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

## Motor Vehicle Dealer Board 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.*

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## INTERNET ACCESS AND EMAIL ADDRESS

Currently, all motor vehicle dealers are required to have an established place of business that is equipped with a desk, chairs, filing space, a working telephone, working utilities including electricity and provisions for space heating. Given the reliance on the internet and email by government agencies and businesses for communicating quickly, economically, and efficiently with each other as well as with consumers, the Motor Vehicle Dealer Board (MVDB) initiated a proposal for consideration by the 2011 General Assembly that that would have required as of July 1, 2011, all newly licensed dealers to have an Internet connection and an email address. Furthermore, by July 1, 2012, all dealers would have an Internet connection and an email address.

A Senate floor amendment changed the dates that dealers would be required to have an Internet connection and an email address to July 1, 2013. The amendment also mandated that the MVDB conduct a study "of the desirability and feasibility" that on and after July 1, 2013, [all dealers] be equipped with an Internet connection and an email address".

The MVDB secured the services of *Point Management Group* to assist in conducting an impartial study per the requirement of the legislation adopted by the 2011 General Assembly.

The study found that:

- All MVDB licensed dealers have access to either fixed line broadband or dial-up Internet service. (2.2% have dial-up Internet access only and no fixed line broadband access.)
- All DMV licensed dealers have access to fixed line broadband service.
- The average monthly cost for dial-up Internet service for standard speed is \$10 and high speed service is \$12.00.
- The average monthly cost for fixed line broadband standard speed service is approximately \$22 and \$40 for high speed service.

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## Calendar of Events

**All Meetings held at DMV  
Headquarters  
2300 W. Broad Street, Room 702  
Richmond, VA**

Monday, January 9, 2012

Time: 9:00 a.m.

**Dealer Practices Committee Meeting**

Monday, January 9, 2012

Time: Immediately following Dealer  
Practices

**Licensing Committee Meeting**

Monday, January 9, 2012

Time: Immediately following Licensing

**Advertising Committee Meeting**

Monday, January 9, 2012

Time: Immediately following Advertising

**Transaction Recovery Fund  
Committee Meeting**

Monday, January 9, 2012

Time: 10:00 a.m.

**Full Board Meeting**

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

## INDEPENDENT DEALER-OPERATOR RECERTIFICATION

We are approaching the one year anniversary of the Independent Dealer-Operator Recertification Program.

In our ongoing efforts to increase awareness of the new independent dealer-operator recertification requirement, we continue to add new communication tools. On our WEB site ([www.mvdb.virginia.gov](http://www.mvdb.virginia.gov)), we have posted an alphabetic list of all individuals that must recertify by September 30, 2012. To see the list, click on this link: [Dealer Name and Recertification Deadline Date](#). In addition to website postings, and mailing recertification notices to the home address of independent dealer-operators on a monthly basis, we continue to offer additional cost effective reminders. Our two authorized recertification vendors have been contacting dealers directly on our behalf, as well as offering additional classroom recertification dates.

To meet demand, our recertification partners have increased the number of classes for those who prefer taking a class rather than completing the recertification online or by taking a test at any DMV. For more information on both classroom and on-line recertification contact the providers:

Virginia Independent Automobile Dealers Association  
(VIADA)

1-800-394-1960

([www.viada.org](http://www.viada.org))

Compass Systems

1-800-296-5585

([www.eProLearn.com](http://www.eProLearn.com))

If you have any questions, comments or suggestions about the recertification program, please contact Ann Majors at [ann.majors@mvdb.virginia.gov](mailto:ann.majors@mvdb.virginia.gov) or by telephone at 804-367-1100 x 3016.

## HOLIDAYS HOURS

In observance of the upcoming holidays, all state agencies, including the Dealer Board, will be closed on the following dates:

### **CHRISTMAS**

**December 23 & 26, 2011**

### **NEW YEARS**

**January 2, 2012**

### **LEE-JACKSON DAY**

**January 13, 2012**

### **MARTIN LUTHER KING DAY**

**January 16, 2012**



**HAVE A SAFE AND HAPPY  
HOLIDAY AND A HAPPY NEW  
YEAR FROM THE:  
MOTOR VEHICLE DEALER  
BOARD!**



## BOARD ACTIONS

**Earmias Y. Getahun and Richmond Auto Sales:** From February of 2006 through November 2010, this dealer had six failed inspections due to poor record keeping; failure to have all salespersons properly licensed and improper use of dealer tags. Two of those inspections resulted in letters being written to the dealer and the dealer responding that all problems had been corrected. As a result of on-going problems, on May 13, 2011, an informal fact-finding conference was conducted.

