

HYBRID VEHICLE ACCESS TO HOV LANES

Since 2000, certain hybrid vehicles have qualified for clean special fuel license plates and thereby gained unrestricted access to HOV lanes in Northern Virginia and Hampton Roads. This exemption from HOV restrictions needs to be fully understood and accurately conveyed to your customers:

This exemption, by Virginia law, will expire no later than July 1, 2006. It is unlikely to be extended. This exemption may expire earlier than July 1, 2006 if Congress, the Virginia General Assembly or the Federal Highway Administration chooses to act before that date.

The Virginia Department of Environmental Quality and the Virginia Department of Motor Vehicles have revised their administrative procedures governing the issuance of the clean special fuel license plate. Only hybrid vehicles that meet the "Super Ultra Low Emission Vehicle" standard can receive a clean special fuel license plate, and those plates are issued for a period of one year only.

It is your responsibility to ensure that your sales staff understand these critical points and convey them accurately to your customers. Please contact me if you have any additional questions.

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AUTHORIZATION TO PURCHASE TEMPORARY TAGS

Effective March 30, 2005, dealer owners and operators will be required to submit the names of all dealership personnel who are authorized to purchase temporary tags for their dealership. Temporary tags will not be sold to any dealership employees that have not been reported to DMV prior to the request to purchase. Dealer owners and operators will automatically be registered as authorized purchasers.

The dealer may designate additional employees as authorized purchasers through the DMV Extranet Dealer Services Renewal application which dealerships currently use to renew their dealer and salesperson license. (See page 3 for information about "E-Transactions".) In addition to the Extranet process, you may add or delete personnel by notifying DMV's Dealer Services Work Center by Mail or fax only, (804) 367-7046, no phone calls.

If you have signed the Memorandum of Understanding (MOU) and have your "fob" which allows you to access the Extranet Dealer Online Renewal to process your renewals, you will be required to sign an addendum to the MOU to be able to add or delete authorized purchasers. If you need the initial application package for this access, you may contact Janet Williams by email at JANET.WILLIAMS@dmv.virginia.gov or by phone at 804-497-7191.

If you have any questions you may contact the DMV Dealer Services Work Center at (804) 367-1833.

BOARD ACTIONS

Dealer Licensing (License Application). Mr. Timothy W. Milloy applied for a salesperson's license and based on his criminal history the MVDB Executive Director denied issuance of a license. Mr. Milloy appealed this decision, and on September 16, 2004, an informal fact finding conference was held. The hearing officer recommended that the application be approved and the Licensing Committee and the full Board agreed with that recommendation

Mr. Donald R. Frick applied for a salesperson's license and based on his criminal history the MVDB Executive Director denied issuance of a license. Mr. Frick appealed this decision, and on February 6, 2004, an informal fact finding conference was held. After reviewing the evidence and the Hearing Officer's report, the Executive Director, as authorized by the Board, denied the application.

Mr. Frick appealed this decision and on August 4, 2004 a formal hearing was held. The hearing officer recommended that the license be issued. However, after reviewing all of the facts, the Licensing Committee and the Board agreed, to deny the license application.

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

On December 4, 2001, a consumer entered into a contract to purchase an automobile from the *Auto Source* in Virginia Beach. The dealer did not produce a title and the consumer attempted to return the car and recoup her down payment. The dealer refused to take the car back and return the down payment. The consumer retained the services of an attorney and was awarded judgment totaling \$9,465. The dealer did not satisfy the judgment so the consumer filed a claim against the Transaction Recovery Fund.

After reviewing the hearing officer's report and evidence, the Board approved payment from the Fund in the amount of \$4,665. (A portion of the court judgment was for punitive damages and the Fund does not pay punitive damages.)

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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@mvdb.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, March 14, 2005
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, March 14, 2005
Time: Immediately following Dealer Practices Licensing Committee Meeting

Monday, March 14, 2005
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, March 14, 2005
Time: Immediately following Advertising Transaction Recovery Fund Committee Meeting

Monday, March 14, 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

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On October 7, 2003, a consumer entered into a contract to purchase an automobile from *Auto Rama* in Roanoke. The dealer did not produce a title and the vehicle required major repairs before it could pass a safety inspection. The dealer had not, as required by law, conducted a safety inspection prior to selling the vehicle to the consumer. The consumer did not receive satisfaction from the dealer, so she sought and received a judgment totaling \$4,197. The dealer did not satisfy the judgment so the consumer filed a claim against the Transaction Recovery Fund.

After reviewing the hearing officer's report and evidence, the Board approved payment from the Fund in the amount of \$3,252. (A portion of the court judgment was for punitive damages and the Fund does not pay punitive damages.)

