

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@mvdb.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.

In This Issue

Spot Delivery Legislation.	. pg 1
Board Actions pg 2
Helpful Tips & Reminders	. pg 4
Print On Demand 30-Day Tags pg 5
Criminal History Checks	. pg 6
Do You Miss Dealer Talk?	. pg 7
Dealer Operator Course	. pg 8

SPOT DELIVERY LEGISLATION

The Virginia General Assembly adopted [House Bill 1687](#). The Governor signed this bill into law that clarifies responsibilities and rights of both the dealer and the consumer in the case of a conditional sale. (Also known as “spot delivery”)

House Bill 1687 (Effective July 1, 2009) states that if a dealer or consumer cancels a sale as allowed by law, or the contract; the dealer is entitled to take back the vehicle provided that:

- Application for a title (VSA 17A) has not been submitted to DMV. (Dealers have 30 days from the date of the contract to submit this application.)
- The dealer has notified the consumer verbally or in writing that financing was not approved and therefore, they must return the vehicle within 24 hours.
- The dealer returns the consumer's trade-in and down payment upon return of the vehicle.

If the vehicle is not returned to the dealer within 24 hours, the dealer has the right to regain possession of the vehicle if done without a breach of the peace. Since ownership of the vehicle was not finalized, the dealer is not required to follow the “repossession” process.

Once the vehicle is returned to the dealer in the same condition it left the dealership (except for normal wear and tear) the dealer must return the consumer's trade-in and down payment. Taking advantage of this process will require the dealer to retain the consumer's trade-in until such time as financing has been approved and the sale is finalized.

The bill also includes a revised notice (statement) that must be included on the buyer's order that **replaces** the existing required notice concerning dealer arranged financing. Dealers will have until July 1, 2010 to revise their buyer's order to remove the current language and replace it with the new notice. It is recommended that dealers update their buyer's order as quickly as possible.

Remember, dealers must send a copy of their buyer's order to the Motor Vehicle Dealer Board anytime it is modified.

Please see page 4 for the revised notice language.

(Continued on page 4)



Calendar of Events

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

Monday, July 13, 2009

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, July 13, 2009

Time: Immediately following

Dealer Practices

Licensing Committee Meeting

Monday, July 13, 2009

Time: 9:30 a.m.

Advertising Committee Meeting

Monday, July 13, 2009

Time: Immediately following

Advertising

Transaction Recovery Fund

Committee Meeting

Monday, July 13, 2009

Time: 10:00 a.m.

Full Board Meeting

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

BOARD ACTIONS

Ryan K. Eskandari. Mr. Eskandari is a licensed salesperson at Auto Gallery of Woodbridge. This dealership is owned by his brother, and his father is a dealer in the District of Columbia. Ryan Eskandari allowed his father to take a 30 day tag from Auto Gallery to use on a vehicle that was sold from his father's dealership in DC. On March 24, 2009, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles). The Board voted to assess a civil penalty of \$500.00.

Joseph T. Byrum. Mr. Byrum is the former owner of Heritage Chrysler Dodge in South Hill, Virginia. The dealership is now closed and has been and continues to be the subject in civil actions initiated by consumers who have had titling and registration problems after purchasing motor vehicles from Heritage. Mr. Byrum is now seeking to open an independent dealership at the site of the former Heritage dealership. An informal fact-finding conference was conducted on April 15, 2009.

The Board voted to approve his application provided that Mr. Byrum provides the Board's executive director with satisfactory evidence that all of his customers have received titles; he has forwarded to DMV all fees collected on behalf of his customers; that he successfully completes the dealer-operator course and that he pays a \$250 civil penalty.

(Continued on page 3)

HOLIDAYS HOURS

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

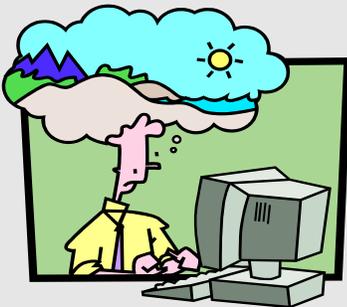
**FRIDAY
JULY 3, 2009**



FOR INDEPENDENCE DAY!

