



DEALER TALK

February 2008

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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.

Motor Vehicle Dealer Board Mission Statement

The Motor Vehicle Dealer Board will administer sections of the Commonwealth's Motor Vehicle Dealer Laws and regulations as charged; while providing a high level of customer service for the automotive consumer and dealer community.

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Legislative Update

With the support of Governor Kaine, the Motor Vehicle Dealer Board initiated legislation to combat “Curbstoning”. As you know, curbstoning is the practice of individuals buying and selling motor vehicles for profit without first being licensed. It also encompasses the situation where shopping center and other locations such as residences are regularly used to display “for sale” motor vehicles.

The Motor Vehicle Dealer Board worked very closely with the Virginia Independent Automobile Dealers Association (VIADA), the Virginia Automobile Dealers Association (VADA) and the Office of the Attorney General in crafting the legislative proposal.

The proposal became HB 492 and Delegate Kristen Amundson from Mount Vernon in Fairfax County gladly agreed to be the patron of the bill. The good news is that the bill was approved by the House of Delegates by a vote of 98 - 0! The bill now, moves on to the Senate where we hope it will meet with the same success. We urge you to contact your state senator and ask them to support HB 492. The bill will be taken up by the Senate sometime after Wednesday, February 13. It would also be great if you contacted your delegate and Delegate Amundson to thank them for their support. The best way to contact any member of the General Assembly and/or determine who represents you, is to go the General Assembly’s WEB site at <http://legis.state.va.us/>.

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Calendar of Events

**All Meetings held at DMV
Headquarters
2300 W. Broad Street, Room
702 Richmond, VA**

Monday, March 10, 2008

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, March 10, 2008

Time: Immediately following

Dealer Practices

Licensing Committee Meeting

Monday, March 10, 2008

Time: 9:30 a.m.

Advertising Committee Meeting

Monday, March 10, 2008

Time: Immediately following

Advertising

Transaction Recovery Fund

Committee Meeting

Monday, March 10, 2008

Time: 10:00 a.m.

Full Board Meeting

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

Legislative Update

(Continued from page 1)

HB 492 addresses curbstoning and unauthorized motor vehicle display/sales locations by:

- Limiting to five, the number of motor vehicles that may be displayed from a location. The bill provides exceptions for legitimate reasons for parking “for sale” vehicles such as employees, paid parking, doing business at the location, etc.
- Property owners may give written permission for up to five vehicles per year to be displayed “for sale” on their property. Further - to be displayed for sale - the vehicle must be titled in the name of the seller or an immediate member of the sellers' family.
- Lastly, the proposal gives law enforcement, zoning officials and property owners the authority to have towed, any vehicle that has been displayed “for sale” for more than 48 hours after a notice has been posted on the “for sale” vehicle. (Only “for sale” vehicles that do not meet the “legitimate” criteria as stated in the bill can be towed.)

HOLIDAYS HOURS

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

Monday
February 19, 2007



 President's Day 

Board Actions

Far Southwest Area Dealer: The Board's executive director assessed a \$250 civil penalty on this dealer for not maintaining posted business hours. Prior to assessing the penalty Board staff had sent this dealer several educational/warning letters for this same problem. The dealer paid the civil penalty in April of 2007. A field representative attempted to conduct a random inspection of this dealer in July of 2007, and again the dealer was closed. Per the authority of the Board, the executive director levied a \$500 civil penalty on the dealer. The dealer appealed this decision and an informal fact-finding conference was convened. The hearing officer recommended that the dealer be assessed a civil penalty of \$500. Since a Board field representative had not been able to conduct an inspection due to the dealer not being open, the hearing officer also recommended that the Board consider license suspension for a period of two weeks or until such time during this period when a complete inspection of the dealership's records may be conducted and that they are found to be in compliance.

The Board voted to assess a \$500 civil penalty and mandate that the dealer complete the dealer-operator course.

Danville Area Dealer: The United States District Court of Appeals awarded a purchaser of a motor vehicle from this dealer, compensatory damages, but not punitive damages. An informal fact-finding conference was conducted to determine if the Board should take additional action against the dealership and the salesperson who was involved in this particular sale. The hearing officer recommended that the dealership and the salesperson each be assessed a civil penalty of \$500.

The dealer attended the Board meeting and answered questions posed by Board members. The Board then voted not to take any further action on the dealer or the salesperson.

Southwest Area Dealer: In April of 2007, this dealer received an educational/warning letter for not being opened during its posted business hours. On August 26, a field representative attempted to perform an inspection, only to find that the dealer was again not opened during his posted business hours. The executive director assessed a \$250 civil penalty on this dealer for this second infraction. The owner of the dealership appealed the assessment of a civil penalty and an informal fact-finding conference was convened. Based on the information provided at the conference, the hearing officer recommended that no civil penalty be assessed; however, the hearing officer did suggest that the owner be required to attend the dealer-operator course.

The Board agreed with the hearing officer's recommendation to include mandating that the owner successfully complete the dealer-operator course.

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Northern Virginia One Percent Initial Registration Fee

In the last issue of Dealer Talk there was an article concerning additional registration fees effective January 1, 2008 that would apply to vehicles garaged in Northern Virginia. The **“Initial 1% Registration Fee”** is a one-time fee based on the same figure that is used to calculate the three percent state motor vehicle sales and use tax (SUT). This figure includes any processing fee that a dealer charges. In other words, when determining both the 3% sales and use tax and the 1% initial registration fee, the basis for the calculation must include the processing fee.

