

AUGUST 2013

Volume 19, Issue 93

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Update Your Forms

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Email and Internet Compliance

New! -- Email compliance form for Virginia Motor Vehicle Dealers - Quickly and easily provide us your Dealership's email address on-line at www.mvdb.virginia.gov



The purpose of the on-line email compliance form is for Dealers to easily enter the "official" email address for your Dealership. Effective 7/1/2013, Dealers are required to have an internet connection and email address at the Dealership. (See <u>Guidance Memorandum</u> dated 2/13/2013 on our website for additional information).

To enter your email address using the On-Line Email Compliance Form:

From the MVDB Home page, click
"Dealers" tab and Email Compliance Form (go to form HERE)

Enter your Dealer Certificate number or click on the Dealer Listing to locate your Dealership

Enter your email address

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Advertising "FREE"

Virginia Advertising regulations prohibit the use of "free" when used in the following manner:

No equipment, accessory, other merchandise or service shall be described using any term that implies that such equipment, accessory, other merchandise or service is free if a purchase is required in order to receive the "free" offer.

Examples of prohibited terms include:

- Free
- Complimentary
- At no extra cost
- At no extra charge
- At no extra fee
- At no extra price
- At no additional cost
- At no additional charge
- At no additional fee
- At no additional price

- Present
- Gift
- On the house
- Gratis
- Courtesy

Click the following link to read § 46.2-1581 for this and all Advertising regulations.

Remember that web based advertising is regulated just as print.

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Upcoming EVENTS

BOARD MEETINGS

All Meetings are held at DMV Headquarters 2300 W. Broad Street, Room 702 Richmond, VA Monday, September 9, 2013

Time: 9:00 a.m.

Dealer Practices Committee Meeting

Monday September 9, 2013

Time: Immediately following Dealer Practices

Licensing Committee Meeting

Monday, September 9, 2013

Time: Immediately following Licensing

Advertising Committee Meeting

Monday, September 9, 2013

Time: Immediately following Advertising

Transaction Recovery Fund (TRF) Committee Meeting

Monday, September 9, 2013

Time: Immediately following TRF.

Full Board Meeting

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

MVDB HOLIDAY Office Hours



CLOSED:

Monday

September 2, 2013

Exempt Odometer Disclosure

In some states, once a vehicle is ten years old or older, they no longer verify the odometer reading and the title from these states indicate "Exempt".

If you take into your inventory, a vehicle with a title from another state that is branded as "Exempt" you will need to do the following when applying for a title to put the vehicle in your name or in a customer's name:

- On page 2 of the VSA 17A (Application for Certificate of Title and Registration), in the "Odometer Statement" area check the last box. ("The model year is at least 10 years or older than the current calendar year and was exempt from odometer disclosure in the prior state of title.")
- In the "Odometer Reading" box, you may record the mileage showing on the odometer. This is not required, however, you may do so.

Even if you believe the odometer reading is actual, you may not check the "Actual" box. Once a state indicates on the title that the vehicle is "Exempt" there is no way to re-designate this classification.

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Reminders...

If you are an Independent Dealer-Operator (IDO) check our website to see when you should **RECERTIFY.**

As of January 1, 2011, ALL IDO's of independent dealerships must at some point in time, recertify their IDO qualification every three years by either taking an online course, or in a classroom, or by passing a DMV test. Click HERE for more information and HERE to determine your recertification deadline. If you are unclear on your recertification deadline, or any other recertification questions, please contact the Board. Or, call Ann Majors at the MVDB. She may be reached at 804-367-1100 x 3016, or email her at

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Email and Internet

twice and click submit

You will receive a confirmation email from MVDB letting you know we have your email address on file and the dealership name. The dealership listing will also be updated to reflect this change so that your name will no longer appear on this list.

You will also automatically receive future issues of our enewsletter, *Dealer Talk*

Please remember the internet connection (sending/receiving emails) must be established at the Dealership.

Can't locate your dealership on the list or when you enter your Dealer Certificate Number?

