



December 2023

Issue 150

DEALER TALK

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Upcoming Events!

Monday 1/8/2024

Board Meeting In person at the DMV
2300 W. Broad St. Richmond VA,
23220

[Click here for more details on the next Board Meeting Details](#)

Safety Inspection Required

Virginia law requires dealers to safety inspect all vehicles coming into their possession prior to a retail sale. When a dealer brings a vehicle into their inventory the vehicle must be safety inspected prior to the vehicle being sold at retail. For example, if one dealer A goes out of business and dealer B purchases all of dealer A's inventory, then dealer B is required to have all the acquired vehicles safety inspected and be able to show proof that the vehicle(s) were safety inspected after coming into dealer B's possession prior to selling the vehicle retail. The dealership should keep a copy of the safety inspection record in the deal jacket.



Maintain Posted Business Hours

The Board reminds dealers to maintain their posted business hours. Over the past few months we have encountered an increase in the number of dealers not maintaining their posted business hours. Anytime a dealership is closed, you must notify the MVDB by email (dboard@mvdb.virginia.gov). Submit the closing date and time as well as the return date and time by completing a [MVDB 40](#), Dealership Notice of Temporary Closing (03/01/2018) or an alternative notice with the required information. The MVDB 40 or alternative notice is to be posted at or in close proximity to the dealership's front entrance so that it is visible to the public. Dealers closing within 24 hours or less are encouraged to text or call their local field representative [in addition](#) to submitting the required information to the MVDB.



Cont'd on pg. 2

Maintain Posted Business Hours

Cont'd from pg. 1

When dealers fail to maintain their posted business hours the Board staff uses the following Board mandated actions regarding Virginia Code §46.2-1533 violations:

- 1st violation, the dealer receives an educational warning (email or letter notification).
- 2nd violation, a \$750 civil penalty (if appealed, granted an informal hearing).
- 3rd violation, the dealer will have an informal hearing. on § 46.2- 1533 violations, Failure to maintain Business Hours.

It is your responsibility to ensure that the Board has the most current and valid contact information for the dealership and dealer-operator. If we need to contact you, please be sure the Board has an email for your dealership that is frequently monitored, and a phone number that is answered or has a working voice mail so that messages may be left.

Tips on Clear and Conspicuous Advertising

The same consumer protection laws that apply to commercial activities in other media apply online, including activities in the mobile marketplace. The FTC Act's prohibition on "unfair or deceptive acts or practices" encompasses online advertising, marketing, and sales. In addition, many Commission rules and guides are not limited to any particular medium used to disseminate claims or advertising, and therefore, apply to the wide spectrum of online activities.

Required disclosures must be clear and conspicuous. In evaluating whether a disclosure is likely to be clear and conspicuous, advertisers should consider its placement in the ad and its proximity to the relevant claim. The closer the disclosure is to the claim to which it relates, the better. Additional considerations include: the prominence of the disclosure; whether it is unavoidable; whether other parts of the ad distract attention from the disclosure; whether the disclosure needs to be repeated at different places on a website; whether disclosures in audio messages are presented in an adequate

volume and cadence; whether visual disclosures appear for a sufficient duration; and whether the language of the disclosure is understandable to the intended audience.

To make a disclosure clear and conspicuous, advertisers should:

- Place the disclosure as close as possible to the triggering claim.
- Take account of the various devices and platforms consumers may use to view advertising and any corresponding disclosure. If an ad is viewable on a particular device or platform, any necessary disclosures should be sufficient to prevent the ad from being misleading when viewed on that device or platform.
- When using a hyperlink to lead to a disclosure:
 - * make the link obvious;
 - * label the hyperlink appropriately to convey the importance, nature, and relevance of the information it leads to;
 - * use hyperlink styles consistently, so consumers know when a link is available;
 - * place the hyperlink as close as possible to the relevant information it qualifies and make it noticeable;
 - * take consumers directly to the disclosure on the click-through page;
- Necessary disclosures should not be relegated to "terms of use" and similar contractual agreements.
- Display visual disclosures for a duration sufficient for consumers to notice, read, and understand them.
- Use plain language and syntax so that consumers understand the disclosures.

