

Motor vehicle industry newsletter



Motor Vehicle Industry Board message

Virginia Seymour
Chairperson - Motor Vehicle Industry Board

Unlicensed motor vehicle repair businesses face prosecution

The Motor Vehicle Industry Board is extremely concerned at industry's response to the introduction of the new motor vehicle repair business licensing system.

Although the *Motor Vehicle Repairers Act 2003* required that all repair business be licensed by 30 June 2009, only 2000 of an expected 7500 applications had been received.

The Board notes that the Commissioner for Consumer Protection, who is responsible for approving prosecution action against unlicensed repair businesses, has resolved to give a period of grace (until 30 September 2009) before commencing action against unlicensed repairers. The Board believes this position is very accommodating and strongly supports any action which will force repair businesses to comply.

From early in October, if you are repairing vehicles in an unlicensed capacity, you can expect to receive a \$500 infringement notice for your failure to comply with the new laws. Furthermore, some of you, depending on your circumstances, may be subject to prosecution action and if convicted you will be liable for a fine of up to \$50,000 (\$250,000 for Pty Ltd companies) and \$1000 for every day you continue to operate without the licence.

Officers of the Board and the Department of Commerce are visiting repairers to provide application forms and give advice on the how to comply with the new requirements. Alternatively, you can call for advice on 9282 4338.

Licensing of repair businesses and their supervising tradespersons will ensure improved standards of repair work and accountability within the industry, resulting in a more level playing field for business and better protection for consumers.

Motor Vehicle Repair Industry Compensation Fund

Customers of licensed repair businesses are now protected by the Motor Vehicle Repair Industry Compensation Fund.

Owners of motor vehicles who have suffered a loss as a result of incompetent repair work by a licensed repairer, or incomplete repair work as a result of a licensed repairer becoming insolvent, may claim compensation from the fund. A proportion of the motor vehicle repair industry licence fees will pay for the new fund.

This fund is particularly important to customers who need warranty repairs if the business which offered the warranty has closed.

The new fund will compensate customers only if they have attempted to resolve any claim or have made a reasonable attempt to exercise their legal rights to recover their losses. However, the Board believes that the fund offers a very effective safety net for the customers of licensed repair businesses.

Customers who wish to claim should contact the Department of Commerce, Motor Vehicles Branch advice line on 9282 4361.

Crackdown on unlicensed and illegal dealings continues

A Redcliffe company and its director were fined a total of \$5,000 by the Midland Magistrates' Court on 17 July 2009. This is the latest prosecution by Consumer Protection and the Department will continue to crackdown on unlicensed car dealing.

P.C. Consultants (WA) Pty Ltd and its director, who cannot be named, were charged by Consumer Protection after buying vehicles mostly bought from damaged vehicle auctions, including interstate ones, before on-selling them during a 20 month period from May 2007 to December 2008 from premises in Midvale.

An arrangement with a licensed dealer did not prevent the law being contravened.

Commissioner for Consumer Protection Anne Driscoll expressed concern at the prevalence of illegal car dealing in Western Australia.

"This illegal activity is having a detrimental impact on the integrity of the industry and takes a percentage of the market away from licensed dealers who are doing the right thing," Ms Driscoll said.

This follows the recent conviction of Marangaroo man **James Basha Tewa Lofu**, trading as Lofu Car Sales, who was globally fined \$7,500 for unlicensed car dealing in the Perth Magistrates' Court on 10 July 2009.

Mr Lofu leased commercial premises in Wangara and bought and sold vehicles to members of the public, but also bought from and sold to licensed dealers. In one instance he was engaged as an agent by a licensed dealer, something that prompted concerns from the Commissioner.

"I am concerned that Mr Lofu appears to have operated with the knowledge of some licensed dealers who should have bought his activities to our attention. Unlicensed dealers put the reputation of the motor trade industry at risk," Ms Driscoll said.

"It also jeopardises the safety and rights of car buyers who do not have the guarantee of warranties and roadworthy vehicles when buying from unlicensed dealers.

The July convictions in the courts follow on from another successful prosecution on 26 June 2009 when an unlicensed dealer was fined \$2308 including costs.

"We will continue our relentless campaign to crack down on unlicensed car dealing and these recent convictions are proof that, in the long-term, the financial risks will far outweigh any financial gain," Ms Driscoll said.

The Commissioner and the Board were concerned at the apparent knowledge of unlicensed dealer practices and assistance provided to them by licensed dealers.

"I also urge consumers and those in the industry to immediately report any unlicensed dealing so we can quickly stamp out this dangerous practice."

Repair business licensing compliance program

The deadline of 30 June 2009 to apply for a motor vehicle repair business licence under the *Motor Vehicle Repairers Act 2003* has now passed. As a result of the very slow uptake of business licences by the motor vehicle industry, the Commissioner for Consumer Protection has extended the deadline for compliance with the licensing requirements to 30 September 2009. Industry was advised of this in June 2009.

Due to the low level of compliance with the repair business licensing requirements the department is conducting a two phase compliance program. The first phase of this program has commenced with compliance officers visiting unlicensed repair businesses in both metropolitan and regional areas.

It is anticipated that some 2,500 unlicensed repair businesses will be visited by 30 September 2009. The aim of the visits is to ensure unlicensed businesses are informed of their licensing obligations and are aware of the consequences of non-compliance. The officers are providing licence application forms and other information to assist these businesses to meet their compliance obligations.

From 1 October 2009, the second phase of the compliance program will commence. Repair businesses should be aware that the *Motor Vehicle Repairers Act 2003* not only prohibits businesses from carrying out repair work without a licence pursuant to section 9, but also prohibits repair businesses from engaging people to work in their business who are not certified repairers or who are not under the supervision of a certified repairer under section 39(3).

This second phase will focus on businesses that breach these requirements. Businesses not licensed and/or businesses that engage employees who do not hold the necessary repairers certificates from 1 October 2009 are exposing themselves to compliance action. This action includes possible on the spot infringement notices with penalties of up to \$2,500, or prosecution action through the courts with penalties of up to \$50,000.

Unlicensed repair businesses are urged to apply immediately for a licence. Further information on repair business licensing can be found on the department's website at:

www.commerce.wa.gov.au/motorvehicles or by contacting the Licensing section of the Motor Vehicles Branch on 9282 4338.

Motor vehicle industry **news**

The tick of approval

The Motor Vehicle Industry Board and the Department of Commerce have approved the official brand to be displayed by all licensed motor vehicle repair businesses.

The 'tick of approval' sticker, which is in the state colours of black and yellow, is distributed by the Motor Vehicles Branch when repairers licence their business.

There are one large and three small versions of the branded sticker that repairers can display at their premises (along with their licence [MRB] number) so consumers can identify them as being a licensed repair business.

Electronic and black and white versions of the sticker are available for use on websites and stationery printing. If you require any of these please email your request to: motorvehicles@commerce.wa.gov.au



Licensed repairer and Motor Vehicle Industry Board Member Wayne Phipps with his business licence and brand sticker displayed.

newsletter
access online

Download copies of this edition of the Motor Vehicle Industry Newsletter and previous issues at: www.commerce.wa.gov.au/motorvehicles



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

