
DEALER TALK

Volume 1, Issue 2

April 1998

NELSON BENNETT, THE NO. 1 DEALER ON THE NO. 1 HIGHWAY RETIRES!

Board Member, Nelson Bennett, has decided to call it quits and retire to the good life! As a charter member of the Board, Bennett played a key role in getting the Board off the ground. He served on both the Licensing and Finance Committees. In 1953, Bennett began his career as a salesman with the dealership he would one day own. In 1962, Bennett became General Manager of the dealership and in 1965, he bought 25% of the business and became president. In 1982, he bought the remaining 75% changing the name of the dealership to "Bennett Ford". This past March, Bennett sold the dealership to the Haley group. The Board staff wishes Nelson Bennett a happy and healthy retirement! His presence on the Board will be missed.

NEW TEMPORARY TAGS PROGRAM A SUCCESS

DMV's program for issuing newly designed temporary, cardboard tags is going well. An increasing number of the new tags have been seen on the roads of Virginia. Because of the positive participation of dealers statewide, few difficulties were reported initially and these have been overcome. It appears that dealers are showing the Expiration Date correctly written across the hologram and the clear plastic overlay securely applied over all the handwritten information.

With the deadline of March 31 now passed, all old design cardboard tags are expired and invalid. Do not issue any old design temporary tags. Please return your remaining stock of old design temporary tags to the nearest DMV Customer Service Center for recycling destruction.

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CHECK YOUR RENEWAL PACKAGES

When you receive your license renewal packages from the Board, please check them carefully. Be sure that there is a preprinted application card in the package for each and every salesperson in your employ. Check especially for salespeople you have recently hired. If you are missing any applications, contact the Board right away. Also, remind your sales staff to carefully read and answer every question on the application.

REMI NDERS AND USEFUL TIPS

- **Quickest Way to License Your New Salespeople:** Once the applicant has passed the qualification test at a DMV Customer Service Center, the quickest way to complete the licensing process is to either deliver or send the application materials and payment directly to the Board's office. The address of the office is listed on the opposite side of this page. → → → → → → → →
If you are in a big hurry, you may send the materials by overnight mail with a prepaid return. Once prepared, you may also visit our office and pick the license up. Please note that the "Certificate Of Qualification" is **not** a license to sell vehicles. Your prospective salespeople must be licensed in the name of your dealership before they can sell.
- **Vacations and Other Closings:** As the summer vacation season approaches, we would like to remind you that Virginia law requires that you be open for business a minimum of twenty hours per week, at least ten of which are between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday. The law allows the Board to modify these requirements for good cause upon written request of the dealer.

If you plan to close for vacation for two weeks or less, all you must do is notify the Board Office by mail or by FAX two weeks in advance of your vacation. This will give us enough time to notify our field representative in your area.

If you need to close for more than two weeks, you must submit a request in writing. Generally, in order to gain approval of such a request, you will need to show good cause such as an illness or some other unavoidable event. If you have questions about modification of your required minimum hours, do not hesitate to contact the Board office.
- **Bond Requirements:** For dealers who have been in business for three years or less, you must pay \$250.00 per year into the Transaction Recovery Fund and maintain a Bond. Once you have completed three years of operation without any claims against the Fund, you no longer need to carry a Bond.

Dealer Talk

A Bi-monthly newsletter of The Virginia Motor Vehicle Dealer Board

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NOTE: We make every effort to ensure information in *Dealer Talk* is accurate, but it is not a substitute for legal advice.

Calendar of Events

Monday, May 18, 1998:
Place: DMV Headquarters
Time: 9:00 a.m.
Transaction Recovery Fund Committee Meeting

Monday, May 18, 1998:
Place: DMV Headquarters
Time: 10:30 a.m.
Licensing Committee Meeting

Monday, May 18, 1998:
Place: DMV Headquarters
Time: 1:30 p.m.
Dealer Practices Committee Meeting

Monday, May 18, 1998:
Place: DMV Headquarters
Time: 3:00 p.m.
Advertising Committee Meeting

Tuesday, May 19, 1998
Place: DMV Headquarters
Time: 8:45 a.m.
Finance Committee Meeting

Tuesday, May 19, 1998
Place: DMV Headquarters
Time: 9:00 a.m.
Franchise Law Committee Meeting

Tuesday, May 19, 1998
Place: DMV Headquarters
Time: 9:30 a.m.
Full Board Meeting

REGISTRATION CARDS

Please remind your customers that they must complete the back of the registration card for vehicles which they have sold or traded-in. When owners sell or trade-in their vehicle, they must indicate the new owner's name and address on the back of the registration card. Once that information is filled-in, the card must be forwarded to DMV. As a customer service, you may return the completed card to DMV with your other work.

