

FLOOD DAMAGED VEHICLES

The Motor Vehicle Dealer Board's WEB site has been updated to provide you with quick links that identify North Carolina and Texas flood damaged vehicles. Go to the Board's WEB site (WWW.mvdb.vipnet.org) and "click" on the "Dealer/Salesperson Info." Button. Simply scroll down and you will see two "hot links." The first link will take you to the WEB site of the North Carolina Attorney General's Office. This site can be used to identify vehicles that received "water-damaged" or "flood" titles in North Carolina as a result of Hurricane Floyd.

The second link will take you to the Texas Department of Transportation's WEB site (TxDOT). This site will help you identify vehicles that received "Flood Damaged" titles in Texas or that were reported as flood damaged by insurance companies during the period of June - November 2001. TxDOT relies on insurance companies or vehicle owners to notify them that water or flood has damaged a vehicle.

DEALER TAGS

The last three issues of Dealer Talk have included articles about the employment status of salespersons and the use of dealer-tags. Specifically, only those salespersons who you pay a salary and/or a commission to and receive an IRS Form W-2, are entitled to be issued a dealer tag. You cannot issue a dealer tag to a salesperson who uses IRS Form 1099. Individuals who use these forms are considered "independent contractors" and should not be considered in determining the number of dealer plates you order. In addition, independent contractors may only use dealer tags on a vehicle that is being driven to or from (i) a point of sale, (ii) an auction, (iii) a repair facility for the purpose of mechanical repairs, painting, or installation of parts or accessories, or (iv) a dealer exchange. When an independent contractor drives on dealer tags, he or she must also be issued a "PERMISSION TO USE DEALER'S LICENSE PLATES" form (DSD-27).

Please see the August 2001, October 2001 and December 2001 issues of Dealer Talk for more information. You can also find more information on our WEB site, www.mvb.vipnet.org. Just click on the "Dealer/Salesperson Information" Button and then the "General Notification and Updates" Button and then on "IRS Publication 1779."

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HOLIDAY HOURS

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

Monday
February 18, 2002



 **President's Day** 

CURBSTONING REPORT

Since the last Dealer Board meeting, DMV Special Agents and MVDB field representatives have issued 187 curbstoning notices.

A Special Agent in the Roanoke District contacted the manager of a "Bumper to Bumper" location when he noticed vehicles displayed "for sale" on the property. The Agent advised the manager that such sales activity was in violation of the Dealer Licensing Laws. The location manager assured the Agent the vehicles would be removed. A subsequent check of the property revealed there were no longer any vehicles displayed "for sale". Also, in the Roanoke District, a warrant was obtained for an individual who admitted titling more than 5 vehicles in her name, and then selling them within a 12-month period. A court date is pending.

In Stafford County, an individual was arrested on four counts of unlicensed dealer activity. The individual was buying cars from independent dealers and then reselling them. Of interest is that the individual was formerly licensed as a salesperson. A court date is pending. The investigation also revealed a second individual's involvement, who is operating in the Northern Virginia area. That aspect of the investigation is continuing.

In Prince William County, an individual was charged and convicted of Failure to Obtain a Dealer's License, two counts of Unlawful Possession of a Title, and Petit Larceny. Subsequent to working with store management to clear Manassas Mall's parking lot of curbstoning activity, the Special Agent discovered a stolen Maryland license plate on a vehicle being displayed "for sale".

WHO IS A CURBSTONER?

The *Code of Virginia* states that all motor vehicle dealers must be licensed by the Board. Further, Section 46.2-1500 of the *Code of Virginia* defines a dealer as any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motor vehicles, new and used motor vehicles, or used motor vehicles alone, whether or not the motor vehicles are owned by him; or
2. Is wholly or partly engaged in the business of selling new motor vehicles, new and used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by him; or
3. Offers to sell, sells, displays, or permits the display for sale, of five or more motor vehicles within any twelve consecutive months.

It is the third definition that we usually use to determine if a person is a curbstoner. If an individual sells (or offers to sell) five or more cars in twelve months, by definition they are a dealer and must therefore be licensed by the Board. If they are not licensed by the Board – they are curbstoning or selling vehicles without a license.

