



August 2022

Issue 145

DEALER TALK

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Upcoming Events!

Monday 9/5/2022

MVDB Office Closed for
Labor Day Holiday

Monday 9/12/2022

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](#)

Independent Dealer-Operator Recertification

The Independent Dealer-Operator Recertification Program is a required educational program administered by the Motor Vehicle Dealer Board. State law requires Independent Dealer-Operators to recertify every 24 months (2 Years) by completing an instructor led course (virtual or in person).

The education instruction duration is a minimum of four hours and an exam is given at the conclusion of the instruction. Please select one of the three (3) options of authorized education providers to complete your continuing education:

[Cont'd on pg. 2](#)

Securely Transmitting Documents Through Email

For the security of dealers, salespersons, and consumers be aware that whenever you submit information to the Board electronically that contains personal identifying information (PII), you should submit this information via a secured electronic medium. The Commonwealth Of Virginia IT Security requires that all state agencies use **Virtru** when sending PII in order to protect consumer...

[Cont'd on pg. 2](#)

Attempted FRAUD

Mitch Troyer, Vice-President of Blue Ridge Powersports, and Wayne Cycle Shop contacted the Board to report an attempted fraud scheme by a customer. Mitch said, "I received a very professional fake cashier's check in the mail today / the Bank was Navy Army Community Credit Union. It is a very, very good fake.....FYI the deal started the normal way, email for a quote, negotiate price, agree and say they are sending check. ... [Cont'd on pg. 3](#)

Everyone in Virginia age 5 and older is eligible for the COVID-19 Vaccine! Schedule an appointment by visiting vaccinate.virginia.gov or calling 877-VAX-IN-VA (877-829- 4682, TTY users call 7-1-1). The call center is available Monday – Friday, from 8 a.m. to 6 p.m.



Independent Dealer-Operator Recertification

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Vendor A - Compass Systems, Inc.

This course provider is offering an online virtual classroom, and in person classroom continuing education course to meet the Dealer-Operator recertification requirement. To register, please visit www.eProLearn.com or contact the office at 800-296-5585 for Dealer-Operator recertification information.

Vendor B – JTZ Enterprise

This course provider is offering an online virtual classroom, and in person classroom continuing education course to meet the dealer operator recertification requirement. To register, please visit <https://www.recertifymydealership.com/> or contact the office at admin@jtzenterprise.com, 540-286-0801 for Dealer-Operator recertification information.

Vendor C – VIADA

This course provider offers an online virtual classroom, and in person classroom continuing education course to meet the dealer operator recertification requirement. To register, go to www.VADealerRecertification.com or <https://viada.org/recertification/>. For questions, contact VIADA's Office Manager Blake Jackson at blake@viada.org or call 800-394-1960.

Click [HERE](#) for more information and [HERE](#) to determine your recertification deadline. Please note that dealers with Franchise license types are exempt from recertification. If you are unclear on your recertification deadline, or any other recertification questions, please contact Ann Majors at the MVDB. She may be reached at 804-367-1100 x 3016#, or email at ann.majors@mvdv.virginia.gov



Securely Transmitting Documents Through Email

[Cont'd from pg. 1](#)

information and to prevent Commonwealth Of Virginia data from falling in the hands of unintended viewers. **Virtru** is a software that is free for your usage and provides that secure delivery mechanism to protect PII.

Please keep this in mind when you submit future documents that contain PII, and make sure the email comes encrypted to the Board.

To get started, go to the link provided [HERE](#) and watch the quick video on how to install the Virtru Plugin from the Chrome Web Store. This link provides detailed installation instructions of Virtru on the following (Outlook Desktop, IOS, and Android).

One Reason for using Virtru, is sending MVDB61 applications. These applications contain PII so you must use email encryption to send. You will use Virtru encryption and send the MVDB61 application to:

MVDB61@MVDB.VIRGINIA.GOV. When composing your email to send the application/s electronically, make sure "Virtru" is "turned on".

