



April 2023

Issue 146

DEALER TALK

Inside this issue:

- Page 1
[New Chairman of the Motor Vehicle Dealer Board](#)

- [Exclusive use of the Dealership](#)

- [Maintaining Business Hours - A Field Representative and Customer's Experience](#)

- Page 3
[FTC Safe Guard Rules](#)

- Page 5
[Odometer Fraud](#)

- Page 6
[\\$18 Million Dollar Ferrari Sale](#)
[Always Get current MVDB Forms](#)

- Page 7-8
[Board Actions](#)

- Page 9
[IDO Recert Schedule 2022](#)

- Page 10
[What's Wrong With This Picture](#)

- [REMINDERS pg. 2, 3, 4,5,6](#)

• Upcoming Events!

The MAY 2023 meeting is cancelled.

Next meeting is Monday 07/10/2023

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](#)

Identity Theft Links

[Identity Theft Resource Center](#)

[Attorney General of Virginia](#)

New Chairman of the Motor Vehicle Dealer Board

Governor Glenn Youngkin appointed Gerald Lackey, Commissioner of the Department of Motor Vehicles, which in turn places him as the Chairman of the Motor Vehicle Dealer Board. Dr. Gerald Lackey has more than 15 years of experience in collaborating with government agencies, customer groups, and Fortune 500 companies to develop winning strategies, optimize business processes, and deliver on strategic growth initiatives.

In his most recent role as Vice President of Business Optimization at GAF, the world's largest roofing manufacturer, Dr. Lackey led strategic growth projects and productivity efficiencies across ... [Cont'd on pg. 2](#)



Exclusive use of the Dealership

Va. Code Section [§46.2-1510](#) states:

No license shall be issued to any motor vehicle dealer unless he has an established place of business, owned, or leased by him, where a substantial portion of the sales activity of the business is routinely conducted and which :

- Satisfies all local zoning regulations
- Has sales, service, and office space devoted exclusively to the dealership ... [Cont'd on pg. 4](#)

Maintaining Business Hours

A Field Representative and
Customer's Experience

Many of our articles in Dealer Talk tend to be about dealers maintaining business hours, and according to Virginia Code [§46.2-1533](#), each motor vehicle dealer must be open for business a minimum of 20 hours per week, at least 10 of which shall be between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. When a dealership fails to maintain their business hours, it is frustrating to customers who may ... [Cont'd on pg. 2](#)

Maintaining Business Hours

A Field Representative and Customer's Experience

Cont'd from pg. 1

have taken time off from work or rearranged their schedules to visit the dealership. It can also lead to a loss business opportunity for the dealership as customers may choose to go to another dealership, one that is open when it is supposed to be.

Here is an excerpt from recent experiences from one of our Field Representatives. "This is the 2nd week I have been at dealerships in which no one is on site. The hours posted match that listed with the MVDB. No closing is on file or posted on door. My practice is to walk around the lot to make sure the dealer is not working in the back. Sometimes I wait 10-20 min to see if they (dealer) will show up. I was approached by two customers who showed up after I had arrived. I spoke to the customers to determine if they were supposed to meet the dealer. Both said "no" and proceeded to explain how they have visited the dealership multiple times that day or for the past three days and no one is on site. Ironically, both customers asked me what kind of business the dealer is actually running. "

Not maintaining business hours can have a negative impact on the reputation of the dealership and dealerships in general. Customers may leave negative reviews online or share their experiences with others, which can lead to loss of business for the dealership.

New Chairman of the Motor Vehicle Dealer Board

Cont'd from pg. 1

the company. During his time at GAF, he helped launch a new, award-winning product line, as well as removed thousands of hours of wait time from customer-facing processes in its commercial roofing division.

Prior to GAF, he was an Associate Partner at McKinsey & Company working with manufacturing companies and energy-related public sector agencies to drive multi-year transformational change. His business acumen and transformation skills led to greater value for customers and citizens in the United States, Middle East, and Europe. Dr. Lackey is credited with launching a new paper and packaging company post an acquisition of equals; making significant and sustainable cost reductions in an international packaging company; and establishing a lean operation program for a North American oil company.