AND

**MONDAY
SEPTEMBER 7, 2009**



FOR LABOR DAY!

BOARD ACTIONS

(Continued from page 2)

Benjamin C. Waters. On June 3, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-722 (altered or forged license plates or decals, use as evidence of knowledge, in the case 30 day tags) and 46.2-1575(2) (failure to comply with the law after receiving a written warning), (6) (having used deceptive acts or practices) and (13) (having been convicted of a felony). These allegations were tied to Mr. Waters' employment as a salesperson at Checkered Flag of Front Royal. At the September 8, 2008 Board Meeting, the Board adopted a resolution to assess a civil penalty of \$500 for violations of the above said Code Sections and all licenses and certificates issued by the Board to Mr. Benjamin C. Waters be revoked. On January 22, 2009, Mr. Waters faxed his appeal for a formal hearing. On February 11, 2009, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the conference, the Board voted to assess a civil penalty of \$500 on Mr. Waters.

Wafi S. Akbary. On September 9, 2008, an informal fact-finding conference was conducted to address the alleged violation(s) of VA Code Sections 46.2-1575(2) (failure to comply with the law after receiving a written warning), (4) (defrauding any retail buyer, to the buyer's damage, or any other person in the conduct of the licensee's or registrant's business) and (6) (having used deceptive acts or practices). These allegations were tied to Mr. Akbary's employment as a salesperson at Sequoia Auto Mart in Stafford. (Closed in January of 2008.) At the November 10, 2008 Dealer Board Meeting, the Board adopted a resolution to assess a civil penalty of \$1,000 for violations of the above listed Code Sections and all licenses and certificates issued by the Board to Mr. Wafi S. Akbary be revoked. On December 12, 2008, Mr. Akbary faxed his appeal for a formal hearing. On March 10, 2009 the formal hearing was convened and Mr. Akbary paid the \$1,000 civil penalty. The Board voted to deny Mr. Akbary's application to transfer his salesperson's license.

Helpful Tips and Reminders

Holidays. Dealers are required to be opened during their posted business hours. (These are the same hours you have registered with the Board.) Recognizing that occasionally a dealer may need to close on a day when he/she is scheduled to be opened, dealers may notify the Board office by letter, FAX or email when they are going to be closed. There is no need to inform our office when you close on official Commonwealth of Virginia Holidays. Any Holiday our office is closed is an official state holiday. These dates are listed on page 3 of this newsletter.

Warranty. If a dealer purchases a new vehicle from a franchise dealer and that dealer is not authorized to sell that particular line-make, the purchasing dealer must title the vehicle in the name of the dealership and sell that vehicle as a "used" vehicle. (The purchasing dealer will only be required to pay a \$10 titling fee.) As a reminder, please confirm with the dealer you bought the vehicle from that the factory warranty is in place. It is our understanding that the selling dealer must notify the manufacturer that the vehicle was sold. That is the start of the "in-service" date for warranty purposes. If the selling dealer fails to inform the manufacture that the vehicle was sold - the manufacturer may not honor the warranty.

(Continued on page 5)

SPOT DELIVERY LEGISLATION

(Continued from page 1)

The notice below must be printed on the buyers order in bold type no less than 10-point typeface. The notice below replaces the current required notice and may be used beginning July 1, 2009, but must be used after July 1, 2010.

"IF YOU ARE FINANCING THIS VEHICLE PLEASE READ THIS NOTICE YOU ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS TO TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED THE DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK. IF THE DEALER DOES NOT RETURN YOUR DOWN PAYMENT AND ANY TRADE-IN WHEN THE DEALER GETS THE VEHICLE BACK IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR, THE DEALER MAY BE LIABLE TO YOU UNDER THE VIRGINIA CONSUMER PROTECTION ACT."

Helpful Tips and Reminders

(Continued from page 4)

Keep the Dealer Board Informed.

The motor vehicle sales industry has been one of the hardest hit industries during the current world-wide economic slump. In the past six months, the number of Virginia licensed dealers has shrunk by 2.3% and the number of salespersons has shrunk by nearly 10%. Please keep the Motor Vehicle Dealer Board informed of changes in the status of your dealership and salespersons so that we may keep our records up-to-date.