Be sure you have attached the application/s. In the email message, you must provide the contact information (name and phone number) of the individual authorized to process credit card transactions over the phone. When the email is received by the MVDB, the dealership will receive an email verifying the Board's receipt of the encrypted email and attached applications. Board staff will contact the dealership for credit card payment, so it is essential that the Board receives the correct contact information for the person with the credit card.

[Cont'd on pg. 3](#)

Securely Transmitting Documents Through Email

Cont'd from pg. 1

If the Board is unable to receive credit card payment, this will delay processing of the applications.

It is important for everyone's security that dealers begin using Virtru to email any sensitive applications or documents that include PII to the Board.

In rare cases when Virtru cannot be installed or used due to the Dealers email service, the dealer can use an alternative email encryption service. When this is necessary, the Dealer must contact the MVDB first to inform them of the incoming email and type of encryption.

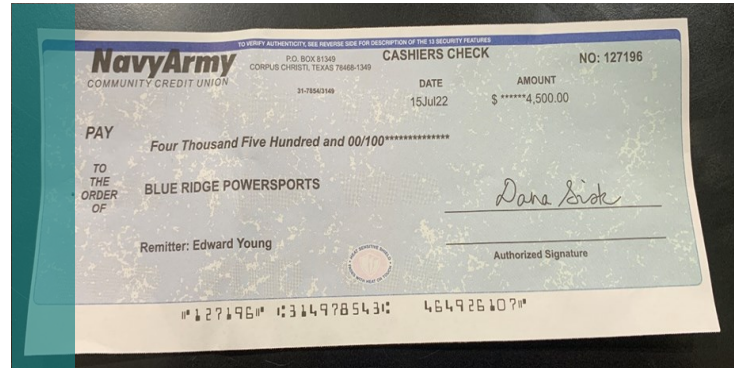
This may seem like a lot of unnecessary steps to send a simple application, but the protection and security of PII is a top priority.

If dealers email PII without using Virtru, the sender may receive an email reply requesting the dealer resubmit the applications through mail or Virtru thus delaying the processing of the applications.

The protection of consumer and Dealer data is very important. Take the necessary steps to ensure you

protect yourself, your staff and consumer information.

If you have any questions on the process, or are unable to install Virtru, please email mvdb61@mvdb.virginia.gov.



Attempted FRAUD

Cont'd from pg. 1

I always verify checks, but what surprised me is the quality of this check - and if you log onto the NavyArmy Community Credit Union webpage you will see it is exact.” Mitch went on to say, “we did not lose anything, I was suspicious from the get go..... just want to try to let people know. I called the NavyArmy Community Credit Union and asked for the fraud department and they verified it was not a valid check.”

REMINDERS..... Maintain Posted Business Hours

It is important that you notify the MVDB, your field representative, or both if your office is going to be closed during your normal posted business hours. § 46.2-1533 (1533) of the Virginia Code states that each motor vehicle dealer must be open a minimum of 20 hours per week of which 10 hours shall be between the hours of 9:00 am – 5:00 pm, Monday through Friday.

The Board strongly recommends that dealers work closely with their local field representatives and main office staff to ensure that you notify the Board using the MVDB 40, or at a minimum, send an email to dboard@mvdb.virginia.gov, giving notice of your closure. The following is a reminder of the penalties for a dealership not maintaining posted business hours.

Educational Warning and Civil Penalty for Violating § 46.2-1533

- 1st § 46.2-1533 violation: Dealer receives an educational warning (email or letter notification)
- 2nd violation, a \$750 civil penalty (if appealed, will eventually come before the Board)
- 3rd violation, the dealer will be have an informal hearing, and will appear before the Board

Click on <https://mvdb.virginia.gov/agency-directory/#FieldReps> find your field representative's contact information.



FTC Proposes Rule to Ban Junk Fees, Bait-and-Switch Tactics Plaguing Car Buyers

As auto prices surge, agency launches rulemaking to protect consumers' pocketbooks and level the playing field for honest dealers.

The Federal Trade Commission has proposed a rule to ban junk fees and bait-and-switch advertising tactics that can plague consumers throughout the car-buying experience. As auto prices surge, the Commission is seeking to eliminate the tricks and traps that make it hard or impossible to comparison shop or leave consumers saddled with thousands of dollars in unwanted junk charges. The proposed rule would protect consumers and honest dealers by making the car-buying process more clear and competitive. It would also allow the Commission to recover money when consumers are misled or charged without their consent.

