

2201 W. 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@mvdv.virginia.gov
Website: www.mvdb.virginia.gov
Bruce Gould, Executive Director
Peggy Bailey, Office Manager
Frank McCormick, Field Rep. Supervisor

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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RICHARD HOLCOMB APPOINTED DMV COMMISSIONER

Last month, Governor Robert F. McDonnell appointed Richard (Rick) Holcomb as the Commissioner of the Department of Motor Vehicles. If the name sounds familiar to you, it is because Mr. Holcomb served as DMV Commissioner from 1994 through 2002. As DMV Commissioner, Mr. Holcomb will serve as chair of the Motor Vehicle Dealer Board. Commissioner Holcomb offers the following message to the motor vehicle dealer community:

First, I am delighted to be back at the Department of Motor Vehicles (DMV). There was no prouder time in my career than serving as DMV Commissioner between 1994 and 2002, under former Governors Allen and Gilmore. And, one of my proudest accomplishments was the creation of the Dealer Board where professional automobile dealers would self-regulate their industry.

I look forward to working with you and strengthening the partnerships between DMV and the dealer community. Many of you already use our online dealer services and print on demand temporary tags. Both services aim to save you time and money, while providing added conveniences for you and your customers.

DMV will continue to look for convenient, cost-saving programs and services to benefit you and better assist you in serving your customers. I welcome any ideas and suggestions on how DMV can improve your dealer experience, and I look forward to our continued partnership.

*Richard D. Holcomb
DMV Commissioner*



Calendar of Events

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

Monday, March 8, 2010

Time: 9:00 a.m.

Dealer Practices Committee Meeting

Monday, March 8, 2010

Time: Immediately following

Dealer Practices

Licensing Committee Meeting

Monday, March 8, 2010

Time: Immediately following

Licensing

Advertising Committee Meeting

Monday, March 8, 2010

Time: Immediately following

Advertising

Transaction Recovery Fund

Committee Meeting

Monday, March 8, 2010

Time: 10:00 a.m.

Full Board Meeting

NOTE: Meetings may begin later,
but not earlier than
scheduled.

BOARD ACTIONS

Bradley A. Kaufman and Custom Auto Sales, Inc. (Informal fact Finding Conference) This dealer failed inspections in March and June of 2009. In April of 2009 Mr. Kaufman was convicted of improper use of dealer tags and operating an improperly registered vehicle. The failed inspections and conviction lead to an informal fact-finding conference that was conducted on October 20, 2009 to address the alleged violation(s) of VA Code Sections 46.2-1510 (failure to have an established place of business), 46.2-1515 (failure to display current dealer certificate), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1532 (odometer disclosure), 46.2-1533 (failure to maintain posted business hours), 46.2-1547 (failure to maintain liability insurance), 46.2-1548 (dealer plate records required), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1575(2) (failure to comply subsequent to receipt of a written warning), (9) (having been convicted of any criminal act involving the business of selling vehicles and (18) (failure to maintain automobile liability insurance). Based on the information provided to the Board members, the Board voted to assess civil penalties totaling \$1,000 and to suspend all licenses and certificates issued by the Board to Mr. Kaufman until what time he had a satisfactory inspection.

Jeffrey S. Jennings and Jennings Automotive, LLC. (Informal fact Finding Conference) Staff received a complaint from the West Virginia DMV that a salesperson from this dealership was selling vehicles from her home in West Virginia. An August 2008 inspection and a September 2009 inspection did reveal problems in the use of dealer tags and record keeping. Several other inspections over the years were satisfactory. The September inspection also revealed that this dealer licensed 13 individuals who lived in areas outside of Staunton, including W.VA, MD, DE and DC. On December 16, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1510 (failure to have an established place of business), 46.2-1518 (display of salesperson's licenses), 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1537 (failure to have salespersons properly licensed), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1674 (failure to be responsible for the acts of the dealers salespersons) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning). Based on the information provided to the Board members, the Board voted to require that Mr. Jennings successfully complete the dealer-operator course by March 31, 2010. Failure to do so will result in the immediate suspension of all licenses and certificates issued by the Board to Mr. Jennings.

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HOLIDAYS HOURS

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

Monday
February 15, 2010



HELPFUL TIPS AND REMINDERS

Driving Test: A dealer may allow an individual taking the skills (road) test at DMV to use a vehicle in the dealer's inventory with a dealer tag provided that:

- The individual is a bona fide "prospective purchaser".
- A licensed salesperson accompanies the individual to DMV and in the presence of the DMV employee conducting the skills (road) test, completes a DSD 27 ("permission to drive") form for the individual taking the test. This is necessary as the salesperson will not be allowed to be in the vehicle during the test.
- The vehicle must have a valid state inspection sticker; the dealer tag must be properly secured to the vehicle and the salesperson must have in his/her possession, the registration card for the dealer tag.

Please be aware that should the individual be involved in an accident, you and your insurance company will be the responsible.

