

DATE CHANGES FOR THE NEXT BOARD MEETING

Please note on page 2, under "Calendar of Events", the next Committee and Full Board Meetings will be held on a Tuesday and Wednesday, rather than a Monday and Tuesday. Please note your calendars accordingly if you plan to attend.

November's dates will be the usual 3rd Monday and Tuesday of that month which will be November 15 and 16, 1999.

GOOD NEWS!!

For the past two years the Motor Vehicle Dealer Board has voted to suspend most dealer and salesperson payments into the Transaction Recovery Fund. As the Fund is in good shape, the Board has voted to continue suspension of these fees for year 2000 renewals. This will mean a

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CURBSTONING UPDATES

Recently, Motor Vehicle Dealer Board (MVDB) field representatives and Department of Motor Vehicle (DMV) special agents obtained a new weapon to fight curbstoners (illegal car dealers). This new weapon is a fluorescent orange "Notice" that can be affixed, by a field representative or a special agent, to a motor vehicle displayed for sale.

CURBSTONING NOTICE FORMS

The advisory forms notify vehicle owners that they may be in violation of the Motor Vehicle Dealer Act by offering, displaying, or permitting the display of the cited vehicles for sale. The notice is adhered to the vehicle, and – when appropriate – a copy is also given to the property owner.

Pertinent information from the notices is being entered in a database. Cross-referencing of this information will allow the MVDB to identify repeat offenders who meet or exceed the "5 vehicle per year" limitation. Though some duplicate entries have been detected, none have yet approached the limit.

To date, the MVDB and DMV have issued a total of 144 curbstoning notice forms.

CRIMINAL CONVICTIONS

An individual in Shenandoah County sold two vehicles to another individual. One vehicle was sold without a title. The other vehicle was sold using an out-of-state title in yet a third person's name.

He was convicted of "engaging in business in the Commonwealth as a motor vehicle dealer without first obtaining a license" and selling vehicles "without first having secured a certificate of title." The court fined him \$2,500 for the unlicensed sales activity, and \$500 for the titling violation.

been in business for over three years and a savings of \$10 per salesperson at the time of renewal.

REMINDERS & USEFUL TIPS

Training for Title Clerks: We are sure that you will agree that the title clerk(s) in most dealerships occupy a key position. They have important responsibilities revolving around record keeping. In support of our education first philosophy, this is a reminder that we would be glad to work with your title clerks if you believe they may need some additional training. Just call the office (If outside the Richmond area dial 1-877-270-0203 and from Richmond dial 367-1100.) and ask for Debbie Allison and she will be glad to either answer any questions your title clerk may have or she will arrange for one of our field representatives to drop by your dealership.

Advertisements: Dealers are required to maintain, for a period of 60 days following the expiration date of an advertisement, and make available to Motor Vehicle Dealer Board staff upon request, an original or a clear copy of all advertisements you have run. This includes, but is not limited to, newspaper, television and radio advertisements.

Power of Attorney. In most instances, the "short" Power of Attorney Form available from DMV (VSA-70) will not serve your purposes since it does not include the proper odometer disclosure statement. When you do need "Power of Attorney" you should probably be using the VAD-70, which is available from the Dealer Associations. The VAD-70 is to be used when the title is lost or it is being held by a lienholder. Part "B" of the VAD-70 is to be completed only when Part "A" has been completed and you have sold the vehicle prior to receiving the title. Part "C" of the VAD-70 should always be completed. Also, please note that the VSA-70 ("Power of Attorney") cannot be used to disclose mileage (odometer readings) as it does not conform with the requirements of the Federal Truth in Mileage law. Only the VAD-70A, "Secure Power of Attorney", meets the Federal Truth in Mileage law.

Two-year Renewal: Many dealers are discovering the advantages to the two-year renewal option now being offered by the Board. In June, twenty-three percent (23%) of all dealers renewing their licenses, choose the two-year option. Renewing for two saves time and the hassle of replacing your "year" decals on your dealer plates. When your renewal notice arrives in the mail, please consider renewing for two.

