



October 2024

Issue 155

DEALER TALK

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Upcoming Events!

Monday 11/18/2024

Board Meeting In person at DMV
2300 West Broad Street
Richmond VA, 23220

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

Governor Appoints New Board Members

Governor Glenn Youngkin has appointed Edward Maulbeck, Owner and Chief Executive Manager-Member of Southeastern Virginia Powersports to the Virginia Motor Vehicle Dealer Board. Maulbeck replaces Maurice Slaughter who served two terms on the Board.

Governor Youngkin also appointed Kevin Reynolds Jr., Owner, and Dealer Operator of Reynolds GM Subaru. Reynolds replaces Trevor Coley, who has served on the Board since September 2022.

The dealer community, Board members and Board staff appreciates the outstanding work and contributions made by Mr. Slaughter and Mr. Coley while serving on the Board. We wish you continued success in your future endeavors.

Holiday Closures

The MVDB will be closed for the following holidays:

- **Election Day** -
 - November 5, 2024
- **Veterans Day**-
 - November 11, 2024
- **Thanksgiving** -
 - November 27, 2024 (*Will close at 12pm*)
 - November 28-29, 2024
- **Christmas** -
 - December 24-25, 2024
- **New Year's Day** -
 - January 1, 2025





Vehicle Weights

Recently, the Department of Motor Vehicles (DMV) has received many questions regarding trucks and the weights; Unladen (empty), Gross Weight and Gross Vehicle Weight Rating (GVWR).

- Unladen weight is the shipping weight of the vehicle, which is the vehicle without any passengers or cargo. Unladen weight is printed on the Manufactures Certificate of Origin (MCO) or may be found on some titles. You may also find this weight on the information plate found in the door jamb.
- Gross Vehicle Weight Rating (GVWR) is the weight rating the manufacturer has rated the vehicle to haul safely on its own. This does not include the weight of a trailer it is hauling. The GVWR may be found on the MCO, some titles, or the information plate found in the door jamb. You should never make this weight up or enter a weight other than what is found on one of the above. Entering incorrect GVWR or other weights could result in a citation for a customer.
- Gross Weight is the weight the vehicle may be registered to haul on its own in addition to the weight of any trailer or equipment being towed. Often referred to as the combined weight meaning the GVWR of a truck adding it to GVWR of the trailer equals Gross Weight.

When titling any vehicle, particularly trucks, make sure to use the weights provided by the manufacturer or provided on the ownership document.



Power of Attorney

The Power of Attorney (PoA) to Sign for Owner When Registering and/or Transferring Ownership of a Motor Vehicle, (VAD 70A) is a triplicate, secure power of attorney form only used by dealerships. The **VAD 70A shall only be used when the title is lost or in the possession of a lienholder**.

On a trade-in, and the title is not available, use the VAD 70A to handle all DMV transactions necessary to complete the transfer of ownership including any required owner signatures. The customer will need to complete Part A of the VAD 70A to disclose the odometer reading on their vehicle and assign power of attorney to the dealer. Part B of the same VAD 70A is used when the dealer sells the vehicle before securing the title.

If there is not a lien or any other DMV status of held on the trade-in title and you just need to request a replacement title for your customer, have the customer complete the VAD 70A and also have them sign the Application for Replacement and Substitute Titles (DMV form [VSA67](#)). The VSA67 gives a representative from your dealership permission to obtain the title by completing the Authorized Representative Designation section (section 6 on the application).

Note: Power of Attorney VAD 70A is a federal legal requirement (49 CFR Part 580). It is federal law that determines the limited circumstances when a VAD 70A may be used. DMV understands the limited usage of the VAD 70A and dealers must comply with federal law. Dealers and DMV often refer to the VAD 70A as the “pink PoA” to distinguish it from the VSA 70, “Power of Attorney to Sign for Owner”, which is often called the “white PoA” or “short PoA”. **The VSA 70 is not for dealer use.**

REMINDER

Inspection Fee

Code Section [§ 46.2-1528](#) allows the Board to establish the cost of examinations performed by the MVDB Field Representatives. Effective July 1, 2024, dealers found in violation will be assessed an additional \$50 for the cost of an examination with the issued civil penalty.

If a violation of the Motor Vehicle Dealer Laws or any order of the Board is found during the inspection, the cost of the inspection shall be paid within 30 days.

