

INSURANCE BIRD DOGGING

Are you an unlicensed salesperson and involved in "bird dogging" – *In the insurance industry?* The State Corporation Commission, Bureau of Insurance has asked that we print the following information.

The Bureau of Insurance is responsible for administering and enforcing the insurance laws of this Commonwealth, and over the past several years, they have conducted numerous investigations which have identified automobile dealerships and their sales people who have been transacting the business of insurance without the required license. This problem usually originates when an insurance agent develops a relationship with an automobile dealership or one of its sales people and business is referred back and forth between the two.

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INSURANCE BIRD DOGGING

(Continued)

After a period of time, the dealership employees become more and more comfortable in obtaining the necessary insurance information for the agent or they are unable to reach the agent when trying to close a deal and collect what they believe to be the necessary information to write an application.

This has led to some dealership employees completing insurance applications and collecting premiums on behalf of a licensed insurance agent, and also in some cases, the Bureau has found instances where dealership sales employees bind insurance coverage for the insurance agent even though they are not licensed to do so. Virginia insurance law requires an individual to be licensed and appointed with an insurer if they are going to solicit, negotiate, procure, or effect any insurance in the Commonwealth of Virginia.

The second problem the Bureau has noticed involves sales employees either receiving inducements or kickbacks for submitting business to an insurance agent that is eventually written by the agent. If an insurance agent offers a dealership employee money or something of value for every policy that is referred by the employee and written by the agent, then a violation of Virginia insurance law has occurred. This does not mean that insurance agents, who provide donuts, pizzas, or other sales related items to the dealership as a whole, would be in violation of this statute. The defining line in this case is if the payment is tied to the actual sale of a policy rather than just a referral from the salesperson.

Does all this sound familiar? Please be sure that your employees are aware of the insurance laws.

State Holiday for the Month of February

Our office will be closed on:

February 21, 2000, in observance of:



ACTIONS FROM THE JANUARY BOARD MEETING

- **Motor Vehicle Transaction Recovery Fund:** At the January Board meeting, the Transaction Recovery Fund Committee and the Board considered one new claim filed against a Virginia dealer. After reviewing the situation, the Board voted to approve payment from the fund in the amount of \$15,000. The Dealer will have 30 days to repay the Fund. Failure to repay the Fund will result in license revocation.

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.

SEVEN-DAY LICENSE APPLICATION PROCESS

In January of 1999 the Board established a performance standard that states that we will process "clean" initial applications for a salesperson's license within seven business days of receiving that application.

What is a "clean" application? A "clean" application is one that arrives in the office of the Board's headquarters complete and includes all fees and documents. In addition, when we run the "criminal history" background check through the Department of State Police, the results show that the applicant does not have a criminal history. Licenses for applications that meet these criteria will be mailed to the applicant within seven business days of our receiving the application.

The Board and the staff at the Board are proud to report that from February through December of 1999, the staff processed 99.3% of all "clean" applications within the established performance measure of seven days. In that time period, staff completed nearly 4,000 applications.

GOOD LUCK, ART

Art King, our field representative in Albemarle, Augusta, Green, Highland, Madison, Nelson, Page, Rockingham and Shenandoah Counties and the City of Harrisonburg has left our employ. Art, who had been with us from the very beginning of the creation of the Board, will be missed. We wish Art all the best as he partners with his brother-in-law in an accounting business. We are now in the process of searching for a replacement for Art. In the meantime, if you need help from a field representative from the above areas, please call the Board office.

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, March 13, 2000:

Time: 9:00 a.m.

Dealer Practices Committee Meeting

Monday, March 13, 2000:

Time: 10:00 a.m.

Franchise Law Committee Meeting

Monday, March 13, 2000:

Time: 10:45 a.m.

Licensing Committee Meeting

Monday, March 13, 2000:

Time: 1:30 p.m.

Transaction Recovery Fund Committee Meeting

Monday, March 13, 2000:

Time: 2:15 p.m.

Advertising Committee Meeting

Monday, March 13, 2000

Time: 3:00 p.m.

Personnel Committee Meeting

Tuesday, March 14, 2000:

Time: 8:30 a.m.

Finance Committee Meeting

Tuesday, March 14, 2000:

Time: 9:30 a.m.