When can a dealer issue a second 30-day temporary tag to a bona fide purchaser of a vehicle? A dealer may request a second temporary certificate of ownership for a vehicle for which he has issued 30-day temporary tags, but for which he has not been able to secure a title. However, before the first temporary certificate expires, the dealer must deliver the following documents, including sales and use tax, to DMV.

- An application for title
- A copy of the bill of sale
- All required fees (including the sales and use tax, and
- A written statement describing the dealer's efforts to secure the certificate of title for the vehicle.

When DMV receives the title application and attachments, the agency will record the purchaser's ownership of the vehicle and may authorize the dealer to issue a second 30-day

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

Tuesday, September 21, 1999:
Place: DMV Headquarters
Time: 9:00 a.m.
Transaction Recovery Fund Committee Meeting

Tuesday, September 21, 1999:
Place: DMV Headquarters
Time: 10:00 a.m.
Licensing Committee Meeting

Tuesday, September 21, 1999:
Place: DMV Headquarters
Time: 1:00 p.m.
Dealer Practices Committee Meeting

Tuesday, September 21, 1999:
Place: DMV Headquarters
Time: 3:00 p.m.
Advertising Committee Meeting

Wednesday, September 22, 1999
Place: DMV Headquarters
Time: 8:30 a.m.
Finance Committee Meeting

Wednesday, September 22, 1999
Place: DMV Headquarters
Time: 9:00 a.m.
Franchise Law Committee Meeting

Wednesday, September 22, 1999
Place: DMV Headquarters
Time: 9:30 a.m.
Full Board Meeting

ACTIONS FROM THE JULY BOARD MEETING

- **Motor Vehicle Transaction Recovery Fund:** The Board considered two claims filed against one dealer. After reviewing the two cases, the Board voted to approve payment from the fund for both claims totaling \$5,700. The dealer . . . [see past issues for the rest]
- **Advertising Violations:** Board staff issued four violation letters in May and June. Also, during the months of May and June, Board staff contacted dealers, by telephone, concerning 70 first violations. The purpose of the telephone contact is "educational". Common problems included: Truth in Lending/Leasing, failing to include a "Sale End Date" when advertising a "sale", advertising a "Free Item" when a purchase is necessary to receive the "free" item; failure to clearly disclose that the vehicles are "used"; disclosure not conspicuous; and failing to disclose freight/processing fee
- The Board voted to adjust its "delegation of authority" to the Board's executive director and the procedures related to conducting informal conferences and formal hearings under the Administrative Process Act. For violations that could result in the denial, revocation or suspension of a license, the executive director will make the initial determination and/or the determination based on the results of an informal conference. The Board will make determinations based on the results of a formal hearing. For violations that could result in a civil penalty, in limited situations, the executive director will make an initial determination. (This determination can be appealed to an informal conference.) For most violations, which could result in a civil penalty, the individual will be given the opportunity to participate in an informal conference. The results of this conference will be used by the Board to make a determination. In all cases the Board will always have the last word in the administrative procedure. Board decision can be appealed to circuit court.

Editors Note: Dealers have the option of "appealing" any of the above Dealer Board decisions by requesting a hearing in front of a hearing officer or through circuit court.

CURBSTONING UPDATES

(Continued from page 1)

In a second case, DMV documented the display of numerous vehicles for sale at a particular location in Rockingham County on more than one occasion. The property owner has been charged with engaging in business as a motor vehicle dealer without being properly licensed. A September court date has been set.

NEW LAW AGAINST CURBSTONING

Delegate H. Morgan Griffith of Salem introduced House Bill 2348 to the 1999 Virginia General Assembly that targets curbstoners. Delegate Griffith's bill, which was adopted by the General Assembly and signed into law by Governor Gilmore and was effective as of July 1, 1999, makes it a traffic infraction to display the license plate(s) issued to one vehicle, on another vehicle. Curbstoners oftentimes place a license plate(s) from a registered vehicle on a vehicle that they are selling and that is not registered. When parked in a parking lot or a curbstoner's front yard, a plate on the vehicles gives the appearance that the vehicle is currently registered and being driven by the owner.

Previous to this law change, it was only illegal to drive on a plate registered to another vehicle. The new law gives law enforcement officers authority to issue a citation to an owner of a vehicle displaying a license plate belonging to another vehicle even if that vehicle is not being driven on the public highways.