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 11, 2002
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, March 11, 2002
Time: 5 Minutes After Dealer Practices
Franchise Law Committee Meeting

Monday, March 11, 2002
Time: 9:30 a.m.
Licensing Committee Meeting

Monday, March 11, 2002
Time: 10:00 a.m.
Advertising Committee Meeting

Monday, March 11, 2002
Time: 5 Minutes After Advertising
Personnel Committee Meeting

Monday, March 11, 2002
Time: 10:30 a.m.
Finance Committee Meeting

Monday, March 11, 2002
Time: 11:00 a.m.
Transaction Recovery Fund Committee Meeting

Monday, March 11, 2002
Time: 1:45 p.m.
Full Board Meeting

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

REMINDERS & USEFUL TIPS

Your Customer's Address The Department of Motor Vehicles (DMV) has asked that we remind you that DMV must have your customer's actual street address when establishing a vehicle title. DMV has modified their computer system to require this address. If the customer's street address is not included on the Application for Title (VSA 17A), the application cannot be processed.

Please remind your title clerks and others in your dealership that handle titling work, that the VSA 17A must include your customer's actual address. If the customer gives you a post office box as their mailing address, be sure that their street address information has been included in the "Residence Address" box in the "Owner Information" section of the Application for Title (the "17A"). If you have questions or concerns regarding this matter, please do not hesitate to contact DMV toll-free at 1-866-368-5463.

Two-Year Renewal We encourage all dealers to renew their licenses for two-years. Not only do you save money – you receive a \$25 discount for renewing for two – you also save time. If you renew for two and close your business with more than one year remaining on your license, we will refund a prorated portion of the dealer tag fees.

Advertising We are noticing a new trend whereby dealers are placing a disclaimer at the *beginning* of their radio advertisements. While there is no prohibition against this practice, the advertisements we have heard using this method could be considered deceptive and misleading if the listener is not able to connect the disclaimer to the advertisement.

In all of the advertisements we have heard using this method, the volume, speed and voice used in the disclaimer bear no relationship to the advertisement. In fact, when this type of disclaimer is heard directly after another advertisement, the listener may believe the disclaimer is attached to the *previous* advertisement.

We advise that you not use this method of radio advertising. If you do use this method, please produce the advertisement in such a way that the disclaimer is clearly attached to the advertisement that follows. Failure to take this precaution, could result in the assessment of a civil penalty of up to \$1,000 each time the advertisement is aired.

ACTIONS FROM THE JANUARY BOARD MEETING

- **Dealer Practices.** In November of 2000, the Board levied a \$250 civil penalty on a dealer in the town of Haymarket for not being opened during his posted hours of business. This civil penalty was assessed after an educational and warning letter was sent to the dealer in August of 1999 for not being opened during his posted business hours. The dealer waived his right to a conference and paid the civil penalty.

In March of 2001, a Board field representative stopped by this dealer during his posted business hours, only to find the dealership closed. The dealer was assessed a \$500 civil penalty for this alleged infraction. This time the dealer requested an informal conference.

An informal conference was held in front of a hearing officer who, after hearing all of the evidence, recommended a \$500 civil penalty. At the January 2002 Board meeting the Board voted to assess a \$500 civil penalty on the dealer for not maintaining his posted business hours.

- **Dealer Practices.** In November of 2000, a Board field representative reported that a dealer in the town of Haymarket was not opened during his posted business hours. The Board sent an educational/warning letter to the dealer. On a subsequent visit to the dealer in June of 2001, it was discovered that he was not opened during his posted business hours. The dealer was assessed a \$250 civil penalty.

The dealer requested an informal conference. After weighing all of the evidence, the hearing officer recommended a \$200 civil penalty. At the January 2002 Board meeting the Board voted to assess a \$200 civil penalty on the dealer for not maintaining his posted business hours.

In both cases, the dealers 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 suspension of the dealer's license.

