

HELPFUL TIPS AND REMINDERS

Another New Super Ultra Low Emissions Vehicle: The 2006 Ford Escape Hybrid was recently certified as meeting the SULEV (Super Ultra Low Emissions Vehicle) emission standard, and therefore eligible to receive the Clean Special Fuels license plate under current policy.

Temporary Transport Plates: Similar to 30-Day "temp tags", dealers must complete all of the required paperwork when issuing Temporary transport Plates. You must complete a DSD-5A (Temporary Transport Certificate) when you issue Temporary Transport Plates. You should also keep a log that documents issuance of these plates. The DSD-5 and other forms can be printed from DMV's WEB site (<http://www.dmv.state.va.us/webdoc/commercial/dealer/forms.asp>)

On-Line Dealers: Like all dealers, if you are an on-line dealer you must submit to DMV within thirty days of the sale, all sales and use tax for vehicles you have sold. The on-line system being "down" does not excuse you from this requirement. We suggest that you complete the work prior to the 30th day or risk having to make a trip into a DMV CSC to pay the tax if the system happens to be down on the 30th day

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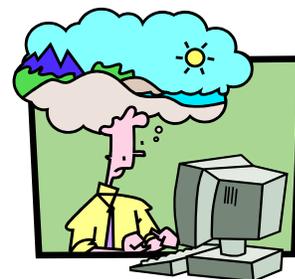
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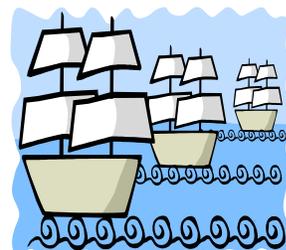
HOLIDAY HOURS

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

September 5, 2005 & October 10, 2005



LABOR DAY



COLUMBUS DAY

BOARD ACTIONS

Unlicensed Salesperson: In attempting to conduct a random inspection of an independent dealership in Southwest Virginia, a Motor Vehicle Dealer Board Field Representative learned that the owner of the dealership was working as a salesperson at an unrelated franchise dealership. Upon visiting the franchise dealership, the owners did not dispute the fact that the owner of the independent dealership had been working at the franchise dealership for a long period of time. The owners of the franchise dealership stated that they had once attempted to transfer the salesperson's license to the dealership; however, the Board returned the \$10 transfer fee and no license was issued to the salesperson. (The Board did not issue a sales license since the applicant was still the owner of the independent dealership.)

The Board convened an informal fact-finding conference to address the alleged violation of §46.2-1537 (Sales activities by Unlicensed salesperson). The hearing officer recommended that civil penalties totaling \$3,300 be assessed against the franchise dealership. 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. (The independent dealer was the subject of a separate informal fact finding conference.)

Material Misstatement on an Application: A Motor Vehicle Dealer Board Field Representative attempted to conduct a random inspection of an independent dealership at the address listed on the Board's files. No dealership was found at this location.

Evidence presented at the informal fact finding conference suggested that the dealer informed the Board in late 2000 or early 2001 that he had relocated, however the Board did not change its records. Evidence also showed that all renewal applications were mailed to the location that was on the Board's records. Evidence also showed that the owner of the dealership was working as a salesperson at another dealership and did not attempt to correct the address of the independent dealership.

The Board convened an informal fact-finding conference to address the alleged violations of this dealer. The hearing officer recommended civil penalties totaling \$2,300.00 be assessed against the dealership owner for filing renewal applications with incorrect addresses and for deceptive acts and practices. 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.

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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
Website: 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, September 12, 2005
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, September 12, 2005
Time: Immediately following Dealer Practices
Licensing Committee Meeting

Monday, September 12, 2005
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, September 12, 2005
Time: Immediately following Advertising
Transaction Recovery Fund Committee Meeting

Monday, September 12, 2005
Time: 10:00 a.m.
Full Board Meeting

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

BOARD ACTIONS

(continued from page 2)

Unlicensed Salesperson: Board staff received information that an individual was working as a salesperson at a Fredericksburg area dealership without first being licensed. The Board's investigation revealed that the individual had sold/received compensation for the sale of 30 vehicles between June and November of 2004. The dealership's dealer-operator admitted that the individual had in fact, worked at the dealership and sold vehicles.

