

My ref: DPC/41064

Mr Jim Pearce  
Chairman  
Travelsafe Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Pearce

### **INQUIRY INTO VEHICLE IMPOUNDMENT FOR DRINK DRIVERS**

Thank you for your letter regarding the inquiry into vehicle impoundment for drink drivers in which you invite the Office of Road Safety to make a submission in response to the Queensland Parliamentary Travelsafe Committee's Issues Paper No.10: Inquiry into Vehicle Impoundment for Drink Drivers.

Having read through the Issues Paper it is clear that the Queensland Travelsafe Committee is progressing their vehicle impoundment policy for drink drivers in much the same way as Western Australia. The evidence used to support the impounding of vehicles is reflected in the Repeat Drink Driving Strategy (RDDS) policy documents and has been the basis for determining the position in Western Australia.

The proposed model to counter repeat drink driving in Western Australia is a comprehensive strategy that comprises a number of key elements:

- An alcohol interlock scheme with provision of an interlock condition as a requirement of re-licence;
- Alcohol assessment and rehabilitation for those participants that exhibit non-compliance on the alcohol interlock scheme;
- Initiatives to limit unlicensed driving in the community including compulsory carriage of licence, identification of driving conditions on all licences and increased enforcement;
- Vehicle sanctions with provision to impound or confiscate the vehicles of repeat drink drivers and those drivers detected driving without a valid licence;
- Compulsory blood analysis for all drivers involved in a fatal or serious injury crash; and
- Education/information on the new countermeasures and legislative amendments for the community, drink driving offenders, the judiciary and others that work with drink driving offenders.

The RDDS is being developed within the context of the Road Safety Strategy 2003-2007 and the WA Road Safety Action Plan. The Strategy will significantly enhance the effort to counter drink driving in WA and will build on existing drink driving initiatives, which include primary prevention to reduce the prevalence of drink driving in the community, measures to detect and apprehend drink drivers, penalties for drink driving and local community initiatives established under the auspice of RoadWise.

Detailed policy is currently being developed for each of the elements listed above through an interagency committee, *The Repeat Drink Driving Strategy Working Group (RDDS WG)*. Included is a proposed *Vehicle Sanctions Model* involving vehicle impoundment and confiscation, supported by a *Driving Without a Valid Licence (DWVL) Initiative* which requires all licensed drivers and riders to carry their driver's licence while in charge of a vehicle and produce it on request from a police officer. The combined effect of these two proposals will be a reduction in the incidence of unlicensed driving in Western Australia.

A brief outline of the proposed Vehicle Sanctions Model and the DWVL initiative is attached for your information.

Please note that the final policy position has not yet been agreed by the RDDS WG and has therefore not been presented to Government for endorsement. Any recommendations at this stage are preliminary in nature and should be read as such.

You may be aware that we have previously provided information for the Queensland Parliamentary Inquiry regarding confiscation of vehicle keys from impaired drivers. Legislation with provision for confiscation of vehicle keys from alcohol or drug impaired drivers is currently before the WA Parliament. Once proclaimed, this legislation will provide police with the power to confiscate vehicle keys from impaired drivers in circumstances where a police officer believe that the driver is at risk of continuing to drive the vehicle. This provision will compliment the RDDS and further enhance the effort to reduce repeat drink driving in WA.

Thank you for this opportunity to make a submission to the Queensland Inquiry into Vehicle Impoundment for Drink Drivers. I trust the provided information clarifies the Office of Road Safety's position in regard to this matter.

Yours sincerely

*Iain Cameron*  
*Executive Director*

13 February 2006



## **SUMMARY OF THE PROPOSED POLICY FOR VEHICLE SANCTIONS**

The proposed vehicle sanctions penalty regime for unlicensed driving in Western Australia is designed to compliment and enhance other components of the RDDS. Legislation for vehicle sanctions will include provisions to impound and confiscate the vehicles of repeat drink drivers and those that drive without a valid licence.

