

DISCOUNTS IMPLEMENTED

Beginning with the January renewal cycle, you will receive a discount in your licensing fee if you renew for two years and/or if you renew over the Internet.

Here is how it works: If you choose to renew your dealer license for two years, the fee will be discounted by \$25. The current single year dealer license fee is \$200. With implementation of the discount, you will pay \$375 for two years. Not only will you be saving money, but you will also have the convenience of only needing to renew your license every other year.

The second discount now offered by the Dealer Board is for those dealers who choose to renew their licenses over the Internet. Through our partnership with [Virginia Interactive](#) you can conduct nearly all of your transactions with the Board on-line. If you renew on-line, you will receive a \$50 discount off of the \$200 licensing fee.

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HOLIDAY HOURS

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

CHRISTMAS

December 24 & 25, 2001

NEW YEARS

**December 31, 2001 &
January 1, 2002**

LEE-JACKSON DAY

January 18, 2002

MARTIN LUTHER KING DAY

January 21, 2002



DISCOUNTS IMPLEMENTED

(continued from page 1)

In order to renew over the Internet and conduct other transactions on-line such as submitting an application for a new salesperson and applying for a supplemental license plus much more, the dealership must become a Virginia Information Providers Network (VIPNet) subscriber. To become a subscriber, simply complete the VIPNet [Premium Service Subscription Agreement](#), the MVDB Addendum, and pay the annual subscription fee of \$50.00. For complete information and to see a demonstration of the various services, visit the VIPNet [Premium Services](#) page at www.vipnet.org/premium. You can also see the demonstration at the Board's Web site (www.mvdb.vipnet.org).

As a VIPNet subscriber, you may also check the driving record of your employees or perspective employees and request a vehicle record check on-line through DMV. There is a minimal charge for these transactions. Please see the flyer on page 9 for more information.



GOOD NEWS!

For the past four 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 2002 renewals. This will mean a saving of \$100 per dealer for all dealers who have been in business for over three years and a saving of \$10 per salesperson at the time of renewal. The \$250 assessment on dealers in business three years or fewer as well as the \$10 assessment on first year salespersons will continue to be collected.

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, January 14, 2002

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, January 14, 2002

Time: 5 Minutes After Dealer Practices

Franchise Law Committee Meeting

Monday, January 14, 2002

Time: 9:30 a.m.

Licensing Committee Meeting

Monday, January 14, 2002

Time: 10:00 a.m.

Advertising Committee Meeting

Monday, January 14, 2002

Time: 5 Minutes After Advertising

Personnel Committee Meeting

Monday, January 14, 2002

Time: 10:30 a.m.

Finance Committee Meeting

Monday, January 14, 2002

Time: 11:00 a.m.

Transaction Recovery Fund Committee Meeting

Monday, January 14, 2002

Time: 1:45 p.m.

Full Board Meeting

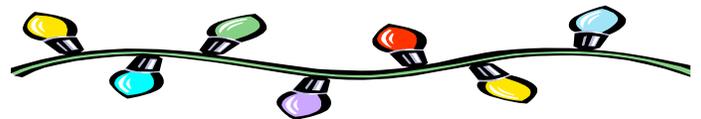
NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate.

