A Lawyer's Top Tips for Buying a Second-Hand Car

BARWON
COMMUNITY LEGAL SERVICE

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Disclaimer: This article contains legal information only. For legal advice specific to your circumstances, speak to a lawyer.

OUR TIPS

Here are our top 10 tips to help you avoid legal issues when buying a second-hand car.

1. Work out your budget

Cars come with ongoing costs including fuel, servicing, repairs, tyres, insurance and registration which you should consider before buying a car, and especially before you get a loan.

If you are thinking about getting a loan, consider getting financial and legal advice to ensure you understand your legal obligations, how much the loan will cost you over time and whether you can really afford the car before you sign a loan agreement.

Subject to eligibility requirements, you might be able to have an appointment with a community-based, not-for-profit financial counsellor. Meli, Cultura, Better Place Australia and The Salvation Army offer free financial counselling services in Geelong and they might be able to help you work out your budget. You can find financial counselling services through the National Debt Helpline by calling 1800 007 007 or visiting their website.

2. Consider your safety. Visit 'How Safe is my car?' to research safe cars in your price range

https://howsafeisyourcar.com.au

3. Consider buying from a used car dealership instead of private sale

Cars purchased from dealerships are covered by Australian Consumer Law. This gives you, the consumer, greater legal protections compared to if you buy privately. Used car dealerships are required by Australian Consumer Law to guarantee that a car is:

- of acceptable quality;
- fit for purpose; and
- is really yours (in other words, not stolen or being used as security for a loan).

Used car dealerships also need to provide you with a statutory warranty if the car is less than 10 years old and has travelled less than 160,000 kilometres. A statutory warranty lasts for three months or 5,000 kilometres. This means the used car dealer must repair, to a reasonable condition, any faults or defects found during the warranty period, taking into account the vehicle's age. This protection does not apply to cars purchased through private sales as talked about in the next section.

4. Facebook Marketplace, Gumtree, carsales.com or other private sale

Private sales, where you buy directly from the car owner instead of a car dealership, are very common because they are often cheaper.

Private sales come with risks like being scammed, buying a lemon (dodgy car) or the seller refusing to complete or making errors with, the VicRoads transfer of registration process. Unlike buying from a used car dealership, the protections of Australian Consumer Law do not apply to private sales.

You might still choose to buy a car by private sale, particularly if the seller is someone you know, but it helps to be aware of the risks.

Check a reputable motor trading site such as Redbook to check the average mileage of a car similar to the make and model you are intending to buy. If the kilometres travelled in the car you are thinking of buying are significantly lower than an average car of that age, it may indicate that the odometer has been wound back and not a true indication of the distance the car has travelled. The service book should also be provided indicating the true distance the car has travelled and the services it has had. You can check this here: www.redbook.com.au

5. For private sales, check that the car is not stolen, been written off and or being used as security for a loan (in other words, check that a bank cannot take the car because the previous owner has not paid a loan)

The Personal Properties Security Register (PPSR) keeps track of all these things. You will need the chassis number or the vehicle identification number (VIN) to do a PPSR vehicle search. It costs $2.00 and we strongly encourage you to run this search on any car BEFORE you decide to purchase.

You can do the search here: www.ppsr.gov.au

6. Pre-purchase vehicle inspection by a qualified mechanic

Although you have protections under the Australian Consumer Law when you buy from a second-hand dealership, there is always a risk of mechanical problems arising after purchase regardless of whether you get a car from a second-hand dealership or from a private sale.

Consider arranging a pre-purchase vehicle inspection by a qualified mechanic. You can contact RACV for a recommended vehicle inspector www.racv.com.au

7. Check for scams

Sometimes ads online and details in ads are misleading or fake. Do NOT buy a car sight unseen (in other words, don’t agree to buy a car you haven’t seen and inspected yourself in person).

Check for common scams at Add a little bit of body text

Tips from Scamwatch:

- Be wary of sellers who create a sense of urgency;
- Don’t rush into deals that seem too good to be true;
- Be wary of buying a car that you are unable to see;
- Take time to verify the vehicle’s details and location; and
- Never send your personal, credit card or online account details through an email.

If you are selling a car, do not give up possession of the car until you are sure that you have been paid. Some scammers will show what appears to be a payment receipt on their phone, but that it is actually the step before payment is complete.

Also confirm any bank details you may be sent via email, over the phone (using a number you look up independently and not via a phone number on the document). Scammers have learned how to intercept emails and amend invoices directing funds into their own accounts. These invoices appear to have come from a dealer and are very convincing.

8. **Get Motor Vehicle Property Damage Insurance!**
Do not drive until you know the car you are driving is insured.
As a general rule, the driver at fault for an accident is responsible for the property damage caused.
Types of insurance:

- Third party insurance covers you for the damage you cause to another person's vehicle.
- Comprehensive insurance covers you for the damage you cause to another person's vehicle, damage to your vehicle that you have caused AND the damage to your vehicle that another person has caused.

Motor vehicle property damage insurance is not required by law. However, having appropriate insurance can help avoid legal issues (and financial hardship) if you have an accident.

9. Transfer the Registration with VicRoads
You can check a car's registration status with VicRoads here: Vehicle Registration Enquiry
When you buy a second hand Victorian registered car you need to notify VicRoads of the vehicle transfer within 14 days. Generally, to transfer a vehicle's registration, Vic Roads require:

- The seller and buyer to complete a transfer of registration form (sometimes this can be done online);
- A Certificate of Roadworthiness. It is the sellers job to obtain a Certificate of Roadworthiness; and
- Payment of the transfer fee and motor vehicle duty (if applicable).

TIP: A Certificate of Roadworthiness means the car is safe enough to be driven. It does not mean that there are no mechanical issues!
The process is different when you buy from a second hand dealership, or if you have a newer car. You can find out more about transferring vehicle registration here: Transfer a Vehicle
If you don't transfer Registration, this can lead to legal issues.

10. Once you're on the road remember….

- Follow the road rules.
- Let VicRoads know if you change your address.
- If you have an accident, stop and exchange contact details with the other driver and take photos of the damage and the licence plate of the car. Ask to see their driver's licence and ensure you have their full name, address and a contact telephone number.
- If you get a fine or infringement, be aware of your legal rights and obligations. If someone else was driving, nominate them as soon as you can. If you do not respond, penalty amounts can be added and things can escalate. Sometimes people can apply for a review of their fines in specific circumstances like family violence, mental illness or homelessness. Always get legal advice before electing to take a fine in Court.
- If you are injured in a transport accident or on the road, lodge a TAC claim. TAC can help pay for your medical expenses, wages if you need time off work and sometimes compensation if you have a permanent injury. You might need advice from a personal injury lawyer.

Where to get help?

We hope this article helps you avoid or navigate legal issues when you buy a second-hand car.
We know that sometimes things go wrong and legal issues happen. Barwon Community Legal Service is here to provide people with free and confidential legal help and advice.