FTC and Arizona Take Action Against Motor Company

For Deceptive Pricing and Discriminatory Practices

The Federal Trade Commission and State of Arizona are taking action against an Arizona-based motor company for engaging in a wide array of practices that harm consumers, from deceptive online vehicle pricing to charging Latino car buyers more in interest and add-on products. The motor company, along with its former general manager, will pay \$2.6 million to settle the lawsuit, most of which will go to provide refunds to consumers harmed by defendants' allegedly unlawful actions.

In the complaint announced today, the FTC and State of Arizona allege that the motor company, which operates two dealerships, along with the former general manager, regularly charged consumers for unwanted add-ons that consumers never agreed to pay and other bogus fees. A survey of consumers who purchased or leased cars from the motor company, found that 92 percent of the consumers surveyed were charged for at least one add-on without their authorization, or that they thought was required.

"The dealership used junk fees and other illegal tactics to drive up prices for consumers, especially Latino consumers," said Samuel Levine, Director of the FTC's Bureau of Consumer Protection. "The FTC will continue cracking down on practices that drive up prices, cheat consumers, and undercut honest sellers."

According to the complaint, the motor company advertised prices for cars online at significant discounts under the cars' suggested retail prices, in many cases thousands of dollars less, leading consumers to think they could purchase the advertised car for that advertised amount. Consumers complained that when they arrived at the dealership, they were told the advertised price was not available. Instead, the dealership added hundreds or thousands of dollars more than the advertised price in a so-called "market adjustment," supposed add-ons that were pre-installed on the car, and other miscellaneous fees.

The add-ons included items like vehicle identification number etching, window tinting, nitrogen-filled tires, and theft recovery services – items that the motor company would deceptively tell consumers were required to purchase the car. The complaint alleges that in some cases, the motor company charged consumers twice for the same add-ons, once individually and again as part of an add-on "package."

The complaint also alleges that the motor company discriminated against Latino consumers in vehicle transactions. On average, Latino consumers who shop at the dealership pay nearly \$1,200 more in interest and add-on charges than their non-Latino White counterparts. These increased costs come in the form of higher interest rate markups on financing, as well as higher charges for various add-on products.

The complaint charges the motor company and the former general manager for violations of the FTC Act, the Equal Credit Opportunity Act, and the Arizona Consumer Fraud Act.

Under the terms of the proposed federal court order with the FTC and the State of Arizona, the motor company and former general manager are required to pay a \$2.6 million judgment, of which \$2.35 million will be used to provide refunds to consumers harmed by their allegedly unlawful actions. The proposed settlement also requires the motor company to establish a comprehensive fair lending program that includes appointing a fair lending officer, conducting employee training, and implementing policies for charging fees and markups.



Advertising

The deadline for advertisement compliance across all platforms is **NOVEMBER 22, 2024**. Information on advertising requirements was sent to all dealerships and our Dealer Talk subscribers via SendPulse using the email addresses on record on September 23, 2024. You may click [here](#) to view notification.

Dealers, you are responsible for any and all advertisements for your dealership(s). However, if proof can be provided that your salespeople have been educated and trained regarding Virginia's Motor Vehicle advertising laws, the salesperson may also be held accountable for any advertising violations.



Are You Safeguarding Your Customer's Information?

FTC Safeguards Rule: What Your Business Needs to Know

As the name suggests, the purpose of the Federal Trade Commission's Standards for Safeguarding Customer Information – the Safeguards Rule, for short – is to ensure that entities covered by the Rule maintain safeguards to protect the security of customer information. The Safeguards Rule took effect in 2003, but after public comment, the FTC amended it in 2021 to make sure the Rule keeps pace with current technology. While preserving the flexibility of the original Safeguards Rule, the revised Rule provides more concrete guidance for businesses. It reflects core data security principles that all covered companies need to implement.

This publication serves as the small entity compliance guide under the Small Business Regulatory Enforcement Fairness Act. Your best source of information is the text of the Safeguards Rule itself.

In reviewing your obligations under the Safeguards Rule, consider these key compliance questions.

Who's covered by the Safeguard Rule?

