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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.

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.

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Highway and Transit Funding

House Bill 3202 adopted during the 2007 General Assembly session included a number of features designed to raise revenues to support our transportation systems. The legislation authorized two regional authorities, the Hampton Roads and Northern Virginia Transportation Authorities (HRTA and NVTA, respectively), to impose regional taxes and fees based on registration of a motor vehicle or performance of automotive services in localities falling under the Authorities. (See page 2 for a list of localities that are in each of these Authorities). Both HRTA and NVTA have voted to impose these taxes and fees and they are outlined below:

- Beginning January 1, 2008 for NVTA and beginning April 1, 2008 for HRTA, a one time initial registration fee of 1% of the value of a vehicle will be assessed when a vehicle is registered for the first time in any of the authority localities. Dealers that are submitting a titling and registration transaction to DMV must include this additional 1% fee along with all other taxes, fees and documentation that must be submitted, if the transaction is being submitted on behalf of a customer that is registering the vehicle in a locality falling within either of the Authorities. The fee is to be calculated using the same vehicle value used in calculating motor vehicle sales and use tax. The on-line systems will be reprogrammed to calculate this fee. In the near future, DMV will issue a communication on collection of this fee. DMV will remit the fee to the appropriate Authority.
- Owners of motor vehicles garaged in localities within the two authorities will pay an additional \$10 annual fee at the time of registration. As with the one-time fee described above, dealers submitting titling and registration transactions on behalf of their customers will be required to submit this additional fee at the time of registering a vehicle for the purchaser. The on-line systems will be reprogrammed to calculate this fee. In the near future, DMV will issue a communication on collection of this fee. DMV will remit the fee to the appropriate Authority.
- The fee for a safety inspection conducted in any locality within the two authorities will be increased by \$10. This additional fee is added to the safety inspection fee and is not dependent on where the vehicle is garaged, but rather on the location of the safety inspection station. The NVTA and HRTA will be communicating directly with the safety inspection stations on the collection and payment of this fee.
- Automotive repairs conducted in any of the localities within the two authorities will be subject to a 5% Sales and Use Tax on the labor. Similar to the \$10 safety inspection fee, the 5% tax is not dependent on where the vehicle is garaged, but rather on the location where the repairs are made. The Department of Taxation will provide additional communication on this fee.

(Continued on page 2)



Calendar of Events

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

Monday, November 5, 2007

Time: 8:30 a.m.

Dealer Practices Committee
Meeting

Monday, November 5, 2007

Time: Immediately following

Dealer Practices

Licensing Committee Meeting

Monday, November 5, 2007

Time: 9:30 a.m.

Advertising Committee Meeting

Monday, November 5, 2007

Time: Immediately following

Advertising

Transaction Recovery Fund

Committee Meeting

Monday, November 5, 2007

Time: 10:00 a.m.

Full Board Meeting

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

Highway and Transit Funding

(Continued from page 1)

Additional information can be found at www.hb3202.virginia.gov. Also, specific information about the Northern Virginia Transportation Authority is at www.thenovaauthority.org. Information about the Hampton Roads Transportation Authority is on the Hampton Roads Planning District Commission WEB site at www.hrpdc.org.

The **Hampton Roads Transportation Authority includes the** Counties of Isle of Wight, James City, and York and the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg. The Counties of Accomack and Northampton will be included at a later date.

The **Northern Virginia Transportation Authority includes the** Counties of Arlington, Fairfax Loudoun and Prince William and the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

New Records Storage Guidelines

Virginia law requires dealers to maintain records and files on the premises of the licensed dealership for a period of five years. The law allows the Motor Vehicle Dealer Board to grant permission (commonly referred to as a "variance") for dealers to maintain records at a location other than the premises of the licensed location for good cause.

It is recognized that having records available at the premises of the dealer is critical for:

- Allowing Motor Vehicle Dealer Board (MVDB) representatives, DMV representatives and law enforcement officials to conduct inquiries in a timely fashion.
- Allowing MVDB and DMV representatives to conduct random and follow-up inspections.
- Allow dealers to answer questions concerning a sale in a timely manner.