At its July meeting, the Board heard this case and voted to assess a \$6,000 civil penalty and suspend all licenses issued by the Board until Mr. Getahun had a satisfactory inspection and successfully completed the Dealer-Operator course. Mr. Getahun appealed this decision and requested a formal hearing. This hearing was conducted on October 6, 2011. Based on the information provided at the formal hearing and the hearing officer's report, the Board voted at its November meeting to assess a \$3,000 civil penalty and suspend all licenses issued by the Board until Mr. Getahun had a satisfactory inspection and successfully completed the Dealer-Operator course.

**Khanh P. Nguyen and BVM Group, Inc.** Mr. Nguyen opened his dealership in Strasburg, VA in August of 2009. Field representative Jackson attempted to conduct a random inspection in April of 2010 only to find the dealership closed. An educational letter was sent to the dealer. Mr. Jackson visited the dealership in August of 2010 and was able to conduct an inspection and found a number of deficiencies which include record keeping, a noncompliant buyers order and indications that vehicles were being sold off-site. The inspection was followed-up with an educational/warning letter requesting a response from Mr. Nguyen. Mr. Nguyen responded and outlined his plans for correcting the deficiencies.

A follow-up inspection was conducted in December of 2010. While some deficiencies were corrected a number were not; including those related to record keeping, W-2 forms and indications that vehicles were still being sold off-site. Another educational/warning letter was sent to Mr. Nguyen and he failed to respond. Another inspection was conducted in February of 2011 and deficiencies were still evident. As a result, an informal fact-finding conference was conducted. Based on the information provided at the conference and the hearing officer's report, the Board assessed a civil penalty of \$3,000 and suspended all licenses issued by the Board until Mr. Nguyen had a satisfactory inspection and successfully completed the Dealer-Operator course.

## WATCH US ON THE WEB

The next Motor Vehicle Dealer Board meeting, which is scheduled for January 9 at 9:00 am, will broadcast live on the WEB once again. A hot link will be posted on the MVDB Home Page ([www.mvdb.virginia.gov](http://www.mvdb.virginia.gov)) for a quick and easy connection to the broadcast. Mark your calendars now!

## ADVERTISING REMINDER

If you advertise on radio and television, please remember that the Virginia Motor Vehicle Advertising regulations state that when terms, conditions or disclaimers are used, they must be clearly announced (and or conspicuously displayed in the case of television) during the advertisement. Further, the terms, conditions or disclaimers must be at an understandable speed and volume level. It is advised that disclaimers NOT be given at the beginning of the advertisement as the listener may have difficulties connecting the disclaimer to the advertisement.

## BOARD ACTIONS

**Gerald Kazambe, Salesperson.** Upon learning that Mr. Kazambe had been convicted of a criminal act involving the business of selling motor vehicles (selling a vehicle without a title); Board staff examined salespersons applications (renewals) submitted by Mr. Kazambe only to discover that he answered "NO" to the question on the application asking if the applicant had ever been convicted of a criminal act involving the business of selling motor vehicles. As a result, the Board informed Mr. Kazambe that an informal fact-finding conference would be convened for alleged violations of VA Code Section(s) 46.2-1544 (failing to obtain a certificate of title or an assignment or reassignment of a certificate of title), 46.2-1575(1) (material misstatements) and 46.2-1575(9) (having been convicted of any criminal act involving the business of selling vehicles). Mr. Kazambe is not currently licensed. Based on the information provided at the conference and the hearing officer's report, the Board voted to revoke Mr. Kazambe's Salespersons Certificate of Qualification.

## INTERNET ACCESS AND EMAIL ADDRESS

*(Continued from page 1)*

### Recommendations

- All new dealers should have dial-up Internet access at a minimum.
- All current dealers should acquire an Internet email address.
- All dealers should maintain an active Internet email address.

The full report is posted on our WEB site on the "**Publications, Reports and Information**" page. If the 2012 General Assembly does not amend the law that was adopted by the 2011 General Assembly, all dealers will be required to have an Internet access and an email address by July 1, 2013.