CURBSTONING REPORT

- Since the last Dealer Board meeting, DMV Special Agents and MVDB representatives have issued 193 curbstone notices.
- Board staff obtained its' annual computer printout from DMV records, which identifies individuals who have titled and then sold a large number of cars. Twenty-three of those individuals previously received warning letters from the Board, yet have continued to sell vehicles without being properly licensed. Those repeat offender cases were forwarded to DMV for further investigation.
- In Roanoke County, a dealer complaint prompted an investigation at a convenience mart. Initially, no vehicles were observed being displayed "for sale;" however, a week later, two vehicles were discovered with "for sale" signs at the location. Both vehicles were registered to the property owner. Numerous attempts to contact the property owner proved unsuccessful. Eventually, the owner responded to the Special Agent's business card, which had been left at his residence. He was advised of the laws regarding curbstoning and was also advised that further violations would result in criminal charges. No further activity has been observed at this location.
- In Spotsylvania County, a curbstoner was identified at the former Hudson's market. Vehicles were subsequently removed.
- Also in Spotsylvania County, a residential address appeared to be a curbstone site. The owner of the property had sold five vehicles since 1998, and he was warned about curbstoning.
- A Special Agent checked several vehicles displayed "for sale" in the city of Waynesboro. A search of the company's internet web site revealed several vehicles posted "for sale" in Virginia. The president of the company was advised to contact the Dealer Board and obtain a proper license.

CURBSTONING REPORT

- Manassas Mall, a curbstone hotbed in Prince William County, has been under investigation for some time. There are some unresolved issues as to property ownership, but the investigating Special Agent has worked with the management of the Sears store where the curbstoning has actually been taking place. Sears acknowledged the problem, and has erected warning signs on the property and contracted with a local towing company to have any vehicles displaying "for sale" signs removed from that area.
- In the city of Norfolk, an undercover curbstone investigation revealed the owner of an Exxon station was obtaining vehicles at a local police auction for the purpose of resale. One day, the subject had seven vehicles "for sale" on his property, and his employees offered to show the vehicles and sell them to the Special Agent. It was determined the subject was aware of the requirement to be licensed, yet he had been engaged in vehicle sales activity for more than seven months. The subject was cited for selling vehicles without being properly licensed. A November court date is scheduled.



COURT CASE

The Ohio State Court of Appeals recently upheld the Ohio Motor Vehicle Dealer Board's revocation of a dealer's license for improper record keeping. Similar to Virginia law, Ohio dealers are required to maintain records and have those records available to inspectors.

In this case, inspectors were not able to view records because the dealership was closed during scheduled hours. On a subsequent visit to the dealership, the dealership was opened, however the records were unavailable for inspection because the records "had been stolen." After an administrative hearing, the Board revoked the dealer's license. Both the lower court and the Appeals Court upheld the Boards' decision.

ACTIONS FROM THE NOVEMBER BOARD MEETING

Dealer Practices: This case began as an investigation of a consumer complaint. The consumer responded to an advertisement in the Washington Post. The advertisement did not include the name of the dealership or the abbreviation "VA DLR". The perspective buyer viewed the car at a private residence and was not informed of the fact that the car was in the inventory of a licensed dealer or that it had salvage history.

The consumer decided to purchase the car and made arrangements with the seller to return in several days to complete the transaction. The seller (a principal of the licensed dealership), "sold" and titled the vehicle in the name of a relative after the perspective buyer viewed the vehicle, but prior to completing the transaction with the buyer who had answered the newspaper advertisement.

Based on this information, the Board convened an informal fact finding conference for alleged violations of § 46.2-1535, requiring dealers to identify the name of the dealership or the abbreviations "VA DLR" in all print advertisements, and for alleged violations of 46.2-1575 (4) defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business; (6) having used deceptive acts or practices and (7) knowingly advertising a fact that is untrue, misleading or deceptive.

The two dealer principals – Mr. Ahmad Ghaderi and Mr. Mohammad Iqbal stated that they did not sell the vehicle to the consumer, rather this was a private sale as the car was titled in the name of a relative when it was sold. The dealership (Performance Auto Sales of Christiansburg) has since gone out of business.

After reviewing the evidence and the report and recommendations of the hearing officer, the Board voted to assess a civil penalty of \$1,000 on Mr. Ghaderi and \$2,000 on Mr. Iqbal. The Board revoked the Certificates of Qualification for both men.