Over ten years ago, the Board established guidelines giving the Board's executive director the authority to grant dealers permission to store original records off-site provided the following conditions had been met:

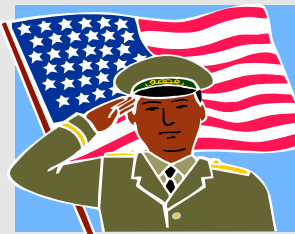
- The dealer had good records of inspection.
- Copies of the original files were kept at the dealership where the file/records originated.
- The originals must be stored in the Commonwealth and not in a residence. (They could not be stored in another state.)
- Dealers that have implemented an electronic system that allows for immediate retrieval of imaged documents at the site where they originated may be exempted from the "copies" requirement.

With the trend towards owners owning multiple dealerships; privacy concerns and the popularity of the on-line dealer program, in September of 2007, the Board adopted a revised set of guidelines for maintaining and storing records off-site. These new guidelines are effective as of October 1, 2007 and replace any previously issued "variance". (See page 3 for the new guidelines.)

HOLIDAY HOURS

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

**NOVEMBER 12, 2007
VETERANS DAY**



AND

**NOVEMBER 21 (Closed at noon) and all day November 22 & 23, 2007
THANKSGIVING**



New at the Dealer Board

Check-out our refreshed WEB site at www.mvdb.virginia.gov. The WEB site has a new look to go along with our new logo. This issue of *Dealer Talk* is also sporting a new look. Please let us know how you like our new “looks” and our new logo.

Motor Vehicle Dealer Board Guidelines For Maintaining Records and Storing Records Offsite

All Motor Vehicle Dealers are required to keep the originals or a copy of all original records at the site (dealership) of origination for 12 months. After 12 months, they can be stored at another location. (See below for criteria on where and how they can be stored.)

- Upon request, the executive director may exempt a dealer from the requirement to keep the originals or a copy of the originals at the originating dealership when the location for the off site storage is no further than five miles from the originating dealer.
- Upon request, the executive director may exempt a dealer from the requirement to keep the originals or copies of the originals at the originating dealership when an electronic system is in place that allows immediate retrieval of documents imaged or otherwise maintained in electronic format at the site where they originated.

On-line dealers who own multiple dealerships and prefer to process all on-line transactions in a central location have five business days to return the original documents or a copy to the originating dealership once the on-line transaction is completed. (The original or a copy must be stored at the dealership for 12 months.)

Requirements for records stored off-site include the following:

- The dealer must provide, in writing, the address where the records will be stored.
- Records must be stored in Virginia and may not be stored in a residence.
- Records must be available without notice to the MVDB, Monday through Friday, 9:00 am to 5:00 pm.
- Upon request, records must be shipped to the originating dealership within five business days.
- Records must be retrievable by dealer number. (e.g.: All deal jackets from dealer 1224 for a given time period.)

Dealers must notify the Dealer Board in writing if they wish to store their records off-site as described in these guidelines. If the Board has any questions or believes the dealer should not be authorized to store records off-site, the Board staff will contact the dealer within two weeks of receiving the request. If the dealer does not hear from the Board within 15 days of mailing the request to the Board, the request is automatically granted.

Any dealer found not in compliance with these guidelines could be subject to sanctions to include civil penalties, suspension or revocation or be required to keep all records on-site for the required five years.

HELPFUL TIP #1

Salesperson License: Obtaining a salesperson's license is a two-step process: The first step requires the salesperson applicant to pass a test that is administered at all DMV customer service centers. (Study Guides and practice tests are available on our WEB site - www.mvdb.virginia.gov). Once the applicant passes the test, they may apply for a license. As the license is issued in the name of the dealership, the applicant must apply through a particular dealership where he/she will be working. The quickest way to complete the licensing process is to **send the application materials and payment directly to the Board's office.** The license application materials and payment of licensing fees may also be done through a DMV customer service center (CSC) - it will take longer to process if the application and fees are left at the CSC.