### **Aim**

The aim of vehicle sanctions as a new penalty regime for unlicensed driving is to remove unlicensed drivers and those who repeatedly drink and drive from the road.

### **Objectives**

The objectives are to:

- introduce vehicle sanctions that target drivers who have been disqualified or suspended from driving and those who repeatedly drink and drive;
- introduce appropriate legislation to support the vehicle sanctions model;
- enforce the new vehicle sanctions legislation through enhanced police activities;
- monitor and evaluate the effectiveness of the legislation in reducing road trauma.

### **Strategies**

To ensure success of the vehicle sanctions initiative, it is recommended that the following strategies be employed. That:

- the legislation be simple and objective;
- sanctions are applied immediately;
- exemptions and grounds to appeal be limited;
- enforcement of unlicensed driving be enhanced;
- compulsory carriage of licence be introduced simultaneously; and
- licence conditions are clearly identified on drivers' licences.

### **Target Group**

The vehicle sanctions initiative is targeted at unlicensed drivers and serious drink driving offenders in Western Australia. It is estimated that approximately 7,500 offenders will form the target group each year, as shown in Table 1 below.

Table 1: Estimated Target Group for Vehicle Sanctions

<b>Conviction category</b>	<b>Estimate</b>
<b>Roadside sanction</b>	
No driver licence (suspended)	2100
Not holder of appropriate valid licence	1750
No driver's licence (disqualified)	1650
Driving whilst legally disqualified	1100
No driver's licence (disqualification expired)	600
<b>Court imposed sanction</b>	
Drink Driving	200
DWVL	100
<b>Total Annual Estimate</b>	<b>7,500</b>

It is recommended that the target group subject to vehicle sanctions include, specifically:

- those found to hold an inappropriate licence for the class of vehicle they are driving;
- those who drive outside the restrictions of a special licence such as an extraordinary licence (EDL);
- those criminal offenders whose licence has been suspended by a magistrate;
- those learner drivers who are detected driving without a valid learner's permit;
- those who are repeat drink driving offenders, at the discretion of a magistrate, where a repeat drink driver is defined as a person who has a second conviction for drink driving (including second excess 0.05) within 10 years; and
- those who have been disqualified or suspended from driving upon first offence.

### **Estimated number of participants**

In Western Australia, there are about 12,000 drink driving convictions each year and about 4000 infringements issued for first time Excess 0.05 offences. Approximately two thirds (7000) of drink driving convictions are first time drink driving offenders and there are about 4000 repeat drink driving convictions annually.

Further, there are around 15,000 unlicensed driving convictions in WA each year. Almost half of these potentially fall into one of the categories recommended for vehicle sanctions.

### **Overview of the vehicle sanctions initiative**

Together with a series of other coordinated and interrelated interventions, the proposed vehicle sanctions initiatives will contribute to a comprehensive response to counter repeat drink driving in Western Australia.

The Vehicle Sanctions Subgroup recommends that the application of vehicle sanctions be invoked by way of two distinct mechanisms, including:

- as an immediate penalty imposed at the roadside; and
- as a court imposed penalty following a court hearing.

The details concerning which vehicle sanctions will apply to and in what circumstances, how the sanction will be imposed and over what period are outlined below. Potential exemptions and the circumstances in which they will be made available are also outlined.

