



Speech By
Tony Perrett

MEMBER FOR GYMPIE

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LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE REPORT

Motion to Take Note

 **Mr PERRETT** (Gympie—LNP) (12.08 pm): I rise to speak on the report titled *'Lemon' laws: inquiry into consumer protections and remedies for buyers of new motor vehicles*. We thrive and operate in an economy where markets and trading every day are at the heart of what makes it function. Part of making it successful is the ability to purchase items which are a true and honest reflection of what is advertised or presented: that we get what we pay for and that there are no hidden surprises. Purchasers have a right to feel that they are not duped or taken for a mug whenever they purchase a new item. Unfortunately, within the car market there are numerous concerns regarding the purchase of new or onselling of new car lemons which are unable to be repaired nor repaired before onselling.

This raises significant safety and consumer protection issues that are a direct effect of the issues regarding new cars. It was evident to members of the committee that when consumers have purchased what they perceive to be a lemon, that has significant health, financial and emotional costs for those people.

This issue is not purely a Queensland issue; it crosses our state borders. Among the many recommendations from the committee's extensive report is the committee's acknowledgement that this is an issue for all of Australia. Recommendation 3 states—

The committee recommends that the government appropriately amend existing Queensland legislation to ensure effective implementation of the committee's recommendations included in this report, but do so as part of any national approach to 'lemon' laws for new motor vehicles in Australia.

It extends this in recommendation 4, which states—

The committee recommends that the appropriate mechanism to ensure a national approach to changes in existing 'lemon' motor vehicle laws, is to amend the Australian Consumer Law, such that it specifically sets out nationally consistent laws applicable to new 'lemon' motor vehicles.

Sellers of lemons should not be able to hide behind state borders.

The LNP members of the committee are mindful of the importance of consumer protection measures. However, this should be balanced with the extent of the issue, the importance of a national approach to the issue and not setting up additional regulation and bureaucracy that is not necessary. Unfortunately, it is difficult to determine the extent of this issue. There are no available detailed statistics on the numbers of lemon motor vehicle complaints in Queensland and the outcome of those complaints. At the committee's Brisbane public hearing, QUT Professor of Law Professor Corones illustrated the

extent of the difficulty applicants encounter in satisfying the onus of proof in legal proceedings and the impact this has had on the outcome of cases. He stated—

Since the Australian Consumer Law took effect on 1 January 2011, consumers have failed to satisfy the onus of proof in the majority of cases involving motor vehicles. In Queensland there have only been four reported cases involving defective motor vehicles, three of which were dismissed for failure to satisfy the onus of proof. In New South Wales there have been about 20 reported cases involving defective motor vehicles, 14 of which have been dismissed for failure to satisfy the onus of proof.

In response to committee questioning as to whether four reported cases indicated a widespread problem, Professor Corones elaborated. He stated—

It is very difficult to gain access to the relevant statistics from the regulators. They will not provide you with details of the number of complaints that have been made in relation to motor vehicles. It is very difficult to get access to QCAT records. You do not know the number of disputes that have been mediated or settled through some sort of conciliation process, which is mandatory in relation to QCAT proceedings. I would have thought that those numbers do not provide a reliable guide as to the seriousness of the problem. If you look at comparable jurisdictions—if you look at New Zealand, if you look at Canada—there are roughly 200 to 300 cases a year that are being arbitrated in those jurisdictions. I think that is a more reliable guide as to the seriousness of the problem here.

Whenever governments change legislation or regulation, there is the potential to create a new problem. We need to be vigilant that issues are thoroughly investigated and that changes are evidence based. In this case, it is important that, in implementing or prosecuting for changes to laws, we do not create unnecessary red tape. We need to be vigilant that, while protecting consumers, Queensland businesses are not further burdened with unnecessary red tape.