Occasionally a CSC employee will insist that the license application must be submitted through the CSC. This is not accurate. To help avoid this misunderstanding, do not complete Sections 2 and 6 on the application (DSD 7) when only taking the qualification test. (Sections 2 and 6 are the dealer information sections.) Once the salesperson applicant passes the test, he/she should complete a new DSD 7 and a criminal history background check form (MVDB-21) and submit the forms and payment directly to the Board's office in Richmond.

New Fee Schedule

The Motor Vehicle Dealer Board (MVDB) is a Special Fund agency in that it receives no General Fund monies and operates strictly on the fees paid by motor vehicle dealers and salespersons. The current fee structure was established nearly 12 years ago. In order to keep up with rising costs, effective December 1, 2007, the following fee schedule will be implemented:

| | |
|---|--|
| Dealer certificate/License: | \$200 |
| Supplemental License: | \$40 |
| Salespersons License: | \$25 |
| Dealer license plates: | \$30 for the first two plates. (Two for \$60 and \$26 for each additional plate). |
| Criminal History Check: | \$10 |
| Dealer-operator Certificate of Qualification: | \$50 application/test fee. |
| Salesperson Certificate of Qualification: | \$50 application/test fee. |

December renewal packages will reflect the new fee schedule.

Permit to Transfer License Plates

In emergency situations, Virginia law allows dealers and garage owners to remove the license plates from a customer's motor vehicle they are repairing and use them on another motor vehicle owned by the garage or in the inventory of the motor vehicle dealer. The garage owner or dealer must issue the customer a permit and the permit may not extend for more than five days and only while the customer's motor vehicle is being repaired. However, if the emergency continues, a dealer may renew the permit for 5 more days, but Virginia law requires that only one renewal permit shall be issued to cover any one emergency, and only a dealer may renew the permit, not a garage owner.

Dealers may secure a book of these numbered permits from either DMV or the MVDB. The form number is "VSA-39". The VSA-39 with a revision date of "11/02" come in a book of 25 and measures approximately 5-1/2" x 8-1/2" and can only be used by licensed dealers. DMV recently updated this form (Revision date of 9/10/2007) to serve both dealers and garage owners. This new form measures 8-1/2" x 11". When using this new form, simply ignore the "Garage Owner Information" section. You may continue to use the old (11/02 revision date), it is still valid. In fact, if you order a new supply of these forms, you may receive the old version as we will continue to distribute those until the supply is depleted.

On the next revision of this form, DMV will remove the garage owner sections, so the form will look similar to the 11/02 version and be only for dealer use. We will keep you up-to-date concerning the next revision in future issues of *Dealer Talk*.

HELPFUL TIP #2

Dealer Talk: We produce six issues of *Dealer Talk* each year and we trust that you find the information included in this newsletter to be helpful. 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 New", "click" on "Subscribe to Our E-Mail List". Back issues of Dealer Talk can also be found on our WEB site under "Dealer and Salesperson" link. Please note that we do not share your email addresses with anyone else. There is no limit as to how many individuals in your dealership can sign-up and you may sign-up from your dealership or from home.



Board Actions

Newport News Area Dealer: Inspections in January and April of this year of a Newport News area dealer revealed a number of deficiencies including one related to record keeping; compensating unlicensed salespersons; and failure to timely submit applications for title, plates and fees to DMV. One-on-one educational efforts and written warnings failed to fix these deficiencies. The dealer failed to respond to staff letters. As a result an informal fact-finding conference was convened. Based on the evidence and the hearing officer's recommendation, the Board voted to assess a \$2,500 civil penalty and suspend all licenses issued to the dealer from the Board for a minimum of 30 days. The Board also voted to require the dealer-operator owner of the business to successfully complete the dealer-operator course before the suspension can be lifted.

