



Motor Vehicle Industry newsletter



Anne Driscoll
Commissioner
for Consumer
Protection

Have you renewed your licence?

Is your vehicle repair business licensed?

It is now three years since the commencement of the repair business licensing system and licensed repair businesses are now receiving licence renewal letters.

I understand there is some disquiet among repairers who have received a renewal notice, because they believe that they continue to compete with businesses which have chosen to avoid the licensing system.

While I can understand this concern I can assure you that Consumer Protection is actively pursuing unlicensed businesses. In the near future you will see a number of prosecutions of businesses which are unlicensed.

It was always the Government's intention that the motor vehicle repair industry would be given time to come to grips with the new licensing requirements.

With the enactment of the *Motor Vehicle Repairers Act 2003* and the roll-out of the new licensing regime it was recognised that it would have to be supported by a campaign which encouraged industry compliance.

For that reason Consumer Protection has engaged in an extensive compliance program involving industry education through this newsletter, direct mail-outs, seminars and finally direct visits to unlicensed businesses. In the past

21 months Consumer Protection staff have visited 1500 addresses from which repair businesses had advertised they operated.

The program has been very effective by identifying many unlicensed repair businesses which subsequently made application for a licence. It also found that a significant proportion of those businesses had since closed, indicating a high turnover in the industry.

By 30 June 2011 licences had been granted to more than 3650 businesses and certificates had been issued to more than 9500 individual tradespersons.

However, it was always understood that regardless of both the information campaign and compliance program, some businesses would continue to resist and other action would be necessary. Therefore the compliance program has now been replaced with a program which investigates reports of unlicensed repair businesses and aims to initiate enforcement action.

Consumer Protection is now investigating more than 140 businesses which have been identified as requiring licences under the *Motor Vehicle Repairers Act*.



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New arrangements for motor vehicle trainee salespersons

In the past, temporary permits were granted to yard managers and salespersons who were in the process of completing the required training course. As of 1 July 2011, however, these permits can no longer be issued. This means that, before anyone begins operating as a yard manager or salesperson, they must first be granted a licence.

Applicants who are waiting to complete the required training course may be employed by a licensed motor vehicle dealer to operate as a trainee salesperson, provided they have lodged an application and met all of the other requirements for the grant of a licence.

Trainee salespersons, **under supervision**, are permitted to:

- meet and greet customers and survey their needs;
- record customers' details for the purposes of introducing them to licensed salespersons;

- show vehicles to customers on the authorised premises of their employer; and
- take customers for vehicle demonstration drives but **only** in the company of a licensed salesperson.

Trainee salespersons are NOT permitted to:

- negotiate with customers for the sale or purchase of vehicles, or
- write up sales contracts.

If the application for a salespersons licence is unsuccessful, the trainee arrangement cannot continue.

The Department of Commerce recommends that motor vehicle dealers employing trainee salespersons enter into an agreement with each trainee, clearly outlining the scope of their duties.

A suggested format for this agreement can be found on the Department's website www.commerce.wa.gov.au

Please note that similar arrangements have not been made for yard managers, therefore, anyone operating as a yard manager must hold a current yard managers licence.



For more information, please contact the Motor Vehicle Licensing Line on 9282 0600.

What you should know

Personal Property Securities reforms

The Personal Property Securities Register (PPSR) is a new national register which will record security interests in personal property, including vehicles. It will replace the Western Australian Register of Encumbered Vehicles (REVS) and vehicle registers in other States and Territories.

The PPSR was expected to commence on 31 October 2011. The Commonwealth Government has recently advised that the

commencement date will be delayed until early 2012. An exact date is likely to be announced by the end of this year.

The PPSR will be able to be accessed at www.ppsr.gov.au or by calling a contact centre. The contact centre phone number will be available closer to the commencement date. You will need the Vehicle Identification Number (VIN) to search the PPSR. If the vehicle does not have a VIN, the chassis number can be used to conduct a search.

If you currently obtain information through a broker, you should check that your broker will be making arrangements to link with the PPSR.

A single search of the PPSR will provide national information so you will be able to find out whether any security interests in the property have been registered throughout Australia.

Further information about the PPSR can be found at: www.ppsr.gov.au, or you can contact the Department of Commerce on (08) 9282 0631 or email revs@commerce.wa.gov.au

Disposing of uncollected goods

The Do's and Don'ts

Many businesses are left holding goods which customers do not return to collect. These goods often become a nuisance and take up valuable storage space.

