

GOOD NEWS!

For the past five 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 2003 renewals. This will mean a savings of \$100 per dealer for all dealers who have been in business for over three years and a savings 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 time salespersons will continue to be collected.

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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 dates:

CHRISTMAS

December 24 & 25, 2002

NEW YEARS

January 1, 2003

LEE-JACKSON DAY

January 17, 2003

MARTIN LUTHER KING DAY

January 20, 2003



Car Tax

Legislation adopted by the 1998 General Assembly provided tax relief for passenger cars, motorcycles and pickup or panel trucks having a registered gross weight of less than 7,501 pounds. In order to qualify for the tax break, a vehicle must:

- Be owned by an individual or leased by an individual under a contract requiring the individual to pay personal property tax ("car tax"), and
- Be used less than 50% for business purposes. Motor homes, trailers and farm-use vehicles do not qualify for tax relief.

Legislation adopted in 2002, directs the Department of Taxation, by January of 2003, to carry out several tasks with the cooperation of the Department of Motor Vehicles, Department of Accounts, local commissioners of the revenue and treasurers. ***The goal is to correctly identify which vehicles are eligible for personal property tax relief based on a number of factors, primarily personal or business use.***

In order to accomplish the goal of correctly **identifying** which vehicles are eligible for personal property tax relief, DMV is taking the following steps:

- An insert describing the eligibility for tax relief will be included with vehicle registration renewals beginning with the January invitations. This will serve as an educational document;
- **The renewal application has been revised to include check off boxes for personal and business use;**
- The title application has been revised to include the eligibility description and check off boxes for business or personal use;
- DMV's computer system has been modified to accept and record the checked indicator for vehicle use. It is planned that this will be a mandatory field in order for the titling transaction to be processed;
- The on-line dealer vendors will be instructed in these requirements.

You should have received a letter from DMV dated December 4 concerning this topic. (see the article entitled "VSA-17A Form Revised" on the next page)

If you have any questions, please call DMV at 367-0538 or email commish@dmv.state.va.us.

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 13, 2003
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, January 13, 2003
Time: Immediately following Dealer Practices
Licensing Committee Meeting

Monday, January 13, 2003
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, January 13, 2003
Time: Immediately following Advertising
Transaction Recovery Fund Committee Meeting

Monday, January 13, 2003
Time: 10:30 a.m.
Full Board Meeting

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

BOARD ACTIONS

No Dealer-Operator. It was discovered that a Northern Virginia dealer did not have a properly licensed dealer-operator. The Board staff gave the dealer verbal and written instructions and warnings as to a time frame for installing a licensed dealer-operator. A qualified dealer-operator was not hired until more than two months after the deadline for getting a new dealer-operator passed. The Board convened an informal fact finding conference and the hearing officer recommended that a civil penalty be assessed for not having a dealer-operator and for willful disregard for a warning issued by the Board. The Motor Vehicle Dealer Board assessed a civil penalty of \$7,500. The dealer will have 30 days to either pay the penalty or appeal to the appropriate circuit court.

Failing to Maintain Records. This case against Mr. Saleem Khan and Mr. Wasim Warraich and Discovery Motors in Haymarket, started as the result of a random inspection of the dealership. Because of alleged violations of record keeping requirements and failing to comply with a written warning/willful failure to comply with the law, an informal fact-finding conference was convened. Based on the evidence and the hearing officer's recommendation, the Board revoked all licenses issued to the dealer and assessed a \$5,000 civil penalty. The dealer will have 30 days to appeal the Board's decision to a formal hearing.

Failing to Produce a Title. Based on a consumer complaint, a DMV Special Agent conducted an investigation of a Stafford County dealer. The investigation resulted in the dealer being convicted of failing to produce the title of a vehicle within 30 days of the date of sale and the court assessing a \$500 fine on the dealer. This conviction and the circumstances surrounding the conviction, caused the Board to convene an informal fact-finding conference for alleged violations to include deceptive acts or practices, having been convicted of a crime involving the automobile sales business and failure to produce a title within 30 days. Based on the evidence and the hearing officer's recommendation, the Board assessed a \$250 civil penalty. The dealer will have 30 days to either pay the penalty or appeal to the appropriate circuit court.