Haymarket Dealer: From December 2004 through June of 2007, a Board field representative visited this Haymarket area dealership six times during its business hours. On all six occasions the dealership was closed. As a result, the dealer has paid civil penalties totaling \$750. The sixth incident resulted in convening an informal fact-finding conference in August of 2007. The hearing officer recommended a civil penalty of \$1,750. The Board believed a more significant civil penalty should be assessed for the continued disregard of the law and voted to assess a \$5,000 civil penalty.

Newport News Area Dealer: From November of 2003 through February 23 of 2007 this dealer was inspected five times. Four of the inspections had multiple deficiencies. Two educational/warning letters were sent to the dealer. As these problems were on-going, an informal fact-finding conference was conducted in May to address the alleged violations. The hearing officer recommended a civil penalty of \$200 and that the dealer must successfully complete the dealer-operator course. The Board agreed with this recommendation.

Harrisonburg Area Dealer: A Board field representative attempted to visit this Harrisonburg area dealership on five separate occasions between March 2005 and April of 2007. On four of those occasions, the dealership was not opened during its business hours. Per the authority given to the executive director by the Board, the executive director levied a \$250 civil penalty. The dealer appealed this decision and on July 25, 2007, an informal fact-finding conference was conducted. The Board voted to assess a \$1,000 civil penalty.

Culpeper/Madison Area Dealer: In May of 2007, a Board field representative visited this dealership for the specific purpose of examining the licenses and employment status of salespersons that were associated with a marketing firm that was running a special event sale at the dealership. A representative of the dealership stated that the salespersons for this special event were to be paid on a "1099" and that he would provide the field representative with the documentation. However, he would need to call the owner to obtain a copy of the agreement between the dealership and the marketing firm. The owner ordered his employee not to provide the field representative the requested information, so the field representative left the dealership. On August 17, 2007, an informal fact-finding conference was conducted to address alleged violations of the law. In the conference, the owner cited privacy concerns as the reasons for ordering his employee not to provide information about employees. Based on the evidence presented in the hearing and the fact that information on employees must be provided to field representative on request, the Board voted to assess a civil penalty of \$350.

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HELPFUL TIP #3

Complete your MVDB Transactions On-Line: The Motor Vehicle Dealer Board (MVDB) and the Department of Motor Vehicles (DMV) have partnered to provide FREE on-line dealer licensing and temp tag authorization transactions.

Only individuals that you, the dealer, authorize are allowed to purchase temp tags at DMV Customer Service Centers and the MVDB office. If you sign-up for E-Transactions you can add or delete names to the list in real time from the comfort of your office. (If you are not a subscriber, in order to add or delete a name to/from the list you will be required to complete a form and FAX or mail it to DMV Headquarters. This may take several days.)

This service also provides motor vehicle dealers the opportunity to renew their dealer certificate, salespersons licenses, and license plates via the web for FREE and in REAL-TIME without having to visit our office or mail-in renewal applications. Once you submit your applications over the WEB, your renewal items will be mailed to you within seven business days of the date of your on-line renewal transaction.

Dealers who sign-up for this FREE service can also submit a salesperson application ("DSD 7") to the Board via the online system. It will be the quickest and easiest way to submit an original ("new") salesperson's application or transfer application. You will be able to submit your Application for Dealer/Drive-Away/Office Trailer Plates ("DSD 9") using this same system.

So don't wait! Go to the MVDB website at www.mvdb.virginia.gov and click on "On-Line Services" to access an application or contact the Dealer Board Office toll free at (877) 270-0203 X3004 and we'll send you a E-transaction application.

Board Actions

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Woodbridge Area Dealer: In the course of conducting an inspection, a Board field representative discovered that this dealership employed an individual in the role as salesperson and that the individual was not licensed. The individual had received commissions on 147 vehicles from November 2006 through March 2007 when the field representative conducted his inspection. Per the authority granted by the Board, the executive director determined that the dealer could pay a \$7,350 civil penalty or participate in an informal fact finding conference. The dealer asked for the conference. On June 15, 2007, an informal fact-finding conference was held and the hearing officer recommended a civil penalty of \$3,675.00. The Board voted to assess a \$500 civil penalty.