The *Disposal of Uncollected Goods Act 1970* sets out the procedures that need to be followed when disposing of these goods. You can access a copy of this Act, including all of the required forms, at www.slp.wa.gov.au

For prescribed goods, or goods less than \$300 in value, generally the following procedures must be followed before uncollected goods can be disposed of:

1. The customer must be notified in writing that their goods are ready for collection using a Form 1. The customer should also be told at this time that charges for storage will be incurred if the goods are not collected by a certain date.
2. If the customer has not collected the goods within the required time after the Form 1 has been served, you must notify the customer that you intend to dispose of the goods using a Form 2.
3. The Form 2 must be delivered to the person who gave you the goods, any parties who claim interest in the goods and the Commissioner of Police.
4. If you have not received a 'Notice of Dispute' within one month after serving the Form 2, you may attempt to dispose of the goods by public auction or private sale, depending upon whether the goods are prescribed.
5. If you are unable to sell the goods, and you have not received a 'Notice of Dispute', you may dispose of the goods in whatever manner you choose.
6. If you sell the goods, deduct from the proceeds all of your lawful and reasonable moneys owed, including advertising, storage and sales commission. Plus:
 - If there is a shortfall, you may claim the balance from the party who left the goods with you via civil action.
 - If there is a surplus, you must deliver the surplus to the party who left the goods with you.
 - If the person cannot be found and the surplus remains unclaimed for 28 days, you must lodge the surplus with the State Treasury using a Form 13.

For the procedures regarding goods with a value in excess of \$300, or for further information, you should contact the general enquiry line on **9282 4361** to request an information sheet.

It is important to keep a record of all actions relating to the disposal of goods, including where notices were served and to whom.

Following these procedures and using the correct forms can save you problems at a later date, particularly if your customers turn up wanting their goods. You should also be aware that penalties apply for disposing of goods incorrectly.



For more information, contact the general enquiry line on **9282 4361** to request an information sheet.

Is your vehicle repair business licensed?

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Infringement notices have been issued to 22 of those businesses which have not employed certified repairers, as required by the law. These penalties range from \$500 to \$2500.

Prosecution proceedings are now being prepared in another six cases.

I urge those of you who have committed to the new licensing system to remain within that system and renew your licences, and I encourage you to advise us of unlicensed repair businesses by emailing the Department at consumer@commerce.wa.gov.au



Court outcomes

The branch currently has seven matters before the courts involving both unlicensed dealing and unlicensed repairing matters and a further 13 cases are with the Departments Legal Unit for prosecution action. The Branch continues to investigate a range of matters relating to breaches of the laws regulating the motor vehicle industry.

from
1 May 2011

Trader	Offence	Outcome	Court Date
Bruce Symes	Unlicensed dealing	\$5,500.00	2 May 2011
Bin Huang	Unlicensed dealing	\$5,418.00	6 May 2011
Nicholas Johnson	Unlicensed salesperson	\$790.00	2 June 2011
Goldy Motors	Employ unlicensed salesperson	\$2,252.00	2 June 2011
Pat Murphy	<ul style="list-style-type: none"> One count of failing to make a consignment agreement in writing. Three counts of making false representations. Three counts of failing to pay proceeds of cars sold on consignment. 	\$7,506.00	22 July 2011
Barblos Nominees	<ul style="list-style-type: none"> One count of failing to make a consignment agreement in writing. Three counts of making false representations. Three counts of failing to pay proceeds of cars sold on consignment. 	\$3,506.00	22 July 2011

Licensing on the move

New contact details:

Phone: 9282 0600

Fax: 9282 0861

email: licensingenquiries@commerce.wa.gov.au

With the recent transfer of licensing functions from the Motor Vehicle Industry Board to the Commissioner for Consumer Protection, we have taken the opportunity to restructure to assist in timely processing of occupational licences administered by Consumer Protection.

This means all licensing functions of Consumer Protection are now in one central branch located at **Level 6, Forrest Centre, 219 St Georges Terrace, Perth**. You can still drop your licensing forms at the Osborne Park Office, but all applications will be sent to the Licensing Branch for processing.



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Contact

The Automotive, Marine & Trading Hours Branch of the Department of Commerce, Consumer Protection Division is located at the rear of 321 Selby Street, Osborne Park. The public counter for licensing enquiries has moved to **Level 6, 219 St Georges Terrace, Perth**.

Telephone:9282 4361 (General line)
9282 0600 (Licensing)
 Facsimile:9282 4363 (General)
9282 0861 (Licensing)
 Email:motorvehicles@commerce.wa.gov.au or
licensingenquiries@commerce.wa.gov.au
 Website:www.commerce.wa.gov.au/motorvehicles
 Postal address: ..Locked Bag 14 Cloisters Square
PERTH WA 6850

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:
 Miss Nicole Papas, Project Officer,
 Automotive, Marine & Trading Hours Branch
 on 9282 4358 or email nicole.papas@commerce.wa.gov.au