An informal fact-finding conference was conducted to address the alleged violations of compensating an individual in connection with the sale of a motor vehicle. Based on the information provided at the conference and the hearing officer's report and recommendation, the Board voted to assess a civil penalty in the amount of \$1,500. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Bait and Switch: In July of 2004, the Board received a complaint from a consumer of "bait and switch" advertising and practices at a Hampton area dealership. This complaint resulted in an "educational letter" being sent to the dealer. In November of 2004 the Board received additional consumer complaints concerning this dealer for "bait and switch" advertising and practices. An "undercover" telephone call from the Board's executive director to a salesperson indicated "bait and switch" sales practices. The Board's Field Representative Supervisor visited the dealership on November 20, posing as a consumer and she experienced similar practices.

Further investigation of the dealership revealed that ten salespersons, including the sales manager, who also took part in sales activities, were not licensed.

An informal fact finding conference was convened. After reviewing all of the evidence and listening to the testimony of witnesses, the hearing officer recommended civil penalties totaling \$10,000 for the unlicensed salesperson violations. In addition the Hearing Officer recommended that the dealer's license be suspended for seven days for the violations related to the bait and switch advertising and sales practices.

BOARD ACTIONS

After considering all of the evidence, the Board voted to assess a \$4,100 civil penalty for compensating an individual, who was not licensed, in connection with the sale of a motor vehicle. In addition, the Board assessed a \$4,000 civil penalty (The maximum allowed by law.) for the violations related to bait and switch. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Motor Vehicle Transaction Recovery Fund: At the July Board meeting, the Transaction Recovery Fund Committee and the Board considered the following two claims:

In the first claim, a consumer filed a claim against Nation's Auto Loan Center of Woodbridge and Celebration Chevrolet of Milford. (Mr. Navraj Gupta, was the owner of both dealerships.) The consumer had been awarded judgment in court for (1) Breach of Warranty; (2) Common Law Actual Fraud; (3) Violation of the Consumer Protection Act and (4) Violation of the Federal Motor Vehicle Information And Cost Saving Act. The dealer did not pay the judgment. The Board approved payment from the Fund in the amount of \$20,000 to cover actual damages, attorney fees and court costs. Neither dealership is currently in business.

In the second claim, a consumer was awarded a judgment against Automax Sales of Virginia Beach (Mr. Sam Halabi, owner) for violations of the Virginia Consumers Protection Act and fraud. As the dealer did not pay the judgment, the consumer filed a claim against the TRF. Based on the facts of the case, the Board voted to approve a total payment from the Fund to the consumer in the amount of \$10,081 to cover actual damages, attorney fees and court costs.

LUMBEE ENTERPRISES TO LOCATE IN PULASKI

Governor Mark R. Warner recently announced that Lumbee Enterprises, a quality assurance provider of high-end inspection, sorting and engineering rework services in the automotive industry, will open a facility in Pulaski County. The company will occupy the former Pfizer facility and perform post-manufacturing modifications for commercial trucks.

Lumbee Enterprises began operations in 1991 as a quality consulting, sorting and automotive parts re-certification company, working with Chrysler, General Motors, Ford and their various suppliers. In June of 2001 Lumbee Enterprises of South Carolina was formed, working exclusively with BMW Manufacturing and its many suppliers worldwide. The company has since expanded services to other manufactures in the automotive and industrial truck industry. To date, Lumbee has sorted and reworked millions of parts and has gained a reputation throughout the automotive industry as a highly qualified, competent and professional service organization. With the opening of the Dublin, Virginia location, Lumbee desires to become a full service supplier for Volvo/Mack, providing many services to the New River Valley Plant as well as their supplier base.