

# TRUTH IN LENDING

Please remember that if, in an advertisement, you state both the interest rate ("APR") **and** the number of payments, you must then include a full disclosure under the Federal Truth in Lending Laws. The APR stated by itself is fine. When the number of payments are included, you must then include the full disclosure.

By statute, Virginia incorporates into its laws, the Federal Truth in Lending/Leasing Regulations. In other words, when it comes to Truth in Lending/Leasing, Virginia Law and Federal Regulations are the same. The only difference is that violations of Virginia Laws carry a civil penalty of up to \$1,000 per occurrence while the Federal Regulations carry penalties exceeding \$10,000 for each occurrence. It is our understanding that the Federal Trade Commission

# CAR TAX

Governor Gilmore's historic no car tax plan was enacted by the 1998 General Assembly. Phased in over a five-year period, the personal property tax for qualifying vehicles will be eliminated for taxpayers on the first \$20,000 of their vehicle's value.

Dealers play an integral part in ensuring that your customers receive the tax relief due them because the titling and registration information you supply to the Department of Motor Vehicles (DMV) is used by local government officials to identify which vehicles qualify for tax relief. Therefore, it is important to ensure that:

1. the bill of sale, title application, and registration form include the correct name of your customer(s),
2. the title application and registration form for a leased vehicle show the leasing company, not the lessee, as the owner,
3. all DMV paperwork shows the correct gross vehicle weight, and
4. the garage jurisdiction shown on DMV paperwork is actually the county, city, or town in which the vehicle will be garaged rather than the city or town included in the mailing address.

Through a combined partnership of businesses, localities, and the Commonwealth, we can provide real tax relief to all taxpayers who own qualifying vehicles. If you have questions, please call DMV's Customer Service Desk for Personal Property Tax Relief at (804) 356-6476.

## INSIDE THIS ISSUE:

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(FTC) is currently involved in at least one "Truth in Lending" situation involving a Virginia dealer.

## REMI NDERS & USEFUL TI PS

**Power of Attorney.** Please note that the VSA 70 ("Power of Attorney") cannot be used to disclose mileage (odometer readings) as it does not conform with the requirements of the Federal Truth in Mileage law. Therefore, the VSA 70 should only be used in instances where no mileage disclosure is required. Only the VAD 70A, "Secure Power of Attorney", meets the Federal Truth in Mileage law. Of course, the title itself is a secure document and may always be used to disclose mileage.

**Correspondence.** Help us help you by including your "dealer number", your name, the dealership name, street and mailing address (if different) and telephone number on all correspondence you send to us. Having this information helps us provide faster service to you.

**Advertising.** One of the most common errors made in dealer advertising is omitting the "sale end date". Whenever you advertise a "sale", you must indicate a sale end date.

**Internet.** Many dealers are now using the internet to sell their products. This maybe through on-line classified advertisement or your own WEB page. In either case, please remember that advertising laws and regulations apply to all types of advertising, including these done over the internet.

**Check Your Renewal Packages.** When you receive your license renewal package from the Board, please check it carefully. Be sure that there is a preprinted application card in the package for each and every salesperson in your employ. Check especially for salespeople you have recently hired. If you are missing any applications, contact the Board right away. Also, remind your sales staff to carefully read and answer every question on the application.

**Do You Own More Than One Dealership?** If you do, you may want to consider shifting your license renewal dates so that all of your dealership licenses are renewed in the same month. In addition, you may want the renewal

## 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

Monday, November 16, 1998:  
Place: DMV Headquarters  
Time: 9:00 a.m.  
Transaction Recovery Fund Committee Meeting

Monday, November 16, 1998:  
Place: DMV Headquarters  
Time: 10:00 a.m.  
Licensing Committee Meeting

Monday, November 16, 1998:  
Place: DMV Headquarters  
Time: 1:00 p.m.  
Dealer Practices Committee Meeting

Monday, November 16, 1998:  
Place: DMV Headquarters  
Time: 3:00 p.m.  
Advertising Committee Meeting

Tuesday, November 17, 1998  
Place: DMV Headquarters  
Time: 8:30 a.m.  
Finance Committee Meeting

Tuesday, November 17, 1998  
Place: DMV Headquarters  
Time: 9:00 a.m.  
Franchise Law Committee Meeting

Tuesday, November 17, 1998  
Place: DMV Headquarters  
Time: 9:30 a.m.  
Full Board Meeting

## ACTIONS:

- At its September meeting, the Board considered six claims against the Motor Vehicle Dealer Transaction Recovery Fund. After reviewing each claim, the Board voted to pay five of the claims and deny one. Dealers who are the subjects of these claims will be given 30 days to pay the consumer. If the dealer fails to pay the consumer, then payment will be made from the Fund. Once that is done, the dealer will have 30 more days to repay the Fund. Failure to repay the Fund will result in license revocation.
- Advertising Violations: During the months of July and August, Board staff issued 24 first violation "educational/warning letters". One "second violation" letter was sent. Second violations are subject to a \$500 civil penalty. These numbers are considerably lower than in previous months, which may indicate that our educational efforts are paying-off, thereby leveling the advertising playing field.
- Civil penalties were assessed by the Board against five dealers who employed, in a sales capacity, individuals that were not licensed as salespersons. Penalties ranged from \$200 to \$5,000 depending on the severity and previous violation history of the dealer.
- Also, at the September Board meeting, all licenses issued by the Board to a dealer were revoked. The dealer willfully failed to comply with the Motor Vehicle Dealer Laws subsequent to receiving a written warning from the Board and for leasing, renting, lending or otherwise allowing the use of a dealer's license plate by persons not specifically authorized to do so).
- At the July Board Meeting, a dealer was assessed a civil penalty for selling vehicles from a location other than from their licensed location. This dealer has since asked for an administrative hearing.

