

## LICENSING FEES

The Motor Vehicle Dealer Board (MVDB) is a Special Fund agency in that it receives no General Fund monies and operates strictly on the fees paid by motor vehicle dealers and salespersons. The current fee structure was established more than 10 years ago. When the current fee schedule was established, the financial plan was for the Board to build a surplus in revenue in the Special Fund in the first three years and those surplus revenues would cover revenue deficiencies in the last three years of the six year financial plan. A combination of lower than projected expenditures and higher than expected revenues have allowed the Board to stretch its six year plan to nearly twelve years. It is now time for the MVDB to adjust its fee structure. If an adjustment is not made, we will not be able to continue to provide the quick service we are now providing to dealers and salespersons.

While the Code of Virginia sets the maximum fees the Board may assess, setting the fees must be done through something known as the "Administrative Process Act Regulatory Process". As part of that process, we are holding a public hearing to allow dealers, interested parties and others the opportunity to comment on the proposed regulations. If you are not able to attend the public hearing, you may submit comments by mail, FAX or email.

The proposed regulations adjust the following fees that motor vehicle dealers and salespersons are assessed by the Board.

License/Certificate	Maximum by Law	Current	Proposed
Dealer-operator Certificate of Qualification	\$50	\$25 to take certification test.	\$50 to take certification test.
Salesperson Certificate of Qualification	\$50	\$25 to take certification test.	\$50 to take certification test.
Dealer License	\$300	\$200	\$200
Supplemental License	\$40	\$40	\$40
Salespersons License	\$50	\$20	\$25
Dealer license plates	\$30	\$20 for the first two plates (Two for \$40.) and \$15 for each additional plate.	\$30 for the first two plates (Two for \$60.) and \$26 for each additional plate.

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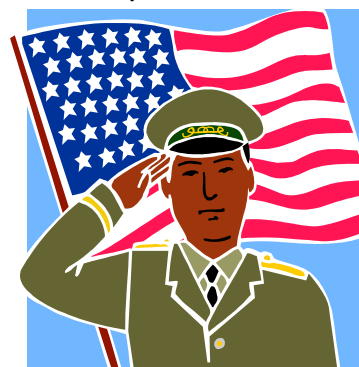
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### HOLIDAY HOURS

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

**Monday  
May 28, 2007**



# BOARD ACTIONS

**Dealer Practices:** In September of 2006, a Bristol area dealer was convicted of selling a motor vehicle to a retail customer without first having it safety inspected. Board staff convened an informal fact-finding conference in December. At its March meeting the Board voted to assess a \$500 civil penalty and mandate that the owner successfully complete the dealer-operator course.

In another case reviewed by the Board, it was decided that the Board would take no further action against a Danville area dealer who had already paid, as a result of a jury trial, \$7,878 for fraudulent acts related to the sale of a motor vehicle.

As a result of deficient inspections by a Board field representative, on February 1, 2007, an informal fact-finding conference was conducted for a Southwest Virginia area dealer to address a number of alleged violations of Virginia Law including record keeping, unauthorized use of dealer plates and selling from an unlicensed location. At its March meeting the Board voted to assess a \$1,000 civil penalty and mandate that the owner successfully complete the dealer-operator course.

**Dealer Licensing:** A consumer filed a complaint against an Abingdon area dealer alleging that it took the dealer over ninety days to provide the title to a vehicle she had purchased. DMV's investigation also revealed that the dealer did not follow established procedures for issuing multiple sets of 30-day tags. The dealer was charged and convicted of a third class misdemeanor related to temporary registration. The Board staff convened an informal fact finding conference and at its March meeting, the Board voted to mandate that the owner must successfully complete the dealer-operator course.

## DEALER TALK

A Bi-monthly newsletter of The Virginia Motor Vehicle Dealer Board  
Bruce Gould, Executive Director  
Peggy Bailey, Office Manager  
Debbie Allison, Field Representative Supervisor

Virginia Motor Vehicle Dealer Board  
2201 West Broad Street  
Suite 104  
Richmond, Virginia 23220  
Phone: (804) 367-1100  
FAX: (804) 367-1053  
Toll Free: (877) 270-0203 (Intra-State only)  
E-mail: [dboard@mvdv.virginia.gov](mailto:dboard@mvdv.virginia.gov)  
Website: [www.mvdb.virginia.gov](http://www.mvdb.virginia.gov)

**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 14, 2007

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, May 14, 2007

Time: Immediately following Dealer Practices Licensing Committee Meeting

Monday, May 14, 2007

Time: 9:30 a.m.

