

RETAIL TRADING HOURS AMENDMENT BILL 2015

Committee

Resumed from 21 September. The Chair of Committees (Hon Adele Farina) in the chair; Hon Michael Mischin (Minister for Commerce) in charge of the bill.

Clause 1 Short title —

Hon KATE DOUST: Firstly, I acknowledge what happened yesterday to split the bill. I think that was a significant move forward. Today when we deal with this bill, it will engage us in three matters.

In my second reading contribution, I said that I would canvass a couple of matters and I thought that they would be properly canvassed under clause 1. They are fairly general matters that I do not think the minister was able to respond to during his second reading reply yesterday. I wanted to get some information about the issue around filling stations. When I spoke on the original bill, I talked about how the changes that were being made would essentially free up filling stations to sell a broader range of products. I was surprised that the government had gone as far as it has in this bill by removing the ownership and employment details specified in the act pertaining to the three different types of filling stations. I understand that provisions to delineate the different types of filling stations and, in some cases, the type of fuel and different ownership and employment requirements have existed for a long time—or at least from the introduction of the act. That is not all that dissimilar to the existing retail trading legislation for small shops, even though those arrangements have been amended over the last few years, with amendments to the ownership regime, including an increase in the prescribed number of owners.

Hon Michael Mischin: It is 24 or something.

Hon KATE DOUST: That is the number of employees. The legislation used to specify that only four shops could be owned and operated by one owner.

Hon Michael Mischin: I think it was that you could only operate up to four shops.

Hon KATE DOUST: I thank the Attorney General; that is correct. It is different from that, but the provision is still there. I was surprised that the government took this approach to remove those arrangements for filling stations. I talked to the Motor Trade Association of Western Australia to find out what its members thought of the bill and whether it had been consulted. The association advised me they had it not been consulted. I also spoke to another person I know who has worked in the service station industry for more than 50 years—he started as a child I think! I asked him about the current ownership and employment arrangements and he advised me that even though the law set down certain requirements, everyone pretty much ignored them. I thought that was not terribly helpful. I thought that is an interesting perspective from somebody who has worked in the industry for a long time. I am curious to know why the government chose to manage these changes by removing these criteria and whether it had looked at other options to resolve the sale-of-product issue.

Hon MICHAEL MISCHIN: Perhaps we should first clarify, for the record, that in accordance with the house's instructions yesterday the Retail Trading Hours Amendment Bill 2015 that was originally before the house has been split into two bills—the Retail Trading Hours Amendment Bill 2015 and the Retail Trading Hours Amendment Bill (No. 2) 2015. The second bill extends retail trading hours by an hour a week each weekday in the mornings for general retail shops and for general retail shops on Saturday by an hour in the morning and an hour in the evening. That is not the bill that I propose to address. If I understand the process correctly, if we do not deal with the latter bill and report on that bill, it stays on the table and ultimately will go no further, and if it is not dusted off and revived, it will lapse with the prorogation of Parliament. I am not sure how else one deals with it and whether it goes to the end of the notice paper. Nevertheless, it is not a bill that I propose to deal with in accordance with the undertakings I gave yesterday and the will of the house. We are dealing with the Retail Trading Hours Amendment Bill 2015, which deals with, amongst other things, the issue of disposing of the distinction between filling stations and the issues raised by Hon Kate Doust.

As I indicated in the course of the second reading speech, a number of studies have been conducted over several years on the pros and cons of extending those trading hours and the like. The most recent report for the purposes of the legislation is the “Statutory Review of the Retail Trading Hours Act 1987”. I referred to this report in the course of my second reading reply and also in speaking on the motion for a referral to a committee. That report is dated October 2015. On pages 17 to 18 of that report is discussion on the merits of the distinction between filling stations and the goods that they can sell. It is proposed to amend the act and the regulations to remove the distinction between types of filling stations and, ultimately, to standardise and modernise the classes of goods they can sell, to ensure that no filling stations are disadvantaged, and also as a matter of efficiency to remove what is now an artificial distinction that seems to serve no useful purpose. Under section 10(5) of the Retail Trading Hours Act, a filling station is described as where the whole or part of the business constitutes the sale of fuel. Although all filling stations may be opened at any time, which is provided for by section 14 of the