This means we already have your Dealership email address on record.

We encourage Dealer's to submit your email address using this on-line form as a way to easily enter and confirm the email address so that we can communicate in the future more efficiently as needed.

It is suggested the email address should be one that will not change in the foreseeable future so that you do not have to let us know of an email change. However when there are times you need to change the Dealership's official email address there are several ways to do so:

Simply send us an email at dboard@mvdb.virginia.gov - In the Subject Line please note your Dealer Certificate number and email notification

Please state what the new email address is and to delete the old. You can add email addresses however please be specific this is an <u>alternate</u> email address.

Another way to notify there is a change in your "official" dealership's email address is at the time of your License Renewal on the <u>DSD-10</u> form. Renewal time is a good business practice for all Owners, Corporate Officers, partners and anyone that is involved in the Dealer Licensing process to review the information the Board requires to renew your Dealer license. If you need to change an email address or provide an alternate please note Change email address in Section 2 and note the email address Section 4 on the <u>DSD-10</u> form

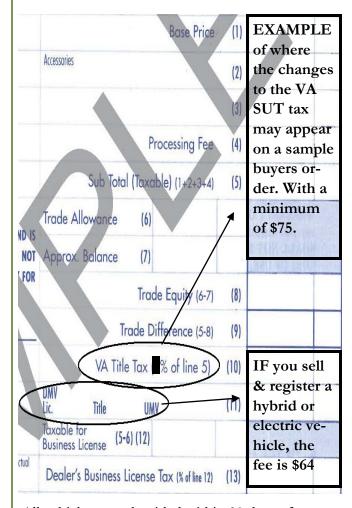
We look forward to helping you in this process both in Richmond and with your field representative in your area that can assist you with this process as well. Also for technical assistance on your internet connection and email address

New SUT Taxes

As a result of new legislation, effective July 1, 2013 The Virginia titling tax, also known as sales and use tax (SUT) will increase each year until 2016. Calculation of this fee will be determined by the purchase date of the vehicle. Here is the breakdown of the SUT increases by year:

- 4% July 1, 2013
- 4.05% beginning July 1, 2014
- 4.10% beginning July 1, 2015
- 4.15% beginning July 1, 2016

Below is a sample of where the SUT & increased registration fees might appear on a buyers order.



All vehicles must be titled within 30 days of purchase to ensure that titling tax is paid as required. Be sure your buyers order is compliant by July 1, 2013!

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Reminders...

If one of the following "Trigger Terms" is stated in an advertisement:

Amount or percentage of down payment ("Zero Down" or "No Money Down" is not considered a trigger term)

- Amount of payment
- Number of payments
- Period of repayment
- Amount of finance charge (in dollars)

Then the following required disclosures are needed:

- Amount or percentage of down payment
- Terms of repayment (e.g. number amount and timing of payments)
- APR

The above disclosures can be stated as follows: (amount or % down), (# of months) payments at (\$) per (month, week, etc.) at (%) APR.

Notes: APR by itself is not considered a trigger term but is a requirement in the disclosure. All Disclosures must be clear and conspicuous.

Clarification on the SUT

There have been some questions raised about the implementation of the "SUT" tax rate increases this year, and subsequent years until July 1, 2016. The Attorney General has clarified which tax rate should be imposed when a motor vehicle is purchased prior to July 1, 2013 but titled by the Virginia DMV subsequent to that date. The conclusion reads as follows: "Accordingly, it is my opinion that the proper tax rate to impose on a vehicle sale transaction in Virginia is the tax rate in effect at the time of the sale, when ownership or possession of the vehicle is transferred, whichever of these events of sale occurs first. After the tax is imposed on the sales transaction, the tax is then owed and is paid and collected when the vehicle is titled by the DMV. Consequently, it is my opinion that a vehicle sales and use tax rate of 3% should be imposed when a vehicle is sold in Virginia prior to July 1, 2013, but titled by the DMV subsequent to that date."