Advertising Committee Meeting

Monday, May 14, 2007

Time: Immediately following Advertising Transaction Recovery Fund Committee Meeting

Monday, May 14, 2007

Time: 10:00 a.m.

Full Board Meeting

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

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# BOARD ACTIONS

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**Unlicensed Salesperson:** In the course of investigating a consumer complaint, it was discovered that the F & I manager of a Manassas area dealership did not hold a salespersons' license. After being informed that F & I employees must be licensed, the F & I employee was involved in four additional sales. The Board staff convened an informal fact-finding conference. After discussing the case, the Board voted at its March meeting to assess a \$750 civil penalty and mandate that the owner must successfully complete the dealer-operator course.

**Motor Vehicle Transaction Recovery Fund:** At the March Board meeting, the Transaction Recovery Fund Committee and the Board considered and approved the following claim:

A consumer filed a claim against Premier Auto of Virginia Beach, a now closed dealership that was owed and operated by Mr. Edward F. Mayo. The consumer had been awarded a total judgment of \$18,808. The Board approved payment from the Fund in the amount of \$8,608. This was the eighth claim paid against this dealer.

The Board also considered a claim against the Fund filed by a consumer against EMOTORS. This claim was denied as the consumer had received a judgment related to a vehicle that she had consigned to a related but different entity. The Fund may only reimburse purchasers. In this case the claimant was not a purchaser.



# LICENSING FEES

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Adjusting the fees will allow the Board to continue to adequately provide essential services to consumers, motor vehicle dealers, and others who use our services. Adjusting the fees will also allow the Board to continue to respond quickly to requests for dealers for transactions such as establishing a new salesperson, opening a new location; answering questions in-person, by telephone and by email and providing timely, informational materials to dealers.

The proposed regulations also include technical changes to the "Definitions" section of the regulations in order to make them consistent with recent Code changes.

The Public hearing will be held on May 14, 2007 at 3:00 p.m. in the First Floor Cafeteria, Department of Motor Vehicles (DMV) 2300 West Broad Street, Richmond, VA 23220. Both oral and written comments may be submitted at that hearing.

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The public hearing notice will also be posted on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations (<http://legis.state.va.us/codecomm/register/regindex.htm>) beginning on April 16, 2007. The full text of the proposed regulations will be posted in the Virginia Registrar of Regulations beginning on April 16, 2007. The full text can also be obtained from the office of the Motor Vehicle Dealer Board using the contact information noted below.

Anyone wishing to submit written comments may do so by mail, email or fax to Bruce Gould, 2201 West Broad Street, Suite 104, Richmond, VA 23220, 804-367-1100; ext 3002; FAX: 804-367-1053; email [bruce.gould@mvdv.virginia.gov](mailto:bruce.gould@mvdv.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by June 16, 2007.



# LABELS MATTER

Virginia law allows a dealership to charge a processing fee, provided notification of the fee is properly posted, the fee is properly listed on the buyers order, and the amount is filed on a form of the buyers order with the Motor Vehicle Dealer Board. The law has no provision to allow a dealership to charge a document fee, a consumer services fee, a dealer administrative fee, or any fee other than a processing fee.

Dealers in Virginia are fortunate that the state legislature has allowed dealers to make their own business decisions as to the processing fees they charge, provided the fee is properly disclosed. It is important to protect that privilege. Dealers in other states that have not protected that privilege have found their abilities to charge processing fees either eliminated or severely limited. Protection requires some very basic steps:

1. Make your own independent decision whether you will charge a processing fee and, if so, the amount of the fee. Do not agree with other dealers as to the amount and to not discuss it with other dealers. The decision to charge it and the amount to be charged must be an independent business decision of each dealer.

