



Motor Dealers & Chattel
Auctioneers Bill 2013
Submission 001

Legal Affairs and Community Safety Committee
Parliament House,

Brisbane Qld 4000

5 December 2013

Subject: Motor Dealers and Chattel Auctioneers Act

I would like to take this opportunity in presenting an industry submission in relation to the above Act being considered to legislate and impose regulatory control on the Automotive Industry.

I have 35 years' experience in the automotive industry and I'm the principal & licensee of the largest and oldest Automotive Auction business in Queensland, additionally I sit on the board as a Director of Motor Trades Association of Queensland and Chairman of the UCD, I provide assistance to the board also in my role as Executive Director representing Repair and Resellers Industry. Brisbane Motor Auctions employ over 50 people on site and our parent company A P Eagers Limited is a 100 year old Queensland Automotive business that has in excess of 2000 Queenslanders employed in this state. I therefore believe I have the knowledge and expertise to provide a submission to this committee.

The new act in its entirety certainly does not provide any **Consumer** protection or prevent criminal enterprise. In short it is a revamp of the existing legislation "Property Agents and Motor Dealers Act". I have taken your proposed objectives as below and provided replies along with our submissions and responses.

1. Contribute to the repeal and split of the *Property Agents and Motor Dealers Act 2000* (PAMD Act) into four separate Acts, with an Act to comprehensively provide for the regulation of the activities, licensing and conduct of motor dealers, chattel auctioneers, and their employees and to protect **consumers** against particular undesirable practices.
 1. The revised legislation provides very little protection for **consumers**. The proposed licencing process for motor dealers, should exclude persons who do not have or cannot provide the following:
 - Without suitable automotive experience.
 - Without licenced commercial premises. (council approved premises absolutely no difference to opening a restaurant which requires council approval and planning therefore should be no burden on trader or council)
 - Without financial viability.
 - Without trade and or current automotive references.
 - Who have not completed competency in MTAQ certified module training.
 - Impact:- Automotive dealers who have the above competencies, trading from and operating a legitimate business will and can be found, the **consumer** can and will have recourse, Office of Fair Trading and Queensland Transport inspectors have a point of contact. Warranty, advertising and normal business affairs

can be conducted and are transparent for the consumer. Tax fraud is reduced, record keeping, GST and stamp duty collection can be monitored reported.

- Definition of an Unlicensed Person or Backyarder: - is typically a person who acquires a motor vehicle through the trade via a rented Licence or through the use of another licenced trader, where multiple people are using the one licence. The vehicle is usually not acquired through Queensland Transport and will remain in the original owner's name. To avoid tracking the vehicle is sometimes sold unregistered or not acquired. A cash receipt is issued and the consumer takes possession of the vehicle. Traditionally these purchases are made by cash and their disposal is always cash. No safety certificate is supplied and if in some cases it is this certificate is purchased from disreputable operators.

1. To suggest that the removal of the B Warranty provisions will as the minister stated as follows:-

"Removing short-term statutory warranty requirements for older, typically low-value vehicles will make legitimate sales of these vehicles more viable. It will also reduce the prevalence of illegal dealings in these vehicles, ensuring that beneficial consumer protections such as cooling-off periods and guarantees of title apply when they are sold legitimately.

It is naïve to suggest that low value vehicles will make legitimate sales of these vehicles more viable, this is the market that illegal unlicensed and back yard traders target. Under the proposed Act there is definitely no protection for consumers, removing the warranty provisions does not make it easier to acquire or retail these vehicles, the Licenced legitimate dealer will still have to provide a Safety Certificate and all the traditional consumer protection that is afforded a buyer, back yarders and unlicensed operators will continue to subvert their responsibilities. The only way to protect the consumer is to ensure that vehicles are retailed from licenced commercially approved premises.