Dr. Lackey received a Bachelor's degree in Sociology and Spanish from Duke University and a Ph.D. in Social Psychology from the University of North Carolina at Chapel Hill with a subspeciality in quantitative methodology.

REMINDERS

IDO Recertifications

ALL Independent Dealer Operators (IDO) of independent dealerships must recertify their IDO qualification every two years by either taking a digital course (via zoom) or an in person classroom course through an approved MVDB vendor. Click [HERE](#) for more information about the Recertification program. Please note that dealers with Franchise endorsements are exempt from recertification. If you are unclear about your recertification deadline click [HERE](#), and if you have any other recertification questions, contact Ann Majors at the MVDB. She may be reached at **804-998-7785** or email at ann.majors@mvdb.virginia.gov.

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.

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.

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.

To read the entire publication please refer to the link provide below.

<https://www.ecfr.gov/current/title-16/chapter-I/subchapter-C/part-314>

REMINDERS

Unadvertised Fees

Some dealers are charging reconditioning fees in addition to the vehicle's advertised price. Virginia Code §46.2-1581(8) states in part the "...advertised price or credit terms shall include all charges which the buyer must pay; except buyer selected options, state and local fees and taxes, and manufacturers or distributor's freight or destination charges, and a processing fee, if any. Dealers may NOT charge fees such as "dealer prep", "reconditioning", etc., these costs must be included in the price of the vehicle.

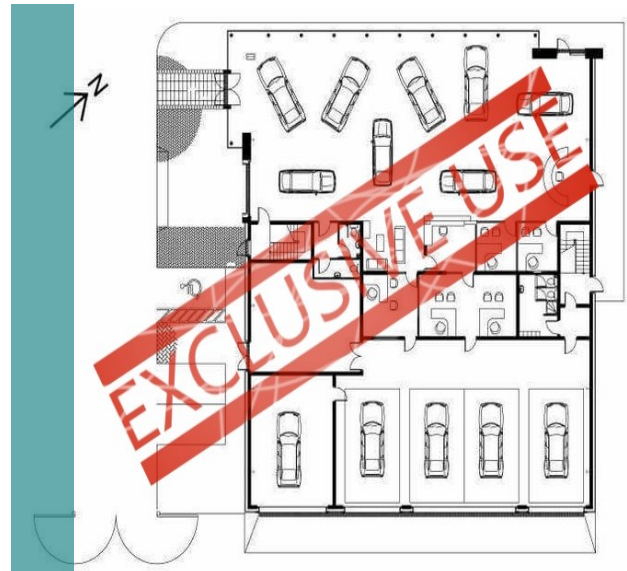
Exclusive use of the Dealership

Cont'd from pg. 1

- of at least 250 square feet in a permanent, enclosed building not used as a residence;
- Houses all records the dealer is required to maintain by §46.2-1529;
- Is equipped with a desk, chairs, filing space, a working telephone listed in the name of the dealership, working utilities including electricity and provisions for space heating, and an Internet connection and email address;
- Displays a sign and business hours as required by this chapter; and
- Has contiguous space designated for the exclusive use of the dealer adequate to permit the display of at least 10 vehicles.

Any dealer licensed on or before July 1, 1995, shall be considered in compliance with subdivisions 2 and 6 of this section for that licensee.

As part of field Inspections MVDB representatives verify all the requirements of §46.2-1510 – including exclusive use. The MVDB recommends there not be an additional



business operating within the dealership's showroom, and most definitely not within the 250 square feet of exclusive use.

Other businesses may occupy another building or another entrance on the dealership property; however, they may not, under any circumstances, share or use any portion of the 250 square feet of space that is devoted exclusively to the dealership. Other businesses must have a separate physical address not matching that of the dealership.

REMINDERS

Warranty Uplift

This is a reminder regarding parts and labor markup rights that franchise dealers may have. Some franchisees may be unaware of legislative efforts that resulted in strong benefits that entitle franchise dealers to warranty reimbursement at a higher level than you might be currently receiving from your OEM/OEM's. These efforts were codified in law as MD Code Sec. 15-212 and VA Code Sec. §46.2-1571.