### ***Immediate penalty imposed at the roadside***

In relation to the application of vehicle sanctions at the roadside, it is recommended that:

Vehicle sanctions imposed at the **roadside** be limited to vehicle **impoundment** and the following principles be applied:

1. Definition of impoundment used in New Zealand to be adopted in Western Australia.
2. Vehicles to be impounded for a period of 28 days.
3. After 10 working days, or such time as agreed between the parties (where working days refers to reasonable business hours), the impounding contractor shall have the right to sell the vehicle. Proceeds from the sale shall be used to pay towage and impounding fees in the first instance, then any outstanding fines or amounts to be paid and the remaining proceeds to be returned to the offender.
4. Legislation to require disposal of a vehicle in a fair and equitable manner so as to maximize the sale price of the vehicle.
5. Discretion to be included in the legislation for Police to allow a vehicle, prior to impoundment, to be driven:
  - to an agreed destination,
  - for a given time,
  - under limitations as to speed or route or otherwise.
6. Legislation to reflect the following, "...a Police Officer 'shall' (rather than 'must') impound a vehicle at the roadside for 28 days in all locations where towage and storage services are available..." and any reference to actual locations to be listed in Regulations if appropriate.
7. Police policy and procedures to state that, "...in the metropolitan area, regional centres and those localities where a service can reasonably be provided, a service will be provided and vehicles driven by unlicensed drivers must be impounded".
8. Regarding the vehicle that is impounded, the offender must have been driving or in charge of the vehicle at the time of the offence.

9. Offender to be liable for payment of towage and storage costs which are to be paid directly to the service provider.

10. Contract with towage and storage service providers to:

- ensure a minimum quality of service;
- incorporate a mechanism for subsidising the service provider for lost revenue associated with the sale of vehicles that do not realise sufficient funds to cover towage and storage costs incurred; and
- address the potential standardisation of towage and storage fees across the State in an effort to alleviate the inequity associated with remote locations.

11. Roadside vehicle impoundment to apply to offenders who drive without a valid licence upon first offence who:

- Have been disqualified or suspended from driving.
- Hold an inappropriate licence for the class of vehicle they drive.

Further consideration needs to be given regarding the ability to disaggregate those driving/riding outside their licence class in the Road Traffic Act. The legislation currently refers to "...doesn't hold a valid drivers licence for the offence". It is recommended that in the future the Act specify appropriate categories for "...without a valid drivers licence".

- Drive outside the restrictions of a special licence such as an extraordinary licence.

The intention of this offence is to capture those who drive outside an alcohol interlock condition while on an EDL, but not those who commit small infractions such as not having a rear vision mirror.

The following wording is put forward for consideration by the legislative drafters: "...violation of the EDL restriction or the Road Traffic Act (S.50 – S.79 inclusive)".

- Are criminal offenders whose licence has been suspended by a Magistrate.
- Are learner drivers detected driving without a valid learner's permit.

12. Roadside vehicle impoundment shall not apply to those who:

- Fail to carry a driver's licence where that person holds a valid driver's licence.
- Have let their licence expire.

Expired licence holders should continue to be dealt with as is. Currently the offence attracts a summons to appear in court for DWVL or an infringement with a fine of \$100.

- Have never held a licence.

Drivers who have never held a licence should continue to be dealt with as is. Currently the offence attracts an infringement with a fine of \$100 and if repeated then a summons to appear in court.

- Have had their licence suspended as a result of defaulting on the payment of a fine as determined through application of the Fines Enforcement Act.

13. An owner whose motor vehicle has been seized at the roadside and impounded may appeal to Police against the seizure and impoundment on the grounds that:

- The impounded vehicle was a stolen or subject to an act of conversion at the time of the seizure and impoundment.

An act of conversion refers to the situation where a person has converted the original intent of an agreement to something other than what was agreed. For example, a vehicle owner may give permission to an offender to drive his/her car to the local Bunnings Store around the corner, instead the offender drives the vehicle to Kalgoorlie; or

- The owner did not know and could not reasonably have been expected to know that the driver was not permitted to drive; or
- The owner took all reasonable steps to prevent the driver from driving the vehicle; or
- The driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth); or
- The driver drove the vehicle for medical purposes where the vehicle use has been previously agreed with Police on the grounds that a dependant/family member has a severe medical condition that requires ongoing medical attention (such as chemotherapy treatment).