Full Board Meeting

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

REMINDERS & USEFUL TIPS

Salesperson Termination of Employment. If a salesperson leaves your dealership for any reason, you must notify the Board Office in writing. You can send your notification by mail (2201 West Broad Street, Suite 104, Richmond, Virginia 23220) or by Fax (804-367-1053) or by E-mail (dboard@mvb.state.va.us). You should also return the salesperson's license to the Board as it is issued to the salesperson in the name of the dealership.

Rebuilt Vehicles. Please keep the following law in mind when selling a "rebuilt" vehicle. Virginia Code Section 46.2-1602 states in part that: "It shall be unlawful for any person [including dealers] to sell a rebuilt vehicle without **first** [emphasis added] having disclosed the fact that the vehicle is a rebuilt vehicle to the buyer in writing on a form prescribed by the Commissioner [of Motor Vehicles]."

This means that if you are selling a "rebuilt" vehicle, you must disclose in writing to the customer, before you actually sell that vehicle, that it is in fact, a "rebuilt" vehicle. The written disclosure must be made on DMV form "LSD 05", Rebuilt Salvage Vehicle Disclosure Statement. These forms are available from the Department of Motor Vehicles.

Download Forms. You can now get many of your dealer and salesperson forms directly from the MVDB Website at <http://mvdb.vipnet.org/home.html>. From the MVDB Website homepage, select the *Dealer/Salesperson* button. From the Dealer/Salesperson homepage, select the *Forms* button, and the list of available forms will appear. Just select the form(s) you need and print. (Adobe Acrobat Reader is required--but that's available free from our website too.) A few forms have been converted in size from vendor cards to 8½ x11 pages. But that's the only difference--nothing else has changed.

Renew For Two. Many dealers are discovering the advantages to the two-year renewal option now being offered by the Board. Since the Board began to offer a two-year renewal, over 20% of all dealers have decided to take advantage of this 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.

CURBSTONING REPORT

Since the last Board meeting held in January, 141 "Curbstoner Notice Forms" have been issued by Dealer Board field representatives and DMV special agents. These forms notify the vehicle owner that they may be in violation of the law. An individual was convicted in court of selling vehicles without being licensed by the Board. The case was initiated by a clerk in the DMV Customer Service Center who noticed that an individual was titling numerous vehicles in his name during a short period of time. The information was forwarded to a DMV Special Agent, who corroborated through DMV records that the individual had sold more than 5 vehicles during the past year. He was charged with selling vehicles without being licensed, and was convicted in his local General District Court, received a \$1,000 fine, which was suspended on the condition that he cease the unlawful activity.

FLOOD VEHICLES UPDATE

In the last issue of Dealer Talk, we reported to you the concern about the sale of flood damaged vehicles to unsuspecting purchasers and the need to make sure that the vehicle titles were properly branded. Since that time, DMV has mailed letters to all the insurance companies and salvage pools in the state outlining the titling procedures they should follow. Although the letter was prompted by the hurricanes which occurred last fall, the instructions clearly articulate that the procedures should be followed for all water damaged vehicles, not just those which sustained damage during the hurricanes. Hopefully, this reminder will result in more accurate DMV records and properly branded titles for all water damaged vehicles in the future. And, you may have seen numerous newspaper articles and TV stories, which were aimed at educating the general public. DMV and the Department of Agriculture and Consumer Affairs both prepared news releases as well. The advertisements of some auctions we have seen recently indicate that the sale of flood damaged vehicles is still continuing at a rapid pace. So, you still need to be cautious. However, DMV or the Board staff have not received any consumer complaints about the purchase of these vehicles thus far and are not aware of any particular problems at this time.

WELCOME NEW DEALERS!

The Motor Vehicle Dealer Board formally welcomes the following new dealers for November & December! 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.

