

Motor vehicle industry newsletter



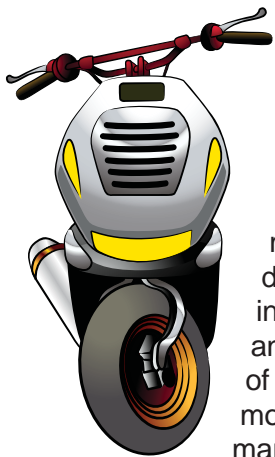
Motor Vehicle Industry Board message

Miriam Sauley
Chairperson - Motor Vehicle Industry Board

Government appoints new Board Chairperson

Following the resignation of long standing Chairperson Virginia Seymour, the Government has appointed lawyer Ms Miriam Sauley.

Ms Sauley has a great working knowledge of the motor industry, works as a legal officer with the Department of Transport and has a strong connection providing advice to the Board for many years. She was appointed as full Board member in 2004 and subsequently Deputy Chairperson.



Mopeds should not be modified by dealers

The Board are aware some motorcycle dealers engage in the dangerous and illegal practice of de-restricting mopeds to improve market sales of the bikes. The restrictors

on the mopeds, with motors of less than 50cc, limit the speed of the moped to 50 km/h as required under the *Road Traffic Act 1974*.

A secret shopper exercise by the Department of Commerce has identified a number of bike dealers who indicated a willingness to remove the restrictors if requested.

The Board is concerned that this practice is not only dangerous but is also illegal and warns that this practice may also place a dealers viability in jeopardy in the event of a tragedy.

If a person, most likely a 16 year old with a moped licence, purchases a moped which is de-restricted by the selling dealer and is then involved in a serious accident, there could be serious consequences:

- If the accident was fatal there would be a coroner's inquest. In the event that the de-restriction was found to be a cause, the dealer who authorised the removal of the restrictor could face criminal charges.

- The Insurance Commission of WA, which pays third party accident claims, would most likely initiate recovery action from the offending dealer. If the injury was severe and involved a permanent disability, the claim could be for hundreds of thousands of dollars and it is unlikely that a dealer's public liability insurance would protect the dealer because the act of removing a restrictor was illegal.

The willingness of dealers to breach the law in this way would raise the question for the Board as to whether those dealers are fit and proper to continue to hold a dealer's licence.

Miriam Sauley
Chairperson

Consumer Protection to replace MVIB.

On 25 November 2010, legislation was passed by the Western Australian Parliament to transfer responsibility for regulation of the motor industry from the Motor Vehicle Industry Board to the Department of Commerce and the Commissioner for Consumer Protection. It is intended that the operations of the Board will be wound up on 30 June 2011 with transfer of its responsibilities occurring from 1 July 2011.

This change is part of the Western Australian Government's commitment to reducing the number of statutory Boards and committees. Abolition of the Board, along with three other statutory licensing Boards, will result in a more streamlined operating structure with a single regulator across a number of areas resulting in better integration with generalist laws such as the Australian Consumer Law.

From July 2011 the licensing authority of the Board will be vested in the Commissioner for Consumer Protection. The

Board's financial responsibilities will move to the Director General of the Department of Commerce.

To preserve industry input into government actions affecting the industry, a Motor Vehicle Industry Advisory Committee will be established to enable constructive dialogue with the motor vehicle industry. An interim Advisory Committee is already in place, but it is expected that the formal Committee will come into operation when the transition occurs in July 2011.

There will be no reduction in consumer protection or in the requirement that those in the motor vehicle sales and repair industry comply with relevant legislation. For example, the requirement for motor vehicle dealer and repair businesses, along with vehicle sales representatives to be licensed and individual motor vehicle repairers to be certified will continue. Similarly, the requirement to audit trust accounts for dealers selling vehicles on consignment will continue.

The Department and the Board are working closely together to ensure a smooth transition of the Board's statutory functions and will continue to keep the motor vehicle sales and repair industry informed as developments occur.

