

ROAD SAFETY COMMITTEE

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*Twenty-first Progress Report*

**SAFETY ASPECTS OF THE  
HIRE AND DRIVE OMNIBUS**

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PARLIAMENT OF VICTORIA

1980



ROAD SAFETY COMMITTEE

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TWENTY FIRST PROGRESS REPORT

SAFETY ASPECTS OF THE  
HIRE AND DRIVE OMNIBUS

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*Ordered to be printed*

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EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS OF THE  
LEGISLATIVE COUNCIL

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TUESDAY 12 JUNE 1979

- 4 ROAD SAFETY COMMITTEE-The Honourable A.J. Hunt moved, by leave, That the Honourables B.P. Dunn, H.M. Hamilton, and H.A. Thomas be members of the Road Safety Committee.

Question-put and resolved in the affirmative.

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EXTRACTED FROM THE VOTES AND PROCEEDINGS OF THE  
LEGISLATIVE ASSEMBLY

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WEDNESDAY 6 JUNE 1979

- 4 ROAD SAFETY COMMITTEE-Motion made, by leave, and question-That, contingent upon the enactment this Session of the Joint Select Committee (Road Safety) Bill, Mr Culpin, Mr Fogarty, Mr McArthur, Mr McCance and Mr Reynolds be appointed Members of the Committee (*Mr Thompson*)-put and agreed to.
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WEDNESDAY 26 MARCH 1980

- 6 ROAD SAFETY COMMITTEE-Motion made, by leave, and question-That Mr Fogarty be discharged from attendance on the Road Safety Committee and that Mr Ernst be appointed in his stead (*Mr Maclellan*)-put and agreed to.

TERMS OF REFERENCE

JOINT SELECT COMMITTEE (ROAD SAFETY) ACT 1979

Section 4

4 The function of the Committee shall be to conduct an inquiry into and report and make recommendations to the Council and the Assembly upon the question of road safety in Victoria, and in particular-

- (a) to specify the accident countermeasures which, in the opinion of the Committee, have been proved to reduce accidents and their consequences;
- (b) to specify the accident countermeasures so proved which are not at present being used in Victoria and which in the opinion of the Committee should be introduced into Victoria;
- (c) to consider whether there are any countermeasures not being used in Victoria which the Committee believes would be likely to achieve a worthwhile reduction in accidents;
- (d) to report on the research which the Committee believes should be undertaken by the State-
  - (i) to obtain more knowledge of accidents; and
  - (ii) to assess the value of present or proposed accident countermeasures;
- (e) to report on any other matters which appear relevant to the inquiry.

## REPORT

The JOINT SELECT COMMITTEE ON ROAD SAFETY, appointed pursuant to the provisions of the *Joint Select Committee (Road Safety) Act 1979* (No. 9252) has the honour to report as follows :-

### INTRODUCTION

1 The Committee has conducted an Inquiry into certain safety aspects of the touring omnibus industry with particular emphasis on the legislative requirements for hire and reward as compared with those for hire and drive. Hire and reward is defined as submitting a vehicle and driver to the public for recompense. Hire and drive is defined as hiring a vehicle for a certain period at a single charge to be driven by one of a private group or an engaged chauffeur.

2 In Victoria the *Transport Regulation Act 1958* clearly sets out precise requirements for both vehicles and drivers who submit themselves to the public for hire and reward. Alternatively however, there is currently no specific legislation covering the operation of hire and drive vehicles, both motor cars and buses.

3 As a result the Committee undertook to examine whether this lack of regulation of the hire and drive industry presented a risk to the community from a road safety point of view and if so, what legislation should be introduced to improve the situation.