14. Appeals not to be allowed on the grounds of hardship.

15. Commercial vehicles not to be exempt, except where the commercial vehicle is a vehicle owned by an Aboriginal community.

16. Current Hoon Legislation (S.23) allows an appeal to Police on the grounds of “mistaken belief” or “honest belief” where the driver can show that he/she believed they held a valid licence at the time of the offence. It is recommended that an amendment to the Hoon Legislation be undertaken to remove this provision and for the appeal to be excluded from the RDDs.

17. Offender to be responsible for determining and knowing the current validity of his/her licence (fines suspension excluded).

18. An appeal must be set out in writing to a police officer authorised by the Commissioner (Note: decision agreed, pending comment from WAPOL).

19. If a police officer authorised for the purpose by the Commissioner to hear and determine the appeal is satisfied that a ground referred to above has been established then the vehicle will be released to the owner or a person authorised by the owner (Note: decision agreed, pending comment from WAPOL).

### ***Court imposed penalty following a court hearing***

20. In relation to the application of vehicle sanctions imposed by a court following a court hearing, it is recommended that court imposed vehicle sanctions be a sentencing option imposed at the Magistrate's discretion and to apply to:
- those detected driving outside the conditions of their interlock licence (driving over 0.02 BAC while on an interlock condition or found driving a vehicle not fitted with an interlock); and
  - those repeatedly detected driving without a valid licence.

21. Those repeatedly driving 'outside the conditions of a licence' to be subject to court imposed vehicle sanctions (including confiscation) in defined circumstances and to be included in the Act. Defined circumstances to be listed in regulations and to include driving outside the conditions of an alcohol interlock licence, driving outside court imposed conditions on an EDL and driving outside court imposed conditions on other licences.

Repeatedly driving a vehicle 'outside the class of a licence' to be subject to court imposed vehicle sanctions (including confiscation) and to be included in the act; or those repeatedly detected drinking and driving.

Interpretation of the term "repeatedly" to be left to the Magistrate's discretion.

Given that the definition of a repeat drink driver refers to a 10-year timeframe, consideration should be given to the term "repeatedly" requiring a frequency in excess of two offences (drink driving or driving without a valid licence) within a 10-year period.

22. Vehicle sanctions shall not be imposed through a court where the suspension is imposed as a result of defaulting on the payment of a fine as determined through application of the Fines Enforcement Act.
23. Court imposed vehicle sanctions to include impoundment and/or confiscation.
24. Regarding the vehicle that is subject to impoundment and/or confiscation, the offender must be the owner of the vehicle or have a substantial financial interest in the vehicle.
25. The definitions of impoundment and confiscation to be used in New Zealand to be adopted in WA.
26. Impoundment to be considered for application in the first instance, followed by confiscation.
27. In relation to **court imposed impoundment**, the following principles to apply:
- Definition of impoundment used in New Zealand to be adopted in Western Australia, as follows:



“Impoundment is the temporary removal of property or withholding of access to property”.

- Magistrate to have the option to impound an offender’s vehicle for a minimum of 28 days to a maximum of 90 days.
- Offender must be the owner of the vehicle or have some financial interest in the vehicle.
- After 10 working days, or such time as agreed between the parties (where working days refers to reasonable business hours), the impounding contractor shall have the right to sell the vehicle. Proceeds from the sale shall be used to pay towage and impounding fees in the first instance, then any outstanding fines or amounts to be paid and the remaining proceeds to be returned to the offender.
- Legislation to require disposal of a vehicle in a fair and equitable manner so as to maximize the sale price of the vehicle.
- Offender to be liable for payment of towage and storage costs which are to be paid directly to the service provider.

28. Contract with towage and storage service providers to:

- ensure a minimum quality of service;
- incorporate a mechanism for subsidising the service provider for lost revenue associated with the sale of vehicles that do not realise sufficient funds to cover towage and storage costs incurred; and
- address the potential standardisation of towage and storage fees across the State in an effort to alleviate the inequity associated with remote locations.

