

## LEASING AND RENTING DEALER TAGS

The Motor Vehicle Dealer Board and the Department of Motor Vehicles are committed to putting a stop to dealers who lease and/or rent dealer license plates. Va. Code Section 46.2-1575 (12) authorizes the Board to suspend or revoke the license of any dealer who leases, rents, lends or otherwise allows the use of a dealer's license plate by persons not specifically authorized under the Virginia Motor Vehicle Dealer Act.

If you are allowing an "Independent Contractor" to use a dealer tag, you may be in violation of the Virginia Law as noted above. If an individual has a salesperson's license issued in the name of your dealership and they are using a dealer tag, you must pay them a salary (and/or commission) and you must file an IRS Form "W-2" for each of these employees. Independent contractors (Individuals who file IRS Form "1099") are not allowed to use a dealer tag, except for very limited purposes and only if issued a "PERMISSION TO USE DEALER LICENSE PLATES" form (DSD-27).

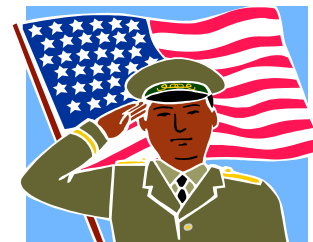
A salesperson may not have in their possession a dealer tag if they purchase vehicles with their own funds and pay you a fee or commission for each vehicle they sell. A good "rule of thumb" to determine if you may be in violation of Virginia Law is to look at who is paying whom. If a licensed salesperson or anyone else is using a dealer tag issued to your dealership and that individual is paying you money – then you are probably in violation of Virginia Law. If this description fits you – please take immediate, corrective action. Failure to take corrective action could result in the suspension or revocation of your dealer license.

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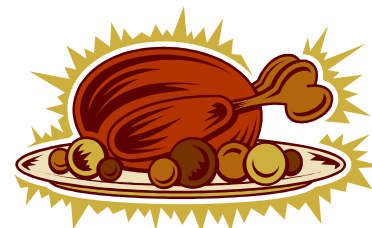
### State Holidays for the Month of November

**Our Office will be closed on  
November 12, 2001 in observance of:**



### **VETERANS DAY!**

**Our Office will be closed on  
November 22 & 23, 2001 in observance of:**



### **THANKSGIVING DAY!**

**NOTE:** In the past, Governors have been known to extend state holidays. These dates are subject to change and will be noted in local newspapers.

# CURBSTONING REPORT

Since the last Dealer Board meeting, DMV Special Agents and MVDB representatives have issued 184 curbstoner notices.

In Rockingham County, a Special Agent received a complaint regarding an individual who was attempting to change the terms of a vehicle sale. The individual had never registered the vehicle in his name; however, he was the lienholder on the complainant's title. DMV records revealed the individual had numerous vehicles currently and formerly titled in his name. The Special Agent also located 17 vehicles at the individual's residence, all with either open or improperly assigned titles. Further investigation rendered a total of 52 open or improperly assigned titles dating all the way back to 1925! The individual has been charged with selling vehicles without being properly licensed. Additional charges regarding the titles are pending.

In Shenandoah County, activity has subsided at a once-popular curbstone lot. Since the property owner was uncooperative, the Special Agent could not address the issue in the usual manner. So, he telephoned the owner of each vehicle displayed for sale on the lot and informed them that, by displaying their vehicles for sale, they were placing the property owner in jeopardy of being prosecuted for curbstoning. All of the vehicles were removed, and the lot has remained vacant for the past few weeks

In Roanoke County, a Special Agent initiated a case after observing three parked vehicles displaying "For Sale" signs on Jae Valley Road. Since the case was initiated in April, the Agent has made weekly checks on the location. After the initial three vehicles were removed, no further activity has occurred.

In Prince William County, the owner of a shopping center parking lot has erected signs warning that vehicles being displayed for sale will be towed at the owner's expense. He also committed to enforce the towing of vehicles in violation of the restrictions. Thus far, the signs have deterred curbstoning activity. DMV and the Dealer Board will continue to monitor activity at this location.

In Scott County, the Dealer Board and DMV conducted a joint investigation involving an unlicensed individual who was selling vehicles for an independent motor vehicle dealership. Documentation indicates the individual sold 36 vehicles this year. The individual has been charged with 10 counts of selling vehicles without being properly licensed. The dealership is no longer in business.

**Update:** In the June issue of *Dealer Talk*, we outlined a case in Arlington County involving a purported licensed salesperson from Washington, D. C. who was selling vehicles in Virginia; however, neither the District nor Virginia had a record of him being licensed. The individual was charged with selling vehicles without being properly licensed and obtaining money by false pretenses. The individual was convicted of these offenses in July, and sentenced to a year of probation.

