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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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ZAG.COM AND BIRD DOG PAYMENTS

At its September meeting, the Virginia Motor Vehicle Dealer Board determined that dealers paying fees for successful leads they receive from the internet vehicle referral service “ZAG.com,” or any other similar service may be in violation of the state’s prohibition against “bird dog” fees. (Virginia Law prohibits dealers from compensating any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson employed by the dealer.)

When the dealer sells a vehicle to a buyer referred to them by ZAG.com, the dealer pays ZAG.com a fee ranging from \$295 to \$395, which the executive director of the MVDB believes is illegal under Virginia’s ban against “bird dog” fees. The Board agreed with the executive director’s conclusion.

The MVDB cannot take enforcement action against ZAG.com since it is not a licensed entity in the Commonwealth, but the Board can take action against dealers who do pay ZAG.com in connection with the sale of a motor vehicle. (Bird dog payment.)



Calendar of Events

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

Monday, November 8, 2010

Time: 9:00 a.m.

**Dealer Practices Committee
Meeting**

Monday, November 8, 2010

Time: Immediately following Dealer
Practices

Licensing Committee Meeting

Monday, November 8, 2010

Time: Immediately following
Licensing

Advertising Committee Meeting

Monday, November 8, 2010

Time: Immediately following
Advertising

**Transaction Recovery Fund
Committee Meeting**

Monday, November 8, 2010

Time: 10:00 a.m.

Full Board Meeting

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

ZAG.COM AND BIRD DOG PAYMENTS

(Continued from page 1)

If you are compensating *ZAG.com* or any other unlicensed individuals or companies based on sales of vehicles, you should discontinue this practice immediately. Violations of this law are subject to a \$1,000 civil penalty for each bird dog fee paid and possible suspension or revocation of your dealer license.

If you have been paying *ZAG.com* or any other individual or company a bird dog fee, it is strongly suggested that you notify the Board in writing of this action and that you have taken measures to discontinue this practice.

(Adapted with permission from the Washington Area Dealer's Association (WANADA))

MARYLAND GOES PoD

Maryland has joined Virginia and many other states who have switched to Print-on-Demand (PoD) temporary tags. As of October 1, 2010 the Motor Vehicle Administration (MVA) has discontinued selling cardboard temporary tags to Maryland motor vehicle dealers. Maryland dealers have until December 1, 2010 to apply for refunds for all unopened packages of cardboard plates.

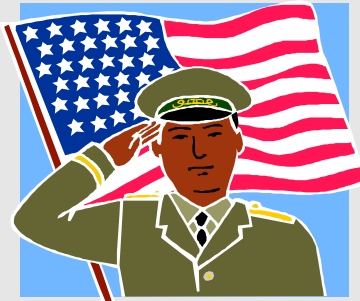
Virginia dealers have until May 1, 2011 to sign-up for PoD. After that date, cardboard temp tags may not be issued. Approximately 18,000 PoD tags have been issued in Virginia since PoD became available to Virginia Dealers.

Avoid the last minute rush -- sign-up now. There is no cost to you to sign-up for PoD. For more information and a list of vendors offering the PoD service, go to our WEB site (www.mvdb.virginia) and click on [Print on Demand Temp. Tags](#) in the "What's Hot" area of our home page.

HOLIDAYS HOURS

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

NOVEMBER 11, 2010
for
VETERANS DAY



AND

NOVEMBER 25 & 26, 2010
for
THANKSGIVING



INDEPENDENT DEALER-OPERATOR RE-CERTIFICATION

As reported in previous editions of Dealer Talk; regulations adopted by the MVDB will require independent dealer-operators to recertify every three years by either completing a course of study or passing an exam. The regulations provide an orderly schedule to transition existing and future independent dealer-operators into a three year recertification cycle.

Recertification will be tied to the month the independent dealer-operator initially became certified. If a dealer-operator become certified before 1995 (Including those “grandfathered” in 1989.), they will need to recertify in 2011. Those initially certified between 1995 and 2005 will need to recertify in 2012 and those initially certified from 2006 to 2010, will need to re-certify in 2013.

The regulations provide maximum flexibility for independent dealers to complete recertification requirements as they allow for courses to be offered in a classroom setting as well as online and by mail. Independent dealers will also have the option of studying on their own and recertifying by taking an exam. Dealer-operators will be able to recertify up to six months prior to their anniversary month and two months after their anniversary month. Independent dealer-operators will be sent a re-certification notice in the mail to their home address.

Two vendors have been approved to offer an on-line course and one vendor has been approved to offer a class at selected community colleges.

Dale Ventures Inc. in Midlothian, Virginia has been approved to offer an on-line course. The Virginia Independent Automobile Dealers Association (VIADA) in partnership with the Virginia Community College System has been approved to offer an on-line course and a classroom based course.

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Did You Watch Us on the WEB?

With the help of DMV, all MVDB Board meeting are broadcast live on the internet. To watch a "rerun" of the July MVDB meeting click

http://www.dmvnow.com/webdoc/media/video/live_event.asp.

The next Motor Vehicle Dealer Board meeting, which is scheduled for November 8 at 9:00 am, will be broadcast live on the WEB once again. A hot link will be posted on the MVDB Home Page (www.mvdb.virginia.gov) for a quick and easy connection to the broadcast. Mark your calendars now!