On March 17, 2003, a consumer in North Carolina entered into a contract to purchase an automobile through eBay from Premier Auto in Virginia Beach. The dealer did not deliver the title as it was being held by another dealer, so the consumer retained the services of a Virginia attorney and sought and received a judgment in court. The total judgment including attorney fees was \$12,463.

After reviewing the hearing officer's report and evidence, the Board approved payment from the Fund in the amount of \$11,285 which was the amount necessary to cover attorney fees, court costs and payment to the dealer holding the title.

DO YOU MISS DEALER TALK?

We produce six issues of Dealer Talk each year and we trust that you find the information included in this newsletter to be helpful. If you rely on receiving Dealer Talk by mail – you are missing out on most of the issues as we only mail one or two issues per year. The other issues are distributed by email. In order to receive your copy by email, you must sign-up for e-mail notification. To do this, simply, go to our WEB site at www.mvdb.virginia.gov and "click" on the "Subscribe to Our E-Mail List" button. Back issues of Dealer Talk can also be found on our WEB site under the "Dealer/Salesperson Info" button. Please note that we do not share your email addresses with anyone else. There is no limit as to how many individuals in your dealership can sign-up and you may sign-up from your dealership or from home. Don't hesitate – sign-up now and you will not miss out on a single issue of Dealer Talk.

If you have any suggestions for improving Dealer Talk or if there is a topic you would like for us to cover, call me at 804-367-1100; ext. 3002 or send me an email (bruce.gould@mvdb.virginia.gov.)

SIGN-UP FOR E-TRANSACTIONS

The Motor Vehicle Dealer Board (MVDB) and the Department of Motor Vehicles (DMV) have partnered to provide FREE on-line license renewal services.

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SIGN-UP FOR E-TRANSACTIONS

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This service provides motor vehicle dealers the opportunity to renew their dealer certificate, salespersons licenses, and license plates via the web for FREE and in REAL-TIME without having to visit our office or mail-in renewal applications. Once you submit your applications over the WEB, your renewal items will be mailed to you within 7 business days of the date of your on-line renewal transaction.

Your renewal information goes directly into your DMV record upon your paid (on-line) licensing renewal fee submission. The DMV on-line renewal system accepts Visa, MasterCard, and Discover.

To get started, simply complete and sign an Extranet Transaction Access Application, and return to DMV. Within a matter of days, DMV will send you a memorandum of understanding (MOU) for signature. After DMV has received your signed MOU, you will be sent a user manual and a security device "fob" (free of charge) to immediately begin accessing your records over the DMV Extranet site.

Dealers who sign-up for this FREE service can also submit a salesperson application ("DSD 7") to the Board via the online system. It will be the quickest and easiest way to submit an original ("new") salesperson's application or transfer application. You will be able to submit your Application for Dealer/Drive-Away/Office Trailer Plates ("DSD 9") using this same system.

So don't wait! Go to the MVDB website at www.mvdb.virginia.gov and click on "On-Line Services" to access an application or contact the Dealer Board Office toll free at (877) 270-0203 X3004 and we'll send you an E-transaction package.

LYNN HOOPER APPOINTED TO THE BOARD

Lynn Hooper of Hooper's Quality Cars 3901 Jefferson Davis Highway in Stafford, VA 22554, was recently appointed by Governor Warner to the Motor Vehicle Dealer Board. Lynn opened his dealership in 1995, four years after retiring from the Army. His son Stephen is a full-time employee of this small volume dealer, where they maintain an inventory of around 20 vehicles and sell approximately 100 a year.

Lynn attended Arkansas State where he was accepted into the Advanced R.O.T.C. Program, and was commissioned as a 2nd Lieutenant in the U.S. Army upon graduation from college in 1962. In January of 1964 Lynn, a helicopter pilot, met his wife LexaLynn, a Red Cross worker in Korea. In 1991, Lynn retired as a Brigadier General and was the fifth person to be inducted in Arkansas State University's "Hall of Heroes." He is one of America's most decorated Vietnam era soldiers with four distinguished Flying Crosses, two Bronze Stars, numerous Air Medals, the Purple Heart, two awards of our nation's third highest decoration for valor: the Silver Star and many more honors.

Lynn is a strong proponent of continuing education and is very proud of his completion of NIADA's Certified Master Dealer Program. Lynn, a member of VIADA since 1995, is a Past President and is currently serving as NIADA Region I Vice President, Chairman NIADA Membership Committee, NIADA Director, Executive Committee Member and NIADA Services Board Member. We welcome Lynn to the Board.