29. An owner whose motor vehicle has been impounded as a court imposed penalty following a court hearing, may appeal to a court against the impoundment on the grounds that:

- The driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth);
- The driver drove the vehicle for medical purposes where the vehicle use has been previously agreed with Police on the grounds that a dependant/family member has a severe medical condition that requires ongoing medical attention (such as chemotherapy treatment).

In addition:

- Appeals not to be allowed on the grounds of hardship.
- Commercial vehicles not to be exempt, except where the commercial vehicle is a vehicle owned by an Aboriginal community.

It should be noted that this penalty is not intended to be an additional sanction but an adjunct to those people who currently have penalties

imposed that are not being adhered to - “adjunct to prevent the person re-offending”.

30. In relation to **court imposed confiscation**, the following principles to apply:

- Definition of confiscation used in New Zealand to be adopted in Western Australia, as follows:

“Confiscation is the permanent seizure of property (i.e. motor vehicles) following conviction and court order. The vehicle is sold with money off-setting seizure costs, monies owed on the vehicle to third parties (eg finance companies) and outstanding fines being first removed from the proceeds of the sale. If there are any remaining funds, these are then returned to the vehicle’s owner”.

- Magistrate to have the option to confiscate a vehicle.

It should be noted that this penalty is not intended to be an additional sanction but an adjunct to those people who currently have penalties imposed that are not being adhered to - “adjunct to prevent the person re-offending”. The offender must be the owner of the vehicle or have some financial interest in the vehicle.

- Vehicle that is confiscated must have been used in the commission of the offence.
- Offender to be liable for payment of towage and storage costs which are to be paid directly to the service provider.
- Vehicles subject to a confiscation order to be seized by the courts and sold at public auction. The costs associated with the seizure including any unpaid fees to a towage and storage provider for a previous impoundment, any monies owed on the vehicle to third parties (eg finance companies) and any unpaid fines are removed from the proceeds of the sale. Any remaining funds to be returned to the vehicle’s owner.
- Legislation to require disposal of a vehicle in a fair and equitable manner so as to maximize the sale price of the vehicle.
- Following confiscation of an offender’s vehicle, the courts to be able to issue an order preventing the offender from owning another vehicle for 12 months.
- An owner whose motor vehicle has been confiscated as a court imposed penalty following a court hearing, may appeal to a court against the confiscation on the grounds that:
  - The driver drove the vehicle in a serious medical emergency (including carrying a person who is about to give birth);
  - The driver drove the vehicle for medical purposes where the vehicle use has been previously agreed with Police on the grounds that a dependant/family member has a severe medical condition that requires ongoing medical attention (such as chemotherapy treatment).

In addition:

- Appeals not to be allowed on the grounds of hardship.
- Commercial vehicles not to be exempt, except where the commercial vehicle is a vehicle owned by an Aboriginal community.
- Offender to be able to make representations to the courts in relation to hardship that may ensue if their vehicle is confiscated.
- A person with an interest in the vehicle needs to be heard to determine whether a potential exemption could apply.

## **SUMMARY OF THE POLICY FOR DRIVING WITHOUT A VALID LICENCE**

The Driving Without a Valid Licence (DWVL) initiative forms part of the overall RDDS and is the single most important element giving effect to the enforcement of unlicensed driving. The DWVL initiative requires that all licensed drivers and riders carry their driver's licence while in charge of a vehicle and produce it on request from a police officer. The DWVL Sub Group recommends:

- The term “compulsory carriage of driver's licence” be used to describe the action of always carrying a driver's licence while in charge of a vehicle.
- Western Australia introduces legislation to ensure that employers confirm that an employee is legally entitled to drive the class of vehicle they are employed to drive.
- The Western Australian Government move towards a system which allows employers to register on a website to receive an email advising them of any change in an employees' driver's licence status.
- At the time of disqualification (DPS and court imposed), all licences be collected and destroyed by the Department for Planning and Infrastructure'
- Police officers be authorised to stop a vehicle for the express purpose of asking the driver to produce their licence to check and confirm the drivers' licence status.
- The education of drivers and riders be modelled on the community education program undertaken by Tasmania.

