

Salesperson License Resolution

January 13, 2003

WHEREAS the Virginia Motor Vehicle Dealer Act defines a salesperson as “. . . any person who is licensed as and **employed** (emphasis added) as a salesperson by a motor vehicle dealer . . . “; and

WHEREAS Sections 46.2-1518; 46.2-1537; 46.2-1538; and 46.2-1546 of the Motor Vehicle Dealer Act refer to salespersons “**employed**” (emphasis added) by the dealer and,

WHEREAS Section 46.2-1550 states that “employees” of the dealership are permitted to use dealer license plates; and

WHEREAS independent contractors act independently, buying and selling motor vehicles from locations other than the dealer’s licensed location and tend not to maintain records at the dealership location; and

WHEREAS independent contractors oftentimes use their own funds and compensate the dealer from which their license is issued; and

WHEREAS United States Department of the Treasury Internal Revenue Service (IRS) Publication 1779 states that an individual who is an “independent contractor” is not an employee; and

WHEREAS the Motor Vehicle Dealer Board Chairman’s Task Force on Licensing has recommended that the Board implement a policy whereby all salespersons must be employed by the dealership as a wage employee and not as an independent contractor.

NOW THEREFORE BE IT RESOLVED that all dealers be notified by mail that by March 1, 2003, all salespersons must be employed by the dealer as a wage employee and not as an independent contractor and that failure to comply could result in a civil penalty or suspension or revocation of the dealer’s license and

NOW THEREFORE BE IT RESOLVED that the Motor Vehicle Dealer Board staff develop a system to ensure that at the time of the issuance of an original license and at the time of renewal of an existing license, that all licensed salespersons for dealers be employed by the dealer and be issued an IRS Form W-2.