# **DEALERS CAUTIONED ON WORKER CLASSIFICATION**

## **Federal government launches enforcement effort on misclassification**

WANADA members are advised that now more than ever, dealerships should act with caution when deciding whether to classify workers as “contractors” as opposed to “employees.”

Following several recent unsuccessful attempts by Congress to legislate the issue, the Obama administration is making worker classification an enforcement priority. Misclassifying “employees” as “independent contractors” risks serious liabilities, including unpaid federal, state, and local income tax withholdings; social security and Medicare contributions; wages, including overtime; workers’ compensation and unemployment insurance premiums; employee benefits; and penalties.



Department of the Treasury  
**Internal Revenue Service**

Recently, the Internal Revenue Service (IRS) and Department of Labor (DOL) agreed to a coordinated enforcement effort on employee misclassification. The stated goal of this \$30 million plus effort is to ensure better protections for employees and to level the playing field for law-abiding employers.

The IRS also has launched a Voluntary Classification Settlement Program (VCSP) aimed at encouraging employers to step up and confess to past worker misclassifications. In addition, several states are focusing enforcement resources at worker misclassification, in part, motivated by the potential for additional tax and premium revenues. Lastly, there recently has been an increase in the number of unemployment insurance and workers’ compensation claims brought by “independent contractors” arguing that they should have been classified as “employees.”

The heightened level of federal and state scrutiny in this workplace area warrants that dealerships carefully review and document how their workers are classified. When making worker classification decisions, dealerships should be careful, and be prepared to document, document, document...

The IRS, the DOL, and the states use multi-factor legal standards and tests to evaluate whether workers are “employees” or “independent contractors.” Of greatest importance: the level of control employers exercise over workers as measured by the means and manner of the work performed. Both the DOL and the IRS have helpful fact sheets on their websites addressing this issue. They can be read [here](#) and [here](#), respectively.

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# COURSE SCHEDULE

The Virginia Community College System and the Virginia Independent Automobile Dealers Association (VIADA) have teamed up to present a two-day Dealer-Operator course. The following is a list of upcoming classes. The list is regularly updated on our WEB site at <http://www.mvdb.virginia.gov/licensingprocess.htm>.

## IMPORTANT NOTICE TO ALL PROSPECTIVE DEALERS

The dealer-operator of any new independent motor vehicle dealership is required to successfully complete a course of study before they will be allowed to take the independent dealer-operator qualification test at any DMV Customer Service Center. "Grandfathered" dealer-operators, title clerks, and salespersons are encouraged to take the course as well.

## 2012

### **January 10 & 11 - Germanna Community College, Fredericksburg**

Contact: Susan Brown; 540-891-3012; [www.germannna.edu/workforce](http://www.germannna.edu/workforce)

### **January 24 & 25 - Patrick Henry Community College, Martinsville Campus**

Contact: Registration; 276-656-0260; [www.ph.vccs.edu](http://www.ph.vccs.edu)

### **February 7 & 8 - Paul D. Camp Community College, Franklin**

Contact: Renee Brown; 757-569-6050, [www.pdc.edu/workforce-development](http://www.pdc.edu/workforce-development)

### **February 21 & 22 - Virginia Western Community College, Daleville**

Contact: Registration; 540-966-3984; [www.virginiawestern.edu](http://www.virginiawestern.edu)

### **March 6 & 7 - Northern Virginia Community College, Reston**

Contact: Claire Wynn; 703-450-2551; [www.nvcc.edu/loudoun/continuing](http://www.nvcc.edu/loudoun/continuing)

### **March 20 & 21 - New River Community College, Dublin**

Contact: Patty Ryan; 540-674-3613; [www.nr.edu/workforce/](http://www.nr.edu/workforce/)

### **April 3 & 4 - Lord Fairfax Community College, Middletown**

Contact: Registration; 540-868-7021; [www.lfccworkforce.com](http://www.lfccworkforce.com)

### **April 17 & 18 - Community College Workforce Alliance at J. Sargeant Reynolds - Community College, North Run Campus, Henrico, County**

Contact: Sandy Jones; 804-523-2292; [www.ccwa.vccs.edu](http://www.ccwa.vccs.edu)

Registration materials and information are available from each of the Community Colleges' WEB site or by calling the individual college. The cost is \$325 if you register at least two weeks prior to the date of the course and \$375 if you register within two weeks of the first day of the course.