### HIRE AND REWARD

4 The *Transport Regulation Act 1958* requires any passenger-carrying vehicle which operates in a commercial capacity to be licensed. The relevant definitions in the Act are :

- "*Commercial Passenger Vehicle*" means any motor car which is used for or intended to be used for carrying passengers for hire or reward or for any consideration or in the course of any trade or business whatsoever;
- "*Operate*" means carry passengers for hire or reward or for any consideration or in the course of any trade or business whatsoever;

- "Owner" includes every person who is the owner or the joint owner or part owner of a commercial passenger vehicle and any person who has the use of any vehicle under a hiring or hire purchase agreement, and includes any person in whose name a vehicle is registered under the Motor Car Act or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth, but does not include an unpaid vendor of a vehicle under a hire purchase agreement.

5 Section 19 of the Act states that -

"(1) A commercial passenger vehicle shall not operate on any public highway unless it is licensed in accordance with this Part.

(2) Subject to this Part on the application of -

(a) the owner; or

(b) a person who intends to become the owner - of a commercial passenger vehicle the Board may in respect of such vehicle grant that owner or intending owner a commercial passenger vehicle licence."

6 Once a commercial passenger vehicle licence has been granted by the Transport Regulation Board certain implied conditions are attached to it, namely -

(a) that the vehicle is maintained in a fit and serviceable condition;

(b) that in relation to the vehicle, the provisions of any Act or regulation thereunder are complied with in respect of -

(i) the manner in which and the persons by whom the vehicle may be driven;

(ii) the number of passengers that may be carried in the vehicle;

(iii) the construction equipment and condition of the vehicle; and

(iv) the limitation of hours of driving -  
; and



- (c) that the vehicle is not, without the consent in writing of the Board, operated by any person other than the owner or a person employed by the owner.

7 In addition Section 23(2) of the *Transport Regulation Act 1958* provides that the Board has at its discretion the power to attach to any commercial passenger vehicle licence all or any of the following conditions :-

- (a) that the vehicle shall operate only upon specified routes or in a specified area;
- (b) that not more than a specified number of passengers shall be carried at any one time on the vehicle;
- (c) that specified time-tables shall be observed;
- (d) that reasonable specified fares or hiring rates shall be charged;
- (e) that prescribed records shall be kept;
- (ea) that goods shall only be carried in accordance with the conditions specified; and
- (f) such other conditions appropriate to the service to be provided as the Board thinks proper to impose in the public interest.

8 The Committee was informed that one of the reasons for including these conditions on a licence was to stop unrestricted competition, particularly with regard to price cutting and the inherent dangers that may result.

9 The Transport Regulation Board advised the Committee that licensed commercial passenger vehicles are inspected at least once a year by qualified examiners who are employed by the Board. These inspection tests may be done more often if it is considered necessary.

10 Insofar as the driver of a commercial passenger vehicle is concerned there is a need for him to have a driving certificate issued by the Board. The pre-requisites of this certificate are that the person is of good character, to provide a degree of protection to the public and that he passes a medical fitness test. The driver's certificate is issued by the Transport

Regulation Board for a maximum period of three years and is not renewed until satisfactory medical and eyesight reports are presented.

11 The Bus Proprietors' Association (Vic.) advised the Committee that in its opinion the test conducted by the Board to obtain the drivers certificate is not all that severe. However, the most important pre-requisite is that one has to work for a licensed operator before going for the test and it is the operator who really puts the driver through his test. It is up to the owner to satisfy himself that the person can drive a bus before he employs him.

12 The *Transport Regulation Act 1958* further provides for the licensing of private omnibuses and a private omnibus is defined in part as *"a motor car with a seating capacity for more than twelve adults (not including the driver) which is used for non profit organizations i.e. not a commercial passenger vehicle"*.

13 Unlike the commercial licensed vehicle a private omnibus licence is issued 'as of right' provided the vehicle is fit and suitable for the purpose of use. However, the driver is required to have a certificate from the Transport Regulation Board in the same way as a commercial passenger vehicle driver.

14 Any vehicle with seating for 12 or less belonging to a non-profit organization is classified as a private vehicle and registered accordingly. The driver of such a vehicle needs only a normal driver's licence.

