.

The vast majority of driving instructors are professionals who take their responsibilities seriously. But in the last two years alone the Roads and Traffic Authority [RTA] has conducted 507 inquiries and audits into driver training and testing. Each and every year around 50 complaints are received by the RTA from the general public. The most frequent complaints relate to sexual harassment, instructors being late for class, rudeness, impatience and inadequate instruction. The Driving Instructors Act 1992 was introduced to replace the Motor Vehicle Instructors Act 1961.

The 1992 Act was enacted largely as a result of an investigation into driver licensing by the Independent Commission Against Corruption, which identified instances of corruption within the driving instruction industry. The Government commenced the first review of the Act last year. The review was co-ordinated by a steering committee comprising representatives from the Roads and Traffic Authority, the New South Wales Cabinet, the driving instruction industry and the road freight industry. The Government believes strongly in its responsibility to regulate an industry that is critical to the safety of young drivers.

The review, which was completed earlier this year, recommended tightening requirements on driving instructors and schools, including strengthening character checks and checks of criminal records of applicants by creating a formal system within the RTA, requiring driving schools to report allegations of improper conduct to the RTA, introducing provisions to allow for temporary suspension of an instructor's permit while investigations into serious wrongdoing are being investigated, further development of training curriculum for driving instructors to improve training and driving skills, additional retesting of instructors by the RTA to ensure instructors' skills are up to date, and the introduction of an industry code of practice.

The Minister announced to this House that the RTA will also publish annually—commencing from January 2003—the pass-fail rates for driving schools over the preceding 12 months. While most of the recommendations will be implemented administratively, legislative and subsequent regulatory amendments are required to give effect to the following: exemption of post-licence instruction from driving instructor licensing requirements; removal of exemption from the Act for government instrumentalities; a requirement that the holder of a driving instructor's licence must not use a motor vehicle to give driving instruction unless the vehicle is covered by comprehensive motor vehicle insurance; a requirement for driving schools to report to the RTA allegations of improper behaviour by driving instructors; and provision for temporary suspension pending investigation into allegations of serious improper behaviour by a driving instructor.

I turn now to the details of the legislation. It is proposed that the following consumer protection elements be included in the Act: first, a requirement that driving instructors' vehicles be comprehensively insured, protecting learners from any accident claims made against them by driving instructors or other parties; and, second, retention of the requirement that instructors' vehicles be fitted with dual controls, as dual controls allow the instructor to slow the vehicle down to prevent the learner from crashing. Due to the vulnerability of learners whilst receiving tuition in an instructor's vehicle, it is of the utmost importance that the legislation provide protection of learners' rights and their well-being. For this reason a strict approach is recommended.

Any allegations of improper instructor behaviour, such as sexual harassment, corruption or dangerous driving, should result in the immediate suspension of the instructor's licence with a comprehensive investigation to follow. Furthermore, driving schools will be required to report complaints relating to instructor behaviour to the RTA. Failure to notify the authority will carry heavy penalties. The prerequisites to become a driving instructor are well-defined in the existing Act. The Government recommends that these be retained. The prerequisites include a minimum tenure period, fitness and probity checks and a requirement to undergo approved instructor training. The

proposed amendments exclude provisional and good behaviour periods from being accepted as tenure time.

The existing Act was unclear regarding training provided off-street or at private venues. It was also argued that the Act did not apply to provision of in-house training, for example, by a road freight company. It is proposed that the scope of the Act be clarified to clearly include off-street training and the provision of training in a workplace context. Some government bodies are currently exempt from the Act. It is proposed that this exemption be removed so that all driving instructors providing training for licensing purposes be covered by the legislation, thus providing a level playing field for the driving instruction industry.

In the interests of encouraging competition, it is proposed that restrictions on advertising and post-licence training be lifted. It was recommended by the review committee that advertising guidelines be incorporated into a driving instruction industry code of practice. The focus of the Driving Instructors Act is on learner drivers. Accordingly, it is proposed that post-licence trainers such as those providing advanced, defensive and recreational driving courses no longer be required to hold driving instructors licences and that the regulation be amended accordingly. The amendments to the Act are cost neutral for the Government. There is no additional revenue, nor is there any additional expense. The proposed changes to the Act will ensure that learner drivers receive the standard of professional tuition that they are entitled to, without placing unreasonable constraints on the driving instruction industry. I commend the bill to the House.