While this law change will not eliminate curbstoning, it is another effective weapon against this problem. Please let your local law enforcement agency know about this law change.



FOR YOUR INFORMATION – In response to your suggestions, this issue of *Dealer Talk* includes some new features. On pages 5 & 6 you will find a list of newly licensed dealers. Also, for your convenience, we will "three-hole punch" each edition of *Dealer Talk* to make it easier for you to keep past editions in a binder for future reference.



DID YOU KNOW?...that in the fiscal year that just ended, the Board collected nearly \$40,000 in civil penalties? Civil penalties are deposited in the

FRANCHISE HEARINGS

Did You Know? – The Motor Vehicle Dealer Licensing Laws (contained in Title 46.2, Chapter 15 of the Code of Virginia) provide protections for the franchise dealer. Specifically, Article 7 of Chapter 15 -- Franchises gives a dealer the right to request a hearing before the Commissioner of the Department of Motor Vehicles for certain types of disputes between the dealer and the manufacturer/ distributor.

The most frequent requests for hearings concern the manufacturer/distributor refusing to approve the sale or transfer of ownership of a dealership; granting an additional franchise in the relevant market area of an existing dealer in that line-make; terminating, canceling or refusing to renew a franchise; allocation of new motor vehicles; and warranty payment chargebacks resulting from audits.

A hearing is held before a Hearing Officer that is appointed by the Executive Secretary of the Supreme Court of Virginia. At the conclusion of the hearing, the Hearing Officer will provide the DMV Commissioner with a recommended hearing decision. The Commissioner will then render a decision based upon the evidence presented at the hearing.

In order to fully know your rights and protections provided by Virginia Laws, you should become familiar with the above referenced Code sections. Also, if you have any questions relating to the hearing process, please contact Steve Stupasky, DMV Vehicle Services Administration, at (804) 367-2921.

In the meantime, the column next to this article will give you an idea of some recent hearing decisions. From time to time you will see these final results published in "Dealer

RECENT HEARING DECISIONS

- A Dodge dealer requested a hearing (VA Code §46.2-1571) concerning a dispute with Daimler Chrysler relating to certain warranty service chargebacks resulting from an audit.

Decision – If Chrysler can show that a dealer failed to comply with its requirements for processing a warranty claim, then Chrysler can deny compensation, unless the dealer can show that it provided Chrysler with reasonable documentation to substantiate the claim. Based upon the evidence, the Commissioner affirmed some chargebacks but rejected others.

- A Subaru dealer requested a hearing (VA Code §46.2-1569{3}) to determine whether Subaru unreasonably prevented the sale of the dealership.

Decision – The Commissioner determined that Subaru did not act unreasonably or unlawfully in preventing the sale of the franchise. A buy/sell agreement does not extend the life of a franchise. In this instance, after the dealer entered into a dealership asset purchase agreement, the dealership was closed by a creditor and did not reopen again for business. Subaru then gave notice of intent to terminate. The dealer did not object to the notice and the effect of failure to object was termination of the franchise.

- A Volkswagen dealer requested a hearing (VA Code §46.2-1569{7}) concerning vehicle allocation.

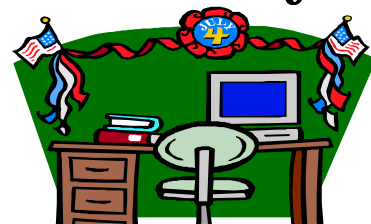
Decision – The Commissioner determined that the Volkswagen allocation methodology in effect since October 1997 is unlawful and violates VA Code §46.2-1569(7). Volkswagen must replace the current methodology with a new methodology in compliance with the Code.

Our office will be closed on:

September 6, 1999

in observance of:

Labor Day!!



WELCOME NEW DEALERS!

The Motor Vehicle Dealer Board formerly welcomes the following new dealers for May! Should you have comments, suggestions or questions, please do not hesitate to contact the staff of the Dealer Board. Our telephone and FAX numbers, mailing address and e-mail address are all listed on Page 2.