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## ACTIONS:

*(Continued from previous column)*

- Two of the dealers who were assessed a civil penalty at the July Board meeting for allowing an unlicensed individual to sell vehicles for that dealer, have requested an administrative hearing. A third dealer has paid the assessed civil penalty.
- A dealer who had his license revoked at the July Board meeting for selling/renting his temporary tags/dealer tags has requested an administrative hearing.

**Editors Note:** Dealers have the option of "appealing" any of the above Dealer Board decisions by requesting a hearing in front of a hearing officer.

## GUILTY OF CURBSTONING

We are often under the impression that judges and law enforcement officials do not take the crime of curbstoning very seriously. About a year ago an Amherst man was found guilty of "curbstoning". As you probably know, curbstoning is the practice of selling, motor vehicles without a license. A DMV investigator working with the local sheriff's office gathered the evidence for this successful prosecution. The curbstoner pleaded guilty to selling seven cars although authorities believed he had sold at least 33 automobiles over a three-year period. The curbstoner was fined \$2,500 and 12 months in jail, all of which was suspended.

This case is clear evidence that working with local law enforcement officials, judges will take the crime of curbstoning seriously.

## " NEW" ADVERTISING REGULATIONS

Article 9 of the Motor Vehicle Dealer Laws (Title 46.2 of the Code of Virginia) address "dealer advertising." In order to clarify these laws, the Board has adopted a set of Regulations known as the "Motor Vehicle Dealer Advertising Practices and Enforcement Regulations." (Virginia Administrative Code 24 VAC 22-30-10 et. Seq.) The Regulations clarify some of the laws, which are rather general by setting out specifics. The regulations also provide a comprehensive document on motor vehicle advertising.

Based on comments received from dealers and experiences of the staff in enforcing the regulations, the Board began a regulation review process about one year ago. This process has now been completed and attached you will find a revised version of the advertising regulations. As you review the attached, language that is underlined is "new" language and language that is stricken through is "old" language that has been deleted. In order to determine the end result, simply read the language that is neither underlined nor stricken and the language that is underlined. Please contact the Board Office if you would like a copy of the regulations, which only show the final results. The revisions are effective October 1, 1998.

The review process included seeking and receiving input from dealer associations, public discussions at Dealer Board meetings, publication of proposed changes in the Virginia Register of Regulations, summaries and updates published in past issues of "Dealer Talk" and through a series of public hearings conducted throughout the Commonwealth.

A summary of the changes to the regulations are as follows:

- The regulations frequently use the word "advertisement" however the old regulations do not define this word. Further, new technology such as the Internet has changed the way in which business can be conducted. In order to stay current, the new regulations include definitions for: "Advertisement", "Internet" and "On-Line Service".

## " NEW" ADVERTISING REGULATIONS

(Continued from previous column)

- The Dealer Advertising Laws and Regulations state that when advertising a "used" car, the fact that it is used must clearly be stated. The old regulations indicated that by way of example, the term "special purchase" by itself was not sufficient to indicate that a car was "used". When using that term, the advertisement must include a disclosure that this is a "used car". The new regulations have added the term "program cars" as another example of a term that requires a disclosure. This has been the practice for many years.
- The 1998 General Assembly amended Article 9 of the Motor Vehicle Dealer Act relating to Motor Vehicle Dealer Advertising. Specifically, changes were made effective October 1, 1998 concerning the typeface to be used in disclosing processing fee, and freight and destination charges in advertisements. These Code changes have been incorporated into the new regulations.
- The old Regulations prohibit the use of "dealer rebates" and offers to match down payments or guarantee minimum trade-in allowances. The new Regulations clarify what constitutes a dealer rebate by adding the term "offers of cash or money back" as a form of a dealer rebate.
- The Code of Virginia states that "'free,' 'at no cost,' or other words to that effect shall not be used unless the 'free' item is available without a purchase." Defining "other words to that effect" has been a source of some confusion to dealers. The new Regulations include a list of prohibited terms. Please note that terms not listed could still be judged as not being allowed.
- Finally, the Board has used this opportunity to "clean up" some of the language in the old regulations. For instance, substituting the full word 'advertisement' where it once referred to an 'ad.'

If you have any questions about these regulations, do not hesitate to call the Board Office.

# **ATTENTION ALL DEALERS:**

**Inside this issue, please read about the following:**

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