

Hybrid Gasoline/Electric Vehicles and HOV Use

Virginia law currently allows for vehicles that utilize clean special fuel to use high occupancy vehicle (HOV) lanes without being subject to occupancy requirements **when registered with clean special fuel license plates**. Determinations as to which vehicles qualify for clean special fuel plates are made on a case-by-case basis by the Virginia Department of Environmental Quality through the Virginia Department of Motor Vehicles (DMV).

Hybrid gasoline/electric vehicles like the Honda Insight, the Toyota Prius and the new Honda Civic Hybrid qualify for clean special fuel plates. **But in order to use HOV lanes without having to meet the occupancy requirements, these hybrid gasoline/electric vehicles must be registered with clean special fuel license plates.** This exemption from the HOV occupancy requirements is currently valid until July 1, 2004. Please make sure you are fully aware of these provisions of the law so that you will be able to provide this information to your customers who wish to purchase these vehicles.

When a dealer titles a Honda Insight, a Honda Civic Hybrid or a Toyota Prius, fuel type code "B" must be used as the vehicle fuel type indicator. Accurate fuel type coding is required in order for the vehicle to be registered with clean special fuel license plates.

Clean special fuel license plates are available to qualifying vehicles from DMV for \$10 per year in addition to the prescribed registration fee. A personalized number up to six digits long, when available, can be added for an additional \$10 per year. These plates may be purchased at any DMV Customer Service Center or from any dealer that sells the Honda Insight, the Honda Civic Hybrid or the Toyota Prius.

If you have any further questions about clean special fuel license plates, please contact DMV's Customer Contact Center by telephone at 1-800-435-5137 or by e-mail at questions@dmv.state.va.us.

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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 dates:

Thursday & Friday
July 4 & 5, 2002



4th of July Holiday

HELPFUL TIPS AND REMINDERS

“Rent to Own” We have received reports that some dealers are starting-up a “rent to own” program fashioned after the “rent to own” furniture, appliance and electronics concept.

Before you implement such a program, please keep the following in mind:

- You must be licensed by the Department of Motor Vehicles to rent motor vehicles.
- The “rent to own” must be two separate transactions.
- While in the “rent” cycle, you must have a rental agreement with the consumer, the vehicle must display “rental” tags (license plates) and you must submit rental tax to the Department of Motor Vehicles.
- When the consumer enters the “own” cycle, you must complete a sales transaction just as you would any sale. For instance, a buyers order must be completed, sales and use tax paid, title transfer, new tags and registration, and a new safety inspection. Again – this transaction must be treated like any other sales transaction.

If you have questions about obtaining a rental license, rental tags and payment of rental tax, please contact the Department of Motor Vehicles (DMV) at (804) 367-6805 or (804) 367-4324. Information can also be found at DMV’s WEB site (www.dmv.state.va.us/) and “clicking” on “Rental Tax” under “Commercial Services.”

Special Sales Events We are aware there are marketing firms that are able to bring a complete special sales event package to your dealership. Some of these packages include sales staff. Please be aware that even these salespersons must be licensed in Virginia to sell motor vehicles. If you compensate an unlicensed individual, you could be assessed a civil penalty of up to \$1,000 for each occurrence.

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, July 15, 2002

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, July 15, 2002

Time: 5 Minutes After Dealer Practices

Franchise Law Committee Meeting

Monday, July 15, 2002

Time: 9:30 a.m.

Licensing Committee Meeting

Monday, July 15, 2002

Time: 10:00 a.m.

Advertising Committee Meeting

Monday, July 15, 2002

Time: 5 Minutes After Advertising

Personnel Committee Meeting

Monday, July 15, 2002

Time: 10:30 a.m.

Finance Committee Meeting

Monday, July 15, 2002

Time: 11:00 a.m.

Transaction Recovery Fund Committee Meeting

Monday, July 15, 2002

Time: 1:45 p.m.

Full Board Meeting

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

BOARD ACTIONS

Dealer Practices. Based on a consumer complaint and an investigation by Board staff, an informal fact finding conference was convened for an Arlington area dealer. It was alleged and then proven that the dealer was aware of the "salvage and repair" history of the vehicle and did not disclose this information to the customer despite the customer asking about these items. These actions or lack of disclosure are covered under several Virginia laws including defrauding a retail buyer to the buyers' damage (§46.2-1575.4), a deceptive act and practice (§46.2-1575.6) and knowingly advertising untrue, deceptive or misleading information (§46.2-1575.7). Based on the hearing officer's recommendation, the Board levied a civil penalty in the amount of \$1,000 on the dealer.