ACTIONS FROM THE NOVEMBER BOARD MEETING

Dealer Practices: In the course of an inspection, field representatives discovered that an individual was selling vehicles for a licensed Richmond area dealer without being licensed. An informal fact finding conference was convened where evidence was presented documenting seventeen sales by the unlicensed individual. Compensating an unlicensed individual in connection with the sale of a motor vehicle is subject to a civil penalty of up to \$1,000 per occurrence.

After considering the facts and reviewing the hearing officer's report and recommendations, the Board adopted a resolution to assess a civil penalty totaling \$2,500. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court. Failure to pay the penalty or file an appeal will result in the immediate revocation of the dealer's license.

Dealer Practices: An informal fact finding conference was convened for a Fredericksburg area dealer to determine what, if any, action should be taken against her for allegedly paying "bird dogging" fees to an employee who was not licensed as a salesperson.

After considering the facts and reviewing the hearing officer's report and recommendations, the Board adopted a resolution to assess a civil penalty totaling \$1,500. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court. Failure to pay the penalty or file an appeal will result in the immediate revocation of the dealer's license.

Dealer Practices: After several verbal and written warnings, the Board convened an informal fact finding conference for Mr. William T. Bryden of Old Dominion Auto Brokers of Arlington for alleged violations of the dealer laws as they relate primarily to "record keeping."

In March of 2000 the informal conference was conducted. Based on the evidence and the hearing officer's report the Board voted to levy a \$1,500 civil penalty and revoke all licenses issued by the Board to Mr. Bryden. Mr. Bryden appealed this decision and a formal hearing was convened.

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ACTIONS FROM THE NOVEMBER BOARD MEETING *(continued)*

After reviewing the evidence and the report and recommendations of the hearing officer on the formal hearing, the Board voted to levy a \$1,500 civil penalty and revoke all licenses and certificates issued by the Board to Mr. Bryden. Mr. Bryden will have 33 days to either pay the civil penalty and surrender his licenses, certificates and registrations, or he can appeal the decision of the Board to circuit court.

Dealer Practices: The Board convened an informal fact finding conference for Mr. Vincent Pfab, owner of Wythe Motor Company in Petersburg for alleged violations of § 46.2-1575 (1), having made a material misstatement on an application and (2) for willful failure to comply with the dealer laws. Evidence suggested that Mr. Pfab is an absentee "owner" and the dealership is run by Willard Nunnally. Mr. Nunnally has criminal history and owes the Transaction Recovery Fund nearly \$10,000. For these reasons, Mr. Nunnally cannot be licensed by the Board.

Based on the evidence, the hearing officer recommended to revoke all licenses issued to Mr. Pfab in the name of the Board for a number of alleged violations including making misrepresentations on applications and failure to maintain records even after being warned. The executive director agreed with the hearing officer's recommendation and Mr. Pfab appealed that decision.

On June 1, 2001 a formal hearing was conducted and the new hearing officer came to conclusions similar to that as the first hearing officer. Based on the evidence and the report and recommendations of the hearing officer, the Board voted to revoke all licenses and certificates issued to Mr. Pfab in the name of the Board. Mr. Pfab will have 33 days to either surrender his licenses, certificates and registrations, or he can appeal the decision of the Board to circuit court.

ACTIONS FROM THE NOVEMBER BOARD MEETING

Dealer Licensing: Dealer Board staff learned that a Southwest area dealer had been convicted of felonies many years ago. Board records indicated that the dealer had consistently answered "no" to the question that appears on MVDB applications, "Have you **ever** been convicted of a felony?"

As a result of these alleged misstatements, an informal fact finding conference was convened. Based on the evidence and the report of the hearing officer, the Board levied a civil penalty on the dealer in the amount of \$1,600 for having made material misstatements on MVDB applications. The dealer will have 33 days to either pay the civil penalty or appeal the decision to circuit court.

