

## SALESPERSON RESOLUTION

On January 13, 2003, the MVD Board passed a [salesperson license resolution](#), which requires all persons licensed by the MVD Board as *salespersons* be employed by the dealer/dealership and may not be an *independent contractor* (IRS form 1099), as defined in the United States Department of Treasury, Internal Revenue Service (IRS) Publication 1779.

The resolution and Internal Revenue Service (IRS) [Publication 1779](#) may be accessed from our website at [www.mvdb.vipnet.org](http://www.mvdb.vipnet.org) under the *Special Reports* button.

Therefore, effective April 1, 2003, all salespersons must be employed by the dealer and cannot be an independent contractor. Typically, independent contractors are issued IRS Form 1099. Failure to comply will result in a written warning; and subsequent occurrences may result in civil penalties, suspension, or revocation of your dealer license.

By June 30, 2003, all original and renewal dealer and salesperson license applicants will be required to certify on the licensing applications that they are in compliance with this resolution. Falsified certifications will be considered material misstatements under § 46.2-1575.1 that could result in a \$1,000.00 civil penalty being levied, your license being suspended, or ultimately revoked.

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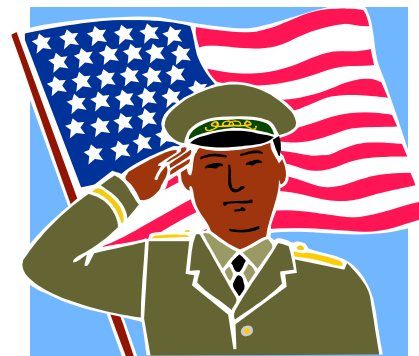
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## HOLIDAY HOURS

In observance of the upcoming holidays, all state agencies, including the Dealer Board, will be closed on the following date:

Monday

May 26, 2003



**MEMORIAL DAY!**

# BOARD ACTIONS

**Record Keeping:** During an October 2001 random inspection of Universal Auto Leasing, Inc. in Haymarket, a number of record keeping problems were cited by the Motor Vehicle Dealer Board field representative. The field representative conducted follow-up inspections in February and June. Despite warnings and educational efforts, the dealer's record keeping had not improved over this eight month period of time. This pattern caused the Motor Vehicle Dealer Board to convene an informal fact-finding conference.

Acting on the hearing officer's recommendation and as authorized by the Board, the executive director revoked all licenses issued to Mr. Payam Badrpay and Universal Auto Leasing, Inc. for violations related to record keeping and failing to comply with a written warning. Mr. Badrpay appealed the executive director's decision and requested a formal hearing.

The formal hearing was held in January of 2003. After reviewing the evidence and the hearing officer's report, the Board voted to revoke all licenses and certificates issued to Mr. Payam Badrpay and Universal Auto Leasing, Inc. The Dealer will have 30 days to either surrender all of his licenses or appeal to circuit court.

## **Motor Vehicle Transaction Recovery**

**Fund:** At the March Board meeting, the Transaction Recovery Fund Committee and the Board considered one new claim filed against Bridgewater Auto Sales of Bridgewater, Virginia. In this case, the purchaser was told that the vehicle they had purchased had never been in an accident. The purchaser later discovered that the vehicle had in fact been in an accident and required significant work in order to make the vehicle safe to drive. In addition the dealer violated the Truth in Lending Act. The purchaser obtained a judgment against the dealer in the amount of \$32,747 and the Board approved payment of \$20,000, the maximum allowed by law.

# 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**

**All Meetings held at DMV Headquarters  
2300 W. Broad Street, Room 702  
Richmond, VA**

Monday, May 12, 2003  
Time: 8:30 a.m.  
Dealer Practices Committee Meeting

Monday, May 12, 2003  
Time: Immediately following Dealer Practices Licensing Committee Meeting

Monday, May 12, 2003  
Time: 9:30 a.m.  
Advertising Committee Meeting

Monday, May 12, 2003  
Time: Immediately following Advertising Transaction Recovery Fund Committee Meeting

Monday, May 12, 2003  
Time: 10:30 a.m.  
Full Board Meeting

**NOTE:** Meetings may begin later, but not earlier than scheduled.

## SUMMARY

### Motor Vehicle Dealer Related Legislation 2003 General Assembly

Below is a list and brief summary of legislation of interest to motor vehicle dealers and adopted by the 2003 General Assembly. All are effective July 1, 2003 unless noted otherwise.

If you are interested in reading the full text of any of the bills listed below, you can find that information on the Internet as follows:

- Go to the Home Page of the Virginia General Assembly:  
<http://legis.state.va.us/>
- Under the heading "Bills and Resolutions", enter the bill number as noted below (Example: SB1276) and click on "Go"
- This will take you to a summary of the bill's history. Under the heading "Full text" click on the last item listed and this will bring you to the most up-to-date version of the bill.

If you are reading this "on-line". Just "click" on the bill number and you will be "hot-linked" to the PDF version of the bill.

**HB 1440** (Charles W. Carrico, Sr.) Requires applicants for vehicle registrations to supply DMV with the street address of their residence.

**HB 1443** (Vincent F. Callahan) Under current law, a manufacturer does not have the right of first refusal on the proposed sale or transfer of a dealership if that sale or transfer is to a member(s) of the family of one or more dealer owners, or to a qualified manager or a partnership or corporation controlled by such persons. This legislation adds a "limited liability company" or "other entity" controlled by such persons to this list. This is, in effect, a technical amendment that affords limited liability companies and other entities the same treatment as similarly situated partnerships and corporations.