2. Reduce red tape and regulatory burden for motor dealers and chattel auctioneers.

- To better protect consumers it should be mandatory that all licenced motor dealers acquire vehicles and sales dealer to dealer and are reported to Queensland Transport with disposal mileage, date and time of sale and amount sold stated per transaction.
 - Photographic identification for all salespeople and licenced dealers, and that this identification is worn and displayed whilst conducting and transacting any business, including the attendance at motor auctions and selling motor vehicles to any consumer.
 - The removal of the requirement for automotive auctioneers to be trained at REIQ, this is a burden on employees and employers. REIQ does not have any experience with automotive auction houses. This training should be conducted exclusively by MTAQ only. Automotive auctioneers will not be selling property or livestock. Chattels and Motor Vehicles only.
 - Removal of corporations to hold licencing of directors for businesses, including the removal of corporate auctioneer licence for a director.
 - To better protect consumers the removal of private Registered Training Organisations to undertake and complete the sales training modules and that MTAQ only provide this service as a legitimate trainer. This will remove the current practice of the private RTO completing the modules for CASH for the applicant.
 - The current requirements that modules for Licenced Motor Dealers be completed be removed from private RTO's and that MTAQ complete all competencies; this will remove the current practice of the private RTO completing the modules for CASH for the applicant. This is prevalent in the industry.
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- The removal of the private RTO will ultimately provide greatly improved services to consumers and provide the industry with a higher level of professionalism. It is not uncommon in my business to have persons who have been granted a licence to purchase trade and sell motor vehicles, to have no understanding of registration, licencing, consumer obligations, their responsibilities for record keeping, BAS and GST obligations and a basic understanding of the English language.

- 3. Improve the operation of the legislation for the motor dealing and chattel auctioneers sectors.
 - Removal of the requirement to be trained at REIQ for automotive auctioneers
 - Recognised Prior Learning for Automotive Auctioneers if they have conducted auctions for employers interstate, as all the other states do not licence automotive auctioneers, providing the employer is a licenced motor dealer. MTAQ to provide any licence training.
 - Removal of warranty provisions on all vehicles sold by way of auction, regardless of ownership. However if sold with current Queensland registration Safety certificate must be current and displayed in vehicle. This will benefit the consumer and assist in preventing back yarder trading in lower priced vehicles. The consumer will then have direct access to vehicles that provide a considerable economical advantage for the consumer.

- 4. Address the preference of the auctioneering industry that all auctioneering functions remain authorised by licence.
 - All auctioneering should remain licensed specific to the industry sector that they are operating in.
 - Automotive Auctioneers should remain licensed as well as the business holding a Full dealers licence.
 - Automotive Auction houses should remain as licensed premises, and a licensed motor dealer who does not have endorsement as an auctioneer should not be permitted to conduct auctions.

- 5. Prevent identified participants of criminal organisations from holding or obtaining motor dealer licenses or registration certificates.
 - Retain the criminal licence provisions of the current act.
 - All licensed motor dealers to trade from commercially approved premises.
 - All directors of any companies associated with the licence to complete criminal licence checks.
 - Responsibility of the licensee to report and complete vehicle transfers and acquisitions within 7 days of acquisition.
 - All trading records are audited annually by an approved person.

- 6. Written off Vehicles.

The state of Queensland does and should have parallel legislation with New South Wales when it comes to written off vehicles and it needs to be included in the new act to protect Queensland consumers from vehicles that fall into the following category of insurance loss:-

- Economic Repairable Write off.
- Statutory Write off
- Flood Damaged Vehicle.

Effectively if an insurance company deems through an assessor which any reasonable person would expect to be an industry professional and an expert in collision repairs, loss adjustment and rectification, then it should not be remarketed, rectified and repaired and sold to any consumer. These types of vehicles are defective and always represent a vehicle of poor quality no matter how the repairs are completed.

These types of vehicles are very attractive for many different types of persons and are as follows:-

- backyard operators,
- for use in criminal enterprise for stolen vehicles
- money laundering
- re birthing and illegal activities

All of which ultimately impact on unsuspecting consumers. In closing I would avail myself to the committee for an examination of my submission or any other enquiry the committee may have before them in relation to the motor industry either in my capacity as Principal of this business or as a Director and Chairman UCD Motor Trades Association of Queensland.

Yours Sincerely



Michael Kennedy.

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