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	
Hertz Car Sales 3323 North Military Highway Norfolk, Virginia 23518	Macks Body Shop 4704 Portsmouth Boulevard Portsmouth, Virginia 23701
Pops Used Cars Box 478 Glade Spring, Virginia 24340	Bedford Buick, Pontiac, GMC, Inc. 914 Blue Ridge Avenue Bedford, Virginia 24523
Atlantic Auto Sales 10415 Nokesville Road Manassas, Virginia 20110	R & T Motor, LLC 18327 Brandy Road/P.O. Box 82 Brandy Station, Virginia 22714
Frontier Motor Cars 9150 Prince William Street Manassas, Virginia 20110	Razaq Auto Sales & Service 3300 Jefferson Davis Highway Richmond, Virginia 23234
Chesapeake Motorsports Unlimited 1216 B S. Military Highway Chesapeake, Virginia 23320	Premier Motors 4703 South Valley Pike Harrisonburg, Virginia 22801
Hannah One, Inc. 3336 Victory Boulevard Portsmouth, Virginia 23701	Terry's Steelsburg Highway 2685 Steelsburg Highway Cedar Bluff, Virginia 24609
Pleasants Auto Sales 304 West Main Street Mineral, Virginia 23114	CJ's Automotive, Inc. 3360 S. Battlefield Boulevard Chesapeake, Virginia 23322
Rainbow Forest Automotive 1384 Blue Ridge Boulevard Roanoke, Virginia 24012	Affordable Auto 36-A Dixie Drive Salem, Virginia 24153
Street Auction, LLC 1336 Long Street Charlottesville, Virginia 22902	T B Auto Sale 3110 Colvin Street Alexandria, Virginia 22314
Kibler's Garage, Inc. 861 South Main Street Woodstock, Virginia 22664	Midlothian Motor Company 6344 Midlothian Turnpike Richmond, Virginia 23225
Tom Lewis Auto Sales, LLC 3620 Boulevard Colonial Heights, Virginia 23834	

DECEMBER	
Wings Automotive Sales & Service 4247 Blue Ridge Boulevard Blue Ridge, Virginia 24064	Hiway 340 Auto Sales 9706 South East Side Highway Elkton, Virginia 28827
Auto City 15197 Warwick Boulevard Newport News, Virginia 23608	The Car Store, Inc. 18502 Jefferson Davis Highway Triangle, Virginia 22172

DECEMBER (con't)

BMW of Sterling 21826 Pacific Boulevard Sterling, Virginia 20166	Jay Johnson's Stateline Volvo Dodge 2033 W. State Street Bristol, Virginia 24201
Waterlick Motor Company 2674 Waterlick Road Lynchburg, Virginia 24502	C and M Sales 226 E. 7 th Street Front Royal, Virginia 22630
DRS Remarketing, LLC 3343 Jefferson Davis Highway Stafford, Virginia 22554	J P Motors, LLC 7411 Centreville Road Manassas, Virginia 20111
Luxury Auto Rental and Sales 4935 Virginia Beach Boulevard Virginia Beach, Virginia 23462	Commonwealth Auto Outlet 10511 Hull Street Road Midlothian, Virginia 23112
Duncan Hyundai 2050 Roanoke Street Christiansburg, Virginia 24073	Solomon Staples Used Cars 60 Atlas Drive Martinsville, Virginia 24112
Robert Woodall Hyundai Mitsubishi 4750 Riverside Drive Danville, Virginia 24541	Desirable Auto Sales, Inc. 1523 Jeff Davis Highway Richmond, Virginia 23224
Mike's Auto 100 Turner Road Richmond, Virginia 23225	Tabernacle Car Sales 5009 Deep Creek Boulevard Portsmouth, Virginia 23702
Testament Transfer Company, Inc. 805 N. Loudoun Street Winchester, Virginia 22601	Green Light 4601 Jeff Davis Highway Fredericksburg, Virginia 22408
Double A Auto Sales, LLC 5656 Richmond Highway/P.O. Box 215 Millers Tavern, Virginia 23115	Deep Creek Wholesale 3116 South Military Highway Chesapeake, Virginia 23323
Henry County Auto Sales 9467 Virginia Avenue Bassett, Virginia 24055	Ultimate Cycle, Inc. 8321 Midlothian Turnpike Richmond, Virginia 23235
Franklin Muffler & Auto Service Route 7, Box 664 Rocky Mount, Virginia 24151	Car America 7530 Midlothian Turnpike Richmond, Virginia 23225
Autovantage 10412 Warwick Boulevard Newport News, Virginia 23601	G. K. Automotive 280 Lee Highway Verona, Virginia 24482
T M Auto Sales 2832 Kings Highway Colonial Beach, Virginia 22443	Lanexa Motors, Inc. 15440 Pocahontas Trail Lanexa, Virginia 23089
Premier Auto Sales and Service Center 5564 Virginia Beach Boulevard Virginia Beach, Virginia 23462	Auto Imports Motors, LLC 6707 Fayette Street #7 Haymarket, Virginia 20168
Mike Motley's Auto Sales 1002 Riverside Drive Danville, Virginia 24540	Select Imports, LLC 12638 Broad Street Road Richmond, Virginia 23233

ATTENTION ALL DEALERS:

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