

NEW BOARD MEMBERS APPOINTED

Late last month, Governor Warner announced the appointment of 10 individuals to the Motor Vehicle Dealer Board. Reappointed were Mr. Lynn Hooper, President, Hooper's Quality Cars, Ltd. and Mr. Vince Sheehy, IV, President, Sheehy Auto Stores. Newly appointed to the Board were Mr. Jonathan Blank, Esquire, McGuire Woods, LLP (Consumer representative); Ms. Wanda Lewark, President, Auto Buying Service, Inc.; Mr. Chip Lindsay, President, Lindsay Cadillac Company; Mr. Jim Mercer, President, Enterprise Rental Car; Mr. Thomas Moorehead, President, Sterling BMW; Mr. Kevin Reilly, President, Alexandria Hyundai; Mr. Jimmy Whitten, President, Whitten Brothers, Inc.; and Mr. Thomas Woodson, President, Woodson Auto Sales.

Members of the Board who have two years remaining on their four year appointments are Mr. E. Todd Hyman, President, Hyman Wholesale Corporation; Mr. David Lacy, Owner, Lacy Auto Parts, Inc.; Mr. Hugh B. McCreight, President, Car Finders, Inc.; Mr. William T. Patrick, Jr., President, Patrick Auto Group; Mr. Frank S. Pohanka, President, Pohanka Auto Center, Inc.; Mr. Larry Shelor, President, Shelor Motor Mile; and Mr. Robert M. Woodall, Jr., President, Woodall Chevrolet, Cadillac, Mazda, Nissan, Hyundai and Mitsubishi.

The other two members of the Board are Mr. J. Carlton Courter, III, Commissioner, Dept. of Agriculture & Consumer Services and Mr. D. B. Smit, Commissioner, Department of Motor Vehicles. Commissioner Smit is the Board chair.

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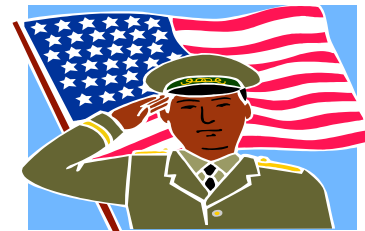
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HOLIDAY HOURS

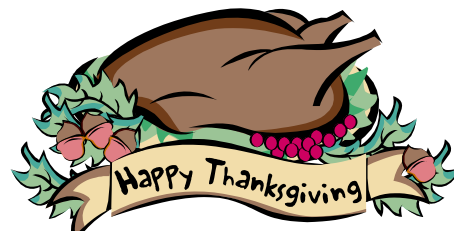
In observance of the upcoming holiday, all state agencies, including the Dealer Board, will be closed on the following dates:

November 11, 2005



VETERAN'S DAY

November 24 & 25, 2005



BOARD ACTIONS

Unlicensed Salesperson: The Board received a letter from an attorney claiming that his client purchased a motor vehicle from a Richmond area dealer and upon conducting some research, discovered that the salesperson that negotiated the sale was not licensed. Field representative Garrett visited the dealership and located 21 buyer's orders that were credited to this unlicensed individual who had signed as the salesperson.

The Board convened an informal fact-finding conference to address the alleged violations of §46.2-1537 (Sales activities by Unlicensed salesperson). The hearing officer recommended that civil penalties totaling \$5,250 be assessed against the dealership. The Board concluded that this dealership should be assessed civil penalties totaling \$10,500. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Unlicensed Salesperson: The Board received several anonymous telephone calls concerning another Richmond area dealer, alleging they had in their employ, an individual who was working as a salesperson without a license. Field representative Hernandez visited the dealership and located seven buyer's orders where this unlicensed individual had signed as salesperson.

An informal fact-finding conference was convened to address the alleged violation of §46.2-1537 (Sales activities by Unlicensed salesperson). Based on the information provided at the conference, the hearing officer recommended that the Board assess civil penalties totaling \$2,100. The Board voted to assess a \$700 civil penalty. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Dealer Records: A Newport News area dealer had a history of unsatisfactory inspections related to numerous, on-going violations of record keeping requirements. Because of the alleged violations, an informal fact-finding conference was convened pursuant to the record keeping problems and allegations that the dealer failed to comply with a written warning and that the on-going problems were willful.