#### HIRE AND DRIVE

15 According to the Transport Regulation Board the distinction between a licensed touring vehicle and a hire and drive vehicle being used privately is that the former carries passengers at separate and distinct fares as the result of publicly promoted advertised tours on specified itineraries and at required standards with professional expertise in management and driver.

16 The hire and drive vehicle conversely is for private group travel of any number, at a single vehicle hiring charge, driven by a member of the group or an engaged chauffeur (not an employee of the hire and drive firm) with size and type of vehicle being of their choice. Itineraries are as preferred by the private group and the duration of vehicle hire is flexible, within the limits set by the hiring charges and hiring agreement.

17 The Board advised the Committee that the buses which are not subject to compulsory annual inspection are the hire and drive mini-buses and buses, unless used as a commercial passenger vehicle. Buses used solely on interstate travel are also not tested due to Section 92 freedoms, although most Victorian based operators voluntarily submit their buses for inspection.

18 The Transport Regulation Board advised the Committee that unless a hire and drive vehicle is used by a lessee for a commercial purpose, it is not required to be licensed, nor is the driver required to hold a certificate under the provisions of the *Transport Regulation Act 1958*.

19 The *Motor Car Act 1958* requires all vehicles to be registered and in practice a hire and drive vehicle is registered as one used for a private/business purpose. However, should the hire and drive vehicle be used by the lessee for the carriage of goods or passengers for reward or in the course of trade, the vehicle has to be registered at the commercial or hire rate of registration, which is a higher charge than for private/business.

20 In the hire and drive situation the driver is only required to hold a driver's licence under the *Motor Car Act 1958*. Should the vehicle have a tare weight in excess of three tonnes or be able to carry more than 12 passengers, the driver requires a heavy vehicle endorsed driver's licence. There are no other requirements on the driver of a hire and drive bus regardless of its seating capacity.

21 The Transport Regulation Board recommended to the Committee that consideration be given to legislative provisions to regulate safety standards of hire and drive vehicles with a seating capacity of more than seven seats.

22 The Board also recommended amending the legislation covering private omnibus services so that it covered those vehicles carrying over seven passengers. The main reason being that these vehicles are being used by groups of people who would expect that such vehicles are subject to a regular safety check.

23 The Bus Proprietors' Association (Vic.) expressed concern to the Committee that drivers of hire and drive vehicles are not subject to any form of licensing, inspection or control. The Association advised that the hire and drive market has recently seen the entry of a full size forty seater vehicle available under hire and drive conditions. Any person with an endorsed licence can drive this vehicle.

24 The Committee recognizes that the Association has a commercial interest in this matter, because the growth and development of hire and drive buses has had an adverse effect on the viability of the licensed bus industry. However, the Association submitted to the Committee that it believes there is a road safety risk because hire and drive vehicles are not subject to any specific legislation.

25 With regard to drivers of hire and drive vehicles, the Transport Regulation Board did not believe it would be necessary for these drivers to be certificated in the same way as drivers of commercial passenger vehicles, as normally the driver would be one of the group hiring the vehicle. However, the Board considered a different view might be necessary in the case of a person who holds himself to be a professional chauffeur and offers his services to a party hiring a vehicle.

26 The Bus Proprietors' Association (Vic.) maintained that drivers of hire and drive vehicles should hold a specially endorsed licence and undergo the same tests as a commercial bus driver. Likewise, it believed the vehicle should be subject to the same inspection and licence procedures as commercial passenger vehicles. The Association could not see any difference between their industry and the hire and drive market.

27 It is the Committee's opinion that there is a deficiency in the *Transport Regulation Act 1958* regarding the safety aspects of hire and drive buses, whereby these vehicles are not required to have an annual safety inspection.

28 All commercial passenger vehicles are required to at least have an annual safety inspection and the Committee believes there is no reason why hire and drive omnibuses should be exempt from the same requirement. People who pay for the use of these hire and drive vehicles are just as entitled as commercial bus passengers to expect the vehicle to be in good mechanical condition.

