

TRANSACTION RECOVERY FUND

At the March 2005 Motor Vehicle Dealer Board meeting it was decided that the Transaction Recovery Fund Committee would hold a special meeting prior to the May Board meeting to discuss possible legislation for consideration by the 2006 General Assembly.

This meeting will take place on April 21, 2005 at 3:00 pm in room 702 at DMV Headquarters Building, 2300 West Broad Street in Richmond.

At this meeting the committee will discuss, for the purposes of making recommendations to the Full Board at its May 9 meeting, the following topics:

- Currently, VA Code Section 46.2-1527.2 requires dealers to maintain a \$25,000 bond during their first three years of operation. The committee will determine if this time period should be increased.
- In 2001, the Court of Appeals determined that attorney fees related to a judgment against a dealer that results in a claim against the Transaction Recovery Fund, are eligible to be part of the dollar amount paid by the Fund. Prior to this court ruling, attorney fees were not reimbursed from the Fund. Often times the amount paid from the Fund for attorney fees far exceeds the amount paid to the claimant for actual damages. To address this situation, the Committee will discuss and make recommendations concerning limiting the amount paid from the Fund for attorney fees.

NOTE: At the March meeting, the Committee voted to seek legislation that would require Dealers in their first three years of operation to have a \$50,000 bond rather than the current requirement of a \$25,000 bond.

Please submit comments and suggestions via email to bruce.gould@mvdv.virginia.gov or send a letter to the Motor Vehicle Dealer Board, 2201 West Broad Street; Suite 104, Richmond, VA 23220, to the attention Bruce Gould. All are welcome to attend the April 21 meeting.

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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 30, 2005**



MEMORIAL DAY!

BOARD ACTIONS

- **Record Keeping:** A DMV special agent charged a Harrisonburg area dealer for improper record keeping related to temporary plates and dealer plates. The owner of the dealership was convicted of these offenses and fined \$2,000 of which \$1,700 was suspended. The Dealer Board convened an informal fact finding conference to determine what action the Board should take relative to the dealer as the conviction was related to the business of selling motor vehicles.

After hearing all of the evidence, the hearing officer recommended imposing a civil penalty totaling \$300. The Board agreed with the hearing officer's recommendation. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

- **Salesperson's license application denied.** A Richmond area man applied for a salesperson's license and based on his criminal record, the executive director denied the application. The applicant appealed the decision and requested an informal fact finding conference. After reviewing the hearing officer's report and the evidence, the executive director denied the application. The applicant appealed this decision and on October 14, 2004 a formal hearing was held.

The hearing officer for the formal hearing recommended that the applicant's application for a salesperson's license be denied. The Board agreed with the hearing officers' decision. The applicant may appeal this decision to the circuit court.

- **Transaction Recovery Fund:** Two claims as a result of judgments against Charlie Falk's Auto Wholesalers, were presented to the Board. Just prior to the Board meeting a communication was received that the consumers and the dealer were close to an out-of-court settlement. Given this information, the Board tabled these two claims until the May Board meeting.

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 9, 2005
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, May 9, 2005
Time: Immediately following Dealer Practices
Licensing Committee Meeting

Monday, May 9 2005
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, May 9, 2005
Time: Immediately following Advertising
Transaction Recovery Fund Committee Meeting

Monday, May 9, 2005
Time: 10:00 a.m.
Full Board Meeting

NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate.

USEFUL TIPS

Display of D-Tags. Virginia Code Sections 46.2-715 and 46.2-716 outlines how dealers must display D-tags on motor vehicles. D-Tags must be securely fastened to the rear of the motor vehicle in such way:

1. So as to prevent the plate from swinging,
2. In a position to be clearly visible, and
3. In a condition to be clearly legible.

In addition "No colored glass, colored plastic, or any other type of covering shall be placed, mounted, or installed on or over any license plate if such glass, plastic, or other type of covering in any way alters or obscures (i) the alpha-numeric information, (ii) the color of the license plate, (iii) the name or abbreviated name of the state wherein the vehicle is registered, or (iv) any character or characters, decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. No insignia, emblems, or trailer hitches or couplings shall be mounted in such a way as to hide or obscure any portion of the license plate or render any portion of the license plate illegible."

Be careful that your dealer certificate number is properly recorded when you reassign a title:

When the Virginia DMV titles a vehicle that you have sold, they record your dealer certificate number as noted on the reassignment. The automated system counts the number of sales that you make that result in a Virginia title. It is important to you that this count is accurate because the automated system that determines the number of dealer tags and the number of 30-day tags you are entitled to is based on the number of sales recorded. The counter is reset each year at the time of your renewal. The system is programmed to allot a number of 30-day tags equal to three times the number of retail sales recorded for the previous licensing year. For example, if the DMV titling records show that you sold 200 motor vehicles in your licensing year ending in March of 2005, the system will show that you may purchase up to 600, 30-day tags for the licensing year ending in of March 2006. (If you choose to renew for two years, the counter is reset on the one year anniversary of the renewal.)

If you believe that your out-of-state sales will be of significant number that your allocation of 30-day tags will not be adequate, we advise you to keep a log of these out-of-state sales to use as justification to increase the number of 30-day tags allotted to your dealership. For your convenience, you may use form DSD 21 to log and record these sale. The form can be printed from our WEB site or we can mail or FAX a copy to you.

For the purposes of determining how many D-Tags you are entitled to purchase, wholesale and out-of-state retail sales can be also be counted. Form DSD 21 can be used to log these sales and should be submitted with your renewal application.

GOVERNOR WARNER NAMES NEW VIRGINIA SECRETARY OF TRANSPORTATION

On March 24, 2005, Governor Mark R. Warner announced that he had elevated Deputy Secretary of Transportation Pierce Homer to serve as [Virginia's Secretary of Transportation](#). Homer succeeds Secretary Whittington "Whitt" Clement, who earlier announced his plan to resign at the end of March to return to the practice of law.

Prior to joining the Warner Administration in January 2002, Homer served as deputy county executive in Prince William County.

"Whitt Clement has been a strong partner as we have worked to restore fiscal discipline to our transportation program and improve the performance at VDOT, and I wish him well as he returns to the practice of law," Governor Warner said. "Whitt and Pierce have worked as a team to help find innovative solutions to Virginia's transportation challenges, including enhanced rail and mass transit options, airport improvements, and the use of public-private partnerships to build some critical highway projects. Pierce Homer is a creative thinker and a consensus builder - attributes that have become basically a job requirement in this role."

"Pierce Homer has worked hard on these challenges for three years as my Deputy Secretary, and I have full confidence he will tackle this expanded role without any disruption to our transportation program," Secretary Clement said. "He was instrumental in winning legislative support this year for the Governor's transportation initiative, which provides historic levels of one-time funding to jump-start promising public-private partnerships, promote greater use of rail and transit, encourage local oversight of road projects and permanently eliminate deficits on completed projects in Virginia's six-year transportation program."

The Secretariat of Transportation has oversight of developing and implementing Virginia's transportation program, including management and budgetary responsibilities for the Departments of Transportation, Motor Vehicles, Aviation, and Rail and Public Transportation as well as for the Motor Vehicle Dealer Board and the Virginia Port Authority. These six agencies employ over 12,000 people with an annual budget in excess of \$3.3 billion. In addition, the Secretary of Transportation serves as Chairman of the Commonwealth Transportation Board.