Rick Sipe Retires

(Effective February 1, 2024)

After spending 16 years with the Motor Vehicle Dealer Board (MVDB), and serving in multiple roles, Rick Sipe has retired as the Operations Manager. During his career Rick was promoted to positions with increasing levels of work responsibilities and job duties and excelled at each level. He firmly believed in the "golden rule" of treating people the way you would like to be treated. Rick has been married to his best friend and soulmate (Jamie) for almost 25 years and they are retiring together! The MVDB wishes all the best for Rick in the next chapter of his life.



Fake PoD Tags

A man who advertised himself as the "Used Car King of New York" has been sentenced to 53 months in federal prison for a nationwide scheme to sell hundreds of thousands of fake Texas paper vehicle tags. Octavian Ocasio, 52, pled guilty last year to conspiring with others in the Southern District of Texas to buy and sell fraudulent Texas-issued temporary buyer tags for cars outside the state without a legitimate vehicle purchase. During the hearing, the court heard how Ocasio engaged in widespread fraud to use fictitious car dealerships to generate and sell Texas temporary buyer tags without actually selling cars. Meanwhile, he would make false promises and assurances that it was legal. Ocasio admitted he and his co-conspirators communicated through Gmail, Instagram and Facebook to receive and deliver fraudulent buyer tags to buyers across the United States, including New York, Florida and Washington, D.C. He was also ordered by the court to pay \$324,600 in restitution to the Texas Department of Motor Vehicles.

Bird Dog Fees

Virginia law prohibits dealers and salespersons from compensating anyone in connection with the sale of a motor vehicle who is not either licensed as a motor vehicle dealer or a salesperson. Virginia Code Section § 46.2-1537 states: It shall be unlawful for any motor vehicle dealer or salesperson licensed under this chapter, [Dealer Laws] directly or indirectly, to solicit the sale of a motor vehicle through a pecuniarily interested person, or to pay, or cause to be paid, any commission or compensation in any form whatsoever to any person in connection with the sale of a motor vehicle, unless the person is duly licensed as a salesperson employed by the dealer. It shall also be unlawful for any motor vehicle dealer to compensate, in any form whatsoever, any person acting in the capacity of a salesperson as defined in § 46.2-1500 unless that person is licensed as required by this chapter. The term "bird dog" is used in a number of industries to mean an individual who refers prospective customers to an entity that sells a product. In the motor vehicle dealer industry, a bird dog is an individual who refers prospective customers to a particular dealership or salesperson for a fee (compensation). A prospective customer is a sales lead. So anyone who provides leads (prospective customers) to a dealer is playing the role of a "bird dog". We all clearly recognize that paying a fee to a soldier to send his fellow soldiers to a dealership is paying a bird dog. We all recognize that giving a gift to a customer for referring their friends and neighbors to a dealership is in fact compensating a bird dog.



DMV News

Submitting Held Releases in Online Bundles

If you finalized a transaction with a title held, and now you've received the title and need to submit it to DMV please ensure the following.

- Include all paperwork that goes with the title that you haven't already submitted with your original transaction. Please remember that the title number should be written in the margin of all supporting documents.
- Held releases should be placed in an envelope labeled "title held release" and sent with your bundle. More than one held release can be included in the same envelope as long as the Virginia title number has been identified on the paperwork.

Place the Held release envelope on top of your bundle coversheet and send it with your bundle to the Online Vehicle Work Center at 2300 West Broad Street, Richmond, Virginia 23269.

Please note for transactions where you originally processed with a held, and received the title before mailing your bundle you can put the title with the original pull ticket and notate in the comments/notes section the title number and the change that needs to be made on bundle coversheet.

Requests for NMVTIS Held releases MUST include the Virginia title number and "NMVTIS title release." Please put NMVTIS held releases in a separate envelope than standard held releases.

Highway Use Fee

DMV is excited to announce new, highly requested information available on our website. We have added additional information on how Highway Use Fees (HUF) are calculated including the formula on our HUF webpage. Additionally, we have included a chart with the current year's approximate fees associated with each mile per gallon (MPG). The availability of this new information should help reduce the instances where your dealership collects the incorrect amount of HUF for your customer's registrations.

[What is the Highway Use Fee? | Virginia Department of Motor Vehicles](#)

Fee calculator

DMV has updated the fee calculator on their website. It includes the ability to differentiate between individual and dealer/business. If you enter the full VIN of the vehicle, DMV will search available records to find vehicle information that will be used to pre-fill some of the required fields. By providing the VIN and other details about the vehicle's sale you can get an accurate calculation of all fees that will be owed to DMV at the time of titling and registering. Find the fee calculator at <https://www.dmv.virginia.gov/apps/feecalculator>.

