

Motor vehicle industry newsletter



Motor Vehicle Industry Board message

Virginia Seymour
Chairperson - Motor Vehicle Industry Board

Repair business licensing – Government reduces red-tape

In response to complaints from industry about delays and costs in making an application for a repair business licence, the Government has amended the Motor Vehicle Repairers Regulations to exempt motor vehicle repair businesses operating before 1 July 2008, from providing a planning certificate with their application for a business licence. The Minister for Commerce, the Hon Troy Buswell has confirmed that the Government is focussed on improved regulation under which red tape and costs to business and the community will be reduced.

Less than 400 Motor Vehicle Repair Business licences have been issued since its introduction in July 2008.

The Motor Vehicle Industry Board is disappointed with the low number and with little time left for repair business operators to apply for a licence, the Board has been working with the government to improve the licensing process.

The Board recently surveyed the industry and while it is clear that most repair businesses are aware that they need to be licensed by 30 June 2009, many have been discouraged from applying because of the time and cost involved when obtaining their local council approval for their premises.

I now urge you to make application for your licence as soon as possible, without the council approval documents. As the Board expects to receive more than 7000 applications over the next five months, repairers who leave their application until the last minute, will not have their licence by the 30 June deadline.

New Board members

The Board welcomes the appointment of one new Member and three new Deputy Members. Ms Karen Carriero joins the Board as a new Member nominated by the RAC. Mr Matt Negus joins the Board as a Deputy Member representing the motor vehicle repair industry, Ms Jo Ghirardi as a Deputy Member representing the interests of consumers and Mr Adrian Firth and as a Deputy Member nominated by the RAC.

These new members will bring a wealth of experience and ideas and will assist the Board to remain relevant to the rapidly changing motor industry in Western Australia.

I take this opportunity to thank retiring Board members Judy Seif, David Moir, Brian Forbes and Mike Upton for their significant and valuable contributions to the work of the Motor Vehicle Industry Board.

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Dealer inspection program update

In the past seven months, Proactive Compliance officers from the Department of Commerce's Motor Vehicles Branch have visited over 330 motor vehicle dealers throughout Western Australia, including regional locations such as Kalgoorlie, Geraldton, Karratha, Port Hedland, Narrogin and Albany.

During this period, 57 Work Orders and 65 Minor Defect Notices have been issued over vehicles examined under the program. Officers randomly visit dealers' premises to inspect vehicles issued with a Minor Defect Notice to make sure they have been repaired.

Regular issues encountered during these visits include:

- The failure of dealers to maintain the dealers register in the current prescribed form.
- The failure of yard managers/salespersons to provide notification of the change of employment and dealerships not notifying of changes in staff.
- Dealers not ensuring that licence numbers are contained in advertisements (including television and radio advertisements).
- Dealers who have vehicles displayed for sale on premises which are not authorised, eg premises located next door or adjacent to the licensed premises.

The program has recently been expanded to focus on dealers who engage in consignment sales and consignment trust accounts. Proactive Compliance officers will examine consignment transactions and review the trust account and related records to ensure compliance with the *Motor Vehicle Dealers Act 1973*.

The visits have generally been well received by dealers and the program continues with the view to ensuring that all dealers are compliant and understand their obligations under the legislation.

If dealers have a question about a compliance issue, contact the Senior Compliance Officer, Adrian O'Dea on 9282 4313.

New trust account audit period

The Board has introduced a new audit period for motor vehicle dealers who undertake consignment sales and hold consignment trust accounts.

The new period is 1 January to 31 December of each year. The previous period for trust account audits was 1 April to 31 March each year.

The Board reviewed the current audit period to ensure consistency with other provisions of the legislation.

The introduction of the new audit period will require transitional arrangements for the 2008 calendar year audit to avoid overlap with the previous audit period. Initially, dealers who hold a consignment trust account will be required to arrange an audit for the period 1 April 2008 to 31 December 2008. This audit will be due by 30 June 2009. If no transactions have been made in the trust account during the period, a statutory declaration to this effect is to be submitted to the Board.

Dealers are encouraged to ensure their audit documentation is lodged by the 30 June 2009 deadline to avoid compliance action, which may include disciplinary proceedings before the State Administrative Tribunal or prosecution action.