## 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, November 5, 2001:

Time: 8:30 a.m.

Dealer Practices Committee Meeting

Monday, November 5, 2001:

Time: 5 Minutes after Dealer Practices

Franchise Law Committee Meeting

Monday, November 5, 2001:

Time: 9:30 a.m. or 5 Minutes After Franchise Law  
Licensing Committee Meeting

Monday, November 5, 2001:

Time: 10:00 a.m. or 5 Minutes after Licensing  
Advertising Committee Meeting

Monday, November 5, 2001:

Time: 5 Minutes after Advertising  
Personnel Committee Meeting

Monday, November 5, 2001:

Time: 10:30 a.m. or 5-45 Minutes after Personnel  
Finance Committee Meeting

Monday, November 5, 2001:

Time: 11:00 a.m. or 5-45 Minutes after Finance  
Transaction Recovery Fund Committee Meeting

Monday, November 5, 2001:

Time: 1:00 p.m. or 45 Minutes After TRF  
Full Board Meeting

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

## ACTIONS FROM THE SEPTEMBER BOARD MEETING

**Dealer Practices:** After reviewing the evidence and the report of a hearing officer, the Board revoked the license of a dealer for leasing, renting, or otherwise allowing the use of dealer tags by a person not specifically authorized to do so. The Board also assessed a civil penalty of \$1,000 on this same Northern Virginia dealer for compensating an individual in connection with the sale of an automobile without first being properly licensed.

Evidence presented to the Board and the hearing officer showed that an individual, who was not licensed at the time with the dealership in question, (The individual was actually licensed with another dealership.) purchased vehicles with his own funds and had an arrangement with the dealer to run these sales through this dealership. In turn, the individual paid the dealer a fee equal to 20% of the profit from his sales. The dealer provided the individual with two dealer tags.

At the July Board meeting, the Board had voted to revoke the license of the salesperson that was involved in this case.

The dealer will have 33 days to either surrender his license and pay the civil penalty or file an appeal with the circuit court.

**Dealer Practices:** Based on the recommendation of a hearing officer, the Board assessed a \$5,000 civil penalty on a Fredericksburg area dealer for having been convicted of five counts of unauthorized use of inspection stickers. The dealer will have 33 days to either pay the \$5,000 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 revocation of the dealer's license.

**Advertising:** A Roanoke 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.

**Motor Vehicle Transaction Recovery Fund:** At the September Board meeting, the Transaction Recovery Fund Committee and the Board considered one new claim filed against a Virginia dealer. After reviewing the case, the Board voted to approve payment from the fund in the amount of \$6,483.58. The dealer will have 30 days to pay the judgment. If the judgment is not paid, the Fund will make the payment to the claimant. If the dealer does not repay the Fund, his license will be revoked.

## CURBSTONING SPECIALIST HIRED

Jim Gilbertson has been hired as Virginia's, and possibly the nation's first "curbstoning specialist." At its January 2001 meeting, the Motor Vehicle Dealer Board voted to fund a position that would be dedicated to fighting the practice known as curbstoning. (Selling vehicles without a dealer's license.) Gilbertson will be on the job beginning on November 1, 2001

Because the Motor Vehicle Dealer Board is a "regulatory agency" and does not have "police powers" and curbstoning is a criminal offense, the curbstoning specialist will work for the Department of Motor Vehicles. The Dealer Board will fund the position and Gilbertson will be working very closely with DMV and Dealer Board staff.

Over the last several years the Board and DMV have taken a number of proactive steps in combating curbstoning. Hiring a curbstoning specialist will further the Board's and DMV's desire to eliminate this practice. Board member Leo Trenor of Salem Virginia said that hiring a curbstoning specialist was "*Absolutely a positive step in the right direction.*"

Jim is a 20-year veteran of the Fairfax City Police Department. He was promoted through the ranks, and retired as a Captain. In his last assignment with the department, Jim pioneered the implementation of the first photo-red light system in Virginia. Since May 2000, he has been employed by DMV's Investigative Services Office as a Special Agent in Charge, working in the Fairfax District. Jim enjoys restoring antique vehicles. He will be relocating to the Roanoke area as a result of his latest career opportunity.