While largely it will be business as usual from 1 July 2011, some changes will be required. For example, any documentation that refers to the Board will be updated to reflect the upcoming change.

There will be some changes to the organisational structure of the Department of Commerce as it takes on new responsibilities.

However, the staff working in the motor vehicle area will be largely unaffected by the move. We will endeavour to keep the same telephone numbers for the licensing lines and to create easy links to internet material. As final arrangements for the transition are put into place, we will provide updated information about how to contact the relevant staff.

Compliance Update

A range of compliance activities have kept Compliance Officers of the Department of Commerce Motor Vehicles Branch extremely busy over the past nine months.

In addition to the Phase III compliance program targeting unlicensed repair businesses, the branch conducts inspection programs for motor vehicle dealers and the boating industry.

Repairers Program

Under this program, more than 820 businesses have been visited in the last year as part of the Phase III compliance strategy targeting unlicensed motor vehicle repairers.

The program also follows up on information provided to the department, mostly by other repair businesses about unlicensed repairers. An additional 123 follow up visits have been completed as a result of information received.

A third aspect of the compliance program is the follow up of repair businesses which have

submitted incomplete licence application and have failed to provide the outstanding information. In total 193 visits have been carried out to these businesses, and as a result all have since provided the necessary information and have been granted a licence.

Dealer Inspection Program

In the past nine months, Compliance Officers have visited more than 517 licensed motor vehicle dealers throughout Western Australia, including the major regional centers of Bunbury, Albany, Esperance and Busselton. The regional visits also took in smaller country towns throughout the South West and Wheatbelt regions.



During this period, more than 8,000 vehicles have been inspected with 104 Work Orders and 84 Minor Defect Notices issued for defects found. The officers also conducted random audits to 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 change of employment; and dealerships not notifying of changes in staff.
- Dealers who have vehicles displayed for sale on premises which are not authorised (eg premises located next door or adjacent to the licensed premises).

Boating Industry Inspection Program

The Motor Vehicles Branch also undertakes an inspection program within the boating industry.

In line with the objectives of the Dealer Inspection Program, the initial visits are principally a liaison exercise aimed at developing communication lines with the boat dealers, and providing advice on operational issues in relation to legislation administered by the department to ensure they do not inadvertently breach the law.

The officers also inspect recreational boats to ensure that an 'Australian Builders Plate' is fitted and the plate contains the required information. So far this year officers have visited 32 boat dealers and inspected 64 boats for compliance.



First unlicensed car repairer fined under new laws

A mechanic operating a car repair business in Morley has become the first to be convicted under new laws which require all motor vehicle repairers to be licensed in Western Australia.

The Motor Vehicle Repairers Act, which came into effect in July 2008, requires the owners of repair businesses to hold a licence and individuals who carry out repair work to hold a certificate.

Aldo Gentile, owner of Morley Mechanics, was fined \$2,500 and ordered to pay \$346 in costs after pleading guilty to carrying out unlicensed repair work in breach of the Motor Vehicles Repairers Act. The case was heard in the Perth Magistrates Court on 21 January 2011.

The Court was told officers of the Motor Vehicles Branch of Consumer Protection visited the premises in Rudloc Road in July 2009 and advised Mr Gentile that he needed to apply for a licence to operate.

On a second visit in December 2009, Mr Gentile showed officers a partially completed application form and he was told to submit it immediately. In February 2010, a \$500 infringement notice was issued to Mr Gentile for personally undertaking repair work without holding a certificate, with a warning letter urging him to comply immediately.

Despite being given ample opportunities to comply with the licensing requirements, Mr Gentile failed to apply for a licence. Another formal warning was issued to the business in April 2010 before legal proceedings were commenced. Mr Gentile lodged a licence application in September 2010.

The Motor Vehicle Repairers Act requires only suitably qualified and experienced people to supervise or carry out repair work as a business. The aim is to improve vehicle safety on our roads by guaranteeing high standards of workmanship in the industry and also provide consumers with greater protection to reduce their risks.