The dealer 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.

Dealer Practices. After receiving at least two reports from a field representative that a Fredericksburg area dealer was not opened during its posted, scheduled hours, the Board staff levied a \$250 civil penalty on this dealership. (The dealer received an educational/warning letter after the first occurrence) The civil penalty was paid in November of 2001. In January of 2002, the Board received a report from a field representative that the dealership was one again not opened during their posted business hours. The Board staff levied a \$500 civil penalty on this dealership. The owner requested an informal conference in front of a hearing officer.

After hearing all of the evidence, the hearing officer recommended a \$500 civil penalty be assessed against the dealer. At the May 2002 Board meeting, the Board considered all of the evidence and the hearing officer's recommendation and voted to assess a \$500 civil penalty on the dealer for not maintaining his posted business hours.

The dealer 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.

BOARD ACTIONS

(Con't)

Dealer Practices. As a result of continuous alleged violations of the record keeping requirements, an informal fact finding conference was convened for a Richmond area dealer. Based on the recommendation of a hearing officer, the executive director issued an order of revocation, however, the order was "stayed" pending an educational meeting with the dealer and a follow-up inspection. The follow-up inspection was not satisfactory, so the "stay" was lifted and the dealer's license was revoked. The dealer appealed the revocation and a formal hearing was conducted. The hearing officer recommended that the dealer's license be suspended for 14 days and that a \$500 civil penalty be assessed. The Board agreed with the hearing officer's recommendation.

The dealer will have 33 days to either pay the civil penalty and surrender his license or appeal the Board's decision to circuit court.

Dealer Advertising. Advertising: A Chesapeake area dealer was found to be in violation of the "Truth in Lending" regulations and was assessed a \$500 civil penalty. The dealer had received an educational telephone call from Board staff after the first incident and a letter after the second. The third incident resulted in the Board convening an informal fact finding conference with a hearing officer. The hearing officer recommended a \$500 civil penalty.

The dealer 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.

Motor Vehicle Transaction Recovery Fund:

At the May Board meeting, the Transaction Recovery Fund Committee and the Board considered three new claims filed against the same Virginia dealer. After reviewing the three cases, the Board voted to approve payment from the fund for all three claims totaling \$43,400. The Dealer (who is now closed) will have 30 days to repay the Fund.

CURBSTONING REPORT

Since we have established a full-time curbstoning enforcement position, the curbstoning report has grown to the point that it is not practical to publish the entire report in this newsletter. We will print a summary of all curbstoning related court convictions. The full report will be posted on our WEB site (www.mvdb.vipnet.org) and accessed by "clicking" on Special Reports.

Since the last Dealer Board meeting, DMV Special Agents and MVDB representatives have issued 216 curbstone notices.

In Waynesboro, an individual was charged and convicted of: 1) Failing to title a vehicle within 30 days, 2) Unlawful possession of a title, and 3) Selling vehicles without being properly licensed. He was fined \$7,500, with \$7,000 suspended, and given two years of unsupervised probation.

In Prince William County, a MVDB representative observed two vehicles parked on VDOT property displaying the same contact phone number and license plates. The license plates were not registered to either vehicle. He referred the information to a DMV Special Agent for further investigation. The Agent located another "for sale" vehicle nearby, displaying the same phone number and also an improper license plate. When the Agent – posing as a prospective purchaser – called the phone number, a male agreed to have someone meet him. The individual's wife arrived with the keys and open titles to both vehicles. She was charged with two counts of unlawful possession of a title, and one count of improper registration. On May 9, she pled guilty to the two title violations, and received a \$500 fine on each.

In Manassas, a Special Agent observed a vehicle parked at a local business where he had frequently seen other vehicles displayed "for sale." When contacted, the seller produced an open title, and stated he was selling the car for someone else. He also said the vehicle had a dealer plate on it when he bought it. The individual was charged with, and pled guilty to, unlawful possession of a title, and received a \$500 fine.

CURBSTONING REPORT

(Con't)

The Agent continued the investigation by interviewing the individual who provided the vehicle to the first seller. He would not disclose where he bought the car. The owner listed on the face of the title indicated she donated it to a church. The church sold the vehicle to an independent dealer for \$1,000. The dealer then sold the car to the next individual for \$1,500, without reassigning the title. That person made some repairs to the car, and told the final seller that he could keep anything over \$3,000. Charges are pending against the other two sellers.