*"I'm looking forward to developing some innovative methods to address the curbstoning problem,"* Jim commented. *"We need to address the issue from several perspectives – the persons or businesses who are supplying the vehicles to the curbstoners, the curbstoners themselves, and the people who are buying the vehicles. You can't be successful by looking at only one component of a complex problem."*

Gail Morykon, Director of Investigations for DMV, is also excited about the partnership between the Board and DMV on this initiative. *"It's a great opportunity for the two agencies to collaborate on a matter of mutual interest. We now have a dedicated resource who can try new approaches to an old problem, without having to juggle curbstoning enforcement with a host of other investigative responsibilities."*

## WELCOME NEW DEALERS!

The Motor Vehicle Dealer Board formally welcomes the following new dealers for July & August! Should you have comments, suggestions or questions, please do not hesitate to contact the staff of the Dealer Board. Our telephone and FAX numbers, mailing address and e-mail address are all listed on Page 2.

JULY	
Battlefield Auto Sales 100 James Madison Highway Culpeper, Virginia 22701	Cavalier Ford 3900 Indian River Road, #B Chesapeake, Virginia 23323
Premier Automotive, Inc. 1309 Belleview Avenue Charlottesville, Virginia 22901	Carbin, Inc. 21230 Virgil Goode Highway Rocky Mount, Virginia 24151
Hampton Roads Auto, Inc. 10741 Jefferson Avenue Newport News, Virginia 23601	Roadside Auto Sales 1045 James Madison Street Remington, Virginia 22734
Special Fleet Service, Inc. 875 Waterman Drive/P.O. Box 990 Harrisonburg, Virginia 22801	By-Pass Motors 411 N. Commerce Street Front Royal, Virginia 22630
Top Notch Autos 323-B Wallace Lane Fredericksburg, Virginia 22408	Hollywood Wholesale 756 South Military Highway Virginia Beach, Virginia 23464
Hamilton Classic Cars, Inc. 13200 Littlefield Street Chester, Virginia 23831	Insurance Cars 642 W. Southside Plaza Richmond, Virginia 23224
Chamberlayne Square Auto Repair & Deal 1701 Chamberlayne Avenue Richmond, Virginia 23222	Sportscar Workshops, LLC 1210 Myers Street Richmond, Virginia 23230
R & A Auto Sales 29086 Lankford Highway/P.O. Box 695 Melfa, Virginia 23410	Augusta Auto Sales 14 Second Street Staunton, Virginia 24401
Bavarian Trade, Inc. 18557 Forest Road Lynchburg, Virginia 24501	Virginia Auto, Inc. 2704 Williamson Road Roanoke, Virginia 24012
Parke's Auto Wholesale of Richmond, LLC 4400 A West Broad Street Richmond, Virginia 23230	

AUGUST	
Easters Auto Sales 8655 Fairystone Park Highway Bassett, Virginia 24055	Choice Auto Sales, LLC 7601 Midlothian Turnpike Richmond, Virginia 23235
B & W Auto Sales 439 W. Spotswood Trail Elkton, Virginia 22827	Central Auto 217 East Main Street Louisa, Virginia 23093



## HELPFUL TIPS AND REMINDERS

**Advertising.** If you advertise on radio and television, please remember that the Virginia Motor Vehicle Advertising regulations state that when terms, conditions or disclaimers are used, they must be clearly announced (and or conspicuously displayed in the case of television) during the advertisement. Further, the terms, conditions or disclaimers must be at an understandable speed and volume level.

Virginia Code Section 46.2-1575 (6) authorizes the Motor Vehicle Dealer Board to suspend or revoke the licenses of any dealer for "having used deceptive acts or practices." Advertisements that "deceive" the listener, viewer or reader are subject to this Code section. For example, terms, conditions or disclaimers that are read at a speed and volume that are not easily understood or are read at the beginning of an advertisement in such a way that the listener cannot easily connect the terms conditions or disclaimer to the rest of the advertisement, may be considered "deceptive".

**Moving?** If you decide to move your dealership to a new location, you should notify the Motor Vehicle Dealer Board right away. Virginia Law requires that you notify us in writing at least 30 days prior to changing your location. In addition, you will need to submit a new application form (DSD 10) indicating your new address and provide written zoning approval for the new location. Lastly, one of our field representatives will need to conduct an "opening inspection." Please remember that you cannot operate from a new location until what time an inspection has been preformed and you have been issued a new dealer certificate showing the new address.



## NEW TIME SCHEDULE OF COMMITTEE AND FULL BOARD MEETINGS

PLEASE NOTE ON PAGE 2 UNDER THE CALENDAR OF EVENTS COLUMN OF THIS NEWSLETTER, THAT THE TIMES HAVE CHANGED FOR EACH COMMITTEE AND FULL BOARD MEETINGS.



The Motor Vehicle Dealer Board Staff  
Wishes you and your family a



## **ATTENTION ALL DEALERS:**

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