principal act, the act places restrictions on the types of goods, other than fuel or accessories, that can be sold at filling stations in both metropolitan and regional areas outside of the trading hours for general retail shops as provided in sections 14A and 14B of the act. The act prescribes three types of filling stations—small filling stations, prescribed filling small stations, and filling stations. Under section 14B, small filling stations are differentiated from filling stations by requiring them to meet various ownership and staffing criteria, and they can be owned by up to six people who operate no more than three filling stations and no more than 10 people working at any one time. However, the distinction between the two types of filling stations has become redundant as all filling stations can be open at any time to sell fuel and motoring accessories and, most importantly, there are no longer any differences in the types of goods, outside of fuel and accessories, that filling stations and small filling stations can sell outside of the hours for general retail shops. Regulation 7 of the Retail Trading Hours Regulations made under the act lists those goods. However, regulation 11(2) sets out a list of additional goods that can be sold by prescribed small filling stations outside of the hours for general retail shops that the other two types of filling stations are not able to sell. Regulation 11(3) identifies the currently four prescribed small filling stations—Coles Express Kewdale, BP Kewdale Truckstop, Caltex Maddington and Coles Express Middle Swan. This category of filling stations was initially established to cater for truck stops or filling stations based in industrial parts of the metropolitan area. Therefore, as the only difference between the three types of filling stations relates to the nine additional goods that can be sold by prescribed filling stations, the government does not consider that retaining the different types of filling stations is warranted and the proposed amendment will reduce red tape regulation and compliance costs for both retailers and government by abolishing the distinction.

Subject to the successful passage of the bill, the government will prepare amendment regulations to standardise and modernise the classes of goods that filling stations can sell. It is plain, from a cursory examination of the goods that are identified, that those warrant some modernisation and rationalisation. For example, the sorts of goods that prescribed filling stations can sell will be available for all filling stations when the distinction is eliminated. Currently it is work clothing, travel rugs, 12 and 24-volt vehicle accessories, video cassettes and prerecorded music. I am not sure whether anyone sells video cassettes nowadays. We might find some down at the Good Samaritan store and other places, but video cassettes have gone the way of teletype and telex machines. There are also portable barbecues and requisites, cameras, coolers, portable cassette or compact disc players—I am not sure whether anyone owns a portable cassette player anymore, except one gathering dust in their shed—and canned food. I may have struck a nerve with the Chair!

Hon Kate Doust: A few of us probably do.

Hon MICHAEL MISCHIN: Currently, all filling stations can sell food, excluding canned fruit and vegetables, canned meat, canned seafood, and fresh meat other than pre-packed quantities not exceeding 500 grams. It would be proposed that we eliminate the exclusion of canned fruit and vegetables et cetera—in other words, modernising it. Also, instead of limiting things to video cassettes and the like, prerecorded audio and visual material, photographic equipment and requisites and things of that nature will be allowed.

The exercise of upgrading that could have been done independently of the legislation. However, the decision was made that as a package, once the legislation is changed and there is no need to distinguish between the two, that exercise will be undertaken. I understand that it is very close to completion anyway. Work is being done in the background. All we need is the legislation to go through and then we can get rid of the now meaningless distinctions and the ones that, because there is a distinction, need to be adhered to, but unnecessarily.

Hon SIMON O'BRIEN: If I recall correctly, during earlier consideration of this matter Hon Kate Doust made reference to a petition that had been tabled in the house. She does not seem inclined to respond by way of interjection, so perhaps my memory is —

Hon Kate Doust: I might have made a fleeting reference in my second reading contribution that a petition had been tabled and sent to committee.

Hon Michael Mischin: Was that in respect to filling stations?

Hon Kate Doust: No, it was not on filling stations; it was on the hours.

Hon SIMON O'BRIEN: Rather than dwell on that now and intrude on the committee's time, I believe there was a reference to such a petition. I want all people following this debate with any interest, including people who may be intrigued to learn about the fate of the petition, to know that the petition has been finalised by the Standing Committee on Environment and Public Affairs, but only after suitable inquiry was made into the issues raised. Unfortunately, at this stage the committee has not had the chance to report to the house, even though the petitioner and the tabling member have been advised of that. I want any interested party observing proceedings to know, firstly, that the committee, as with all petitions, conducts an inquiry at some level or other into the matters until it is satisfied. In passing, I also note that the views of those signing the petition have been brought

to the attention of the Parliament itself by the tabling of that petition. That will also help inform our debate on this matter today.