MAY	
Paul Wallace, Inc. 17121 Jefferson Davis Highway Colonial Heights, Virginia 23834	Freeman Auto Parts 105 McCracken Street South Hill, Virginia 23970
Newberry Pre-Owned Specialties 2765 Virginia Avenue, 460 W. Narrows, Virginia 24124	Ramey Ford, Inc. Post Office Box 717 Fourway Tazewell, Virginia 24651
Krazy Kennys Car Coop, Inc. 2004 South Main Street Farmville, Virginia 23901	Nashcars 13848 Kigs Highway Montross, Virginia 22520
Midtown Motors, Inc. 11306 Jefferson Avenue Newport News, Virginia 23602	Cox Used Cars 12 Old Halifax Road Danville, Virginia 24540
F & T Auto Sales 1012 W. Danville Street South Hill, Virginia 23970	Northern Neck Auto Center, Inc. 913 Longfield Road, P. O. Box 641 Colonial Beach, Virginia 22443
Johnson Motor Sales, Inc. 23216 Airport Street Petersburg, Virginia 23803	Big D Auto Center 946 E. Little Creek Road Norfolk, Virginia 23518
Stones Automotive 923 Pendleton Road Mineral, Virginia 23117	Triple H Auto 15525 lee Highway Bristol, Virginia 24202
Williamson Road Motors 4714 Williamson Road, N. W. Roanoke, Virginia 24012	Dreamland Auto Sales, Inc. 22481 Lankford Hwy., P.O. Box 419 Accomac, Virginia 23301
B & J Auto Sales, Inc. 15017 Washington Street #2, P. O. Box 45 Haymarket, Virginia 20168	Skyline Auto 4715 King Street Arlington, Virginia 22206
Express Motor Sports, Inc. 6630 N. Military Highway Norfolk, Virginia 23518	Quinn's Autoville, Inc. 1605 Franklin Street Rocky Mount, Virginia 24151
Forestry Equipment of Virginia, Inc. 12660 E. Lynchburg Salem Turnpike Forest, Virginia 24551	Express Auto buying Service, Inc. 8505B Euclid Avenue Manassas Park, Virginia 20111
Waynesboro Wholesale 532 East Main Street Waynesboro, Virginia 22980	

WELCOME NEW DEALERS!

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JUNE	
Mike Pallone Nissan 7800 Backlick Road Springfield, Virginia 22159	Cheap Wheels Auto Sales, Inc. 11211 Jefferson Avenue Newport News, Virginia 23601
Rays Auto Recovery Storage & Sales 3217 Ronggold Depo Road Ringgold, Virginia 24586	Tex's 5020 Union Level Road South Hill, Virginia 23970
Auto Rama 4470 Melrose Avenue Roanoke, Virginia 24017	Charles' Auto Sales 7117 James D Hagood Highway Scottsburg, Virginia 24589
Semones Automotive, Inc. 5552 U S Highway, 29 North Blairs, Virginia 24527	Wilbar Truck Equipment, Inc. 2808 Frederick Boulevard Portsmouth, Virginia 23704
Beach Auto Sales 801 Colonial Avenue Colonial Beach, Virginia 22443	Arcadia Motors of Warsaw 4948 Richmond Road Warsaw, Virginia 22572
Countryside Auto Sales 174 Cambridge Street Falmouth, Virginia 22401	The Car Corral 6170 Charles City Road Richmond, Virginia 23231
Spencer's Special Interest Cars 3580 Virgil Good Highway Rocky Mount, Virginia 24151	Classic Motorsports 314 Main Street Gretna, Virginia 24557
Country Corner Auto RR 4, Box 840 Dillwyn, Virginia 23936	Doug's Auto Repair, Inc. Meadowbrook Drive, P.O. Box 523 Madison Heights, Virginia 24572
Lebanon Equipment Company, Inc. Highway 19 N, P. O. Box 860 Rosedale, Virginia 24280	Davis Auto Sales II 10016 Jefferson Davis Highway Richmond, Virginia 23237
Congressional Motor Coaches, LLC 98 Industrial Drive Fredericksburg, Virginia 22408	

ATTENTION ALL DEALERS:

Inside this issue, please read about the following:

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