BOARD ACTIONS

(Continued from page 2)

John W. Hawk and Auto Wholesalers of Orange. (Formal Hearing)

In July of 2002 Mr. Hawk paid a \$3,000 civil penalty and in March of 2004, a \$200 civil penalty for compensating an unlicensed individual in connection of the sale of a motor vehicle. There were at least eight failed attempts to inspect this dealership between September 2005 and April 2008 either because the dealership was closed or there was no one at the dealership who had knowledge of where records were kept. Also, several alleged violations were detected during other inspections. The most flagrant alleged violation was not having all of his dealer tags insured. Of the 60 tags issued to Mr. Hawk, seven carried insurance. On June 9, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1515 (failure to display current dealer certificate), 46.2-1516 (Supplemental sales location), 46.2-1529 (Failure to maintain all dealer required records), 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-1547 (failure to have liability insurance on his dealer plates), 46.2-1548/1550 (improper use of or permitting the improper use dealer's license plates) 46.2-1559 (Records to be kept by dealers; inspection), 46.2-1574 (failure to be responsible for the acts of the dealers salespersons) and 46.2-1575(2) (failure to comply subsequent to receipt of a written warning/willful failure to comply), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), (7) (Knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive) and (18) (failure to maintain automobile liability insurance). At the July 13, 2009 Dealer Board Committee and Full Board Meeting, the Committee adopted a resolution to assess a civil penalty of \$9,500 for violations of the above said Code Sections. Also, the Board revoked the dealer's license. On July 20, 2009, Mr. Hawk appealed and requested a formal hearing. On October 6, 2009, a formal hearing was conducted to address the above alleged violation(s). Based on the information provided to the Board members at its January meeting the Board voted to assess a \$6,000 civil penalty; mandated that Mr. Hawk must refund to customers any and all processing fees collected by this dealer and/or his salespersons as this dealer does not charge a processing fee; and successfully complete the dealer-operator course. In addition, Board staff will conduct a re-inspection of this dealership. A failed inspection and/or failure to refund processing fees as noted and/or failure to successfully complete the course by March 31, 2010 will result in a suspension of all licenses and certificates issued to Mr. John W. Hawk by the Board.

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ADVERTISING TIP

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.

Also, when advertising the price of a vehicle, and that price includes all rebates and incentives, the disclaimer cannot simply state something like “prices include all rebates and incentives”. Each rebate or incentive must be listed either in the body of the advertisement or in the disclaimer.

BOARD ACTIONS

(Continued from page 3)

Mr. Eugene L. Helmick is the listed owner and a licensed salesperson at Virginia Auto Brokers in Mechanicsville. **Mr. Eugene B. Helmick**, is a corporate officer and licensed salesperson at Virginia Auto Brokers. **Mr. Michael W. Helmick**, is the listed dealer-operator and a licensed salesperson at Virginia Auto Brokers. **Ms. Diane M. Acree** is a licensed salesperson at Virginia Auto Brokers. Separate informal fact finding conferences were held for these four individuals. All four had plead guilty to and were convicted of a felony in Federal Court for submitting false tax returns for the tax years 2002 through 2006. The informal fact finding held for each of these individuals was conducted to address the alleged violation(s) of VA Code Sections 46.2-1575 (4) defrauding any other person in the conduct of the licensee’s business; (6) having used deceptive acts or practices; (8) having been convicted any fraudulent act in connection with the business of selling vehicles and (13) having been convicted of a felony. After much discussion, the Board determined that these individuals had taken bad advice from their book keeper; have paid all of their fines and back taxes; and have taken measures to address the problems they had with the IRS. Given all this the Board determined that no further action was necessary.

PoD UPDATE 3-VENDORS

The Print on Demand (PoD) temporary tag program is well underway in Virginia. Dealers now have the ability to print temporary tags on demand from their printers. DMV has partnered with three vendors that offer software that allows dealers to electronically produce and print temporary tags for customers.

At the end of January, more than 100 dealers were approved to use PoD and 201 PoD temporary tags had been issued.

To learn more about PoD temporary tags and their benefits or to view a sample tag, visit www.dmv.virginia.gov/webdoc/commercial/dealer/pod_intro.asp.

For PoD service information, contact on of these vendors:

CVR
Scott O’Laughlin
solaughlin@cvrreg.com
(919) 753-8008

Virginia Interactive
Kirk Whiting
kwhiting@virginiainteractive.org
(804) 786-3795

triVIN
Mike Audette
maudette@trivininc.com
(860) 448-3177 ext. 4645

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>.

IMPORTANT NOTICE TO ALL PROSPECTIVE DEALERS

The dealer-operator of any new independent motor vehicle dealership is required to successfully complete a course of study before they will be allowed to take the independent dealer-operator qualification test at any DMV Customer Service Center. "Grandfathered" dealer-operators, title clerks and salespersons are encouraged to take the course as well.

Course Schedule

2010

February 16 & 17 – Northern Virginia Community College, Reston

Contact: Claire Wynn; 703-450-2551; www.nvcc.edu/loudoun/continuing

February 23 & 24 - Paul D. Camp Community College, Franklin

Contact: Renee Brown; 757-569-6050, www.pdc.edu/workforce-development

March 9 & 10 - Lord Fairfax Community College, Middletown

Contact: Registration; 540-868-7021; www.lfccworkforce.com

March 23 & 24 - 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

April 6 & 7 - Blue Ridge Community College, Weyers Cave

Contact: Lisa or Sandy; 540-453-2215; www.brcc.edu

April 20 & 21 - Virginia Western Community College, Roanoke

Contact: Tina Trudeau; 540-857-6676; www.virginiawestern.edu

May 4 & 5 – Thomas Nelson Community College, Hampton

Contact: WTCE Customer Service; 757-825-2937; www.tncc.edu

May 19 & 19 - Germanna Community College, Fredericksburg

Contact: Susan Brown; 540-891-3012; www.gcc.vccs.edu/workforce

June 8 & 9 - Danville Community College, Danville

Contact: Melissa Cross; 434-797-6437; www.dcc.vccs.edu/workforce

June 22 & 23 – Northern Virginia Community College, Reston

Contact: Claire Wynn; 703-450-2551; www.nvcc.edu/loudoun/continuing

Registration materials and information are available from each of the Community Colleges' WEB site or by calling the individual college.

The cost is \$325 if you register at least two weeks prior to the date of the course. The fee is \$375 after that date.