REMINDERS

IDO Recertification

ALL IDO's of independent dealerships must recertify their IDO qualification every two (2) years by either taking the instructor-led online course or classroom course. Click [HERE](#) for more information and [HERE](#) to determine your recertification deadline. Please note that dealers with Franchise endorsements are exempt from recertification. If you are unclear on your recertification deadline, or any other recertification questions, please contact Micah Bailey at the MVDB. He may be reached at 804-367-1100 x 3007#, or email at micah.bailey@mvdb.virginia.gov

FTC and Wisconsin Take Action Against Dealer

For Illegally Discriminating Against American Indian Customers and Charging Unlawful Junk Fees

The Federal Trade Commission and State of Wisconsin are taking action against a Wisconsin auto dealer group, its current and former owners, and the general manager for deceiving consumers by tacking hundreds or even thousands of dollars in illegal junk fees onto car prices and for discriminating against American Indian customers by charging them higher financing costs and fees. The defendants have agreed to proposed court orders that will require the dealer to stop their unlawful practices and provide \$1.1 million to be used for refunds to consumers. “Working closely with the State of Wisconsin, we are holding these dealerships accountable for discriminating against American Indian customers and sneaking junk fees onto consumers’ bills,” said Samuel Levine, Director of the FTC’s Bureau of Consumer Protection. “A vehicle is one of the most expensive purchases families make, and we are fully committed to ensuring that all consumers navigating the car-buying process can do so without facing unlawful discrimination or paying for products and services they do not want.” “Companies must not be permitted to engage in discriminatory practices or improperly charge customers for ‘add-on’ products or services,” said Wisconsin Attorney General Josh Kaul. “Thank you to those at Wisconsin DOJ, the FTC, and other agencies whose work led to the filing of this complaint.”

In their complaint, the FTC and Wisconsin DOJ say that the dealership regularly charged many of their customers junk fees for “add-on” products or services without their consent. The complaint cites one survey of the dealership’s customers shows that half said they were charged for add-ons without authorization or through deception. One consumer was told—deceptively—that Guaranteed Asset Protection (commonly referred to as “GAP,” or “GAP insurance”) was required for her car purchase, even though she didn’t want to buy it; it cost her more than \$1,000 in fees and additional interest on her loan. Discrimination was proved against American Indian customers in the cost of financing by adding more “markup” to their interest rates, according to the FTC’s complaint. This additional markup cost American Indian customers \$401 more on average compared to non-Latino white customers. The complaint also notes that, when this dealership changed ownership in 2019, the disparity only increased. In addition, the complaint alleges that American Indian customers were charged for unwanted add-ons at a higher rate than non-Latino white customers. These additional junk fees can significantly drive up the amount that customers finance when they purchase their vehicle, which in turn leads to higher cost over the life of the loan. In total, American Indians paid on average approximately \$1,362 more for add-ons in credit transactions than non-Latino White customers since 2016, and \$1,374 more since the new ownership took over, according to the complaint.

The proposed settlement with the current owners will require the company to stop deceiving consumers



about whether add-ons are required for a purchase and obtain consumers’ express informed consent before charging them for add-ons. The settlement will also require the defendants to establish a comprehensive fair lending program that, among other components, will allow consumers to seek outside financing for a purchase and cap the additional interest markup the dealer can charge consumers. The current owners will also be required to pay \$1 million to be used to refund affected consumers. The former owners, and the new owners, have agreed to a separate settlement that would require the companies to permanently wind down the businesses and pay \$100,000 to be used to refund affected consumers.

Omne Trium Perfectum

And today, a message in Latin about “threes.”

Omne trium perfectum conveys “everything that comes in threes is perfect.”

In other words, pay attention when things come in threes.

As humans, we recognize things and process information through pattern recognition.

So, “three” is an important number when we are learning. The Rule of Three resolves around the idea that ideas given in three are both memorable and interesting to the reader. So, here we go! (I hope these are both memorable and interesting to you!)

First, Automotive News reported on September 11th, 2023 that a lawsuit appeal, filed by a service adviser (who was fired for insubordination) was denied by a Connecticut court. (She lost.) The service advisor alleged gender and pregnancy discrimination when she was fired by Hoffman Honda for insubordination and creating a hostile work environment. (She was the one creating the hostile work environment.)

