



Speech by

Dr LESLEY CLARK

MEMBER FOR BARRON RIVER

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TOURISM SERVICES BILL

Dr LESLEY CLARK (Barron River—ALP) (9.02 p.m.): I wish to begin my contribution tonight by congratulating Minister Merri Rose for introducing this pioneering legislation in response to the behaviour of some unscrupulous rogue elements in the inbound tourism industry that are participating in a range of unfair and exploitative trading practises that are tarnishing the image of Queensland, and the Gold Coast and Cairns in particular, our two premier tourist destinations.

Extensive consultation into these concerns revealed four main types of undesirable and unfair trading practices: controlled shopping, misrepresentations, overcharging for goods and services, and unconscionable conduct. Consultation has revealed that tourists from Asia are most vulnerable to these practises, which have been most in evidence on the Gold Coast.

It should be said, however, that inbound tour operators and tour guides frequently receive fees and commissions from traders in return for taking tourists to certain traders premises and for purchases of goods and services from those traders. Shopping as part of a tour and receipt of commissions by tour guides are generally regarded as acceptable commercial behaviour in the tourism industry and will always be part of that industry. However, this practice becomes unacceptable when operators prey on particular vulnerabilities of tourists such as national origin, language and culture, and as I have said in particular from Asia. Some inbound operators and tour guides prevent tourists from shopping anywhere except with traders designated by the inbound tour operator or tour guide. This practice must be stopped.

There have been reports of misrepresentation by inbound tour operators of the components of tours, the quality of accommodation offered and hidden charges and fees. Misleading representations by or on behalf of inbound tour operators, such as misrepresenting the quality of accommodation, aim to increase the profits of those inbound tour operators. Some inbound tour operators and tour guides, either alone or in cooperation with providers, inflate the price of goods and services such as tickets to tourist attractions and restaurant menus for tour groups. Consultation with industry has revealed some sightseeing packages are being sold to overseas based tourists at double or triple the actual prices available in Australia. A distinct but related type of mischief involves inbound tour operators and their tour guides charging for goods and services that are in fact available at no cost to the general public.

In addition to all of this, other unprofessional or unconscionable conduct by inbound tour operators and their tour guides that may lower the quality of a tour includes: coercing traders to pay excessive commissions by threatening to exert influence over their tour groups not to use that trader and thereby receiving the so-called kickbacks reported to me from retailers in Cairns and Kuranda, and changing itineraries to reduce free time or tour time to increase the amount of shopping time, including by altering itineraries without notice or consultation. It is important to reinforce just what is at stake in far-north Queensland, where Asian tourists comprise a critically important part of our tourist industry. Currently Japanese tourists represent some 30 per cent of all international visitors. In the last 12 months arrivals from Japan have increased by 6.6 per cent, outperforming the national trend which has actually shown no growth from Japan. We do not want those positive trends to be impacted on these sorts of behaviours.

This bill then delivers on the commitment made by this government to address these issues by introducing a registration system for inbound tour operators. The bill also prohibits unconscionable conduct by inbound tour operators and tour guides and requires all inbound tour operators to adhere to a mandatory code of conduct to be made under this bill. However, I should say that while the bill requires inbound tour operators to register, it also provides as a defence to a charge of failing to register that the inbound tour operator sells less than 20 per cent of their packages over 12 months to overseas wholesalers, retailers or corporate buyers of travel packages. The threshold of the 20 per cent over 12 months was determined through consultation with Tourism Queensland, the Australian Tourism Export Council and the Queensland Tourism Industry Council and addresses the concerns that have been expressed to me in the submission from Tropical Tourism North Queensland on this bill.

For businesses that have not been established for 12 months the bill provides that regard must be had to the business already carried on and the business likely to be carried on in the 12 month period from when the person started to carry on the business of an inbound tour operator. Being mindful of these issues, the bill includes provisions stating that the definitions of 'inbound tour operator' and 'carry on the business of an inbound tour operator' as well as the registration requirements must be reviewed within 18 months of the commencement of this bill. I think that is a very sensible and important safeguard.

The bill also recognises the financial realities of running an inbound tour business in these difficult times for our tourism industry. If an inbound tour operator is already licensed under the Travel Agents Act 1988 or equivalent legislation anywhere in Australia, then they will not have to pay any fees under this bill. All inbound tour operators, whether registered or not, will be required to adhere to a detailed code of conduct made under the bill which will complement the draft voluntary industry code, the Tourism Export Code of Conduct.

Tour guides are not subject to specific regulation in Queensland nor in any other Australian jurisdiction and will not be required to be registered at this stage. The main focus of this bill is those rogue operators who direct those at the bottom of the chain of command, that is the tour guides, to put into practice the unfair trading practises that the inbound tour operators have organised. However, the prohibition on unconscionable conduct in the bill does apply to tour guides as well as operators. The code of conduct will require inbound tour operators to ensure that their tour guides behave fairly in their dealings with tourists and traders. Such tour guides will be required to wear photographic identification so that they may be clearly identified to the tourists they accompany to the retailers and to the Office of Fair Trading inspectors who will operate to enforce this legislation.

The code of conduct will also require inbound tour operators to ensure that when their tour guides are working in Queensland they are employed under relevant award conditions—a very important recent initiative of this government. Extensive examples are provided in the bill of what may indicate unconscionable conduct, and many of these examples were provided during consultation by those most affected by these unfair trading practices and can be witnessed in Cairns, such as when tour groups are herded into particular shops and not allowed the freedom or time to shop where they choose and where prices may be lower.

Action against inbound tour operators or tour guides who participate in unconscionable conduct can be taken in the District Court or the new Commercial and Consumer Tribunal and they could be fined up to \$250,000 if found guilty. In addition, if an inbound tour operator commits a serious offence as defined by the bill or is found to have taken part in unconscionable conduct, the operator's registration can be cancelled. The Commissioner for Fair Trading may also immediately suspend an inbound tour operator's registration for up to 28 days if the inbound tour operator is contravening the bill or other relevant fair trading legislation such as the Fair Trading Act or the Trade Practices Act in a way that is or may cause tourists to suffer detriment.

This legislation is no toothless tiger and I look forward to its enforcement by appropriately trained inspectors to stamp out these unacceptable practices in the tourist industry. This bill will protect tourists most vulnerable to the exploitation and will enhance the reputation of Queensland's \$14 billion a year tourism industry. I am proud that the Beattie government has introduced the Tourism Services Bill 2003 because it does demonstrate that we are committed to taking action against the minority of people who have tarnished the hard-won reputation of our inbound tourist industry. Once again, I congratulate the minister, Merri Rose, and all officers responsible for developing this legislation. I commend the bill to the House.