Dealer Licensing: The Board convened an informal fact finding conference for Mr. Preston L. Green of Virginia Beach for alleged violations of § 46.2-1575 (1) having made a material misstatement in an application for a license; (6) having used deceptive acts or practices; (9) having been convicted of any criminal act involving the business of selling vehicles. Mr. Green had been convicted of falsifying the selling price of vehicles in order to lower the amount of sales tax due. Mr. Green failed to note these convictions on his application materials to the Board. The Hearing officer recommend that Mr. Green's sales license be revoked. The executive director agreed with the recommendation.

Mr. Green appealed this decision and requested a formal hearing. The hearing officer for the formal hearing also recommended revocation of Mr. Green's license. The Board agreed with the hearing officer in voting to revoke all licenses and certificates issued to Mr. Green by the Board. Mr. Green will have 33 days to either surrender his license and certificate or he can appeal the decision of the Board to circuit court.

Advertising: A Richmond area dealer was assessed a civil penalty totaling \$15,000 for numerous and multiple advertising infractions.

REMINDERS & USEFUL TIPS

Do You Wholesale Vehicles? In a recent case in the Circuit Court of the City of Richmond, Merriman v. Auto Excellence, Inc., et al., the Court made a ruling that may be of interest to you. In this case, a dealer wholesaled a vehicle to another wholesaler. That wholesaler transferred the vehicle to a dealer who sold it to a consumer. The consumer alleged that the vehicle had suffered damage and sued all three dealers in the transaction chain. The dealer who first wholesaled the vehicle filed a demurrer, a pleading challenging the sufficiency of the claim. The dealer felt that it should not be a defendant in the case, since it had no contact whatsoever with the plaintiff/buyer. The Court disagreed and denied the demurrer. It viewed the dealer as a "supplier" under the Virginia Consumer Protection Act and held that the Act allows a lawsuit against a supplier whether or not it has direct contact with the consumer.

*Adapted from VADA Views, October 2001.
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Virginia Automobile Dealers Association (VADA).*

Independent Contractor or Employee? How and when a licensed salesperson can use dealer tags is a function of their employment status with your dealership. If you file an IRS form "W-2" for the sales staff who work for your dealership at least 25 hours per week on a regular basis, he/she are considered "employees" and are therefore entitled to use and drive on dealer tags.

If on the other hand, a salesperson files their own taxes using an IRS form "1099", they may be considered an "independent contractor" rather than an employee. If the salesperson is an independent contractor, they can only use dealer tags under very limited situations and only if a "PERMISSION TO USE DEALER'S LICENSE PLATES" form (DSD-27) is issued. In fact, for the purposes of determining the number of dealer tags you are entitled to be issued, independent contractors should not be considered. Only "employees" can be considered or counted when determining how many dealer plates can be issued to a dealer.

REMINDERS & USEFUL TIPS

Advertising a Price of a Pre-Owned Vehicle Compared to that of a New Vehicle. Please be careful when you are advertising a pre-owned vehicle and compare the price of that vehicle to the price of a new vehicle. If you decide to use this type of advertising, the basis for the comparison must be clear and the fact that you are comparing the price of a pre-owned vehicle to that of a new one must also be very clear. This type of advertisement can be tricky.

For instance, are you comparing the cost of the pre-owned vehicle to the cost of that specific vehicle when it was new? Or are you comparing the cost to a newer model year vehicle? If the latter is the case – are the two vehicles exactly alike? Has the manufacturer made any changes to the vehicle from one model year to the next? While this type of advertising is not prohibited, we advise that you use caution and be sure that the advertisement is clear and includes all of the information the consumer needs in order to understand the comparison that is being made.

Advertising a "Buy-Down" Interest Rate may be Against the Advertising Regulations. The Advertising Regulations state: "Advertisement of finance charges or other interest rates shall not be used when there is a cost to buy-down said charge or rate which is passed on, in whole or in part, to the purchaser." Requiring the purchaser to pay additional money to "buy-down" an interest rate could also run afoul with the Truth in Lending Requirements if the APR does not include the additional money needed to receive the special rate.