29 Accordingly, the Committee recommends that all hire and drive vehicles with a seating capacity of eight and over should be required to undergo a vehicle safety inspection at least once a year by qualified Transport Regulation Board examiners. Provision should also be included for more frequent inspections if necessary.

30 The Committee also recommends that all vehicles registered as a "private omnibus" and with a seating capacity of eight and over should be subject to a similar safety inspection requirement.

31 At present in Victoria any person who drives a motor vehicle weighing more than three tonnes or designed for the carriage of passengers and with a seating capacity for more than 12 adult persons (not including the driver) needs a heavy vehicle endorsed driver's licence. The Committee supports this requirement, but does not believe it should enable such a person to drive vehicles of a seating capacity in excess of twenty-two.

32 The Committee considers that stricter requirements must be introduced for drivers of all hire and drive vehicles with a seating capacity of more than twenty-two passenger seats. Drivers should be required to hold a certificate from the Transport Regulation Board declaring them fit and competent to drive such vehicles.

33 Consequently, the Committee recommends that all drivers of hire and drive vehicles with a seating capacity of more than twenty-two passenger seats should be licensed to do so by the Transport Regulation Board.

#### HAZARDOUS AREAS

34 The Transport Regulation Board has now defined certain hazardous areas in Victoria and is imposing more stringent conditions on the entry of buses into these areas, namely the snow mountain regions of the State.

35 The Bus Proprietors' Association (Vic.) advised the Committee that the whole programme of improving safety in hazardous areas has been a joint one between the Transport Regulation Board, the committees of management of the alpine areas, the Victoria Police, the Country Roads Board and their Association.

36 The Association indicated that the training programme has proceeded with the goodwill of all sides and the Government of Victoria has recognized its importance by paying the cost of the training required for a driver for a week at the Goulburn Valley training centre at Shepparton.

37 The Association recognizes the need for this type of training and expressed pleasure at its compulsory introduction. It was concerned however, that although stringent conditions for snow areas are being rigorously applied by the Board to licensed

vehicles, these conditions do not extend to hire and drive omnibuses. The Association believes that to continue the efforts towards greater road safety in hazardous areas the same conditions must apply to these hire and drive vehicles.

38 The Association did advise that, thanks to the co-operation of the committees of management of the Alpine areas, no hire and drive buses are being admitted to these hazardous areas unless the driver has an endorsed certificate authorizing him to do so. This action by the committees of management is purely their own resolution based on goodwill and commonsense, not of any legislative requirement.

39 The Association indicated it is moving towards greater compulsory training within the industry. Its next step will be to ensure coach drivers can handle mountainous areas not quite as hazardous as the snow mountains, but like Mount Dandenong, which can be extremely testing for a fully laden coach. Drivers employed by companies within the Association will require a certificate of competency to handle these areas.

40 The Committee is delighted to see these moves towards further compulsory training for all drivers within the licensed bus industry. The introduction of this training will help to minimise the number of bus accidents in hazardous areas.

41 The Committee believes it is imperative for this training and control to be taken further to include the drivers of hire and drive buses entering the same hazardous areas as licensed commercial passenger vehicles. Whilst the committees of management of the alpine areas have been extremely realistic and stopped all hire and drive buses from entering their areas unless the driver has a hazardous conditions endorsement, the Committee considers it should be made a legal requirement and not be the responsibility of these committees.

42 The Committee therefore recommends that drivers of all hire and drive vehicles with a seating capacity of eight and over must have a hazardous conditions endorsement to enter the areas defined by the Transport Regulation Board as hazardous.

#### SEATING CAPACITY

43 The Transport Regulation Board expressed concern at the habit of some organizations who take seats out of a large vehicle classified as a "private omnibus", so they can avoid the annual inspection that is required of such vehicles which have more than twelve passenger seats.