### **Aim**

The aim of the Driving Without a Valid Licence initiative is to reduce the incidence of unlicensed driving in Western Australia.

### **Objectives**

- Introduce compulsory carriage of driver's licence that applies to all drivers and riders;
- Introduce appropriate legislation to make provision for compulsory carriage of licence and the supporting measures;
- Enforce the new legislation through enhanced police activities;
- Establish appropriate penalties for those not complying with the legislation; and
- Monitor and evaluate the effectiveness of the legislation in reducing unlicensed driving.

## **Strategies**

To ensure the success of the DWVL initiative, it is recommended that the following strategies be employed. That:

- the legislation be simple and objective, both in terms of interpretation and application;
- the penalties reflect the seriousness of the offence;
- there be a variety of enhanced enforcement activities;
- vehicle sanctions legislation be introduced simultaneously;
- driving conditions are clearly identified on driver's licences; and
- the community be fully informed about the new legislation.

## **Target group**

Compulsory carriage of driver's licence is targeted at all drivers and riders who use Western Australian roads, however, enhanced enforcement will specifically target unlicensed drivers. Unlicensed driving is a serious problem in many jurisdictions and the term is generally used to refer to people who drive without a valid driver's licence including those who:

- have let their licence expire;
- have been disqualified from driving;
- hold an inappropriate licence for the class of vehicle they drive;
- drive outside the restriction(s) of a special licence;
- do not currently hold a licence;
- have never held a licence.

## **Estimated number of drivers affected**

There are approximately 1.2 million licensed drivers and motorcycle riders in Western Australia. Following proclamation of compulsory carriage of licence, all these individuals will be required to carry their driver's licence with them at all times when in charge of a vehicle and produce it on request from a police officer.

The number of drives that may be apprehended for driving without a valid licence is very difficult to establish. Appendix B provides a summary of CHIPS data for the years 2002 – 2005 giving an indication of the number of drivers convicted for unlicensed driving along with information on their location and the split of Aboriginal and non Aboriginal offenders. However, there are a number of variables that will potentially influence the number of unlicensed drivers in our road and the likelihood of their detection. These include the level of enforcement activity, the success of community education

in changing road user behaviour and the deterrent value that might come about from the new penalty regime.

### **Penalty for fail to carry a driver's licence**

The penalty for "Fail to carry a driver's licence" will be dealt with by way of an infringement, provided that the offender has not committed any other offence.

In line with the existing penalty for S. 50A or the RTA, unauthorised driving by drivers from outside the State, should be 8 PU (currently \$400) and for a second offence, 16 PU (currently \$800).

Other penalties include a caution, or where the offence is committed with others simultaneously, a court of law.

### **Mechanism for employers confirming an employees licence status**

In Western Australia, Section 49(1)(b) of the *Road Traffic Act 1974* states that every person who employs, or permits, some other person to drive a motor vehicle of a class for which that other person is not the holder of the appropriate, valid driver's licence, on a road, commits an offence.

For a first offence the penalty is 6 PU and for a subsequent offence, 12 PU. These currently equate to \$300 and \$600 respectively.

As a result of the proposed compulsory carriage of driver's licence regime, it is essential to establish a mechanism by which an employer can check the status of an employees' driver's licence, provided that they are required to drive as part of their employment.

### **Collection and destruction of all invalid licences**

There are currently three types of licence disqualification in the *Road Traffic Act 1974*:

- demerit point suspension (DPS) (S. 103);
- court imposed suspension (S. 49-72); and
- by order of the Director General (S. 48).