Woodbridge Area Dealer: In the course of conducting an inspection, a Dealer Board field representative identified record keeping problems as well as apparent misuse of dealer tags and that this dealer had paid commissions to an unlicensed salesperson on the sale of 43 vehicles from June of 2006 until April 2007 when the field representative conducted his inspection. Per the authority granted by the Board, the executive director determined that the dealer could pay a \$4,300 civil penalty or participate in an informal fact finding conference. The dealer asked for the conference. In July of 2007, an informal fact-finding conference was conducted to address the alleged violations of the law. The hearing officer recommended that the Board assess a civil penalty of \$4,300. After reviewing all of the evidence the Board voted to assess a \$500 civil penalty.

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

A dealer filed a claim against Al's Cars of Virginia Beach, a now closed dealership that was owed and operated by Mr. Al Monhollen. The claim was filed against Mr. Stanley C. Freeman who was a licensed salesperson at Al's Cars at the time of the transaction that resulted in the claim. The dealer had been awarded a total judgment of \$44,899.52. The Board approved payment from the Fund in the amount of \$20,000. (Maximum allowed by law.) This was the third claim paid related to this dealer.

The Board also considered a claim against the Fund filed by a consumer against the Sports Car Center and Auto Auction, a now closed dealership that was owned and operated by Mr. Altaf H. Shah. The consumer had been awarded a total judgment of \$54,852.62. The Board approved payment from the Fund in the amount of \$16,062.87.

The last claim considered by the Board was filed by a consumer and also against the Sports Car Center and Auto Auction, a now closed dealership that was owned and operated by Mr. Altaf H. Shah. The consumer had been awarded a total judgment of \$55,592.73. The Board approved payment from the Fund in the amount of \$2,114.73. Upon proper filing with the Board, the Board will consider additional compensation for this claim.

Dealer-Operator Course

Beginning January 1, 2006, the dealer-operator of any new independent motor vehicle dealership will be required to successfully complete a course of study before they will be allowed to take the independent dealer-operator qualification test at any DMV Customer Service Center.

The Virginia Community College System and the Virginia Independent Automobile Dealers Association (VIADA) have teamed up to present the two-day 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>.

October 16 & 17 - Piedmont Community College, Charlottesville
Contact: Maggie Myers; 434-961-5495; ; www.pvcc.edu

October 30 & 31 - Danville Community College, Danville
Contact: Ruth Green; 434-797-8571; www.dcc.vccs.edu

November 14 & 15 - Tidewater Community College, Norfolk
Contact: Becky Yingling; 757-822-1402; www.tcc.edu

November 27 & 28 - Central Virginia Community College, Lynchburg
Contact: Twila DeMaster; 434-832-7607; www.cvcc.vccs.edu

December 5 & 6 - Southwest Virginia Community College, Richlands
Contact: Robert Chambers; 276-964-7241; www.sw.edu

December 18 & 19 - Lord Fairfax Community College, Fauquier Campus, Warrenton
Contact: Bill Pence; 540-868-7061; www.lfccworkforce.com

2008

January 8 & 9 - Tidewater Community College, Norfolk
Contact: Becky Yingling; 757-822-1402; www.tcc.edu

January 22 & 23 - Paul D. Camp Community College, Franklin
Contact: Randy Betz; 757-569-6064 or Renee Brown; 757-569-6050;
www.pc.vccs.edu

February 5 & 6 - Community College Workforce Alliance at J. Sargeant Reynolds - Community College, North Run Campus, Henrico, County
Contact: Sandy Jones; 804-523-2292 www.ccwa.vccs.edu

February 19 & 20 - Piedmont Community College, Charlottesville
Contact: Maggie Myers; 434-961-5495; www.pvcc.edu

March 4 & 5 - Virginia Western Community College, Roanoke
Contact: Anne Koon; 540-767-6131; www.virginiawestern.edu