"As auto prices surge, the Commission is taking comprehensive action to prohibit junk fees, bait-and-switch advertising, and other practices that hit consumers' pocketbooks," said Samuel Levine, Director of the FTC's Bureau of Consumer Protection. "Our proposed rule would save consumers time and money and help ensure a level playing field for honest dealers."

In the last ten years alone, the FTC has brought more than 50 law enforcement actions related to automobiles and helped lead two nationwide law enforcement sweeps that included 181 state-level enforcement actions in these areas. In spite of these actions, complaints from consumers related to automobiles remain in the top ten complaint types received by the FTC, with more than 100,000 complaints from consumers annually over the past three years.

Today, the FTC is taking a first step toward establishing a set of guidelines that would provide consumers with key protections against dealers who unlawfully charge junk fees

without their consent or engage in bait-and-switch advertising.

In the Notice of Proposed Rulemaking announced today, the Commission is seeking comment on proposed measures that would:

- **Ban bait-and-switch claims:** The proposal would prohibit dealers from making a number of deceptive advertising claims to lure in prospective car buyers. This deal deception can include the cost of a vehicle or the terms of financing, the cost of any add-on products or services, whether financing terms are for a lease, the availability of any discounts or rebates, the actual availability of the vehicles being advertised, and whether a financing deal has been finalized, among other areas. Once in the door or on the hook, consumers face the fallout of false promises that don't pan out.
- **Ban fraudulent junk fees:** The proposal would prohibit dealers from charging consumers junk fees for fraudulent add-on products and services that provide no benefit to the consumer (including "nitrogen filled" tires that contain no more nitrogen than normal air).
- **Ban surprise junk fees:** The proposal would prohibit dealers from charging consumers for an add-on without their clear, written consent and would require dealers to inform consumers about the price of the car without any of optional add-ons.
- **Require full upfront disclosure of costs and conditions:** The proposal would require dealers to make key disclosures to consumers, including providing a true "offering price" for a vehicle that would be full price a consumer would pay, excluding only taxes and government fees. It would also require dealers to make disclosures about optional add-on fees, including their price and the fact that they are not required as a condition of purchasing or leasing the vehicle, along with disclosures to consumers with key information about financing terms.

The notice includes questions for public comment to inform the Commission's decision-making on the proposal. These include questions about provisions in the proposed rule and whether other provisions should or should not be included in the rule, as well as questions related to the costs and benefits to consumers and auto dealers of the proposed rule. In addition, the notice includes a preliminary regulatory analysis estimating that the net economic benefit of the rule would be more than \$29 billion over ten years. After the Commission reviews the comments received, it will decide whether to proceed with issuance of a final rule.

“10 + 10 = Exposure”

by Tom Kline

Answers these questions honestly:

1. Do you have a Compliance Management System (CMS) and whose responsibility is it?
2. When was the last enterprise risk assessment to ensure all personal and dealership assets are protected? (Who has looked at the “big picture?”)
3. Who trains the staff about compliance and how often?
4. Has anyone ever done an analysis of your insurance policies to determine if there are any holes in your coverage?
5. Do you have a process at the dealership to find and fix online consumer complaints?
6. Do employees have a channel and mechanism to bring their complaints to the attention of management?
7. When was the last update to the Employee Guidebook? Do employees sign a Legal Rights Agreement?
8. Are you using arbitration to settle disputes with consumers? (In practice, do you understand why this strategy is highly ineffective?)
9. Are you prepared for a local media story? Do your employees know what to do, what to say, or who to direct the reporter to?
10. Who audits your websites on a monthly basis to ensure compliance with advertising laws? Who inspects your other advertising?
2. One very large dealership group with more than eighty (80) stores allowed the Federal Trade Commission (FTC) to survey its customers to ask them about potential dealership wrongdoing. What would be your thinking here? How would you handle that?
3. Have you started your work on the new Gramm Leach Bliley regulations? The deadline is December 9. Unfortunately, the new regulations are complicated enough that you cannot simply write a check for an “app” to be compliant. Some of your work will require good ol’ fashioned shoe leather.
4. Is anyone tracking how your waste (oil, batteries, tires etc.) is being disposed of and have you ensured your vendors have the adequate insurance to protect the dealership if it’s not handled properly?
5. Do you have a recall policy for your used vehicles? Whether or not the used car is “your brand,” did you know the dealership would likely be liable if a customer were in an accident as the result of an unfixed recall?
6. Have you ever checked to see how your IRS 8300 processes are working? Are your cashiers receipting in monies with enough detail for you to track the transactions? (Did you know the fines for non-compliance are up to \$3 million and potential jail time?)
7. Did you recently inspect your Red Flag compliance? Are your F&I managers just “blowing past” that screen and selling vehicles without paying attention? This is a critical issue which will help in your defense if you are ever taken to court for selling a vehicle to someone with a stolen identity.
8. As a dealership, are you sending out Adverse Action Notices in compliance with the Fair Credit Reporting Act (FCRA)? Failure to send these could result in a class action lawsuit to include punitive damages for “willful non-compliance.”
9. Are you selling repossessed vehicles or salvage vehicles without disclosing this status?
10. Does your staff know how to handle an Office of Foreign Asset Control (OFAC) “hit” on a potential buyer’s credit application? Do you have a procedure in place?

Does your dealership have work to do?

Any one of these issues could cost you a lot of money. (Remember, it’s not how much money you make that’s important. What’s critical is how much money you keep!) Consider the “what if.” What if...this were to happen or that were to happen? How would you handle it?

If those ten (10) didn’t stimulate you enough, here are another ten (10):

1. What would you do if a regulator walked into your dealership? Do you have a plan as to how you would handle that situation?

These questions are but a few of the concerns for your dealership when you are thinking about your daily risk. As one dealer friend of mine advises, “Button up!” Another says, “Stop everyone from reaching into your pocket!”

Practice your “what ifs” and prepare!

In my experience, it’s not necessarily “if,” but “when!”

REMINDERS Proof of Safety Inspection

Many dealers are failing to provide proof of state safety inspection for their retail sales as required by Virginia law. Recent MVDB field inspections revealed that many dealers mistakenly believed they can access the safety inspection information online from the Virginia State Police, only to find that the inspection record was not available. Safety inspection records can only be accessed for a limited amount of time. To ensure the dealer retains documentation of the safety inspection, the Board strongly recommends dealers make a photocopy of the inspection certificate and maintain this copy with their dealer records, thus ensuring that the dealer will always be able to provide proof of safety inspection prior to retail sale - Virginia Code 46.2-1529 and 46.2-1539.

Dealer Title Helds

The DMV allows dealers to title a customer's vehicle with missing documentation by placing a dealer title held on the vehicle. This stops the title from printing until the missing documentation is provided to DMV (e.g., the prior title is held up by the lienholder). Utilizing dealer title helds allows dealers to meet their 30-day titling requirement when they are still missing documentation normally required to title the vehicle. To place a title held onto a vehicle, the dealer must deliver to the Department an application for title, copy of the bill of sale, all required fees and a written statement of facts describing the dealer's efforts to secure the certificate of title or certificate of origin to the vehicle.

DMV only offers this to dealers. However, it is the dealer's responsibility to submit the missing documentation. DMV has noticed an increase in dealers not submitting the remaining documentation to remove the dealer title held. Consequently this delays the customer's ability to receive their title, which causes customer frustrations. It may also reflect poorly on the dealership and should be avoided by submitting the required documentation as soon as it is received. DMV will send letters to the dealership, lienholder and customers advising them of the need for additional documentation to release the dealer title held.

