



New responsibilities for owners of licensed vehicles

From 1 January 2006, the owner of a licensed vehicle (the person whose name appears on the vehicle licence) will be responsible for identifying who was in charge of their vehicle at any given time.

This responsibility is called 'owner onus'. It places the onus (the responsibility) on the vehicle owner to identify who was driving their vehicle at the time of a traffic offence.

Under the Road Traffic Act the licence holder is generally deemed to be the 'Responsible Person'* for any vehicle.

If the vehicle is detected by a speed camera or by a camera at traffic lights, the owner will receive the demerit points and have to pay the fine unless they can identify who was driving the vehicle at the time.

This Fact Sheet covers most of the questions you may have and deals with the impact of the new law on:

- All owners of licensed vehicles (who may allow their vehicle to be driven by someone else).
- Companies/businesses with vehicles driven by employees.
- Associations and clubs with vehicles licensed in their name.
- Owners under 16 years of age (light vehicles) and under 18 (heavy vehicles).
- Financial institutions.

*[A 'responsible person' is the licence holder (if the vehicle is currently licensed); the new owner, once the Department for Planning and Infrastructure has received notification of a change of ownership; and the previous licence holder if the vehicle is not currently licensed. The new rules will not be retrospective. That means a vehicle licence remains in the current name until the vehicle is sold or transferred.]

Why the change?

Each year, 24,000 drivers avoid demerit points and a fine because they break the road rules in a vehicle they do not own and the owner (the vehicle licence holder) does not know who was driving the vehicle at the time.

It happens a lot with company-owned cars, to a lesser extent with vehicles licensed to individual owners, and to those licensed to clubs or associations.

Research shows that penalising bad and unsafe driving is an important weapon in the fight to reduce deaths and serious injuries on our roads. Knowing that speeding, running a red light, drink driving or not wearing a seat belt can mean a heavy fine and demerit points that could lead to loss of licence, is a powerful motivator for drivers to 'do the right thing'.

When drivers avoid the results of their unsafe behaviour and 'get away with it' because they are driving someone else's vehicle, we are all the losers because they are less likely to change their unsafe driving habits.

Therefore, this law change is designed to improve road safety. It is not about raising revenue, although that can be an outcome. In any event, money raised from speed and red light cameras goes back into road safety and road improvement projects.

We've tried to work out what questions you may have about the changes. If you don't find the answer here, please visit our web site (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

What it means for all owners of licensed vehicles.

The person whose name appears on the vehicle licence is the 'Responsible Person' for that vehicle.

As the Responsible Person, the law now says you must take "reasonable measures" to ensure that you are able to identify who was driving your vehicle at all times.

Regardless of who breaks the road rules while driving your vehicle, the infringement notice will come to you. If you believe someone other than yourself committed the offence, you must provide this information to the Police.

It may be easy to identify the driver from the Police photograph, but if the Police ask you to identify who you allowed to use your car, and you cannot tell them, or refuse to tell them, you are liable for penalties.

First, you will receive the demerit points for someone else's bad driving. (These could be double demerits at holiday periods.)

Second, you will have to pay the fine as you will be presumed to have been the driver.

Third, if the Police ask you to identify the driver and you cannot; and if you cannot show that you took "reasonable measures" or made "reasonable arrangements" to ensure you knew who was in charge of your car, you also could be fined. For individuals, the penalty is \$1,200 for a first offence and up to \$2,400 for subsequent offences.

The bottom line for all vehicle owners is you must make sure you always know who is driving your vehicle. It makes sense to keep your keys in a secure place and maintain a record of who has control of your vehicle.

For further information about the way the new laws affect the licensing of your vehicle, please visit our web site (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

What it means for companies/businesses with vehicles licensed in their company name.

The change means that companies will no longer be able to avoid paying fines by saying that they did not know who was at the wheel at the time of an infringement.

Therefore, it will be important that you have good 'booking out' and 'booking in' procedures for your company vehicles. This way you can ensure that the demerit points and fine are incurred by the driver who broke the road rules and that they are encouraged to improve their driving behaviour.

Under the new laws, companies with vehicles licensed in their name will be the 'Responsible Person'. This means they can also be fined for failing to take "reasonable measures" or make "reasonable arrangements" to ensure they knew who was in charge of a company vehicle. For corporations, the penalty is \$5,000.

Workplace road safety is a big and costly problem. Studies reveal that one-quarter of all company vehicles in Australia are involved in a crash each year.

Research also indicates that company vehicle drivers can be expected to have more crashes than drivers of private vehicles.