If any Dealer needs further clarification, please contact DMV. http://dmvnow.com

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DID YOU KNOW ??

....That the Troops to Trucks program fast-track the process for military personnel to receive a commercial driver's license (CDL). Many service members are trained to operate large vehicles that meet the definition of a commercial motor vehicle. For those with at least two years of military vehicle driving experience, DMV waives the CDL skills test. For those with little or no military driving experience, commercial driver training is conducted on base before leaving service. Governor McDonnell said "The commonwealth is committed to helping those who have served our country succeed in their civilian careers." For the full article, click HERE.



DMV Mobile Apps

http://dmvnow.com/about/#mobile apps.asp

....That the MVDB staff has three (3) new additions to our team!

Carmen Batiste—Administrative

Shaenae Monique Betts—Licensing

Val Rodriguez—Licensing

We are so glad to have Val back on our team—he will hit the ground running & his skills in Spanish have been missed. Be sure to give a warm welcome to all three of our new team members!

If you need to contact anyone on the MVDB staff—here is the link to all staff:

Contact Us

Board Actions

Emotors, Ltd. and Steven N. Kendall. In about the past two years, this dealer was not opened during posted business hours at least six times when an inspection was attempted. The dealer has paid civil penalties for this in the past. As not maintaining hours appears to be an on-going issue, an informal fact finding conference was convened on April 24, 2013, to address the alleged violations of failure to maintain business hours, and non compliance to previous written warnings. Based on the information provided at the conference, the Board assessed a \$3,000.00 civil penalty and a require satisfactory inspection.

Z Best Auto Sales and Ahmed Alqadi . MVDB Field representative Jackson attempted to inspect this dealership and found that neither the owner nor dealer-operator were on site. However, the landlord was apparently given permission by the owner to open the dealership to Mr. Jackson. The landlord could not show Mr. Jackson the dealership records and it did not appear that any were on site. As a result of this failed inspection, on April 4, 2013, an informal fact-finding conference was conducted to address the alleged violations of lack of dealer records, odometer disclosure statements, unapproved signs, prohibited solicitation and compensation, improper use of dealer's license plates, issuance and use of temporary transport plates, and disregard to written warnings. In the hearing, the owner did state that the records were not at the dealership on the date of the inspection. Based on the information provided at the conference, the Board assessed a \$5,000.00 civil penalty, require a satisfactory inspection, and to successfully complete the Dealer-Operator course.

ABC Auto and Igor Serbic. MVDB Field representative Winderweedle attempted to visit this dealership on two separate occasions and on both attempts the dealership was not opened and proper signage was not displayed. On April 26, 2013, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain business hours, signs, and non compliance to written warnings. Based on the information provided at the conference, the Board assessed a \$1,000.00 civil penalty and require a satisfactory inspection.

W & H Auto Sales and Timothy Widener. This situation began with both MVDB and DMV receiving notice that this dealership had removed a safety inspection sticker from one car and affixed it to another. The inspection revealed several problems relating to the use of dealer tags. Previously, the dealer paid a \$1,000 civil penalty for a similar violation. The current owner has stated that a previous co-owner had been the source of the problems. On April 2, 2013, an informal fact-finding conference was conducted to address the alleged violations of location to be specified, display of license, failure to maintain business hours, signs, safety inspection of vehicles required, misuse of dealer's license plates, deceptive acts or practices, and leasing, lending, renting or otherwise allowing use of dealer's plates by persons not authorized. Based on the information provided at the conference, the Board assessed a \$1,000.00 civil penalty.

Supermax Autos and Chadi Chit Dirani. MVDB Field representative Jackson attempted to conduct a random inspection of this dealership. The owner and dealer-operator were not onsite, so the inspection was conducted with the landlord. No records were found on site and Mr. Jackson was told that the insurance policy was cancelled some time ago and no evidence was been found to show that a new policy was obtained. As a result, on June 3, 2013, an informal fact-finding conference was conducted to address the alleged violations of dealers required to have established place of business, display of salesperson's license notice on termination, dealer records, odometer disclosure statements, prohibited solicitation and compensation, misuse of dealer plates, failure to be responsible for the acts of the dealers salespersons, material misstatements, failure to comply, and failure to maintain auto liability insurance for all dealer plates. Based on the information provided at the conference, the Board assessed a civil penalty of \$5,000.00, and revocation of all licenses and certificates issued to Mr. Dirani.