Do You Own More Than One Dealership? If you do, you may want to consider shifting your license renewal dates so that all of your dealership licenses are renewed in the same month. In addition, you may want the renewal materials for all of your dealerships sent to a central location. The Dealer Board staff would be glad to help you get this done - just give us a call at 367-1100 and press "4". If you are calling from outside the Richmond area, you can call us toll free at 877-270-0203 and press "4".

ARE ALL YOUR SALESPERSONS PROPERLY LICENSED?

WELCOME NEW DEALERS!

The Motor Vehicle Dealer Board formally welcomes the following new dealers for September & October! 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.

SEPTEMBER	
The Car Store 3212 Lee Highway Arlington, Virginia 22207	Eastern's Auto Outlet 24 Derrick Lane Stafford, Virginia 22554
United Truck Sales & Service 913 Longfield Road Colonial Beach, Virginia 22443	Capital Finance Corp. 4125B Portsmouth Boulevard Portsmouth, Virginia 23701
Johnny's Cars 34 West 14 th Street Front Royal, Virginia 23701	Miche Mel Motors 315 Maple Street Salem, Virginia 24153
Ramey Automotive, Inc. 2850 Clinch Street Richlands, Virginia 24641	Premium Auto Sales, Inc. 6328 East Virginia Beach Boulevard Norfolk, Virginia 23502
Currys Auto Sales 1703 W. Beverley Street Staunton, Virginia 24401	Goodtime Charlie's Car & Truck Center 420 Vaden Drive Gretna, Virginia 24557
Main Street Auto 612 East Main Street, P.O. Box 608 Lebanon, Virginia 24266	Quality Pre-Owned Cars 474 West Front Street Coeburn, Virginia 24230
Affordable Sales 2942 W. Main Street Salem, Virginia 24153	Whitten Brothers Dodge 2833 South Crater Road Petersburg, Virginia 23805
Lakeview Motors 41 North Main Street Chase City, Virginia 23924	Riddle Honda 3444 Western Branch Boulevard Chesapeake, Virginia 23321
Crown Motorcar Company, LLC 1295 Richmond Road Charlottesville, Virginia 22911	Daniel Motor Company, Inc. 911 S. Cedar Level Road Hopewell, Virginia 23860
Maverick Car Rental Sales 1123 S. Military Highway Chesapeake, Virginia 23320	Laosa Auto Sales, Inc. 375-B Williamsburg Road Sandston, Virginia 23150
Ultraline Auto Sales 5176 Virginia Beach Boulevard Virginia Beach, Virginia 23462	JW Auto & Truck Sales 615 E. Research Road Richmond, Virginia 23236
Mid-Atlantic Waste Systems 3600 Koppens Way Chesapeake, Virginia 23323	