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# LABELS MATTER

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2. Properly label the processing fee. It is a processing fee. It is not doc fee, a consumer service fee, or any other named fee. It should be listed as a processing fee on the buyers order. It should be listed that way in the retail installment sale contract. It should be listed that way anywhere else it appears in the deal. Other terms are not specifically allowed by statute. Other terms can cause confusion and can lead to legal action by plaintiffs' attorneys claiming the dealerships are charging a fee not allowed by law. If the dealership has delayed changing the term that is printed on retail installment sale contracts and leases by the computer system to "processing fee", it is time to change that. The law specifically allowing a processing fee was enacted fifteen years ago.
3. Make sure you are in compliance with the other requirements of the law. Post the signs required by the statute. Properly print the processing fee on your buyers orders as required. Properly tax the processing fee as required. File your processing fee with the Motor Vehicle Dealer Board each time you change it.
4. Make sure your employees understand what the processing fee is for. It is not for processing the customer's credit since that would make it a finance charge affecting APR. Although originally it may have been for work on obtaining tags for the customer and while the language in the statute authorizing it notes that it may be for processing vehicle registration, that language predated the statute that allows you to pass along the charge for electronic registration activities. Consequently, the processing charge is no longer for obtaining a customer's registration, since the customer pays separately for the service. VADA offers a brochure that explains processing fees. Whether you use the VADA brochure, or your own brochure, have a brochure that explains processing fees.
5. Train salespeople and F&I people. When the processing fee is presented and when a customer raises questions about the processing fee, the explanation of all personnel in the dealership must be consistent. It is not helpful to have twenty different explanations, some of them improper. The processing fee is an amount the dealership is allowed to charge for services provided to the customer by the dealership for which the dealership is not otherwise compensated in the transaction. That is the explanation. Customers who want to know more should be given a brochure or other written explanation.

# LABELS MATTER

(Continued from previous column)

6. Please note the operative word in the explanation we recommend for the processing fee is that it is a fee the dealership is "allowed" to charge. It is not one that the dealership must charge. It is not one the DMV requires the dealership to charge. It is not a fee that the governor has directed the dealership to charge. It is a fee that the dealership may charge.

*This article was originally published in the April 2007 edition of VADA eViews and has been reprinted with the permission of the Virginia Automobile Dealers Association.*



## DEALER-OPERATOR COURSE

Beginning January 1, 2006, first-time dealer-operators of any independent motor vehicle dealership were required to successfully complete a course of study before they were allowed to take the independent dealer-operator qualification test at any DMV Customer Service Center.

In just over one year, over 500 individuals have taken the two-day course. Many of those who have taken the class are already in the motor vehicle sales business, including title clerks, dealer-operators, salespersons, owners and employees of new car dealers. These individuals see the value in continuing their education. You, too, may want to consider enrolling in one of the classes.

The Virginia Community College System and the Virginia Independent Automobile Dealers Association (VIADA) have teamed up to present the two-day course. The following is a list of up-coming classes. The list is regularly updated on our WEB site at <http://www.mvdb.virginia.gov/licensingprocess.htm>

**May 8 & 9 - Patrick Henry Community College, Rocky Mount Campus**

Contact: Kay Pagans; 540-483-0179; [www.ph.vccs.edu](http://www.ph.vccs.edu)

**May 22 & 23 - Paul D. Camp Community College, Franklin**

Contact: Randy Betz; 757-569-6064 or Renee Brown; 757-569-6050; [www.pc.cc.va.us/](http://www.pc.cc.va.us/)

**June 12 & 13 - Danville Community College, Danville**

Contact: Ruth Green; 434-797-8571; [www.dcc.vccs.edu](http://www.dcc.vccs.edu)

## SALESPERSON TIPS AND REMINDERS

**F & I Employees and Sales Managers Must Be Licensed.** Legislation adopted by the 2006 General Assembly broadened the definition of a motor vehicle salesperson to include those functions performed by the sales manager and dealer employees who are in the "F&I" side of the automobile sales industry.

Anyone who performs functions as described in the following definition must have a salesperson's license. Regardless of the working title an individual has, if they fit the definition, they must have a salesperson's license.

*Section 46.2-150, Definitions. "Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor as defined by the United States internal revenue code shall be deemed not to be a motor vehicle salesperson.*

It is important for you to study this definition as all employees of your dealership that meet any of the criteria as noted in the definition will need a salesperson's license.

**Don't Assume That All You Salespersons Are Properly Licensed.** Please remember that salespersons must be licensed in the name of your dealership in order to sell or participate in the sale of motor vehicles. Allowing someone to sell vehicles without first being licensed could cost you up to \$1,000 in civil penalties per vehicle sold. The "Dealer Database Search" feature on the Board's WEB site ([www.mvdb.virginia.gov](http://www.mvdb.virginia.gov)) allows you to view a list of salespersons licensed to your dealership. It is the responsibility of the dealership owner to make sure that all salespersons are properly licensed.