## SUMMARY

### Motor Vehicle Dealer Related Legislation 2003 General Assembly

(continued)

**HB 1521** (Clarke N. Hogan) Requires that the titles of both repaired and rebuilt vehicles be permanently branded to show that they are salvage vehicles. The bill also defines "repaired vehicle" as "any salvage vehicle that has had repairs less than the amount necessary to make it a rebuilt vehicle." The effect of this bill would be that the titles of late model vehicles that sustain damage less than 76% of its actual pre-crash value and are acquired by an insurance company and subsequently repaired for use on the road, would be permanently branded "REPAIRED VEHICLE". Vehicles that sustain damage less than 76% of its actual pre-crash value and are repaired by the owner (Never acquired by an insurance company.) will not be branded.

**HB 2174** (Clarence E. Phillips) Allows display of safety approval stickers on plates securely fastened to motorcycles for that purpose.

**HB 2266** (Frank D. Hargrove, Sr.) Prohibits any person selling, installing or replacing motor vehicle glass from advertising, promising to provide, or offering any coupon, credit or rebate to pay all or part of an insurance deductible under a motor vehicle insurance policy unless the person charges no more than the prevailing market rate for such services.

**HB 2502** (H. Morgan Griffith) Authorizes licensed Virginia dealers, to act as agents of the Department of Motor Vehicles. The dealer would be required to enter into an agreement with DMV and the dealer would collect a commission the same as other license agents.

**HB 2537** (Allen L. Louderback) Allows DMV, in the case of a casual sale (no dealer involved) of a motor vehicle, to collect the motor vehicle sales and use tax on the basis of the total sales price as established by evidence required by the Commissioner.

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**HB 2537 (continued)** However, if the motor vehicle is no more than five years old and is listed in a recognized pricing guide, then the total sale price used to calculate the motor vehicle sales and use tax shall not be less than the trade-in value listed in such guide (less an allowance of \$1,500), unless the purchaser executes an affidavit stating a lesser total sale price and declaring such sale or use to be a bona fide transaction for full value

**HB 2604** (L. Preston Bryant, Jr.) Gives motor vehicle dealers and their salespersons the option to be bonded instead of participating in the Motor Vehicle Transaction Recovery Fund. Dealers may choose to obtain a \$100,000 bond that will cover the dealer and his salespeople or a dealer can choose to be covered through membership to a nonprofit organization under 26 U.S.C. § 501(c)(6) (For example, both VADA and VIADA are "501(c)(6)" organizations.) that carries a \$1 million "umbrella" bond that covers its members. The new bond options will only be available to dealers who have been in business more than three years and have not been the subject of a claim against the bond or the fund for three consecutive years.

**HB 2681** (Watkins M. Abbitt, Jr.) Deems all-terrain vehicles (ATVs) and off-road motorcycles to be motorcycles for the purpose of the motorcycle dealers laws and will *potentially subject certain entities* who sell, manufacturer or distribute ATVs and off road motorcycles to motorcycle dealer requirements and franchise protections.

**HB 2720** (John A. Rollison, III) Requires "on-line" dealers to collect from the purchaser, the "purchaser's on-line systems filing fee", (the fee the dealer must pay to the vendor (example, CVR, TriVin) who provides the link to DMV for processing the purchaser's title and registration transaction). In addition, dealers must list this fee separately on the buyer's order and identify this fee as "on-line systems filing fee." You are reminded that anytime you change your buyer's order, you must send a copy to the Dealer Board for their files. This provision of the legislation becomes effective July 1, 2003 and will require amendment to the on-line dealer contracts between dealers and DMV.

Further, dealers who choose not to become an "on-line" dealer must pay a manual transaction fee of \$15 to DMV for every manual transaction completed at a DMV customer service center in excess of 10 transactions per month. The provision of the bill imposing manual transaction fees does not become effective until December 31, 2003. Thus, effective December 31, 2003, dealers who elect not to become on-line dealers and who bring more than 10 pieces of work to a DMV office in a month, must pay a fee of \$15 for each transaction in excess of 10 conducted in that month. Dealers are prohibited from passing this \$15 fee along to the purchaser.

Note: The manual transaction fee will not apply to any pilot program established under the provisions of SB 1276.

**SB 809** (Kenneth W. Stolle) Provides an exemption from the motor vehicle sales and use tax for vehicles titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person.

**SB 965** (John C. Watkins) Strengthens the ability of the Department of Environmental Quality (DEQ) to clean up the 339 remaining tire piles throughout the state. It authorizes the establishment of tire convenience centers as temporary collection points for tire storage. DMV-licensed salvage yards that are holding fewer than 300 waste tires and convenience centers having up to 1,500 tires are exempt from having to obtain a permit from DEQ. The bill includes a three-year increase in the tire recycling fee added to new tire costs (from \$0.50 per new tire sold to \$1.00), to be used to fund the removal of tire piles. The fee will revert to \$0.50 on 7/1/06.

**SB 1276** (Frank W. Wagner) Establishes a pilot project whereby a private business can perform certain vehicle related transactions (titles, registrations, etc) with DMV on behalf of other businesses such as motor vehicle dealers. The business conducting the pilot could perform transactions on-line or in person at a DMV CSC and would be paid a commission by DMV