New Guidelines for Titling and “Plating” Vehicles.

We have developed a new set of guidelines that will be particularly helpful in those situations when the dealer is not able to secure a title within 30 days after the sale. When a dealer has agreed to title and register a vehicle for customers, the dealer must pay all of the required fees and apply for a title with DMV within 30 days of the sale, even if the dealer does not have the existing title.

The Guidelines are posted on our WEB site. If you go to www.mvdb.virginia.gov -- click on the last item in the “What’s Hot” box. The guidelines can also be accessed from the “Dealer and Salesperson” section of our WEB site. Click on this link: [Guidelines to Issue Subsequent Temporary and Metal Plates \(PDF\) | \(Word\)](#).

PRINT ON DEMAND 30-DAY TAGS

The Department of Motor Vehicles (DMV) is gradually phasing out all cardboard license plates. At the time this article is being written, it is anticipated that sometime around July 15, Print-on Demand (PoD) for 30-day temporary tags will debut. The best way to receive up-to-date information concerning implementation of this exciting DMV initiative, is to sign-up for the Dealer Board’s email distribution list by going to our WEB site at www.mvdb.virginia.gov and from the Home page under “What’s New”, “click” on “Subscribe to Our E-Mail List”.

With PoD, dealers will issue temporary tags electronically, reporting vehicle information to include the year, make, model, color(s) and vehicle identification number to DMV. In addition the dealer will also report owner information to include name, address, customer number, date the vehicle was sold and indicate that the vehicle is to be titled in Virginia, or in another state. There will be three vendors from which to choose for this service.

Once PoD goes live, any dealer opening an initial or new location will no longer be able to purchase 30-day tags from DMV or the Motor Vehicle Dealer Board. PoD will be the only way new dealers will be able to produce and issue a 30-day temporary tag. In addition, all existing dealers will be able to voluntarily sign-up for PoD. It is anticipated that within a year or so after implementation, DMV will completely phase-out the cardboard 30-day temporary tag and any dealer who wishes to continue to issue 30-day temporary tags will need to sign-up for PoD.

Here is how PoD works: Using the dealer’s computer, any employee authorized by the dealer will enter the required information into the system. (The dealer types-in the VIN number and the system will bring back the year, make, model and color.) The system will send information back to the dealership to include a unique temporary tag number and expiration date. A temporary tag will then print on white 8 ½” x 11” paper on the dealer’s printer. The temporary registration card will also print on the same sheet, and will need to be cut off for the customer to place in the vehicle. The only security feature will be the tag number itself, which can be inquired upon.

(Continued to page 6)

Criminal History Checks

A few months ago, you should have received a mailing from *ScreeningOne* concerning a new initiative that will save you time and money when hiring a new salesperson. *ScreeningOne* is the vendor used by the Motor Vehicle Dealer Board to check the criminal history of new salesperson applicants. With this new initiative, you will be able to run nationwide criminal background checks on not only your new salesperson applicants, but applicants for any position in your organization. You could even run periodic criminal backgrounds of any and all of your employees. The cost -- just \$8.50 for each criminal background you run.

Once you have signed up for this service, you can run a nationwide criminal background, sex offender and OFAC check before you send the salesperson application to the Board. We will be able to view the criminal background check that you ordered and if there are no problems - we will proceed to license your new salesperson. For additional information please contact Paul Craddock at *ScreeningOne* toll free at 1-888-327-6511; ext 109 or pcraddock@ScreeningOne.com.

PRINT ON DEMAND 30-DAY TAGS

(Continued from page 5)

The temporary tag the dealer printed will be attached to the vehicle (front and rear) via a plastic sleeve system (provided at no additional cost by DMV). Information provided by the dealer, and the expiration date will be stored in a file, indexed with the tag number by DMV and accessible to law enforcement agencies through the current VCIN application. This information, including the model year, Make, Model, color, and VIN of the vehicle and the selling dealer's name will appear on the tags themselves.