The Safeguards Rule applies to financial institutions subject to the FTC's jurisdiction and that aren't subject to the enforcement authority of another regulator under section 505 of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6805. According to Section 314.1 (b), an entity is a "financial institution" if it's engaged in an activity that is "financial in nature" or is "incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C § 1843(k)."

How do you know if your business is a financial institution subject to the Safeguards Rule? First, consider that the Rule defines "financial institution" in a way that's broader than how people may use that phrase in conversation. Furthermore, what matters are the types of activities your business undertakes, not how you or others categorize your company.

To help you determine if your company is covered, Section 314.2(h) of the Rule lists 13 examples of the kinds of entities that are financial institutions under the Rule, including mortgage lenders, payday lenders, finance companies, mortgage brokers, account servicers, check cashers, wire transferors, collection agencies, credit counselors and other financial advisors, tax preparation firms, non-federally insured credit unions, and investment advisors that aren't required to register with the SEC. The 2021 amendments to the Safeguards Rule add a new example of a financial institution – finders. Those are companies that bring together buyers and sellers and then the parties themselves negotiate and consummate the transaction.

Section 314.2(h) of the Rule lists four examples of businesses that aren't a "financial institution." In addition, the FTC has exempted from certain provisions of the Rule financial institutions that "maintain customer information concerning fewer than five thousand consumers."

Here is another key consideration for your business. Even if your company wasn't covered by the original Rule, your business operations have probably undergone substantial transformation in the past two decades. As your operations evolve, consult the definition of financial institution periodically to see if your business could be covered now.

What does the Safeguards Rule require companies to do? Click [here](#) to find out...

Failure to maintain business hours is one the most common violations issued against dealerships. Virginia Code Virginia Code [§46.2-1533](#) states that the dealer's hours shall be posted and maintained conspicuously on or near the main entrance of each place of business. MVDB must be notified in writing regarding the changes of hours. Form [MVDB 40](#) is required to be completed and submitted to the Dealer Board in the event the dealership will need to be temporarily closed. Upon the first violation, the dealer will be issued an educational warning through email or letter. If a second violation occurs, there will be a civil penalty of \$750 plus a \$50 inspection fee, which can be appealed in an informal hearing. If there is a third violation, an informal hearing will take place. You are required to ensure that the Board has current and valid contact information for both the dealership and the dealer-operator.



Code Section [§ 46.2-1510](#) (4) requires an email address and working telephone listed in the name of the dealership. If using a cell phone as your Dealership phone number, the account must be active and in the name of the dealership.

To update your dealership profile's contact information, you are required to submit the necessary documentation, such as [MVDB10](#), an email, or a letter from authorized dealership personnel (owner or dealer-operator). Please refrain from leaving voice messages for important updates or changes that require written documentation. If you leave a voice message regarding an issue that requires written documentation, it may not be addressed or processed. If you are uncertain, please email your issues or requests to dboard@mvdb.virginia.gov. This ensures that the Board staff has written documentation to respond to your request in a timely manner.

Board Actions

Dealer Practices

Informal Fact-Finding Conferences

Fairfax Motors, Inc. and Aqela Sheh - On June 26, 2024, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain dealer records, failure to have licensed salespersons, and failure to provide proof of safety inspection prior to retail sale. Based on the information provided at the conference, the Board assessed a civil penalty of \$11,000.00 and a satisfactory inspection within 90 days. The dealer has the right to appeal to a formal hearing.

T.A.G. Autosports and James C. Taylor - On June 9, 2024, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours. Based on the information provided at the conference, the Board assessed a civil penalty of \$1,000 and a satisfactory inspection within the next 90 days. The dealer has the right to appeal to a formal hearing.

The Xclusive Auto Center, Inc. and Mohammad Salem - On June 26, 2024, an informal fact-finding conference was conducted to address the alleged violations of failure to have all records available for inspection, failure to have licensed salespersons as employees of the dealership and not independent contractors, and failure to comply after a written warning. The Board assessed a civil penalty of \$2,000.00 and a satisfactory inspection and to successfully complete the 2-day Dealer-Operator course. The dealer has the right to appeal to a formal hearing.

Yes Auto Sales and Amon Sammy Hammad - On August 19, 2024, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain dealer records and failure to comply after a written warning. Based on the information provided at the conference, the Board assessed \$2,000.00, a satisfactory inspection within 90 days and to successfully complete the 2-day Dealer-Operator course. The dealer has the right to appeal to a formal hearing.