Empire Auto Sales and Nellie Ann Murray. Over the course of two years, at least nine attempts were made to conduct an inspection of this dealership. On only two occasions was the dealership open. On one occasion, the field representative made an appointment to conduct an inspection and no one was present at the appointed time. The last inspection that was conducted was satisfactory. This on-going problem with maintaining hours result in

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the Board staff convening an informal fact-finding conference on May 16, 2013, to address the alleged violations of failure to maintain business hours, and non compliance to written warning. Based on the information provided at the conference, the Board assessed a \$3,000.00 civil penalty, and require a satisfactory inspection.

Preowned Luxury Vehicles, LLC and Wilson McCoye Goode. Over a six year period, seven inspections of this dealership were conduced. None of which were satisfactory. On May 24, 2013, an informal fact-finding conference was conducted to address the alleged violations display of salesperson's license notice on termination, dealer records, odometer disclosure statements, prohibited solicitation and compensation, safety inspection of vehicles required, issuance and use of temporary transport plates, non compliance to written warning, and having used deceptive acts or practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$3,500.00, successful completion of the Dealer-Operator course, and require a satisfactory inspection.

Star Auto Sales and Ziad J. Aboulhosn. Over the past five years this dealership had six inspections none of which were satisfactory. In addition the owner was recently convicted of a criminal act related to the business of selling motor vehicles. The conviction was the primary motivation for staff convening an informal fact-finding conference on June 18 and June 24, 2013. Also addressed at the conference were the alleged violations of unlawful to have in possession certificate of title issued to another; dealer records, buyer's order, odometer disclosure statements, prohibited solicitation and compensation, temporary registration, record keeping by dealers; non compliance to written warning, having been convicted of any criminal act involving the business of selling vehicles and willfully retaining in his possession title to a motor vehicle that has not been completely and legally assigned to him. Based on the information provided at the conference, the Board assessed a civil penalty totaling \$3,000, require a satisfactory inspection, and that Mr. Aboulhosn, Mr. Hampton, and Mr. Sam Aboulhosn successfully complete the 2-day Dealer Operator course. If all three named persons do not complete the Dealer-Operator course by January 8, 2014, an additional \$750 civil penalty will be assessed.

East Coast Auto Brokers, LLC and James Musick. On February 10, 2012 Mr. Musick received a call from Brian Smith offering to sell Mr. Musick a 2004 Lincoln for \$800. Mr. Smith was a former customer of Musick and Musick had previously purchased vehicles from Smith. Several hours later, Joe Summers arrived at the dealership with the Lincoln and Musick paid Summers the \$800 and Summers told Musick that the title would be forthcoming. Mr. Musick's attempts to contact Mr. Smith about the title were unsuccessful. Mr. Musick told his daughter that the Lincoln had been brought in for repairs by Summers and that Summers never came back for the vehicle and that she should go to the DMV CSC and apply for a title via a mechanics and storage lien process. At the CSC it was discovered that this vehicle had been stolen and DMV Special Agent Craig interviewed Musick's daughter who told Craig that she was following her father's direction. Mr. Musick was eventually convicted of a class 5 misdemeanor of Obtaining a DMV Document unlawfully. On December 3, 2012, an informal fact-finding conference was conducted to address the alleged violations of having used deceptive acts or practices and having been convicted of any criminal act involving the business of selling vehicles. The Board adopted a resolution at its March 11, 2013 meeting to assess a civil penalty of \$2,000 and to suspend all licenses and certificates issued by the Board to Mr. Musick for six months and to successfully complete the Dealer Operator course. On April 3, 2013, Mr. Musick appealed the decision and requested a formal hearing. On May 7, 2013, a formal hearing was conducted. Based on the information provided at the conference the Board upheld the original March 11, 2013 resolu-