NOVEMBER	
Cooper Corvettes and Performance Cars 18313 Jefferson Davis Highway Triangle, Virginia 22172	Atlantic Coast Cranes & Machinery, Inc. 11351 Virginia Crane Drive Ashland, Virginia 23005
Harley-Davidson Bayside 3403 High Street Portsmouth, Virginia 23707	Troch Auto & Truck Sales 6815 Hull Street Road Richmond, Virginia 23224
Mom & Pops Sales 12885 George Washington Memorial Highway Saluda, Virginia 23149	Martinsville Kia 464 Commonwealth Boulevard Martinsville, Virginia 24112
Rent A Wreck 101 Fleming Street Fredericksburg, Virginia 22408	Highway Motors 547 Richmond Road Staunton, Virginia 24401
Massey's Auto Sales 1309 West Main Street/P.O. Box 2067 Danville, Virginia 24541	Peterbilt of Richmond, Inc. 2800 Deepwater Terminal Road Richmond, Virginia 23234
Shields Auto Salvage Route 2, Box 404H Stuarts Draft, Virginia 24477	Buchanan Auto & Auction 3856 S. Military Highway Chesapeake, Virginia 23321
Manassas Auto Wholesalers 9120 Antique Way Manassas, Virginia 20110	D L Motors, Inc. 7912 Ardmore Road Norfolk, Virginia 23518
T & M Motors, Inc. 9408 Timberlake Road Lynchburg, Virginia 24502	Lafayette Auto Sales 1566 Lafayette Boulevard, NW Roanoke, Virginia 24017

DECEMBER	
Dealers Trade Outlet 241 West Shirley Avenue Warrenton, Virginia 20186	Access Auto Outlet 4601 Jefferson Davis Highway Fredericksburg, Virginia 22408
17 Auto & Truck Sales Route 17 Bypass, Route 1/Box 500 Saluda, Virginia 23149	Charlie Falks Auto 5020 Williamsburg Road Richmond, Virginia 23231
Hall Mitsubishi 3500 Holland Road Virginia Beach, Virginia 23452	Wes & Ty's Auto Sales 95 Nellie Jones Road, Highway 903 Bracey, Virginia 23919

DECEMBER (continued)

Virginia Truck Center, Inc. 3243 Lee Highway Weyers Cave, Virginia 24486	Performance Auto Sales 1120 North Main Street Blacksburg, Virginia 24060
Nelson Fleet Services 4751 Virginia Avenue Collinsville, Virginia 24078	D C Auto Sales 520 Hardy Road Vinton, Virginia 24179
Ugly Duckling Car Sales 5200 Midlothian Turnpike Richmond, Virginia 23225	Ugly Duckling Car Sales 4950 Jefferson Davis Highway Richmond, Virginia 23831
Ugly Duckling Car Sales 2506 Westwood Avenue Richmond, Virginia 23230	Ugly Duckling Car Sales 601 East Washington Street Petersburg, Virginia 23804
Ugly Duckling Car Sales 3517 Mechanicsville Turnpike Richmond, Virginia 23223	Carriage House Auto Sales, Inc. 8505 Euclid Avenue, Unit C Manassas Park, Virginia 20111
Katherine's Korner 10351 Lankford Highway Temperanceville, Virginia 23442	Bedford Ford-Mercury, Inc. 401 E. Main Street, P.O. Box 805 Bedford, Virginia 23523
O & M Auto Sales, Inc. 11703 Nokesville Road Bristow, Virginia 20136	Affordable Auto Sales 16110 Lankford Highway Nelsonia, Virginia 23414
Nick's Auto World 2230 High Street Portsmouth, Virginia 23704	North Beach Motors 414 Virginia Beach Boulevard Virginia Beach, Virginia 23451
Tri City Used Cars 837 Campbell Avenue, SE Roanoke, Virginia 24013	Woody's Auto Sales Route 460 Oakwood, Virginia 24631
Ray Dovel's Auto Sales 6384 East Point Road Elkton, Virginia 22827	Classic Automotive Route 3, Box 740 Cedar Bluff, Virginia 24609
B & E Auto Sales, Inc. 1411 Rock Road Christiansburg, Virginia 24073	Operation Charities, Inc. 3201-C Jefferson Davis Highway Stafford, Virginia 22554
Ace Auto Sales 5421 Brook Road Richmond, Virginia 23227	Good Samaritan Ministries 2307-2317 Hull Street Richmond, Virginia 23224
Deweys Towing & Body Shop Service 609 Chestnut Street Covington, Virginia 24426	Suffolk Auto Body, Inc. 900 Portsmouth Boulevard Suffolk, Virginia 23434
Riverside Auto Sales, Inc. 1417 Carlisle Avenue, SE Roanoke, Virginia 24014	C & S Used Cars & Garage 3317 Mapleton Drive Callands, Virginia 24530
E & W Auto Sales 250 East Main Street Waynesboro, Virginia 22980	

ADVERTISING REGULATIONS

As you may know, Virginia regulations require that motor vehicle dealers must comply with the Federal Truth in Leasing and Truth in Lending Regulations. These regulations were modified as of January 1, 1998. Please use the following guidelines when composing your advertising:

TRUTH IN LEASING

The following information is offered to assist the dealer in complying with the Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.