Print on Demand (PoD)

The following reminders provide important information impacting dealer transactions. PoD tags on bond paper is not authorized for use at any time. All PoD temporary tags must be printed on the weather resistant paper supplied by the Department of Motor Vehicles, Dealer Services work center. The PoD tags are not authorized to be emailed to customers. All vehicles must be titled within 30 days of purchase to ensure that titling tax is paid to the Virginia Department of Motor Vehicles as required by law. It is important to note that use of bond paper may result in the loss of your privileges to participate in the PoD program. Also, law enforcement may ticket vehicle owners displaying the bond paper for illegal use of license plates. Orders for the PoD paper will be accepted through 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, tag size(s) (standard/ small), and printer make/model number. Approved order requests will be shipped within five business days. Standard tags will be issued in packs of 100 and small tags (motorcycle/trailer) in packs of 25.

§ 46.2-1559 requires all dealers to maintain a permanent record of all temporary license plates (PoD) issued, and § 46.2-1529 requires

dealers to keep dealer records for 5 years. The Board recommends dealers retain in the vehicle folder, one of the registrations that are printed as part of the PoD tag.

§ 46.2-1561 states in part, no dealer shall lend temporary license plates to any person for use on any vehicle...and...It shall be unlawful for any person to issue any temporary license plates containing any misstatement of fact, or for any person issuing or using temporary license plates knowingly to insert any false information on their face.

VSA 59 Disclosure

Virginia Code §46.2-1602(A)(4) states that "It shall be unlawful for any person to sell a rebuilt vehicle without first having disclosed the fact that the vehicle is a rebuilt vehicle to the buyer." Virginia Code §46.2-1600 defines a rebuilt vehicle as: (i) any salvage vehicle that has been repaired for use on the public highways, or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75% of its actual cash value, excluding the cost to repair damage to the engine, transmission or drive axle assembly.

When a dealer sells a rebuilt or branded titled vehicle, the dealer must include the VSA 59 Disclosure form for you and your customer to sign. The dealer enters the rebuilt or branded vehicle information into the form. The notice on the VSA 59 states that the title issued by the DMV has been branded "rebuilt" or "branded", and the brand on the title will carry forward. For more information on the VSA 59 and rebuilt or branded vehicle requirements, visit the following link: https://www.dmv.virginia.gov/vehicles/#salvehlawreq/repaired_rebuilt.asp.

To print the VSA 59 form follow this link: <https://www.dmv.virginia.gov/webdoc/pdf/vsa59.pdf>.

Board Actions

Dealer Practices

Informal Hearings:

ProAuto Expo, Inc. and Talha Chaudhry

On April 7, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code failure to maintain dealer records, unlicensed salesperson, PoD records, and failure to comply with previous written warnings, and deceptive acts and practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$27,100.00; a satisfactory inspection, and Talha Chaudhry shall successfully complete the dealer-operator course.

Mr. Chaudhry may appeal to a Formal hearing.

DC Motors, LLC and Jacob Haworth

On June 9, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code failure to maintain dealer records, provide title within 30 days, misuse of transport tags, PoD records, and deceptive acts and practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$14,700.00, a satisfactory inspection and Jacob Haworth shall successfully complete the dealer-operator course.

Mr. Haworth may appeal to a Formal hearing.

Mega Auto Outlet, LLC and Rukhsana Akbar

On June 7, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code failure to maintain dealer records, proof of safety inspection prior to retail sale, title within 30 days, PoD records, misuse of transport tags, and deceptive acts and practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$31,250.00; a satisfactory inspection, and Rukhsana Akbar shall successfully complete the dealer-operator course. The Board strongly recommends that Faiz Akbar complete the dealer-operator course.

Ms. Akbar may appeal to a formal hearing.

Full Circle Automotive Group, LLC and Jeell R. Bailey

On June 9, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code failure to maintain dealer records, proof of safety inspection prior to retail sale, PoD records, failure to comply with previous warnings, and deceptive acts and practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$32,200.00, a satisfactory inspection, and suspension of all licenses and certificates issued to Jerell Bailey and the Full Circle Automotive Group by the Board until Jerell Bailey successfully completes the dealer-operator course.

Mr. Bailey may appeal to a Formal hearing.

KP's Cars, LLC and Kevin W. Pollard

On June 16, 2022, an informal fact-finding conference was conducted to address the alleged violations of VA Code failure to maintain dealer records, unlicensed 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 \$4,800.00; a satisfactory inspection and successfully complete the dealer-operator course.