To date, Consumer Protection's Motor Vehicles Branch has received more than 9,500 applications for individual certification and 3,890 applications for a repair business licence. There is a continuing compliance program which involves visits to premises of business identified as possible repairers, but which do not hold a licence. In excess of 820 businesses have been visited in the last 12 months.

To date, a total of 17 infringement notices have been issued to repair businesses for not employing certified repairers. In addition a number of investigations are in progress into unlicensed repair businesses. This is with a view to taking further prosecution action.

Further information can be viewed at www.commerce.wa.gov.au/motorvehicles. Alternatively you can call the Motor Vehicles Branch licensing enquiries line on 9282 4362.



Motor Vehicles Branch prosecution action

The Motor Vehicles Branch has been extremely busy in the past 12 months investigating various breaches of both the Motor Vehicle Dealers and Repairers Acts.

The branch has completed numerous investigations resulting in 20 successful prosecutions in the courts. This table details these prosecutions and the court imposed penalties.

Trader	Offence	Outcome	Court Date
Min Gao	Unlicensed dealing	Fined \$3727	8-Apr-11
Xiaoxia CUO	Unlicensed dealing	Fined \$7727	8-Apr-11
Nevin INNI	Unlicensed dealing	Fined \$8035	25-Mar-11
Pearl Court Investments Pty Ltd t/as Action Hire Cars	Unlicensed dealing (No Hire car Exemption)	Fined \$15668	21-Jan-11
Aldo Gentile t/as Morley Mechanics	Unlicensed repairing	Fined \$2846	21-Jan-11
Jayde Grundy	Unlicensed dealing	Fined \$5417	14-Jan-11
Allen Jones	Unlicensed dealing	Fined \$4110	11-Jan-11
Dameeka Riley	Unlicensed dealing	Fined \$1352	2-Dec-10
Chad Andrew Miller	Unlicensed salesperson	Fined \$1852	19-Nov-10
Ross Ozanne	Unlicensed salesperson	Fined \$1202	19-Nov-10
Melville Motors (2006) Pty Ltd	Unlicensed salesperson engaged by the dealership	Fined \$1102	19-Nov-10
National Fleet Services Pty Ltd	Unlicensed salesperson engaged by the dealership	Fined \$852	5-Nov-10
COUNTDOWN AUTOS (DAVID BRADLEY)	Falsely represented vehicles in internet advertising.	Fined \$2250 \$6060 compensation to a customer	13-Oct-10
SCOTT RUPELL (salesperson)	Falsely represented vehicles in internet advertising.	Fined \$4500 \$6060 compensation to a customer	13-Oct-10
Wildfox Holdings Pty Ltd t/as Toyotaways	Unlicensed salesperson engaged by the dealership	Fined \$2775	6-Sep-10
Janetto Holdings Pty Ltd t/as Subaru Osborne Park	Unlicensed salesperson engaged by the dealership	Fined \$2386	16-Jul-10
Prashant GHUMARIA	Unlicensed salesperson	Fined \$1086	16-Jul-10
Burswood Car Centre Pty Ltd t/as Burswood Honda	Unlicensed salespersons engaged by the dealership (8 in total)	Fined \$10319	12-Jul-10
Stephen Eccles	Unlicensed salesperson	Fined \$1115	12-Jul-10
Andrew Durey	Unlicensed salesperson	Fined \$1452	4-Jun-10

The branch currently has 16 cases with the Department's Legal Unit for prosecution action, mostly involving unlicensed dealing and continues to investigate other matters relating to breaches of the laws regulating the motor vehicle industry.

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

Telephone:..... **9282 4361** (Motor Vehicles Branch)

9282 4362 (Licensing)

Facsimile:..... **9282 4363**

Email:..... **motorvehicles@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 Mr Angelo Barbaro, Principal Customer Services Officer, Motor Vehicles Branch on 9282 4349 or email **angelo.barbaro@commerce.wa.gov.au**