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 14, 2005
Time: 8:30 a.m.
Dealer Practices Committee Meeting

Monday, November 14, 2005
Time: Immediately following Dealer Practices
Licensing Committee Meeting

Monday, November 14, 2005
Time: 9:30 a.m.
Advertising Committee Meeting

Monday, November 14, 2005
Time: Immediately following Advertising
Transaction Recovery Fund Committee Meeting

Monday, November 14, 2005
Time: 10:00 a.m.
Full Board Meeting

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

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BOARD ACTIONS

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After hearing all of the evidence, the hearing officer recommended imposing a civil penalty totaling \$3,000 for the numerous record keeping violations and a civil penalty totaling \$500 for the willful failure to comply with the record keeping requirements for a civil penalty totaling \$3,500. The board agreed with the hearing officer's conclusions that the dealer was in violation of the dealer laws, and assessed a civil penalty in the amount of \$4,000 for the violations related to issuance and use of temporary tags and record keeping and \$1,500 for failure to comply to a written warning/willful disregard for the dealer laws for civil penalties totaling \$5,500. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Dealer Records: The owner of the Newport News area dealership noted above had a history of unsatisfactory inspections related to numerous, on-going violations of record keeping requirements at a second location. Because of the alleged violation, an informal fact-finding conference was convened pursuant to the record keeping problems and allegations that the dealer failed to comply with a written warning and that the on-going problems were willful.

After hearing all of the evidence, the hearing officer recommended imposing a civil penalty totaling \$750 for the numerous record keeping violations and a civil penalty totaling \$1,500 for the willful failure to comply with the record keeping requirements for a civil penalty totaling \$2,250. The board agreed with the hearing officer's conclusions that the dealer was in violation of the dealer laws, and assessed a civil penalty in the amount of \$1,500 for the violations related to record keeping and \$1,500 for failure to comply with a written warning/willful disregard for the dealer laws for civil penalties totaling \$3,000. The dealer will have 33 days to either pay the civil penalty or appeal the Board's decision to circuit court.

Salesperson Application: The Board convened an informal fact finding conference for the former owner of a Manassas area dealership and who was convicted of five misdemeanors for failure to pay collected taxes to the Commonwealth. The offenses occurred when the man was the owner and dealer-operator of the dealership. The man is currently licensed as a salesperson at another dealership in Manassas. The informal fact finding conference was convened to determine if the Board should take any action against the man for his convictions, engaging in deceptive acts or practices, and for failing to submit to DMV, sales and use tax.

BOARD ACTIONS

The hearing officer recommended, and the Board agreed, that no action be taken against the man and that he should be allowed to retain his salespersons license as they believed the man did not mean to harm the consumers or DMV and that he had received adequate sanctions from the court.

Request for a Variance from the Minimum Hours Requirements: The Board has the authority to exempt dealers from the minimum hours requirements as stated in the law, "for good cause". A Fredericksburg area dealer requested a variance from this minimum stating that it was a hardship to keep the dealership open for 20 hours per week as they only sell wholesale. The Board voted not to grant the variance as the reason cited was not judged to rise to the level of "for good reason."

Motor Vehicle Transaction Recovery Fund: At the September Board meeting, the Transaction Recovery Fund Committee and the Board considered the following claim:

- A consumer filed a claim against Auto Excellence, a dealership owned and operated by Mr. Richard (Ricky) Wright of Richmond. The dealership is no longer in business. The consumer had been awarded judgment in court for "fraud in connection with the purchase of a motor vehicle". The Board approved payment from the Fund in the amount of \$8,394.52.



HELPFUL TIPS AND REMINDERS

Legislation adopted by the 2005 General Assembly will require, beginning January 1, 2006, all applicants for a dealer-operator licenses to complete a course of study before taking the dealer-operator test. Those who are listed with the Board as the dealer-operator of a dealership as of December 31, 2005, will be "grandfathered". That is, they will not be required to take the course of study. **If, on December 31 you are the dealer-operator of a dealership, you will not be required to take the course of study so long as you maintain your dealer-operator license.**

The next issue of Dealer Talk will include more detailed information about this change in the law and information as to when and where the course will be offered.