OCTOBER

Carport Motors 3301 Jeff Davis Highway #1 Fredericksburg, Virginia 22401	Auto City 1100 S. Military Highway Chesapeake, Virginia 23320
Modern Auto Parts 1001 E. Bank Street Petersburg, Virginia 23803	Virginia Truck Center of Richmond, Inc. 740 S. Military Highway Virginia Beach, Virginia 23464
Xpressway Automart 799 Graves Mill Road Lynchburg, Virginia 24502	Autovilla At Lake Rodge 13606 Fowke Lane Woodbridge, Virginia 22192
Blue Ridge Motors 2106 John Marshall Highway Front Royal, Virginia 22630	Auto, Inc. 3805 Hull Street Richmond, Virginia 23224
Bluewater Enterprises, Inc. 3428 South Military Highway Chesapeake, Virginia 23323	Hal Cole Truck & Trailer Sales, Inc. 11330 Washington Highway, P.O. Box 1676 Ashland, Virginia 23005
Tylo Equipment Sales, Inc. 3701-B Carolina Avenue Richmond, Virginia 23222	First Choice Auto Sales 11306 Jefferson Avenue Newport News, Virginia 23601
Classic Cars 5250 Klockner Drive Richmond, Virginia 23231	Doran Motors Coach Road, Route 460 Doran, Virginia 24612
Al's Auto Sales 2810 George Washington Memorial Highway Hayes, Virginia 23072	D & N Auto 132 Wilburn Valley Road Pearisburg, Virginia 24134
Auto Maxx of Manassas 8505 A-B Euclid Avenue Manassas, Virginia 20110	Super Cars 203 West 4 th Street Salem, Virginia 24153
B & F Auto Sales 1907-A Jefferson Davis Highway Richmond, Virginia 23224	Park Place Auto Sales 1101 E. 26 th Street Norfolk, Virginia 23504
American Equipment 411 Johnson Avenue Suffolk, Virginia 23434	Silver Line 325 Piedmont Drive, Suite 515 Danville, Virginia 24540
Classic Leasing, LLC 6329 Burleigh Road Gloucester, Virginia 23061	Apex Auto Sales 12219 Old Washington Highway Ashland, Virginia 23005
The Automotive Connection, Inc. 5391 Lee Highway Atkins, Virginia 24311	PMG 8540 Cinderbed Road, #1800 Newington, Virginia 22122
Hurricane Motors 1049 North George Washington Highway Chesapeake, Virginia 23323	Shawn Auto Sales & Service 127 Fleming Street #B Fredericksburg, Virginia 22407
Trucks-R-Us 5057 Cleveland Street Virginia Beach, Virginia 23462	Madcolt Motors 2920 Page Street Richlands, Virginia 24641
Dannys Auto Sales 220 River Street Danville, Virginia 24540	ARE ALL YOUR SALESPERSONS PROPERLY LICENSED???

PRESENTS...

On-Line Renewals

We have made it Faster, Easier and Less Expensive for you to renew your license with the Motor Vehicle Dealer Board

Take Advantage of the Motor Vehicle Dealer Board's Interactive E-Commerce Transaction System

The Virginia Motor Vehicle Dealer Board (MVDB) has partnered with the [Virginia Information Providers Network](#) to enable dealers to make dealer license renewals, salesperson license renewals, and place dealer plate, decal, and tag orders online. Dealers may electronically complete and submit all forms to the MVDB as a subscriber to the MVDB's Interactive E-Commerce Transaction System. The good news is that the MVDB approved a **\$50 discount** to those dealers that renew online.

Your Subscription to MVDB Services May Also Include Online Access to Branded Title and Other DMV Records

If your dealership is using the MVDB online services, you may also wish to apply for the online Department of Motor Vehicle Records Access Information Service. Dealerships will be able to check drivers' records for employment purposes and complete branded title searches on vehicles, online.

How to Access These Services

In order to utilize this service, dealerships must become Virginia Information Providers Network (VIPNet) subscribers. Simply complete the VIPNet [Premium Service Subscription Agreement](#), the MVDB Addendum, and pay the annual subscription fee of \$50.00. Also, DMV access requires the completion of the DMV Information Use Application, which should be sent with the other service agreement. This application must go through the DMV approval process before access will be granted.

Subscriber access includes:

- Multiple Subscriber Billing Options
 - Monthly Invoice-*Requires a \$15 monthly minimum
 - Monthly Credit Card Transaction
 - Monthly Electronic Check Transaction
- Online Billing and Account Information
- Help Desk Services
- Access to Additional VIPNet Premium Services
 - DMV Online Driver and Motor Vehicle Record Requests
 - DGIF Boat Registration Database Search
 - SoC Online Service of Process
 - Lobbyist-In-A-Box Legislative Tracking System
 - DHRM Online State Employment Verification and Salary Information*

For more information, visit the "Online Services" section of the Motor Vehicle Dealer Board's website at www.mvdb.vipnet.org. Or contact VIPNet Customer Service at (804)786-3794 or at customerservice@vipnet.org.



Season's Greetings

ATTENTION ALL DEALERS:

Inside this issue, please read about the following:

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