**No "1099".** Please remember that salespersons may not be independent contractors paid via IRS Form "1099". Salespersons must be employees of the dealership and that usually means that they receive an IRS Form "W-2" at the end of the tax year.

## SIGN-UP FOR E-TRANSACTIONS

The Motor Vehicle Dealer Board (MVDB) and the Department of Motor Vehicles (DMV) have partnered to provide FREE on-line dealer licensing and temp tag authorization transactions.

As of June 2, 2005, only individuals that you, the dealer, authorize are allowed to purchase temp tags at DMV Customer Service Centers and the MVDB office. If you sign-up for E-Transactions you can add or delete names to the list in real time from the comfort of your office. (If you are not a subscriber, in order to add or delete a name to/from the list you will be required to complete DMV form DSD-43 and FAX or mail it to DMV Headquarters. This may take several days.)

This service also provides motor vehicle dealers the opportunity to renew their dealer certificate, salespersons licenses, and license plates via the web for FREE and in REAL-TIME without having to visit our office or mail-in renewal applications. Once you submit your applications over the WEB, your renewal items will be mailed to you within seven business days of the date of your on-line renewal transaction.

Your renewal information goes directly into your DMV record upon your paid (on-line) licensing renewal fee submission. The DMV on-line renewal system accepts Visa, MasterCard, and Discover.

To get started, simply complete and sign an Extranet Transaction Access Application, and return to DMV. Within a matter of days, DMV will send you a Memorandum of Understanding and Agreement (MOA) for signature. After DMV has received your signed MOA, you will be sent a user manual and a security device "fob" (free of charge) to immediately begin accessing your records over the DMV Extranet site.

Dealers who sign-up for this FREE service can also submit a salesperson application ("DSD 7") to the Board via the online system. It will be the quickest and easiest way to submit an original ("new") salesperson's application or transfer application. You will be able to submit your Application for Dealer/Drive-Away/Office Trailer Plates ("DSD 9") using this same system.

So don't wait! Go to the MVDB website at [www.mvdb.virginia.gov](http://www.mvdb.virginia.gov) and click on "On-Line Services" to access an application or contact the Dealer Board Office toll free at (877) 270-0203; X3004 and we'll send you an E-transaction package.

## DO YOU MISS DEALER TALK?

We produce six issues of Dealer Talk each year and we trust that you find the information included in this newsletter to be helpful. If you rely on receiving Dealer Talk by mail – you are missing out on most of the issues as we only mail one or two issues per year. The other issues are distributed by email. In order to receive your copy by email, you must sign-up for e-mail notification. To do this, simply, go to our WEB site at [www.mvdb.virginia.gov](http://www.mvdb.virginia.gov) and from the Home page under “What’s New” and then “click” on “Subscribe to Our E-Mail List”. Back issues of Dealer Talk can also be found on our WEB site under the heading “Dealer and Salesperson”. Please note that we do not share your email addresses with anyone else. There is no limit as to how many individuals in your dealership can sign-up and you may sign-up from your dealership or from home. Don’t hesitate – sign-up now and you will not miss out on a single issue of Dealer Talk.

If you have any suggestions for improving Dealer Talk or if there is a topic you would like for us to cover, call Bruce Gould at 804-367-1100; ext. 3002 or send me an email [bruce.gould@mvdb.virginia.gov](mailto:bruce.gould@mvdb.virginia.gov).

## SUPPLEMENTAL LICENSE

In our on-going efforts to streamline processes, we have redesigned the “Permanent /Temporary Supplemental Off-Site Sales License” application (MVDB 22) and the process to obtain a Temporary Off-Site Sales license. (Often times referred to as a “Tent Sales License)

When applying for a Temporary Off-site Sales License for new cars, you will no longer be required to include a letter from the manufacturer. For Off-site sales in a city, town or county that is outside the location of your dealership or a city, town or county that is not adjacent to the city, town or county that is the location of your dealership, you will no longer be required to include with the application a list of all the dealers that have been contacted in the city, town or county where the sale is to take place.

The new process/form requires that you affirm that you have the manufacturers permission to participate in the sale or in the case of a sale outside your jurisdiction or an adjacent jurisdiction, you have contacted all of the dealers in the jurisdiction where the sale is to take place. A copy of the new form can be printed from our WEB site [www.mvdb.virginia.gov](http://www.mvdb.virginia.gov).