Both customers and colleagues said that the service advisor had demonstrated a “poor attitude and rudeness.” In the court filing the dealership cited six (6) written warnings and a three (3) day suspension for “substandard work, conduct, attitude and carelessness.” The judge dismissed the case without a trial.

The dealership's attorney was quoted as saying, “By keeping accurate, thorough records, dealers can protect themselves from legal disputes and ensure compliance with legal standards.”

Keeping accurate records is key to avoiding problems. This is “top shelf” risk mitigation in practice.

Secondly, according to the US Equal Opportunity Employment Commission (EEOC) press release on September 15th 2023, a Baltimore area car dealership violated federal law by demoting and later discharging an employee because of her disabilities.

The EEOC filed a lawsuit against Len Stoler Lexus in Towson, Maryland. According to the lawsuit Len Stoler Lexus employed a service advisor who sustained a traumatic brain injury and a coma after surviving a serious motorcycle accident which affected her ability to speak, walk, and engage in other activities of daily life. After intensive rehabilitation the employee was ready to return to work in her previous position as a service advisor, but the dealership demoted her to a lower paying cashier position at a different location because of her disabilities.

To read the full article by Tom Kline, click [HERE](#).



REMINDERS

PoD Paper

All PoD temporary tags must be printed on the weather resistant paper supplied by the DMV Dealer Services Work Center. PoD tags are not authorized to be emailed or faxed to customers. Orders for the PoD paper are accepted through the DMV Dealer Services Work Center. To place an order, send an email to: podtemptag@dmv.virginia.gov with the following information: dealer name, dealer number, shipping address, order quantity, paper size(s) (standard/ motorcycle), and your printer make/ model number. Approved order requests will be shipped within five business days.

Board Actions

Dealer Practices

Informal Fact-Finding Conferences

Exclusive Auto Sale, LLC and Jilali Khalil - On September 7, 2023, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain dealer records, business hours, signage, maintain D-tag log, and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a civil penalty of \$1,500, a successful inspection and successful completion of the 2-day Dealer-Operator course. Jilali Khalil may appeal to a Formal Hearing.

American Eagle Motors and Najib Ahmad - On October 13, 2023, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and comply with previous warning. Based on the information provided at the conference, the Board issued a written warning for §46.2-1533 and §46.2-1575 (2). Najib Ahmad may appeal to a Formal Hearing.

Fast Track Auto, LLC and Brandon Kim - On October 13, 2023, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and comply with previous warnings. Based on the information provided at the conference, the Board assessed a \$1,500.00 civil penalty and a satisfactory inspection of the Fast Track Auto dealership. Brandon Kim may appeal to a Formal Hearing.

Administrative Actions:

VA Trucks and Brian Schrimpsner - Paid a \$250 civil penalty for failure to maintain dealer records.

Done Right Auto LLC and Clyde Richard Anderson - Paid a \$750 civil penalty for failure to maintain posted business hours.

Honeycar and Jake Sodikoff - Paid a \$500 civil penalty for failure to maintain dealer records.

Hurt's Motors and David Hurt - Agreed to pay \$2,000 for failure to maintain dealer records and misuse of PoD tags.

Administrative Actions:

Flywheels LLC and David P. Harlow - Paid a \$750 civil penalty for failure to maintain dealer records and proof of safety inspection prior to retail sale.

JD Auto Sales and Duy Dinh - Paid a \$750 civil penalty for failure to maintain dealer records and proof of safety inspection prior to retail sale.

C & J Auto Sales and Michelle A. Coonley - Paid a \$750 civil penalty for salespersons not paid on a W-2 and failure to maintain dealer records.

Hertz Car Sales and Robert Scott Massengill - Paid a \$2,500 civil penalty for failure to maintain dealer records and provide proof of safety inspections performed prior to retail sale.

Audi Hampton and Damian Mills - Paid a \$1,250 civil penalty for salespersons not paid on a W-2 and failure to maintain dealer records.

Autoxport and Shakira Torres - Paid a \$500 civil penalty for improper use of D-tag and failure to comply with previous warnings.

Tesla Motors, Inc and Elon Musk - Paid a \$250 civil penalty for failure to maintain dealer records and provide proof of safety inspection performed prior to retail sale.