Administrative Actions:

3D Auto Group, LLC - Paid a \$1,000 civil penalty for failure to provide proof of safety inspections prior to retail sale.

ABC Motors - Agreed to pay a \$1,250 for failure to sell vehicles from a licensed/authorized location and failure to license salesperson/employee of the dealership, misuse of dealer plates, and failure to comply with previous warnings.

Bowditch Ford Inc - Paid a \$1,000 for failure to maintain dealer records.

Car Stop Auto INC - Paid a \$4,550 civil penalty for failure to maintain dealer records, provide proof of safety inspections prior to retail sale and failure to comply with previous warnings.

CMA's Valley Volkswagen - Paid a \$1,750 penalty for failure to have licensed salespersons.

Drive Nation, LLC - Paid a \$1,500 civil penalty for failure to provide proof of safety inspections prior to retail sale and having unlicensed salespersons.

East End Auto Sales Ashland - Paid \$250 civil penalty for failure to have licensed salespersons as employees of the dealership and not independent contractors.

Johnson Truck Center, LLC - Paid a \$250 for penalty for failure to provide proof of safety inspection prior to retail sale.

Joy Auto Sales, LLC - Paid \$750 civil penalty for failure to maintain posted business hours and failure to comply with previous written warnings.

Madison Ford - Paid a \$1,000 civil penalty for failure to have all salespersons licensed.

Matheny Motor Truck Company - Paid a \$500 civil penalty for misuse of dealer plates.

Modern Super Center - paid \$250 civil penalty for failure to provide proof of safety inspection prior to retail sale.

Parrish's Paint & Body Shop, INC - Paid a \$750 penalty for failure to post and maintain posted business hours.

Shawes Cars, LLC - Paid a \$500 civil penalty for failure to have records available for inspection and failure to comply with a previous warning.

REMINDER

Personally Identifiable Information (PII)

The dealer community has a responsibility to protect and safeguard all customer information, especially any Personally Identifiable Information (PII). Direct identifiers include their name, address, phone number, Social Security number or driver's license number. Indirect identifiers are information that can be used to identify a person in combination with other data, such as their date of birth, race or geographic location. Use an encryption software when sending PII via email to the Dealer Board.

Independent Dealer Operator Course 2024 Schedule

The Following Courses are Registered Through the VIADA

Dates	City	Location	Address
11/5-6/2024	Lynchburg	Hilton Garden Inn	4025 Wards Road, Lynchburg, 24502
11/12-13/2024	Midlothian	VIADA Home Office	1525 Huguenot Rd Suite 200, Midlothian, 23113
12/10-11/2024	Chantilly	Home2Suites	43340 Defender Dr, Chantilly, 20152
12/17-18/2024	Midlothian	VIADA Home Office	1525 Huguenot Rd Suite 200, Midlothian, 23113
1/7-8/2025	Suffolk	Hilton Garden Inn	5921 Harbor View Blvd, Suffolk, 23435
1/9-10/2025	Midlothian	VIADA Home Office	1525 Huguenot Rd Suite 200, Midlothian, 23113

More 2025 Schedule to Come



REMINDER

Independent Dealer-Operator (IDO)

Every two years, IDOs from independent dealerships must recertify their qualifications by taking either an instructor-led online course or attending a classroom course. Another option is to take the dealer-operator examination at any Department of Motor Vehicles Customer Service Centers. For further information, click [here](#). Dealers with Franchise endorsements are exempt from this requirement. If you have questions about your recertification deadline or any questions regarding recertification, please contact LaTasha Hill at the MVDB at 804-367-1100 x 3003# or email latasha.hill@mvdv.virginia.gov.

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 Book Bindery Building

Contact Us:

804-367-1100

Executive Director:

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Lisa Mack-Nelson ext:3005#

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Dealer Talk Editor:

LaTasha Hill

What's Wrong With This Picture?



Improper Use of Dealer Tags

Dealer tags cannot be used on a vehicle utilized for another business—in this instance it would be for a towing business.

Dealer tags are not permitted for use 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:

- ⇒ Tow trucks, wrecking cranes or other service motor vehicles.
- ⇒ Vehicles used to deliver or transport other vehicles.
- ⇒ Vehicles used in conjunction with any other business.

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