As there has been some confusion on this issue, dealers will have until March 1 to make adjustments to their systems that calculate fees. The “on-line” dealer systems will begin calculating the 1% fee on the sale price plus the processing fee on March 1, 2008.

As a reminder, the Initial 1% fee must be listed separately on the buyer’s order and may not be combined with the 3% sales and use tax. The 1% fee should be labeled as either “NVTVA 1% Initial Vehicle Registration Fee” or simply “NVTVA 1% Fee”.

The localities encompassed in the NVTVA include the counties of Arlington, Fairfax, Loudoun, and Prince William, the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park and the towns of Clifton, Dumfries, Hamilton, Haymarket, Herndon, Hillsborough, Leesburg, Lovettsville, Middleburg, Occoquan, Purcellville, Quantico, Round Hill and Vienna.

Board Actions

(Continued from page 3)

Haymarket Area Dealer: In May of 2007, an informal fact-finding conference was conducted for this dealer to address numerous, alleged violations of the Dealer Laws including failure to maintain dealer records; failure to maintain posted business hours; advertising; compensating an unlicensed salesperson; and failure to comply with the Dealer Laws subsequent to receipt of a written warning from the Board. Based on the information provided at the conference, the hearing officer recommended, and the executive director agreed, that the dealer be assessed a civil penalty of \$1,000 and that all licenses and certificates issued to the dealer by the Board be revoked. The dealer appealed this decision and requested a formal hearing. On October 25, 2007, a formal hearing was conducted. Based on the information provided at the formal hearing, the hearing officer recommended that a civil penalty of \$1,000 be assessed and that all licenses issued by the Board to Mr. Khan, be revoked. At its January Board meeting, the Board voted to accept the hearing officer’s recommendation.

Winchester Area Dealer: The Board received information from two former employees that this dealer employed unlicensed sales staff. Upon visiting the dealership, the field representative observed an unlicensed individual engaged in negotiations with a consumer. Given the evidence, the Board convened an informal fact-finding conference for alleged multiple violations of VA Code Section 46.2-1537 (Allowing the sale of vehicles by an unlicensed individual and also compensating them). Based on the information provided at the conference, the hearing officer recommended that a civil penalty of \$2,300 be assessed.

The Board voted to impose a \$2,000 civil penalty.

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

At the September Board meeting, the Board approved payment from the fund in the amount of \$2,114.73 to a consumer who had been awarded a judgment against Mr. Altaf Shah and the Sprots Car Center and Public Auto Auction, an out of business dealer that was located in Manassas. The Board held in abeyance, payment of attorney’s fees pending a ruling from the Court. In November, the court awarded attorneys fees n the amount of \$12,496.50. The Board approved this amount

A consumer was awarded a judgment of fraud in connection with the purchase of a motor vehicle form Shirley’s Auto Sales in Lyndhurst, Virginia. The dealer did not pay the judgment, so therefore, the consumer sought relief from the TRF. The Board voted to award the consumer a \$7,058 payment from the Fund.

In the third TRF request, a consumer was awarded judgment of fraud against Amanullah Abbasi of Nations Auto Group. The Board had revoked this dealer’s license in June of 2007. The Board voted to pay the consumer \$5,538.00 from the Fund. There are six additional claims against this dealer that are pending.

Dealer-Operator Course

The Virginia Community College System and the Virginia Independent Automobile Dealers Association (VIADA) have teamed up to present a two-day Dealer-Operator course. The following is a list of up-coming classes. The list is regularly updated on our WEB site at <http://www.mvdb.virginia.gov/licensingprocess.htm>.

2008

February 19 & 20 - Piedmont Community College, Charlottesville
Contact: Maggie Myers; 434-961-5495; www.pvcc.edu

March 4 & 5 - Virginia Western Community College, Roanoke
Contact: Anne Koon; 540-767-6131; www.virginiawestern.edu

March 12 & 13 - Central Virginia Community College, Lynchburg
Contact: Twila DeMasters; 434-832-7607; www.cvcc.vccs.edu

March 18 & 19 - Germanna Community College, Fredericksburg
Contact: Susan Brown; 540-891-3012; www.germannac.edu

April 1 & 2 - Patrick Henry Community College, Rocky Mount Campus
Contact: Kay Pagans; 540-483-0179; www.ph.vccs.edu

April 15 & 16 - Blue Ridge Community College, Weyers Cave
Contact: Lisa or Sandy; 540-453-2215; www.brcc.edu

May 6 & 7 - Thomas Nelson Community College, Newport News
Contact: Registration; 757-825-2937 or 2935; www.tncc.edu

May 13 & 14 Southwest Virginia Community College, Richlands
Contact: Edna Sizemore; 276-964-7369; www.sw.edu

May 20 & 21 - Danville Community College, Danville
Contact: Melissa Cross; 434-797-6437; www.dcc.vccs.edu/workforce

June 3 & 4 - Germanna Community College, Fredericksburg
Contact: Susan Brown; 540-891-3012; www.gcc.vccs.edu/workforce

June 10 & 11 - Rappahannock Community College, Glens
Contact: Susan Lawson; 804-758-6750; www.rcc.vccs.edu

June 17 & 18 - Community College Workforce Alliance at J. Sargeant Reynolds - Community College, North Run Campus, Henrico, County Contact: Sandy Jones; 804-523-2292 www.ccwa.vccs.edu

July 8 & 9 - Tidewater Community College, Norfolk
Contact: Registration; 757-822-1234; www.tcc.edu/wd

July 22 & 23 - Lord Fairfax Community College, Middletown
Contact: Registration; 540-868-7021; www.lfccworkforce.com