Carvana and Ernest G. Garcia III - Paid a \$4,750 civil penalty for failure to maintain dealer records, odometer records, and provide proof of safety inspection performed prior to retail sale.

Headliners Auto LLC and Cassandra and Harry Schein Jr. - Paid a \$750 civil penalty for failure to maintain posted business hours.

Wind Rider Auto Outlet Inc. and Myroulla Georgal-las - Paid a \$250 civil penalty for failure to post a salesperson list, maintain dealer records and pay salespersons on a W-2.

Board Actions

Dealer Practices

Administrative Actions:

Cooper Corvettes, Inc and Gerald D. Cooper - Paid a \$1,000 civil penalty for failure to maintain dealer records, provide proof of safety inspection performed prior to retail sale and salespersons paid on a W-2.

Auto Finance Center LLC, Samei Ghanzniwall and Ferdos Zelawar - Paid a \$7,200 civil penalty for failure to maintain liability insurance on each D-tag, failure to maintain dealer records salespersons paid on a W-2.

DDS Auto sales LLC and Dustin Smith - Paid a \$250 civil penalty for salespersons not paid on a W-2 and failure to maintain dealer records.

Dad's Auto Sales, Inc. and John S. Dawson III - Paid a \$500 civil penalty for failure to maintain dealer records and provide proof of safety inspection performed prior to retail sale.

Hayes Auto Sales and Keith Rodgers - Paid a \$1,000 civil penalty for failure to maintain dealer records.

Autos 4 Less and Wayne D. Carpenter - Paid a \$250 civil penalty for failure to maintain dealer records.

Autos 4 Less and Wayne D. Carpenter - Paid a \$250 civil penalty for failure to maintain dealer records and proper dealership signage.

Advertising

Administrative Actions:

Bayside Chrysler Dodge Jeep Ram and Geoffrey C Wanamaker. - Paid a \$1,000 civil penalty for deceptive and misleading advertising for charging reconditioning fees and a dealer prep fee, in addition to the processing fee.

Independent Dealer Operator Course 2024 Schedule

The Following Courses are Registered Through the VIADA

1/9-10/2024	Suffolk	Hilton Garden Inn Chesapeake/Suffolk 5921 Harbour View Blvd Suffolk 23435
1/16-17/2024	Midlothian	VIADA HOME OFFICE 1525 Huguenot Rd Suite 200 Midlothian 23113
2/6-7/2024	Chantilly	Home2Suites 43340 Defender Dr. Chantilly 20152
2/13-14/2024	Midlothian	VIADA HOME OFFICE 1525 Huguenot Rd Suite 200 Midlothian 23113
3/5-6/2024	Blacksburg	Hilton Garden Inn 900 Plantation Rd Blacksburg 24060
3/12-13/2024	Midlothian	VIADA HOME OFFICE 1525 Huguenot Rd Suite 200 Midlothian 23113
4/9-10/2024	Suffolk	Hilton Garden Inn Chesapeake/Suffolk 5921 Harbour View Blvd Suffolk 23435
4/16-17/2024	Midlothian	VIADA HOME OFFICE 1525 Huguenot Rd Suite 200 Midlothian 23113

**You can register for your IDO Course on the VIADA website [HERE](#) **

Or call 800-394-1960

MVDB Mission Statement

The Motor Vehicle Dealer Board will administer sections of the Commonwealth's Motor Vehicle Dealer Laws and Regulations as charged; promote the best interest of both the automotive consumer and dealer community; while providing a high level of customer service.

We are located at:

**2201 West Broad St.
Suite 104
Richmond, Va. 23220**
Inside
The BookBindery Building

Contact Us:

804-367-1100

Executive Director:

William R. Childress ext:3002#

Field Representative Supervisor:

Lisa Mack-Nelson ext:3005#

Operations Manager:

(contact Ann Majors)

Agency Analyst/Education:

Ann Majors ext:3016#

Email:

dboard@mvdv.virginia.gov

Dealer Talk Editor:

Ann Majors

What's Wrong With This Picture?



Improper Use of Dealer Tag!

There are two things wrong with this picture

1. You cannot use a dealer tag on a vehicle used for another business
2. You cannot use a dealer tag to tow another vehicle.

§ 46.2-1550 states in part: It shall be unlawful for any dealer to cause or permit dealer's license plates to be used on:

2. Vehicles used to deliver or transport (i) other vehicles;
4. Vehicles used in conjunction with any other business.



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