To receive the higher level of reimbursement you will need to appeal your reimbursement rate through your OEM. They typically attempt to have the dealer use their standardized form, but you do not need to use their form if you follow your state's law. Generally, a dealer must submit an average of 100 sequential repair orders at a retail rate to demonstrate their charges to non-warranty customers. This usually results in a higher reimbursement rate than the OEM offers the dealer through warranty programs. Many dealers are successfully taking advantage of these laws in both Virginia and Maryland. Please contact the VADA or WANADA for additional information.

Odometer Fraud is a \$1 billion Problem

Here's How it Costs American Drivers

A type of motor vehicle crime that costs consumers in the U.S. about \$1 billion a year is on the rise, according to data firm Carfax.

It's called odometer fraud.

Fraudsters looking to boost profits on the sale of a vehicle roll back the numbers on an odometer, duping buyers into thinking the car has fewer miles on it than it does. Cases rose 7% in 2022, according to Carfax research.

Buyers lose an average of \$4,000 a year to fraudsters, and, according to enforcement experts, most of them don't even know they have been hit.

"We would like to see justice for the individual that pays \$45,000 for a car that's only worth [\$10,000 or \$15,000]," said Jason Shrader, a law enforcement officer for the North Carolina Division of Motor Vehicles and president of the National Odometer and Title Fraud Enforcement Association, a group of professionals who investigate odometer fraud cases.



Average used vehicle prices rose from about \$20,000 in December 2019 to about \$27,000 in December 2022, according to Cox Automotive. Supply chain disruptions and shortages in new vehicle inventory have pushed more customers to the used market, which in turn has pushed up prices. Those circumstances also are making used vehicles scarcer.

"I can't tell you for sure, but I suspect with the recent surge in used car prices, that it's becoming a more enticing tactic for scammers," said Patrick Olsen, executive editor at Carfax.

<https://www.cnbc.com/odometer-fraud-in-america>

REMINDERS

Maintaining Dealer Records

§46.2-1528 authorizes the Board or representatives of the Board ability to examine dealer records, during the posted business hours of dealerships. In addition, "If a licensee is found to have violated this chapter or any order of the Board, the actual cost of the examination shall be paid by the licensee". §46.2-1529 requires all Motor Vehicle Dealers to keep the originals or a copy of all original records at the site (dealership) of origination for five (5) years. Dealer records will include (but is not limited to) records regarding employees; lists of vehicles in inventory for sale, resale, or on consignment; vehicle purchases, sales, trades, and transfers of ownership; collections of taxes; titling, uninsured motor vehicle, and registration fees; odometer disclosure statements; records of permanent dealer registration plates assigned to the dealer and temporary transport plates and temporary certificates of registration; proof of safety inspections performed on vehicles sold at retail; and other records required by the Department or the Board. These records shall be maintained and available to MVDB Field Representatives for inspection during your posted business hours listed with the Board.

An \$18 million dollar Ferrari leads record classic-car auction at Amelia Island.

Wealthy car collectors spent a record amount at the classic-car auctions at Amelia Island over the weekend, suggesting the market remains strong despite recession fears and falling stocks.

Total sales at the Amelia Island auction reached \$178.4 million — a record for the event, topping the 2016 record of \$140 million, according to classic-car insurance and events company Hagerty. Over 390 cars sold, at an average price of \$455,293, up from \$435,939. A total of 43 cars sold for over \$1 million, up from 33 cars last year, according to Hagerty.

The most expensive car sold at Amelia Island was a 1962 Ferrari 250 GT SWB California Spider, sold at Gooding & Company for \$18 million — setting a record for a car sold at the Amelia Island auctions.

The runner-up was a 2010 Pagani Zonda R Coupe that went for \$5.3 million at RM Sotheby's, followed by a 1995 Ferrari F50 Coupe that sold for \$5.1 million at RM Sotheby's. Of the top 10 most expensive cars sold, seven were Ferraris, showing the continued dominance of the brand at the top of the classic-car market.