For future years - 2009 onwards - audits will be required in respect of the whole calendar year. In accordance with the requirements of the *Motor Vehicle Dealers (Sales) Regulations 1974*, these audits will be due within three (3) months of the end of the audit period, ie 31 March each year.

The Board has also recently endorsed guidelines for auditors of motor vehicle dealer consignment trust accounts. These guidelines are intended to assist auditors in undertaking and preparing the audit report. Copies of the guidelines have been provided to dealers holding consignment trust accounts to pass to their auditor. Further copies are available by telephoning 9282 4313.



Motor vehicle industry news

NSW dealer sent packing - win for Bunbury pensioners

A senior Bunbury couple purchased a converted camper bus privately in WA for \$45,000. They were unaware that the vehicle was registered to a NSW licensed motor dealership, Hunter Valley Coaches Pty Ltd, trading as Murphy's Commercials.

After the consumers handed over the money to the individual seller, the payment should have been transferred to Murphy's but the seller absconded with the money and left the elderly couple with the prospect of losing the bus and their money.

Murphy's Commercials and the finance company, Bisakay Financial Services, then commenced court proceedings against the couple for the bus to be returned.

The Commissioner for Consumer Protection used her powers to defend the action on behalf of the consumers on the basis that the seller was an agent of Murphy's and that the dispute was therefore between that person and Murphy's.

The matter settled out of court on the basis that the two companies dropped their claim to the vehicle and the couple dropped their counter claim for damages.

Murphy's have been warned not to attempt similar practices without a current WA dealer's licence.

Mtech Fuel Saver 'green advertising' withdrawn from sale

Consumer Protection has been conducting a 'green advertising' compliance program aimed at ensuring those who market fuel saving devices can substantiate their claims.

The Commissioner for Consumer Protection has obtained a written undertaking from Air Automotive Holdings Pty Ltd and Air Automotive Australia Pty Ltd to remove the Mtech Fuel Saver by Moletech from sale in WA.

The product claimed motorists could reduce petrol consumption by between 10 and 45 per cent.

After being alerted to this product, Consumer Protection engaged a leading Perth developer of engine and related technologies to test the reduced fuel consumption and emissions claims made about the Mtech Fuel Saver device, in accordance with Australian Standards.

Based on the test results, the bottom line is that the device, when fitted to petrol fuelled vehicles, did not appear to work.

Consumer Protection has previously been instrumental in having the Firepower Fuel Pill and the HGK hydrogen gas system withdrawn from sale in WA.

The Motor Vehicles Branch currently has further products under investigation.

Unlicensed motor vehicle dealer hit for \$12,000

Unlicensed vehicle seller Michael Holmes of Leederville and his business WA Auto Wholesalers, have been fined \$5,000 and ordered to pay more than \$7,000 in costs in the Perth Magistrates Court.

Mr Holmes purchased five cars and sold nine cars without being the holder of a valid motor vehicle dealer's licence.

Unlicensed dealing is a serious matter, as evidenced by the penalty handed down by the court for a first offence on this occasion.

Mr Holmes had held a licence between 2000 and 2005 and Consumer Protection's prosecutor Nikola Reilly in her sentencing submissions noted that he was aware, or should have been aware, of the requirement to hold a valid licence to carry on business as a motor vehicle dealer.

After being denied a renewal of his licence in 2006, Mr Holmes operated as if he was a dealer, purporting to hold a licence when he did not.

Our advice to unlicensed operators is simple – don't do it. Consumer Protection will continue to investigate and prosecute offenders.



Department of **Commerce**

Consumer Protection Division
Motor Vehicles Branch

The Motor Vehicles Branch of the Department of Commerce, Consumer Protection Division is located at the rear of 321 Selby Street, Osborne Park.

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The reception desk is open to the public between 8:30am and 5:00pm Monday to Friday (except for Public Holidays).

If you have any questions or feedback about this newsletter, please contact Mr Angelo Barbaro, Principal Customer Service Officer, Motor Vehicles Branch on 9282 4349 or email angelo.barbaro@commerce.wa.gov.au