Mr. Pollard may appeal to a Formal hearing.

Administrative Actions:

City Financial Cars, LLC and Isaia and Iosif Cirpaci

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

Mobilityworks, and William M. Koebnitz

Paid a \$2,250 civil penalty for failure to maintain dealer records, provide proof of safety inspection prior to retail sale, plate records, and records of D-tag usage.

Vision Auto, LLC and Joseph Cousins Jr.

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

Board Actions

Dealer Practices

Administrative Actions: continued from page 6

Forward Auto Sales LLC and Matthew Said Johnson

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

Avon Motors and Gregory Love.

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

Copan Auto and Dayana Rossibell Martinez.

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

All Stars Automotive and Rene E. Carey.

Agreed to pay an \$11,900 civil penalty for failure to maintain dealer records, provide proof of safety inspection prior to retail sale, misuse of Pod, and PoD records.

4Auto Sales, Inc. and Juan Manuel Sanchez-Concha.

Suspended and moved to Debt Set-off for failure to pay a \$2,650 civil penalty for failure to provide proof of liability insurance on each D-tag, and provide proof of safety inspection prior to retail sale.

Allayed Auto Sales and Mark Clagett.

Paid a \$250 civil penalty for failure to maintain dealer records, and provide proof of licensed salespersons paid on a W-2.

Leonard Aluminum Utility Buildings, LLC and Michael J. Pack.

Paid a \$250 civil penalty for failure to provide proof of licensed salespersons paid on a W-2.

Enterprise Automotive Financial LLC and Jassam M. Sarhan.

Paid a \$750 civil penalty for failure to maintain dealer records, provide proof of licensed salespersons paid on a W-2 and proof of safety inspection prior to retail sale.

DMV Auto Express Company, and Bao Q. Huynh.

Suspended and moved to Debt Set-off for failure to pay a \$750 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

Total Package Auto LLC and Raymond Baskerville.

Agreed to pay a \$1,250 civil penalty for failure to maintain dealer records, provide proof of licensed salespersons paid on a W-2, and proof of safety inspection prior to retail sale.

Smart Ford, LLC and Tyler Shamburg.

Paid a \$2,750 civil penalty for unlicensed salespersons.

Carozy Auto Sales LLC and Ali Aduladheem Abbood

Paid a \$250 civil penalty for failure to maintain dealer records, and proof of licensed salespersons paid on a W-2.

Trax Auto II, and Richard Shaw.

Paid a \$500 civil penalty for failure to maintain dealer records, proof of safety inspection prior to retail sale, and odometer disclosure records.

Motley's Assett Disposition Group and Mark T. Motley.

Paid a \$250 civil penalty for failure to maintain D-tag records.

The Truck Company LLC and Chris McAll.

Paid a \$250 civil penalty for misuse of D-tags to deliver or transport items not allowed.

Independent Dealer Operator Course Schedules

The Following Courses are Registered Through VIADA

2022 Course Schedules

August 23-24 : Charlottesville

Double Tree Charlottesville (990 Hilton Heights Road, Charlottesville, VA, 22901)

September 13-14 : Hampton

HYATT Place Hampton (1905 Coliseum Drive, Hampton, VA 23666)

September 20-21 : Richmond/Midlothian

(1525 Huguenot Road, Suite 200, Midlothian, VA 23113)

October 20-21 : Roanoke

The Hotel Roanoke & Conference Center (110 Shenandoah Avenue Roanoke, VA, 24016-2025)

November 8-9 : Fredericksburg/Stafford

Holiday Inn Conference Center (20 Sanford Drive, Fredericksburg, VA 22406)

November 15-16 : Hampton

HYATT Place Hampton (1905 Coliseum Drive, Hampton, VA 23666)

December 6-7 : Chantilly

Home 2Suites by Hilton (43340 Defender Drive, Chantilly, VA 20152)

December 13-14 : Richmond/Midlothian

(1525 Huguenot Road, 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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What's Wrong With This Picture?



According to § 46.2-1550 of the Code of Virginia, it states in part “...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;”

DEALER TALK

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