EDUCATIONAL LETTERS

The philosophy of the Board is "education first." Members of the Board believe that education is key to compliance, reducing consumer complaints and the overall health of the motor vehicle dealer industry. Towards this end, the Board adopted the following resolution at its January meeting:

RESOLUTION ON EDUCATIONAL AND WARNING LETTERS JANUARY 10, 2005

The following shall be the policy of the Motor Vehicle Dealer Board ("Board") for sending educational and warning letters to licensees on matters other than advertising and not maintaining business hours.

WHEREAS:

- A. Educational and warning letters to licensees are important tools in educating and advising licensees about the laws that apply to them;
- B. The Board has a procedure for staff issuance of letters for apparent advertising violations and not maintaining business hours; and
- C. The Board wishes to have a procedure for staff issuance of educational and warning letters for matters that do not involve advertising and not maintaining business hours where knowledge and understanding the facts involved may be disputed; now therefore it is hereby

RESOLVED that the Board adopts the following procedure concerning issuance by the staff of educational and warning letters to licensees:

1. The staff has full authority to send educational letters to a licensee provided that the educational letter must contain no findings of fact concerning the alleged actions of the licensee.
2. The staff may issue a warning letter to a licensee, provided that the warning letter is based upon facts and agreed to by the licensee in writing, and the facts justify a warning to the licensee.
3. If the licensee does not agree to facts justifying a warning letter, than an informal fact finding conference shall be convened.
4. Nothing contained in this resolution shall be used to interfere with an investigation by or on behalf of the staff leading to or designed to lead to a charge that will be the subject of an informal fact finding conference or a formal hearing.

NEWS FROM DMV

Recently, you should have received a letter from the Department of Motor Vehicles (DMV) outlining procedures for titling and registering motor vehicles for your customers. The DMV letter also outlined new criteria for the purchase of temporary tags. DMV worked closely with the Motor Vehicle Dealer Board (MVDB), the Virginia Automobile Dealers Association (VADA), and the Virginia Independent Automobile Dealers Association (VIADA) in developing these new procedures and criteria that are effective as of December 15, 2004. If you did not receive the letter from DMV, or if you have questions about the requirements or new procedures, please contact DMV at 1-800-435-5137 or 1-866-DMV-LINE.

On a different topic, effective immediately, for dealership transactions, DMV no longer requires that the "printed" name on the odometer disclosure be hand-printed. DMV now accepts the dealership's computer-generated, typed, or stamped name, as long as it has an original signature.

DEALER LOOK-UP

In the June issue of *Dealer Talk* we announced that we had added a "Dealer Look-Up" feature to our WEB site. In just nine months since the LOOK-UP feature was added to the WEB site, over 10,000 searches have been performed. The look-up gives you three different ways to search for a dealer on our database: 1). By dealer number; 2). By the name of the dealership; or 3). By the owner's name. If you perform the search by dealer number, you will need to know the correct number. A search by dealership name or owner's name can be done even if you do not know the full name. The more information you key into your search, the more precise your search will be.

A new feature has been added to the dealer look-up. The search results now include a list of licensed salespersons for the dealership.

To begin your look-up, go to the Board's WEB site at: www.mvdb.virginia.gov and "click" on the "Dealer Database Search" Button. Key-in the dealer number, or the dealership name, or the owner's name and click on the "Search for Dealer" button at the bottom of the page. You will instantly be given a list of dealers meeting the criteria of your search. "Click" on any of the dealers included in the list and you will see the expiration date of the dealer's Motor Vehicle Dealer Board issued license, the full dealership name and address, the owner's full name and a list of licensed salespersons. If your search is not successful, try keying-in less information.

The database is automatically updated every day with the previous day's recorded information, thereby maintaining the accuracy of the database.

WOODALL CHEVROLET

On January 29, 2005, Robert M. Woodall, Jr., President, Robert Woodall Chevrolet, Inc., and member of the Motor Vehicle Dealer Board, received the 2005 TIME Magazine Quality Dealer Award (TMQDA). The announcement was made by Ed McCarrick, Worldwide Publisher of TIME Magazine and Michael A. Parnell, Vice President, Original Equipment Sales, North American Tire, The Goodyear Tire & Rubber Company, at the National Automobile Dealers Association (NADA) convention in New Orleans. Woodall and other award winners were honored at the opening business meeting of this year's convention, attended by more than 25, 000 individuals involved in the automobile industry.

The TIME Magazine Quality Dealer Award is the automobile industry's most prestigious and highly coveted award for car dealers. TMQDA recipients are among the nation's most successful auto dealers. However they must also demonstrate a long-standing commitment to effective community service. Woodall is one of only 65 automobile dealers, from more than 19,500 nationwide, nominated for the 36th annual award. The award is sponsored by TIME Magazine in association with Goodyear, and in cooperation with NADA.