Blue Ridge Auto Sales and Abdul A. Nahibkhil In April of 2012, this dealer Had an unsatisfactory inspection. Two Board staff members received tips that this dealer was advertising on Craigslist without identifying itself as a dealer. In addition advertisements were listed under the "for sale by owner" category. A re-inspection revealed numerous problems. On January 24, 2013, an informal fact-finding conference was conducted to address the alleged violations of location to be specified; display of license; change of location, failure to maintain all dealer records on the premises of the licensed location, odometer disclosure, false advertising, failure to license and employ

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all salespersons, failure to maintain liability insurance, dealer plate records, improper use of or permitting the improper use of dealer's license plates, issuance and use of dealer plates, record keeping, failure to be responsible for the acts of the dealers salespersons and failure to comply with a written warning. The Board adopted a resolution at its May 13, 2013 meeting to assess a civil penalty of \$8,000, Mr. Nahibkhil's dealership should be satisfactorily re-inspected. If not satisfactory, then all licenses and certificates issued by the Board to Mr. Nahibkhil be suspended until he does have a satisfactory inspection. On May 8, 2013, Mr. Nahibkhil appealed and requested a formal hearing. On June 18, 2013, a formal hearing was conducted. Based on the information provided at the hearing, the hearing officer recommended a written warning and a civil penalty of \$3,500.00. It was also recommended that Mr. Nahibkhil successfully complete the 2-day Dealer Operator course and have a satisfactory inspection and suspension of all licenses if dealer fails the inspection. Based on the information provided at the formal hearing, the Board assessed a \$8,000.00 civil penalty, require a satisfactory inspection, and successful completion of the Dealer-Operator course.

Jerry Farmer and Jerry's Automotive's Variance Request in hours. Bruce Gould reported that for the past 15 years, Jerry Farmer has requested a variance in hours for his dealership, Jerry's Automotive Sales and Service, because of his teaching schedule. The Board accepted Mr. Farmer's request for a variance in hours and granted a variance from the requirement of being open for business at least 10 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday provided that the dealership be open a minimum of 5 hours per week between the hours of 9:00 am and 5:00 pm, Monday through Friday and a total of 20 hours each week. This variance shall be in effect through September 30, 2014.

Dealer Practices

Franco Auto Sales and Marden Vasconcelos Assessed a \$1,000.00 civil penalty for uninsured D-Tags. Mr. Vasconcelos has appealed this civil penalty and an informal hearing has been scheduled.

Bob's Used Cars and Bobby J. Nickelston Assessed a \$250,.00 civil penalty for uninsured D-Tags.

Ray's Rides, Inc and Percy Ray Roberts Assessed a \$250.00 civil penalty for failure to maintain business hours.

Licensing

Ashley D. Wynn, Salesperson for International Auto Wholesalers. Mr. Wynn had been licensed as a salesperson for a number of years when he was convicted of a felony. After his license lapsed, he submitted an application for a salesperson license and indicated on the license application that his application was a "renewal". He did indicate that he had been convicted of a felony, he did not inform us that he had been convicted while he was previously licensed, and he did not provide information pertaining to the conviction as instructed on the application. In addition the criminal background check documentation received by Board staff was not clear as to the date of the conviction and the Summary Report did not indicate that he had been convicted of a felony. Upon learning of the fact a license had been issued, as well as the nature of his crime; an informal fact-finding conference was conducted on December 3, 2012, to determine if Mr. Wynn's license should be revoked for violations of deceptive acts or practices, having been convicted of any criminal act involving the business of selling vehicles, and having been convicted of a felony. Based on the information provided at the hearing, the hearing officer recommended revocation of Mr. Wynn's salesperson license. Per authority granted to the executive director, On January 7, 2013, the executive agreed with the hearing officer's recommendation and ordered that Mr. Wynn's license be revoked. On February 1, 2013, the board staff received the appeal by Mr. Wynn's attorney, William Lehner and requested a

Board Actions

formal hearing. On April 24, 2013, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the hearing, the hearing officer recommended that that Mr. Wynn be allowed to retain his salesperson license.