The dealer may reprint the tag with no limitation other than if it is already expired, to provide replacement or file copies. If necessary, a second or third set of tags can be printed. These may be faxed to customers who may be a large distance away from the dealer when the temp tag expires. The dealer may also void any tag, and if on the same calendar day as issued, will not be charged a fee. The system will accumulate the number of temporary tags issued to each dealer on a monthly basis (tags voided after the first day will be included). At the end of each month a bill will be generated to the dealer. Each set of tags will carry the same price as dealers are paying today: \$2.00 per set.

As mentioned above, dealers will also be able to apply for second or third sets of temporary tags provided the vehicle is either to be titled and registered out-of-state, or for vehicles to be titled and registered in Virginia, you must submit an application form to DMV and pay all applicable state title, registration and sales and use tax fees. Metal plates may be issued at that time, eliminating the need for further temporary tags.

(Continued to page 7)

DO YOU MISS DEALER TALK?

We produce six issues of Dealer Talk each year. 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 from the Home page under "What's Hot" and then "click" on "Subscribe to Our E-Mail List". Back issues of Dealer Talk can also be found on our WEB site under the heading "Dealer and Salesperson".

Dealer Tags. In order to be assigned a dealer tag, a salesperson must be an employee of the dealership and regularly work 25 hours per week for the dealership and be compensated for that work.

PRINT ON DEMAND 30-DAY TAGS

(Continued from page 6)

Dealers will be able to, "cancel" a plate if the sale was conditional and later cancelled. If cancelled, and DMV notified, the dealer will be able to request a new temporary tag for the vehicle if it is sold at a later date.

Benefits are:

- No special equipment or printer will be needed to use Print-on Demand. Any PC or Mac and any printer will work as long as you have an internet connection.
- No increase in cost. The cost of a set of 30-day tags will continue to be \$2.
- No need to track temporary plates or keep a formal log/listing of plates as the system will do this for you.
- No need to order or securely stock temporary tags.
- Ability to print a motorcycle size temporary tag. (Motorcycle dealers will be able to print a standard size plate)
- Ability for the dealership to add their own logo to temporary tags. (The vendor will charge an additional fee for this option.)
- Real-time update to DMV's records.
- Tested and passed extreme weather conditions of Arizona, Florida and Montana.

INSURANCE REQUIREMENTS

You must have automobile liability insurance or a certificate of self-insurance for each dealer plate you are issued. We are finding that many dealers are underinsured or in some cases have allowed their policies to lapse altogether. An underinsured dealer would be one that has underreported the number of dealer tags they have been issued. In one extreme case, we discovered a dealer with over 60 dealer tags and an insurance policy for seven plates. Being underinsured or allowing an insurance policy to lapse could result in a revocation of your dealer's license and/or immediate confiscation of your dealer tags.

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>.

2009

June 9 & 10 – Northern Virginia Community College, Reston

Contact: Claire Wynn; 703-450-2551 or 2552; www.nvcc.edu/loudoun/continuing

June 23 & 24 - Patrick Henry Community College, Martinsville Campus

Contact: Tisha McMillion; 276-656-0354; www.ph.vccs.edu

July 7 & 8 - Community College Workforce Alliance at J. Sargeant Reynolds -

Community College, North Run Campus, Henrico, County Contact: Sandy or Lisa; 804-523-2292; www.ccwa.vccs.edu

July 21 & 22 - Lord Fairfax Community College, Middletown

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

August 4 & 5 - Virginia Western Community College, Roanoke

Contact: Anne Koon; 540-767-6131; www.virginiawestern.edu

August 18 & 19 - Blue Ridge Community College, Weyers Cave

Contact: Registration; 540-453-2215; www.brcc.edu

September 7 & 8 - Germanna Community College, Fredericksburg

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

October 6 & 7 - Community College Workforce Alliance at J. Sargeant Reynolds -

Community College, North Run Campus, Henrico, County Contact: Sandy or Lisa; 804-523-2292; www.ccwa.vccs.edu

October 20 & 21 – New River Community College, Dublin

Contact: Patricia Ryan and Kathy Ridpath at 540-674-3633; <http://www2.nr.edu/admissions/>

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

The cost is \$300 and must be submitted by check or credit card, payable to the college, and submitted with the registration.