Born and raised in Danville, Woodall has spent his entire career in the automobile business. He began as a salesperson at a Ford dealership in 1970. "Several years, later, I became a rebuilder, restoring vehicles for resale," said Woodall, who opened an independent dealership in the early 80's, and purchased his Chevrolet franchise in 1985. Since then, Woodall has purchased several franchises in his hometown, becoming the largest dealer in the Danville area.

Woodall and his dealership have given financial support to a wide range of local organizations and causes—more than 20 this year alone. He is a member of the Chamber of Commerce and was named an Honorary Life Member of the Danville Lifesaving Crew, in recognition of his long-term support. He was also appointed to the Motor Vehicle Dealer Board in 2003. "My most rewarding civic achievement is my contribution to the community as a business," Woodall said. "I take pride in building a successful business which employs lots of area residents and provides for them and their families."

Nominated for the annual TMQDA by Donald L. Hall, President and CEO, Virginia Automobile Dealers Association, Woodall lives in Danville. He has three sons and two grandchildren.

Our "congratulations" go out to Dealer Board Member Woodall.

ADVERTISING

Recently the Board staff has seen an increase in dealer advertising and has received questions from dealers concerning promotions that result in the consumer receiving something with the purchase of a motor vehicle. The laws and regulations covering advertising are clear in that a dealer cannot advertise that something is free if the consumer must purchase a vehicle in order to receive the free item.

What is less clear is the definition of a "rebate." "Dealer rebates" are specifically prohibited. Recent advertisements observed by Board staff have included items that could be considered a "rebate" but are "given" to the purchaser as part of the sale. Below, we have categorized these items that have been advertised as being included with the purchase of a motor vehicle. After some discussion, the Board determined that NONE of the following should be considered a "dealer rebate" and is an acceptable form of advertising as long as the dealer does not advertise that the items are free.

- I. Products that are installed by the dealer and that are associated with the vehicle being purchased. Example: "Bed liner included with the purchase of every pick-up truck."
- II. Products that have no connection to the vehicle being purchased. Example: Buy a car and receive a television, a toaster, a trip, etc.
- III. Coupons and gift certificates/cards that can be used like cash at other merchants. The coupons and gift cards have no cash value. Examples include: Purchase a car and receive a \$500 gift certificate for gasoline at a particular gas station; or for a particular department store or for a restaurant, etc.
- IV. Dealer pays for something for the purchaser sometime in the future. Examples include: Purchase a car and the dealer will pay your first three loan payments; or your insurance or your personal property tax. NOTE: the payment must go directly to the lender, insurance company or locality from the dealer. The dealer MAY NOT simply send a check to the purchaser in an amount equal to the loan payment, insurance or tax bill.

Again, all of the above are allowed, provided that the advertisement does not indicate that this item is free.

The Committee also discussed the prohibition of a dealer offering a "guaranteed minimum trade-in allowance." An advertisement that indicates a trade-in value "up to" some amount, is acceptable as long as the consumer is not left with the impression that there is a guaranteed trade-in value.

SUGGESTIONS FROM DMV

The Department of Motor Vehicles (DMV) asked that we pass along to the dealer community the following suggestions that will assist you in completing transactions with that agency:

- **Submitting Work in a Timely Manner:** **Dealers should submit title work in a timely manner to expedite the titling process and better serve customers. This will ensure customers receive their license plates and registration prior to the expiration of their temporary tags.** *Code of Virginia Reference: 42.2-630.*
- **Submitting Reassignment Forms:** When filling out a dealer reassignment form (*VAD20*), ensure all fields have been completed. Empty fields lead to delays in processing. The dealer number must be present and the lien holder's name and address must be filled in, if applicable.
- **Alterations:** When correcting titles or reassignment forms (*VAD20*), due to errors such as an incorrect name, or a signature in the wrong place, a signed statement on the dealer's letterhead must be attached to the titling documents explaining the alteration and why it was made.
- **Dealer Windows:** For convenience, a Dealer Window is provided in all Customer Service Centers. We encourage dealers to drop off work at the Dealer Window. When the work is completed and ready for pickup, the DMV staff will call the dealer and notify them of the correct amount due.
- **Power of Attorney:** When the *Power of Attorney for Owner When Registering and/or Transferring Ownership of a Motor Vehicle Form (VAD 70A)*, grants power of attorney to a dealership's authorized representative, please ensure that the representative signs his or her name, and not the dealership name.
- **Federal ID Numbers:** When processing titles for companies that are registering a vehicle in the company name, DMV requires the company to provide proof of the company's Federal ID Number. Dealers should ensure the Federal ID number accompanies the titling documents to avoid unnecessary delays in processing.