1962 Ferrari 250 GT SWB California Spider

Courtesy of Gooding & Company, Images by Mathieu Heurtault.

If you would like to read the full article...

<https://www.cnbc.com/2023/03/08/amelia-island-classic-car-auction-top-10-sellers.html>.

Always have the most current forms on hand!

Update your Forms! Want to make sure you ALWAYS have the most current and up to date forms? It's easy! Go to the MVDB website for **Forms and Publications**. All of our forms are in a PDF format and easy to download. What does this mean to you? That you can click on the form you need, complete the form and print the forms directly from your computer. Be sure to **ALWAYS** include your Dealership License Certificate number on any and all forms and correspondence with the Board.



REMINDERS

Salvage and Rebuilt Vehicles

The MVDB receives many inquiries regarding salvage and rebuilt vehicles. Unfortunately, the MVDB cannot help when it comes to salvage and rebuilt vehicles. Questions concerning salvage and rebuilt vehicles should be directed to the DMV Dealer Services Work Center since they license salvage and rebuilt dealers. Their email address is dealerservices@dmv.virginia.gov, or you may call them at 804-367-0901.

Board Actions

Dealer Practices

Informal Fact Finding Conferences:

Maraton Motors and Martin Onyirimba

On December 20, 2022, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain dealer records, proof of safety inspection prior to retail sale, failure to provide title within 30 days, and having used deceptive acts and practices. Based on the information provided at the conference and the recommendation of the hearing officer, the Board assessed a civil penalty of \$27,800, satisfactory inspection of dealer records with the dealer present, proper use of PoD system and successful completion of the 2-day Dealer-Operator course.

Martin Onyirimba may appeal to a Formal Hearing.

Saint Auto Sales LLC, and Treyvond Lockhart & Domonique Jones

December 22, 2022, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and complying with a previous warning. Based on the information provided at the conference and the recommendation of the hearing officer, the Board assessed a civil penalty of \$1,000.00, a satisfactory inspection of dealer records with dealer the present, and successful completion of the 2-day Dealer-Operator class.

Treyvond Lockhart and Domonique Jones may appeal to a Formal Hearing.

Billys Auto and Equipment, Inc., and William P. Moore, Jr.

On January 17, 2023, 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 and the recommendation of the hearing officer, the Board assessed a civil penalty of \$750.00, a satisfactory inspection and successful completion of the 2-day Dealer-Operator class.

William P. Moore, Jr. may appeal to a Formal Hearing.

Cry Babies Auto Sales, LLC, and Stanford C. Jones

On January 26, 2023, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and complying with a previous warning. Based on the information provided at the conference and the recommendation of the hearing officer, the Board assessed a \$750 civil penalty, a satisfactory inspection, and successful completion of the 2-day Dealer-Operator class. Stanford C. Jones may appeal to a Formal Hearing.

Formal Hearings:

Advantage Auto Sales and Mohammad Elahi-Moshassel

On February 9, 2023, a Formal Hearing was conducted to address the alleged violations of failure to maintain posted business hours and complying with a previous warning. Based on the information provided at the hearing and the recommendation of the hearing officer, the Board assessed a civil penalty of \$750, a satisfactory inspection and successful completion of the 2-day Dealer-Operator class.

Mohammad Elahi-Moshassel may appeal to the appropriate Circuit Court.



Board Actions

Dealer Practices

Administrative Actions:

Don Pool Mercedes BNZ Specialist, and Donald W. Pool.

Paid a \$250 civil penalty for failure to maintain dealer records.

Volvo of Midlothian, and Ronald J. Ferguson.

Paid a \$1,000 civil penalty for unlicensed salespersons.

VCD Auto Group, and Maurice Mbata, Jr.

Paid a \$1,000 civil penalty for failure to maintain dealer records and provide proof of safety inspections prior to retail sale.

Midatlantic Trailer Sales and Service Inc., and Frank Edward Jenkins.

Paid a \$750 civil penalty for failure to maintain posted business hours.