NOTE: Depending on the circumstances, all Board Actions may be appealed to Circuit Court, or for an administrative hearing.

For prior issues of Dealer Talk click <u>HERE</u>

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What's Wrong with this Picture??



Proper Use Of Dealer Tags

It shall be unlawful for any Dealer to cause or permit Dealer's license plates to be used on: 1. Motor vehicles such as tow trucks, wrecking cranes, or other service motor vehicles; (§ 46.2-1550).

Unless Dealer's have valid documentation that tow trucks are in the Dealer's inventory for sale, Dealer's may not use a D-Tag on tow trucks.

Independent Dealer-Operator 2-Day Class Schedule

The path to a Dealer-operator license begins with a required two-day course of study each month at various community colleges in Virginia with the curriculum and instruction provided by VIADA.

The course takes the attendee from establishing the dealership under local zoning and Dealer Board requirements, through the sales process with its multitude of forms, laws and regulations, in to a sampling of opening and operating expenses, and ending with a discussion on ethics.

The course is open to all existing dealers and their employees.

The course offers 1.6 continuing education credits transferable to any college.

Date	College	Contact Information	
2013			
Jun 04-05	Germanna Fredericksburg	Kelly Bennett 540-937-2913 www.germanna.edu/workforce	
Jun 18-19	Danville Danville	Donna 434-797-6437 www.dcc.vccs.edu/workforce	
Jul 09-10	Northern VA in Woodbridge	Registration 703-878-5770 www.nvcc.edu	
Aug 06-07	VA Western in Daleville	Registration 540-966-3984 www.virginiawestern.edu	
Aug 20-21	Piedmont VA in Charlottesville	Corinne Lauer 434-961-5354 www.workforce@pvcc.edu	
Sep 10-11	Tidewater Suffolk	Registration 757-822-1234 www.tcc.edu/wd	
Sep 24-25	Lord Fairfax Warrenton	Patricia Leister 540-351-1524 www.lfccworkforce.com	
Oct 08-09	J Sargeant Reynolds in Hen- rico/Richmond	Sandy Jones 804-523-2292 www.ccwa.vccs.edu	
Oct 22-23	Northern Virginia Reston	Claire Wynn 703-450-2551 www.nvcc.edu/loudoun/continuing	
Nov 05-06	Blue Ridge Weyers Cave	Registration 540-453-2215 www.brcc.edu	
Nov 19-20	Germanna Fredericksburg	Kelly Bennett 540-937-2913 www.germanna.edu/workforce	
Dec 10-11	Lord Fairfax Middletown	Registration 540-868-7021 www.lfccworkforce.com	

MOTOR VEHICLE DEALER BOARD



Come visit us at our office!

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Suite 104

Richmond, VA 23220

Phone: 804-367-1100 Fax: 804-367-1053

E-mail: dboard@mvdb.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; while providing a high level of customer service for the automotive consumer and dealer community.

Visit us on the Web!

www.mvdb.virginia.gov

DISCLAIMER: We make every effort to ensure information in Dealer Talk is accurate, but it is not a substitute for legal advice.

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Update Your FORMS !!

Have you checked your forms supply at your

dealerships lately? Some of you may be stocking old outdated forms that can delay our office from processing dealer and salesperson license information. Want to make sure you AL-WAYS have the most current and up to date forms? It's easy! Go to our website www.mvdb.virginia.gov and click Download Library from the home page. All of our forms (including DMV forms) are listed in PDF format. Which means to you that you can click on the form you need and complete and print these forms directly from your computer.

Be sure to <u>ALWAYS</u> include your <u>Dealership License Certificate number</u> on any and all forms and correspondence with the Board.