The DWVL sub group recommends that all licence disqualifications require that the driver's licence be handed over at the time of conviction and forwarded to the Department for Planning and Infrastructure for destruction.

The numbers of disqualifications each year are reflected in the following table:

<b>Disqualification type</b>	<b>2004-05</b>	<b>2003-04</b>	<b>2002-03</b>	<b>2001-02</b>	<b>Average</b>
Demerit Point Suspension <sup>i</sup>	9,121	9,221	8,499	8,833	8,918
Court suspension/cancellation <sup>ii</sup>	28,975	29,005	21,623	24,617	26,055
By order of the Director General <sup>iii</sup>					
<b>Total</b>	<b>38,096</b>	<b>38,226</b>	<b>30,122</b>	<b>33,450</b>	<b>34,973</b>

Following the collection and destruction of a driver's licence some individuals may require other forms of identification whilst they are disqualified from driving. The issuing of Proof of Identity cards by the Department for Planning and Infrastructure on behalf of the Office of Racing and Gaming (R. 18B *Liquor Licensing Regulations 1989*) may not be a sensible option for all disqualified drivers due to their age or circumstance.

To assist these people in obtaining appropriate identification, it may be necessary for the Department for Planning and Infrastructure to provide information on obtaining alternative forms of identification, such as passports and birth certificates.

### **Authority for police to stop a vehicle for a licence check**

Western Australia Police currently have the authority to stop a vehicle for enforcement purposes. It is recommended that the amended legislation include provision for police to stop a vehicle for the express purpose of conducting a driver's licence status check.

Specific wording for inclusion in the Act as been identified in the report of the DWVL Sub- Group in *Appendix 1: Compulsory Carriage of Driver Licence (Tasmania)*, S. 46A Carriage and production of driver licence.

In addition to this amendment, it is also recommended that S. 50A of the *Road Traffic Act 1974* relating to *Unauthorised driving by drivers from outside the State*, be repealed as the amendment will render this provision superfluous.

<sup>i</sup> Number of Demerit Point Suspension files created. Source: Infringement Management & Operations, WA Police.

<sup>ii</sup> Number of court suspensions/cancellations processed. Source: Traffic Conviction Records, WA Police.

<sup>iii</sup> Number of driver's licence refusal, cancellation or suspensions notices issued by the Director General. Source: Licensing Services, Department for Planning and Infrastructure.

## Community education

A simple and successful community education program will be essential to ensure that this initiative is successfully implemented. It is recommended that the community education campaign be modelled on the Tasmanian information. The following points outline the information provided:

- The purpose of the new legislation
- What the law says
- When the law starts
- What happens if a licence can't be produced, don't usually carry it or have forgotten it
- Police discretion
- How to get a duplicate licence
- Civil liberties
- Support for the new laws

This structure will assist individuals in Western Australia to understand the amendments and demonstrate consistency and uniformity in the States and Territories of Australia.

The Tasmanian community education booklet, which will require editing to reflect the Western Australian context, is included in the report of the DWVL Sub-Group as *Appendix 2: Tasmania's community education booklet for licensing laws*.

## DWVL legislative amendments and procedures

- The *Road Traffic Act 1974* be amended to make it an offence for a person to not carry their driver's licence while in charge of a vehicle and produce it for inspection when requested to do so by an authorised (usually police) officer.
  1. The common term used be "compulsory carriage of driver's licence" and for police officers is likely to be "No MDL (Fail to carry)".
  2. The law will also apply to people who are teaching or supervising a person learning to drive. [Section 53(2) delete the words after "4 PU".  
The penalty of "4 PU" be replaced with "2 PU and 2 demerit points"].
  3. The *Road Traffic Act 1974* be amended to provide police officers with the authority to stop a vehicle for the express purpose of requesting that a driver produce their driver's licence. This is in addition to other normal enforcement activities.