Hon KATE DOUST: I know this is a bit unusual but I will respond to the comments that were made. Hon Simon O'Brien is correct: in my second reading contribution I referred to the petition that had been tabled in this chamber and sent off to committee. From memory, I noted that it had been finalised by the committee because I, as the tabling member, had been notified of that. That petition, though, was about the trading hours extension issue. I look forward to the committee's report when it is eventually tabled. In the bill we are dealing with now and in our discussion, our focus has been on the filling stations, just for general information. I am sure that those people who signed that petition will certainly appreciate the manner in which this legislation has been handled over the last couple of days and the fact that the bill has been split into two. They will be extremely satisfied with the fact that we will proceed with this bill, which deals with the trading hours precincts, the filling stations and the street stalls, which I think are eminently sensible changes. I have said that at every stage of the process. The way the government has agreed to resolve the other matter in the other bill about the trading hours and the commitment it has made have also been managed in a very mature and sensible way. I thank Hon Simon O'Brien for his comments. I look forward to the opportunity to read the committee's report when it is tabled, and hopefully by the end of this year, during committee reports on a Wednesday, we might have the opportunity to discuss that too.

The CHAIR: I might remind members that we are dealing with clause 1 of the Retail Trading Hours Amendment Bill 2015, not the petition or that part of the bill that has been separated into another bill.

Clause put and passed.

Clauses 2 to 13 put and passed.

Title put and passed.

Hon MICHAEL MISCHIN: I might just clarify whether anything needs to be done in respect of the Retail Trading Hours Amendment Bill (No. 2).

The CHAIR: It will rest on the notice paper as an unamended bill. It is not for consideration at this point in the process.

Hon MICHAEL MISCHIN: It stays in committee, as I understand it—is that right—or will it be discharged?

The CHAIR: This committee session has dealt only with the bill before us, the Retail Trading Hours Amendment Bill 2015. The other bill is on the notice paper and will be dealt with when it gets brought up onto the notice paper, if at all.

Hon MICHAEL MISCHIN: I just wanted that clarified; thank you. Members who are opposed to that element of the legislative package may be concerned, and it will give comfort to them as well to understand what the position is.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

HON MICHAEL MISCHIN (North Metropolitan — Minister for Commerce) [11.59 am]: I move —

That the bill be now read a third time.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [12 noon]: I want to say on behalf of the opposition that we are very pleased to support this new Retail Trading Hours Amendment Bill 2015. In the past couple of weeks we have moved a fair way from the original bill. We have reached agreement for the bill to be split, so today we have dealt with a bill that contained provisions for changes to filling station arrangements, holiday resorts and short-term stalls. We have hived off the contentious matter relating to a further extension of trading hours to 7.00 am on weekdays. The government has shown itself to be very sensible, and has obviously read the view of the house that there was not enough support for that second area of change in the extension of hours.

I acknowledge the support of the Greens, the Shooters, Fishers and Farmers Party and the National Party in reaching this position and persuading the government that splitting the bill was very sensible. None of us wanted to hold back the elements contained in this bill. We are of the shared view that they are very sensible and timely, and they will modernise those parts of the industry. We look forward to the changes in regulations for filling stations. I hope that at some point we can have discussions about some of the other archaic regulations on the sale of products. I note that we still have not resolved the issue of whitegoods and other larger products in some retail outlets, and that seems to be an ongoing matter.

This exercise has demonstrated that when people are prepared to sit down and discuss matters we can sometimes get a much better outcome working behind the Chair than we can working at the table. I acknowledge that the minister has been very approachable on this matter, and I appreciate his support for the changes that we have put in place today. We support this bill, and we acknowledge that the government has committed to leaving the other bill on the notice paper, hopefully not to raise its head again during this term.

HON MICHAEL MISCHIN (North Metropolitan — Minister for Commerce) [12.02 pm] — in reply: I thank Hon Kate Doust for her comments on the third reading of the Retail Trading Hours Amendment Bill 2015. Many members of the public feel that the only work that parliamentarians do is legislating in the house, but of course much of the work is done outside the chamber, and some of the most fruitful discussions take place not in the chamber but behind the Chair. I am, of course, on behalf of the government, disappointed that the whole reform package that was advanced has not proceeded. I have taken the pragmatic view that rather than have the entire package stalled in a committee—I have expressed my views on the merits of the matter being referred to a committee in the first place, but I will allow for a difference of opinion on that—and the uncontentious amendments and reforms die as a result of the prorogation of Parliament, given that there is limited time for the legislation to be dealt with in the time available this year, I am gratified that the opposition and the other parties have supported the splitting of the bill and have supported much, if not most, of the package put forward. I thank the opposition and the other parties—the Shooters, Fishers and Farmers, the Greens and the Nationals—for their cooperation in this exercise, and move that the bill be now read a third time.

Question put and passed.

Bill read a third time and transmitted to the Assembly.