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Thursday, 19<sup>th</sup> November 2009

### **PARLIAMENT ENDORSES PROTECTIONS FOR USED CAR BUYERS**

Parliament has approved the introduction of a cooling off period to better protect used car and motorbike buyers from unfair sales tactics.

Minister for Consumer Affairs Gail Gago says turning up the heat on dodgy dealers will rein in those who bring the industry into disrepute.

“These changes will help combat high pressure sales tactics by introducing a two-day cooling off period during which consumers can consider their purchase,” says Minister Gago.

“Consumers will have two clear business days, including Saturdays, to arrange a mechanical inspection and to weigh up their final decision, ultimately allowing them to cool off.

“Buyers will be able to waive their rights to a cooling off period so that they can drive the vehicle away immediately if they need to. This has particularly been designed to assist country people who may be specifically travelling for a same day purchase. (The required waiver form will include a warning notice).”

I have already put dealers on notice that the number of waivers will be reportable and the waiving of rights is intended to be the exception not the rule. Abuse of this system will prompt swift action to further tighten the requirements.

“In a further bid to combat crime and stamp out backyard operators I’m also pursuing tighter constraints on traders – making it easier to prosecute unlicensed dealers and in turn raising confidence in the industry,” says Ms Gago.

“Other changes aim to stop rogue dealers from enlisting close associates, such as family members, to sell vehicles on their behalf.”

Maximum penalties available to the courts for unlicensed dealing will be increased from \$20,000 to \$100,000. Expiation fees have been increased to \$315 from \$105.

Cooling off periods won’t apply to:

- Private sales (that are subject to fewer complaints and would be difficult to monitor);
- Auction sales (that are traditionally a buyer beware market);
- New car sales (that don’t attract substantial complaint, are not unique and therefore don’t attract the same sense of pressure to buy & are already subject to warranties);

- Purchases by companies or dealers.

Last year almost 125,000 used cars changed hands in SA and the Office of Consumer and Business Affairs (OCBA) recorded 129 complaints about dealings with second hand motor vehicle dealers.

Enforcement outcomes for the same period included:

- 4 sellers fined by courts for inappropriate dealings including being unlicensed and winding back odometers (highest fine almost \$20,000 out of pocket);
- 5 written assurances to cease unlicensed activity or failure to use prescribed form of contracts;
- 4 written warnings for unlicensed activity;
- 1 expiation notice for failing to display the schedule.

### **Other key provisions under the Bill include**

- Buyers may be asked to pay a maximum deposit of up to 10% (with the dealer entitled to keep \$100 or 2 % whichever is less if the purchaser cools off). Failure to return the substantial portion of the deposit to the buyer by the end of the following business day is subject to a \$500 expiation or maximum penalty of \$5,000.
- Possession of the vehicle subject to contract remains with the dealer during the cooling-off period however reasonable access must be provided.
- A dealer is entitled to offer a third party an option on a vehicle that is subject to a cooling-off period.
- Legal title and physical possession of a trade-in remain with the purchaser during the cooling-off period.
- If the trade-in vehicle is damaged the dealer may rescind the contract for the sale of the vehicle.
- Any finance for the sale cannot take effect until the cooling-off period expires and will be void if the vehicle sale contract is rescinded.
- It will be an offence to induce someone to waive their cooling-off right.
- Negative licensing scheme for salespeople makes it an offence to employ or act as a car salesperson anyone convicted of an indictable offence of dishonesty or within past 10 years a summary offence of dishonesty or a person who has been disqualified from another regulated occupation.

NB: These changes also relate to motorcycles already defined within the *Second-hand Vehicle Dealers Act*.

For more information on the changes consumers can contact OCBA on 8204 9777, or 131 882 for regional callers, or visit [www.ocba.sa.gov.au/consumeradvice/usedcar/used\\_car/new-protection.html](http://www.ocba.sa.gov.au/consumeradvice/usedcar/used_car/new-protection.html)