It is the dealer's responsibility to become familiar with all provisions of the Consumer Leasing Act (Regulation M) and to ensure dealership advertisements are in compliance with these Federal directives.

If one of the following "Trigger Terms" is stated in the ad:

1. amount of any payment
2. a statement of any capitalized cost reduction or other payment required including "0" down or any negative amount before or at consummation or by delivery if delivery takes place after consummation

Then the following required disclosures are needed:

1. the transaction advertised is a lease
2. the total amount due at the beginning of the lease
3. whether or not a security deposit is required
4. the number, amounts and due dates or periods of schedule payments under the lease.

Lease. Total amount of (\$) any payment due at the beginning of the lease. (Number) of payments at (\$) per (Month, week, etc.) Whether or not a Security Deposit is required.

* All Disclosures must be **clear** and **conspicuous**

** The total amount due at the beginning of a lease must either (1) include taxes and state what the taxes are based on and that the taxes may vary by jurisdiction or (2) must exclude taxes and state that fact.

ADVERTISING REGULATIONS

(Continued)

TRUTH IN LENDING

The following information is offered to assist the dealer in complying with the Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.

It is the dealer's responsibility to become familiar with all provisions of the Federal Truth in Lending Act (Regulation Z) and to ensure dealership advertisements are in compliance with these Federal directives.

If one of the following "Trigger Terms" is stated in the ad:

1. amount or percentage of down payment ("0 Down" or "No Money Down" is **not** considered a trigger term)
2. amount of payment
3. number of payments
4. period of repayment
5. amount of finance charge (in dollars)

Then the following required disclosures are needed:

1. amount or percentage of down payment
2. terms of repayment (e.g. number amount and timing of payments)
3. APR

(amount or % down), (# of months) payments at (\$) per (month, week, etc.) at (%) APR.

*APR by itself is **not** considered a trigger term but is a requirement in the disclosure

All Disclosures must be **clear and **conspicuous**

For further information and/or questions: Contact the Federal Trade Commission, 6th & Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-3212

The Motor Vehicle Dealer Board thought it would be helpful if the dealer community and interested parties were familiar with the Committees and their members. Below is that listing:

MOTOR VEHICLE DEALER BOARD COMMITTEES

Dealer Practices Monday, 9:00 – 10:00 a.m.

Karen Radley, Chairperson
Jeff Ottaway, Vice-Chairman
Clyde King
Mike Martin
Rick Hunt
Margo Clarke
Leo Trenor
Max Pearson
Larry Matthews
Pete Iaricci
Tom Barton

Franchise Law Monday, 10:00 – 10:45 a.m.

Tom Barton, Chairman
Max Pearson, Vice-Chairman
Clyde King
Mike Martin
Bobby Joe Dotson
Frank Cowles
Rick Hunt

Licensing Monday, 10:45 a.m. – 12:00 p.m.

Larry Matthews, Chairman
Bennie Cupp, Vice-Chairman
Clyde King
Mike Martin
Karen Radley
Leo Trenor
Bruce Farrell
Jeff Ottaway
Frank Cowles

Transaction Recovery Fund Monday, 1:30 – 2:15 p.m.

Joel Lyles, Chairman
Bobby Joe Dotson, Vice-Chairman
Clyde King
Mike Martin
Bruce Farrell
Margo Clarke
Steve Farmer

Advertising Monday, 2:15 – 3:00 p.m.

Bruce Farrell, Chairman
Pete Iaricci, Vice-Chairman
Mike Martin
Bobby Joe Dotson
Margo Clarke
Max Pearson
Bennie Cupp

Personnel Committee Monday, 3:00 – 3:45 p.m.

Margo Clarke, Chairperson
Leo Trenor, Vice-Chairman
Clyde King
Mike Martin
Steve Farmer
Tom Barton

Finance Tuesday, 8:30 – 9:15 a.m.

Steve Farmer, Chairman
Rick Hunt, Vice-Chairman
Clyde King
Tom Barton
Joel Lyles

Rev: 01/00

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ATTENTION ALL DEALERS:

Inside this issue, please read about the following:

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