4. The *Road Traffic Act 1974* be amended to require that employers confirm that an employee is legally entitled to drive the class of vehicle that they may be asked to drive in the course of their employ.
5. The penalty for “No MDL Fail to carry” to be dealt with by infringement or by court brief. Infringement – 2 PU and 2 demerit points.
6. Revision and updating of “Notice to attend court” to include the requirement for a person convicted of a driving offence (suspended/cancelled) to surrender their driver’s licence to the court orderly at the time of disqualification.
7. The *Road Traffic Act 1974* be amended to permit court orderlies to collect licenses surrendered by convicted offenders at the time of disqualification.
8. The *Road Traffic Act 1974* be amended to require a convicted individual to surrender their licence to DPI upon conviction. This amendment will apply when an offender endorses their “Notice to attend court” with a guilty plea.

### ***Demerit Point Suspension***

1. In the case of a demerit point suspension, at the time of being served the suspension notice, the individual is to surrender their driver’s licence to the serving officer.
2. The DPS letter is to be amended to indicate this requirement and state that if an individual does not have their driver’s licence on them, they’re to surrender it to DPI within 7 days.
3. The serving officer forwards/delivers the driver’s licence to DPI for destruction.

### ***WA Police enforcement of DWVL***

1. Once a police officer stops a vehicle for an offence (traffic related or other) the driver should be requested to produce their driver’s licence. Police officer checks and confirms details with VKI operator/Mobile Data Terminal (being rolled-out to metropolitan vehicles from 31 January 2006). The licence check will inform the police officer of the driver’s licence status and any other outstanding enquiries.

*Note: police officers have discretion in minor traffic matters and are able to accept a reasonable excuse, or issue an informal verbal caution or a formal caution that has no penalty attached.*

2. Driver cannot produce their driver's licence and the police officer checks their particulars through VKI/MDT. The police officer is satisfied that following standard operating procedures for identifying and confirming a driver, issues them with an infringement for No MDL (fail to carry) – 2 PU and 2 demerit points.
3. Driver is unlicensed due to failure to transfer interstate/overseas licence – issued with an infringement for:
  - No MDL (fail to transfer interstate/overseas licence) – 2 PU and 0 demerit points
  - No MDL (fail to carry) – 2 PU and 2 demerit points
4. Driver is unlicensed due to failure to obtain after being cancelled – issued with an infringement for:
  - No MDL (not obtained after cancelled) – 2 PU and 0 demerit points
  - No MDL (fail to carry) – 2 PU and 2 demerit points
5. Driver is unlicensed due to licence being expired – issued with an infringement for:
  - No MDL (expired) – 2 PU and 0 demerit points
  - No MDL (fail to carry) – 2 PU and 2 demerit points
6. Driver is unlicensed due to being disqualified from driving (suspended/cancelled; excludes fines suspension): Vehicle sanctions regime applies. Offender charged with Driving under suspension and court brief generated. This then follows the existing court process.
7. Driver is unlicensed due to holding an inappropriate licence for the class of vehicle being driven: Vehicle sanctions regime applies. Offender infringed for No MDL (wrong class) – 2 PU and 0 demerit points.
8. Driver is unlicensed due to driving outside the restrictions of a special licence, such as an extraordinary licence (S. 50-79 RTA inclusive): Vehicle sanctions regime applies. Offender charged with No MDL (contravene EMDL) and court brief generated. This then follows the existing court process.
9. Driver is unlicensed due to magistrate suspending a criminal offenders' driver's licence: Offender arrested. Vehicle sanctions regime applies. Offender charged with Driving under suspension, and court brief generated. This then follows the existing court process.
10. A learner driver is detected driving without a valid learner's permit. Vehicle sanctions regime applies. Offender charged with No MDL (contravene Learner's permit) and court brief generated. This then follows the existing court process.

11. An offender is detected driving having never held a driver's licence. Vehicle sanctions regime applies. Offender charged with No MDL (never held) and court brief generated. This then follows the existing court process.