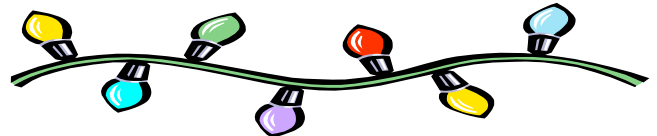
BOARD ACTIONS

(Continued)

Failing to Maintain Records. This case against Mr. Muhammad Saghir and Global Auto Exchange in Haymarket, started as the result of a random inspection of the dealership. Because of alleged violations of record keeping requirements and failing to comply with a written warning/willful failure to comply with the law, an informal fact-finding conference was convened. Based on the evidence and the hearing officer's recommendation, the Board revoked all licenses issued to the dealer and assessed a \$5,000 civil penalty. The dealer will have 30 days to appeal the Board's decision to a formal hearing.

Motor Vehicle Transaction Recovery Fund:

The Motor Vehicle Dealer Board has maintained that the law that defines the Transaction Recovery Fund, did not mandate that attorney fees and court cost were costs that were covered under the Fund. A recent court decision turned that interpretation around. The court ruled that if attorney fees and court costs were included in a judgment, the Fund is obligated to pay those fees. At the November Board meeting the Board decided to pay attorney fees and court costs for two claims that had previously been paid. The total amount for the two cases was \$12,213.

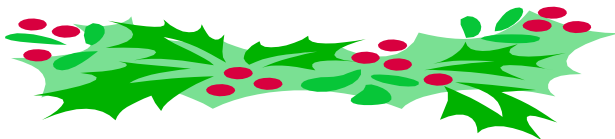


VSA-17A FORM REVISED

The Department of Motor Vehicles recently revised the VSA-17A form. In a letter dated in early December, DMV informs the dealers to order this form from them by faxing their requests to (804) 367-1054. It is expected that by the end of December/early January, the Dealer Board should have these forms in stock and should be able to fill all requests thereafter! As a matter of information, this form may also be found on our website www.mvdb.vipnet.org. Just click the Dealer/Salesperson Info button, then the Forms button and scroll down to find the appropriate form you are looking for.

ADVERTISING TIPS AND REMINDERS

- **Rebates.** Please be careful when advertising manufacturer rebates that are not available to all consumers, but to specific individuals, such as college students, loyal customers, military personnel, etc. Advertisements that include multiple rebates must be clear that not everyone is eligible for all rebates if that is the case. In addition, dealers must not total the manufacturer rebates in the advertisement if customers cannot combine rebates. For example, if a manufacturer offers a \$500 rebate to students buying their first car and a \$500 loyal customer rebate, you cannot advertise a \$1,000 rebate since these two cannot be combined.
- **"Off-List".** Another area of concern is with the term "off-list price". When advertising a discount, the advertisement must include a proper disclosure in the advertisement as to the basis of the discount. Further, when advertising used cars as \$\$\$ off the MSRP, it must be clear that you are comparing the price of a used car to the original new price for that particular car. The advertisement must be clear on this point.
- At the January Advertising Committee meeting, the committee will be reviewing advertisements that state a dealer will beat other dealer's prices or pay the consumer some amount of money. Staff has received "complaints" from consumers that the conditions required in order to receive the promised cash, are impossible to meet.



TASK FORCE UPDATE

At the July 2002 Board meeting, a special task force was created to examine some of the Board's operations, policies and laws including those tied to salesperson licensing, the Transaction Recovery Fund and some of the "internal" workings of the Board such as committee meetings and assignments and setting meeting agendas.

TASK FORCE UPDATE

(Continued)

The first meeting of the Task Force was held on August 28, 2002. The focus of this meeting was on the "internal" workings of the Board. After some discussion, the committee developed a number of suggestions for streamlining Board meetings. These suggestions were outlined in the last issue of "Dealer Talk." All of the suggestions were adopted by the Board at its November meeting.

The second meeting of the Task Force was held directly after the November 12 Dealer Board meeting. At this meeting, the group focused on licensing issues and the Transaction Recovery Fund.

After a lengthy discussion and input from attorneys in attendance, including a representative of the Office of the Attorney General, it was the consensus of the group that one must be an employee of a dealer in order to be a licensed salesperson for that dealer. In order to be an employee, one must receive an IRS Form W-2 from the employer/dealer. In other words, an individual who reports income to the IRS using a Form "1099" is an independent contractor and **NOT** an employee and therefore should not be issued a salesperson's license.

The Task Force will present this recommendation to the Board at the Board's January 13, 2003 meeting. The Board will then vote on whether or not it should adopt this policy and interpretation of the laws. If the Board votes to adopt this policy, staff will develop an implementation plan and a time schedule for compliance will be established.

The Task Force members were not able to come to a clear consensus on any revision to the current policy and definition as to salesperson licensing requirements or changes to the Transaction Recovery Fund.