BUYERS ORDER REMINDER

In 2009, the General Assembly passed a bill that required, by July 1, 2010, all dealers to change the "spot delivery" notice that must be on the buyer's order. Dealers have had a year to make this change. Please double check to be sure you have made this update to your buyer's order. The MVDB staff has observed that many dealers have not updated their buyer's order. Non-compliance of this change in the law could lead to a civil penalty of up to \$1,000

BOARD ACTIONS

Reggie Rudolph and Downtown Auto Brokers, Inc. The Board received a complaint from a consumer in February of this year alleging that this dealer had sold the consumer a vehicle in October of 2009 and had not yet received her title. After investigating the complaint, the Board concluded that the dealer had not titled the vehicle or recorded the lien as required. An educational letter was sent to the dealer-operator and DMV was informed. DMV's investigation resulted in a Warrant being issued and Mr. Rudolph was convicted of a misdemeanor on April 7, 2010. This conviction lead the Board staff to convene an informal fact-finding conference to address the alleged violations of the requirement to obtain a certificate and for having been convicted of any criminal act involving the business of selling vehicles. The Board voted to mandate that Mr. Rudolph successfully complete the dealer-operator course by March 13, 2011.

Frank Masika and Towne Automotive Brokers, Inc. In February of 2009, Mr. Francis A. Masika submitted an application to the MVDB to open Towne Automotive Brokers, Incorporated (Towne). Having passed the inspection process, his licenses were released and he began to operate as a dealer.

The Board began to receive a series of complaints (a total of 10) in the summer of 2009 from purchasers who had either purchased a vehicle from Towne or gave Mr. Masika money to purchase a specific type of vehicle. Mr. Masika was informed in November of 2009 that he would be the subject of an informal fact finding conference. The conference was convened to determine if Mr. Masika was guilty of failing to comply to a written warning/willful failure to comply with the dealer laws; defrauding buyers; for having used deceptive acts or practices; and failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV. Per the authority granted by the MVDB to the executive director, the executive director per the the hearing officer's recommendation, assessed a civil penalty of \$5,000 and revoked all licenses issued by the Board to Mr. Masika. Mr. Masika appealed the decision.

A formal hearing, was conducted and at its September meeting the Board revoked all licenses issued to Towne Automotive Brokers, Inc. and Frank Masika and to assessed a civil penalty of \$5,000.00.

SALESPERSON APPLICATIONS

Several years ago the MVDB began scanning all of the documents you submit to us. The scanning process is at its peak of efficiency when dealers use up-to-date forms.

Apparently, many dealers have a supply of obsolete salesperson's application (DSD-7) forms on hand as we receive many out-of-date and obsolete DSD-7s. Please destroy all DSD-7 forms with a revision date other than "2/10/2010". You should only use a form DSD-7 with a revision date of "2/10/2010

The up-to-date DSD-7 and all other forms that dealers use can be printed from our WEB site. (www.mvdb.virginia.gov and click on "forms" on the left hand side.) If you prefer, you may order DSD-7 forms in the usual way by submitting a form MVDB-30. (Dealer Request for MVDB & DMV Forms.)

We encourage you to use the form found on our WEB site as you can type the information directly on the screen before printing the form. Salesperson application forms submitted using the web version is easier to read and process.

Thank you for your cooperation. Please remember to destroy all DSD-7 forms with a revision date other than "2/10/2010".

INDEPENDENT DEALER-OPERATOR RE-CERTIFICATION

(Continued from page 3)

As noted above, independent dealer-operators will have the option of passing a test in lieu of taking an approved course. The 100 question test will be administered at DMV Customer Service Centers. Those choosing to take the test will register and pay the \$50 test fee directly to the MVDB. Upon receiving the application and fee, the MVDB will provide a receipt to the applicant that must be presented to the clerk at the DMV CSC. Independent dealer-operators that choose to take the test and fail to correctly answer 80% of the questions correctly, will be required to take the course.

The courses and test should be in place soon. Independent dealer-operators who were certified in January, February and March between the years 1989 and 1994 will be the first to receive a "time to re-certify" notice.

SALESPERSONS

We have simplified the guidelines for determining *who* must take the salesperson's qualification test and *when* a criminal background check is required.

If an applicant has never been licensed or has not been licensed for more than 12 months, that applicant will need to successfully complete the qualification test at any DMV Customer Service Center and will require a criminal history background check.

If an applicant applies for a license and has been licensed within 12 months of submitting that application, they are not required to re-take the qualification test and a criminal background check is not required.

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>.

IMPORTANT NOTICE TO ALL PROSPECTIVE DEALERS

The dealer-operator of any new independent motor vehicle dealership is 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. "Grandfathered" dealer-operators, title clerks and salespersons are encouraged to take the course as well.

Course Schedule

2010

October 19 & 20 - Northern Virginia Community College, Reston

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

November 9 & 10 - Piedmont Community College, Charlottesville

Contact: Maggie Myers; 434-961-5495; mmmyers@pvcc.edu; www.pvcc.edu

November 16 & 17 - Tidewater Community College, Norfolk

Contact: Registration; 757-822-1234; www.tcc.edu/wd

December 7 & 8 - Lord Fairfax Community College, Warrenton

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

2011

January 11 & 12 - Germanna Community College, Fredericksburg

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

January 25 & 26 - Patrick Henry Community College, Martinsville Campus

Contact: Registration; 276-656-0260; www.ph.vccs.edu

February 8 & 9 - Paul D. Camp Community College, Franklin

Contact: Renee Brown; 757-569-6050; www.pdc.edu/workforce-development

February 22 & 23 - Virginia Western Community College, Roanoke

Contact: Tina Trudeau; 540-767-6131; www.virginiawestern.edu

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

The cost is \$325 if you register at least two weeks prior to the date of the course. The fee is \$375 after that date.