44 The Board quoted one case of a double decker bus having had most of its seats removed, so that it was outside the definition of a "private omnibus" in the *Transport Regulation Act 1958*. The Board advised the Committee that it was testing the legality of such a move under the *Motor Car Act 1958*. It was of the opinion that the manufacturer's original intention must be adhered to and that the seating capacity of a vehicle refers to its ability rather than its actuality.

45 The Committee shares the concern of the Transport Regulation Board over this habit of openly removing seats to avoid vehicle inspection, particularly in view of its earlier recommendation that all hire and drive vehicles with a seating capacity of eight and over be at least annually inspected.

46 The Committee recommends that for the purpose of annual inspections the manufacturer's original definitions and specifications of seating capacity must be adhered to. Under no circumstances should vehicles be allowed to have seats removed as a means of avoiding the annual vehicle safety check.

47 Alternatively, the Bus Proprietors' Association (Vic.) brought to the Committee's attention the situation whereby jump seats are being fitted to hire and drive buses to increase their capacity beyond the vehicle's original specification. The Association informed the Committee that these jump seats effectively close the aisles and increase seating capacity by five or six.

48 The Committee was advised by the Association that regulations prohibit the fitting of jump seats in commercial passenger vehicles, as they are considered unsafe, particularly in the event of an accident. A hire and drive omnibus is not a commercial vehicle and does not have to comply with this regulation.

49 It is the Committee's opinion that jump seats are unsafe and should be prohibited in hire and drive omnibuses.

#### CONCLUSIONS

50 In recent years there has been a considerable increase in demand for hire and drive buses. The Committee's Inquiry has considered the road safety risk arising from the lack of safety requirements for the hire and drive omnibus industry.

51 Recently the hire and drive market has seen the introduction of a forty seater vehicle which only requires the driver to have a heavy vehicle endorsed driver's licence. The Committee is of the opinion that this will probably be the first of many such vehicles and believes that only very experienced drivers with proper training in handling large vehicles should be able to drive these buses.

52 So far the safety record of hire and drive buses is very good. However, the Committee considers that with the continuing growth in this industry there is an increasing possibility of a major tragedy occurring.

53 The Committee believes it is essential for legislation to be introduced to control the safety standards of all hire and drive vehicles with a seating capacity of eight or more. Drivers of vehicles with a seating capacity of twenty-two or more should also be required to hold special licences.

#### SUMMARY OF RECOMMENDATIONS

54 The Committee recommends that :-

- (a) all hire and drive vehicles with a seating capacity of eight and over be required to undergo a compulsory safety inspection at least once a year;
- (b) all vehicles registered under the *Transport Regulation Act 1958* as a "private omnibus" and with a seating capacity of eight and over should be subject to a vehicle safety inspection at least annually;
- (c) the driver of any hire and drive vehicle with a passenger seating capacity in excess of twenty-two must be licensed by the Transport Regulation Board;
- (d) drivers of all hire and drive vehicles with a seating capacity of eight and over must hold a licence endorsed for driving in hazardous conditions as defined by the Transport Regulation Board;



- (e) legislation be introduced to ensure that the passenger carrying capacity of all hire and drive and "private omnibus" vehicles is based on the manufacturer's original specifications; and
- (f) jump seats must not be fitted to hire and drive omnibuses.

Committee Room  
27 November 1980.

APPENDIX "A"

List of Witnesses

Mrs. P.E. Nichol, Managing Director,  
Dreamtime Tours Pty. Ltd.  
Mr. A. Blackman, Solicitor for Mrs. P.E. Nichol.  
Mr. R. Jacobs, Secretary, Administration,  
Transport Regulation Board.  
Mr. J. Connell, Solicitor for the Transport Regulation Board.  
Mr. M.C.G. Schrader, Director, Bus Proprietors' Association  
(Vic.).  
Mr. R. Brien, President, Bus Proprietors' Association (Vic.).

APPENDIX "B"

Organizations which forwarded submissions

Bus Proprietors' Association (Vic.).  
Transport Regulation Board.