Kingdom Kars Auto Sales LLC, and Michael Bradford Hathaway.

Paid a \$250 civil penalty for failure to maintain dealer records and provide proof of safety inspections prior to retail sale.

J & W Auto, and Michael E. Locks.

Paid a \$250 civil penalty for failure to maintain dealer records.

Priority Buy Here Pay Here Newport News, and Dennis M. Ellmer.

Paid a \$1,250 civil penalty for failure to maintain dealer records and unlicensed salespersons.

Liberty Automotive LLC, and Ahmed Jwanmery.

Paid a \$750 civil penalty for selling from an unlicensed location.

Crossroads Cars, and Aftab A. Khan.

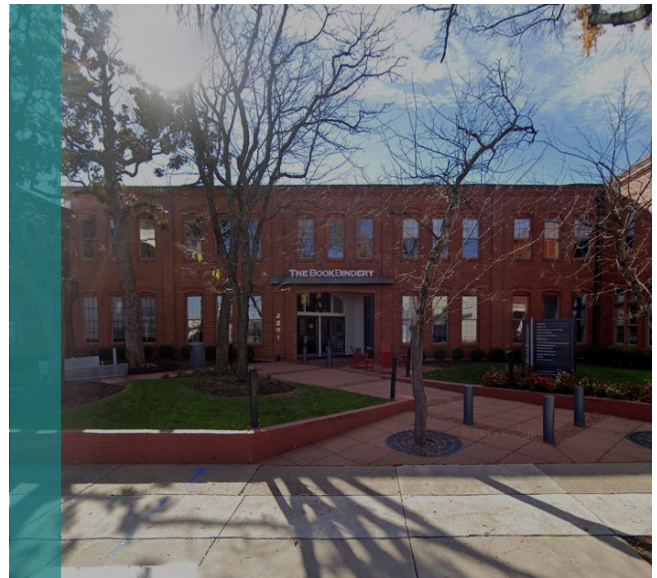
Paid a \$250 civil penalty for failure to maintain dealer records, D-tag records and provide proof of safety inspection prior to retail sale.

Priority Nissan Chantilly, and Dennis M. Ellmer.

Paid a \$750 civil penalty for unlicensed salespersons and failure to maintain dealer records.

Early's Cycle Center Inc., and Sheldon H. Early.

Paid a \$1,250 civil penalty for unlicensed salespersons.



Independent Dealer Operator Course Schedules

The Following Courses are Registered Through VIADA

2023 Course Schedules

May 9 - 10 : Hampton : (Hyatt Place 1905 Coliseum Drive Hampton VA 23666)

May 16 - 17 : Chantilly : (Home2Suites 43340 Defender Dr. Chantilly VA 20152)

June 6 - 7 : Harrisonburg : (DoubleTree by Hilton 1400 E. Market St. Harrisonburg, VA 22801)

June 13 - 14 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 23113)

July 11 - 12 : Danville or Bristol : (TBD)

July 18 - 19 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 23113)

August 8 - 9 : Chantilly : (Home2Suites 43340 Defender Dr. Chantilly VA 20152)

August 15 - 16 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 23113)

September 12 - 13 : Harrisonburg or Lynchburg : (TBD)

September 26 - 27 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 23113)

October 19 - 20 : Norfolk : (Norfolk Waterside Marriott 235 E Main St, Norfolk VA)

November 7 - 8 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 23113)

November 14 - 15 : Danville : (Courtyard by Marriott 2136 Riverside Drive Danville, VA 24540)

December 5 - 6 : Chantilly : (Home2Suites 43340 Defender Dr. Chantilly VA 20152)

December 12 - 13 : Midlothian : (VIADA HQ 1525 Huguenot Rd Suite 200 Midlothian VA 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.

Locate Us:

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Ann Majors

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John Saul

What's Wrong With This Picture?



Non-Compliant Dealership Sign!

This dealership sign is non-compliant due to the fact that the sign is not a permanent sign. Also of note, the sign must be visible from the front of the business so that the public may quickly and easily identify the dealership.