TEMPORARY SUPPLEMENTAL LICENSE FOR A USED CAR SALE

In order to ensure that all dealers in a particular locality (city, town, county) are made aware of a planned "off-site sale" in their locality by a dealer who is from another locality or from a locality other than an adjacent locality, the Board has established the following procedure: The dealer or sponsor of the sale must notify, by mail, all the dealers in the locality in which the sale will take place at least 30 days in advance of the sale. The notification must include information as to how other dealers may participate in the sale. All dealers wishing to participate must be allowed to do so under the same terms.

For example, a dealer named "XYZ Motors", located in Richmond, decides to hold a three-day used car tent sale in Williamsburg. Since the Richmond dealer wants to hold the sale outside the city of Richmond and beyond an adjacent city or county, XYZ Motors must notify all dealers in Williamsburg, by mail, at least 30 days before the date of the planned sale. The notification must "invite" all of the Williamsburg dealers to participate in the event. XYZ Motors' Temporary Supplemental Application must include a copy of the invitation mailed as well as a list of dealers who received the mailing.

A list of dealers in any particular locality can be obtained from the Board. The Board can also provide the list on a computer disk or as labels. There will be a nominal charge for this service. If you are planning to hold an off-site sale and need to apply for a temporary, supplemental license, please contact the

APPLICATION REVIEW PROCESS

At the March Board meeting the following guidelines were adopted by the Board for review of applications for salesperson and dealer-operator licenses.

The primary goal of the application review process is to "screen out" applicants whose past conduct indicates that they should not be licensed as a motor vehicle salesperson or as a dealer-operator. This action is necessary in order to protect the interests of retail motor vehicle consumers and the integrity of the Motor Vehicle Dealer Transaction Recovery Fund.

Where relevant, will consider each of the following factors:

1. A conviction of any of the following offenses, by itself, may be grounds for denial:
 - Any criminal offense classified as a felony.
 - Any criminal act involving the business of selling vehicles.
 - Any fraudulent act in connection with the business of selling vehicles or any consumer-related fraud.
 - Larceny of a vehicle or receipt or sale of a stolen vehicle
 - Odometer tampering or any related violation
2. If the applicant has been convicted of any such violations, the reviewer will first consider whether the applicant is, at the time of application and subsequent hearings, under court supervision or probation and if so, the date of the underlying conviction(s), the date of release from court supervision or probation and the reports of probation officers which might be submitted by or on behalf of the applicant.

In addition, the reviewer shall also consider, where relevant:

1. The nature and seriousness of the conviction(s);
2. The age of the applicant at the time of the offense(s) and the length of time since the most recent offense was committed;
3. The extent of the applicant's criminal record, including the number, nature and date of all criminal convictions;
4. The impact of the criminal behavior which led to the conviction(s), upon the community and the victim(s) of the offence(s);
5. Severity of the sanctions imposed by the court(s) for the violations;
6. Any evidence offered by or on behalf of the applicant in support of his application and any other factors which may be considered relevant by the hearing officer, Board or staff and
7. The credibility and demeanor of the witnesses.

The hearing officer, Board and staff will articulate and explain in any written recommendation or decision those particular

ACTIONS:

- Advertising Violations: for the period January 22, 1998 through March 6, 1998, Board staff issued 55 first violation "educational/warning letters" and four second violation letters. Second violations are subject to a \$500 civil penalty.
- Three claims against the Motor Vehicle Transaction Recovery Fund, totaling \$16,000, were approved at the March Board Meeting. All three claims were related to one dealer.
- The Board assessed a civil penalty in the amount of \$4,000 on a dealer who was operating without a licensed dealer-operator or sales staff. The Board also suspended the license of the dealership until such time as they employed a licensed dealer-operator.
- The Board voted to revoke the license of a dealer who the Board found to be in violation of a number of the Dealer Laws. The Board determined that the dealer had made a material misstatement on an application; failed to comply with a warning issued by DMV or the Board; had defrauded retail buyers; used deceptive acts or practices; failed to submit taxes or fees to DMV within thirty days from the date of sale; and failed to maintain insurance. In addition, the dealer violated a court order banning him from issuing 30-day tags. Board action was a result of a cooperative investigation conducted by the Board and DMV.
- The Board reviewed the report and recommendations from the Hearing Officer who conducted an informal fact finding conference with a dealer who was selling vehicles from a location other than where he was licensed to conduct business. The Board assessed a civil penalty of \$1,000 against the dealer who, despite receiving a written warning from the Board staff, continued to sell vehicles from an unlicensed location.