Also in Manassas, a Special Agent observed two vehicles displayed "for sale" at a gas station. One vehicle had no license plates on it, and the other a plate registered to yet another vehicle. The Agent contacted the seller (also the gas station owner), who initially purported to be a dealer. The seller produced vehicle titles with open reassignments from a local independent dealer. He stated he also had another car for sale on the lot that he was selling for a friend, again with an open title. The individual later recanted his statement, saying that he, in fact, did not have a dealer license and was just trying to learn the business. He said the dealer he was working with accompanied him to a local auction to buy cars. He was charged with: 1) Selling vehicles without being properly licensed, 2) Unlawful possession of a title, and 3) Improper registration. On May 9, he pled guilty to "curbstoning" and received a \$2,500 fine, with \$1,000 suspended. The individual intends to make application for his dealer license.

In Loudoun County, a shopping center manager had been allowing vehicles to be displayed "for sale" for several years. Despite receiving written and oral warnings from the MVDB, the manager refused to post signs prohibiting this activity. After Special Agent Gilbertson further explained the importance of his cooperation and issued a final warning prior to pursuing criminal charges, the manager posted appropriate signs. The signs have been successful in deterring further sales activity, as observed by Gilbertson's recent visit to the location.

Special Agent Gilbertson attended VIADA Chapter meetings in Roanoke, Lynchburg, and Coeburn.

Siemens Automotive to Expand

Governor Warner recently announced that Siemens VDO Automotive will expand its production facility in the City of Newport News. The expansion is a result of the consolidation and relocation of three business activities in Michigan, Indiana and Connecticut

On January 1, 2002, Siemens Automotive Corp. and VDO North America merged to form Siemens VDO Automotive Corp. in the United States. Siemens VDO Automotive is a supplier of automotive electronic/electrical systems and components with applications covering gasoline and diesel powertrain systems, safety and chassis systems and body electronics. Worldwide sales reflecting partial fiscal year 2000/2001 totaled \$5 billion. Additional information can be found on the company's web site at www.usa.siemensvdo.com.



NEW DEALERS

The listing of "new dealers" can be found at our WEB site (www.mvdb.vipnet.org) and accessed by "clicking" on Special Reports.



POPULAR FORM NOW ON THE DEALER BOARD WEBSITE

How many times have you called or written in for the form DSD-27, only to hear they're on back order? Well say no more, this form is now on the Board's website.

Simply type www.mvdb.vipnet.org, then hit the Dealer/Salesperson Info button and then the Forms button. The forms are listed in alphabetical order. In order to access all our forms, you must have Adobe Acrobat Reader. We have a link at the bottom of the forms page to download this software, free of charge.



JULY BOARD MEETING DATE CHANGE

Please note that the July Board meeting will be the third Monday, rather than the second Monday. The new date is July 15, 2002. Please see page 2 of this newsletter for more information.

"BIRD DOGGING"

Virginia law is very clear: Only licensed salespeople may receive compensation in the connection of a sale of a motor vehicle. Specifically, § 46.2-1537 of the Code of Virginia states:

"It shall be unlawful for any motor vehicle dealer or salesperson licensed under this chapter, directly or indirectly, to solicit the sale of a motor vehicle through a pecuniarily [financially] interested person, or to pay, or cause to be paid, any commission or compensation in any form whatsoever to any person in connection with the sale of a motor vehicle, unless the person is duly licensed as a salesperson employed by the dealer."

You could be assessed a civil penalty of up to \$1,000 for each time you compensate or pay anyone, other than one of your licensed salespeople, in connection with the sale of a motor vehicle. This prohibition includes, but is not limited to, compensating customers, Internet companies and others who refer customers to you and this referral leads to a sale.

If an internet or any other company is merely advertising your vehicles and you are paying a "set" fee, regardless of the vehicle being sold or not sold, there should not be a problem. Problems begin when compensation is being made in connection with the sale of a vehicle or when payment is made when the vehicle is sold.



BENNIE CUP: WE WILL MISS YOU

Dealer Board member Bennie Cupp recently and reluctantly, submitted his resignation. The law setting up the Board states that one of the independent dealers appointed to the Board must be "primarily engaged in the motor vehicle salvage business." Bennie has held that position since November of 1999. Recently, Bennie sold his salvage auto parts business. He continues to own and operate Cupps Auto Sales in Harrisonburg. Since he is no longer in the salvage business, he does not meet the statutory requirements, and therefore believed that he must resign. Bennie stated that he thought "It would be in the best interest of the Board that someone in the salvage business be on the Board."

In his nearly three years of service to the Board and the Commonwealth, Bennie never missed a Dealer Board meeting. He will be missed.

ATTENTION ALL DEALERS:

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