Some reasons for this are that company vehicle drivers generally drive further and sometimes have to drive under time pressures imposed by tight schedules.

Another reason is that, because they don't own the vehicles they drive, they may be less concerned about damage and wear and tear.

The WA Office of Road Safety has excellent publications on workplace road safety and how your company can improve its road safety record. Ring 9216 8508 or go to www.officeofroadsafety.wa.gov.au

For further information about how these new requirements affect your business, visit our web site (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

What it means for associations and clubs with vehicles licensed in their name.

Unincorporated associations and clubs (such as sporting clubs) with vehicles licensed in their name are also affected by the change in the law.

Previously a vehicle could be licensed in a club's name. Now upon transfer or grant of a vehicle licence, it will need to be licensed to a legal entity; that is, a person, a corporate body, an incorporated body or any other organisation that is recognised as a legal entity.

You will either have to license the vehicle to a nominated individual who is a joint owner of the vehicle or become an incorporated body.

Incorporation of an association or club means that it becomes a legal entity in its own right, separate from the individual members. Put another way, the association is considered at law to have a distinct identity that continues regardless of changes to the membership.

The process to incorporate an association is relatively simple. It is not expensive (\$108 paid just once) and there are some advantages, especially under the new 'owner onus' laws.

For example, if your club's vehicle is licensed in a nominated individual's name and the club wants to remove the nominated owner from the licence record then, under the new laws, the club would have to pay stamp duty and transfer fees. An incorporated club or association would remain the licensed vehicle owner regardless of membership, executive, committee or staff changes.

The major steps to incorporation are: checking the availability of the intended name; advertising your intention to incorporate; developing rules for good management; and applying for incorporation to the Department of Consumer and Employment Protection (DOCEP).

DOCEP has information sheets about this that you will find helpful. You can check out their web site at www.docep.wa.gov.au/associations, ring 1300 30 40 74 or email consumer@docep.wa.gov.au

If you need further clarification from us about how these new laws will affect your association or club, please visit our web site (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

What it means for people under 16 buying a vehicle.

Before the change, an 'under age' owner could nominate a 'responsible person' to hold a vehicle licence on their behalf.

Under the new rules, if you are under 16, you are only able to nominate someone over 16 (for example your mum, dad or another adult) if that person is a joint owner of the vehicle. The vehicle is then licensed in that nominated older person's name.

This means, of course, that they become the licence holder and are considered to be the 'Responsible Person' for that vehicle. They will be liable for demerit points and fines for offences committed by the driver of the vehicle, unless they can provide the identity of the driver at the time the offence was committed.

Once you turn 16, if you are listed as a joint owner, you may only have the vehicle licensed in your name by completing a Change in Nominated Owner/Licence Holder form.

However, if the other joint owner is removed from the vehicle's licence record you will have to pay a transfer fee and stamp duty (at current market value). This is because there has been a change in the beneficial ownership of the vehicle.

The same arrangements apply for drivers under 18 in relation to driving heavy vehicles.

For further information, please visit our web site (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

What it means for Financial Institutions

Financial institutions that repossess a vehicle from someone who has defaulted on payments and then on-sell the vehicle, become the 'owner' for the purposes of the Road Traffic Act when it is repossessed. Therefore they will be required to pay transfer fees and stamp duty, if applicable.

Finance companies that submit an Exemption from Stamp Duty form (s.13) when they notify the Department for Planning and Infrastructure that a vehicle has been sold to a third party, will not be charged stamp duty.

For more information visit our website (www.dpi.wa.gov.au/licensing) or ring our Customer Contact Centre on 13 11 56.

This publication is only a guide to the law and should not be interpreted as the law. For the exact legal details please refer to the legislation. You can find this at www.slp.wa.gov.au

Department for Planning and Infrastructure Licensing Centres

Metropolitan

City West

Cnr Troode Street and Plaistowe Mews

Joondalup

65 Boas Ave

Kelmscott

34 Gillam Drive

Mandurah

3 Ranceby Ave

Midland

11 Victoria Street

Morley

63 Russell St

Rockingham

Suite 2 Commerce House, Benjamin Way

Welshpool

21 Murray Road South

Willagee

Cnr Stock Road and Leach Hwy

Country

Albany

7 Chester Pass Road

Broome

9 Napier Tce

Bunbury

24 Wellington St

Geraldton

65 Chapman Rd

Kalgoorlie

35 Brookman St

Karratha

4 Welcome Rd

Telephone enquiries 13 11 56