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ACTIONS:

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- At a previous Dealer Board meeting an unlicensed individual was assessed a civil penalty in the amount of \$2,000 for selling vehicles (from a dealership) without first being licensed. The individual asked for an informal fact finding conference. The Hearing Officer recommended that the individual be assessed a civil penalty of \$2,000. The Board agreed with the Hearing Officer's recommendation.
- The Board staff has sent the names of four individuals, who have not paid civil penalties assessed for selling vehicles without a license ("curbstoners"), to the Virginia Department of Taxation. Therefore, the civil penalties owed to the Board will be placed under Taxation's Debt Set Off Program.

LIABILITY INSURANCE

From the Department of Motor Vehicles (DMV), comes this information on motor vehicle liability insurance: Some motorists do not realize or understand that only insured motor vehicles, or vehicles for which the Uninsured Motorist Vehicle fee was paid, are entitled to valid registration and license plates. Often times, motorists neglect to notify DMV when they have sold, traded, disposed of, or simply ceased driving a motor vehicle that is no longer insured, but the vehicle still has valid registration and license plates assigned to it.

DMV is requesting that you, as a customer service provider, share the information contained in the enclosed flier with your customers. Your cooperation and assistance in helping DMV keep Virginia's citizens informed is greatly appreciated.

ADVERTISING REGULATIONS

Article 9 of the Motor Vehicle Dealer Laws (Title 46.2 of the Code of Virginia) addresses "advertising". In order to clarify these laws, the Board has adopted a set of regulations known as the "Motor Vehicle Dealer Advertising Practices and Enforcement Regulations". (Virginia Administrative Code 24 VAC 22-30-10 et. Seq.) The Regulations clarify some of the laws, by setting out specifics where the law is general. The regulations also provide a comprehensive document on motor vehicle advertising.

Based on comments received from dealers and experiences of the staff in enforcing the regulations, the Board is proposing a series of minor and technical amendments to the regulations. These proposed amendments are described below.

The current regulations frequently use the word "advertisement"; however, the regulations do not define this word. Further, new technology such as the Internet has changed the way in which business can be conducted. The Board has worked with the Virginia Automobile Dealers Association (VADA), the Virginia Independent Automobile Dealers Association (VIADA) and the Better Business Bureau to craft the following definitions for the proposed amendments to the regulations:

"Advertisement" means an oral, written, graphic or pictorial statement made in the course of soliciting business, including, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, poster, display, circular, pamphlet, or letter, or on radio, the Internet, or via an on-line computer service, or on television. The term does not include an in-person oral communication by a dealer's employee with a prospective customer.

"Internet" means a system that connects computers or computer networks.

"On-line service" means a network that connects computer users.

Section 46.2-1581(11) of the Code of Virginia states that "'free', 'at no cost', or other words to that effect shall not be used unless the 'free' item is available without a purchase". Defining "other words to that effect" has been a source of some confusion to automobile dealers. The proposed amendments to the regulations would prohibit the use of the following terms:

- | | |
|--------------------------|----------------------------|
| 1. Free | 8. At no additional charge |
| 2. Complimentary | 9. At no additional fee |
| 3. At no extra cost | 10. At no additional price |
| 4. At no extra charge | 11. Present |
| 5. At no extra fee | 12. Gift |
| 6. At no extra price | 13. On the house |
| 7. At no additional cost | |

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ADVERTISING REGULATIONS

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A similar situation applies to the term "dealer rebates" as used in §46.2-1581(10). The Board seeks to clarify what constitutes a dealer rebate by adding the following language (underlined) to the regulations.

"Advertisements of dealer rebates shall not be used. Offers to match down payments or guarantee minimum trade-in allowance or offers of cash or money back are forms of dealer rebates."

Finally, the Board is using this opportunity to "clean-up" some of the language in the existing regulations. For instance, substituting the full word "advertisement" where it currently refers to an "ad".

The full text of the existing regulations with the proposed amendments will be published in the Virginia Register of Regulations, or they can be obtained by contacting the Board Headquarters.

A series of public hearings will be held to receive comments on the proposed amendments to the regulations. You are invited to attend any of these meetings as listed below. Also, you may send or FAX your written comments to the Board at the address and FAX number listed on page 2 of this newsletter.

1. June 8, 1998, 3:30 p.m.
Tidewater Community College
1428 Cedar Road, Chesapeake
George B. Pass Building, Room 157
2. June 15, 1998, 10:00 a.m.
DMV Headquarters, Williamsburg Room
Richmond, Virginia
3. June 16, 1998, 10:30 a.m.
Virginia Western Community College
3095 Colonial Avenue, S.W.
Duncan Hall
Roanoke, Virginia
4. June 23, 1998, 10:00 a.m.
Northern Virginia Community College
Manassas Campus
6901 Sudley Road, Manassas
Colgan Hall Room MC226

ATTENTION ALL DEALERS:

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