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## CONTACT US

2201 W. BROAD ST.  
SUITE 104  
RICHMOND, VA  
23220

[dboard@mvdv.virginia.gov](mailto:dboard@mvdv.virginia.gov)

[www.mvdv.virginia.gov](http://www.mvdv.virginia.gov)

**Bruce Gould,**  
Executive Director  
**Peggy Bailey,**  
Office Manager  
**Frank McCormick,**  
Field Rep. Supervisor  
Office Phone  
804-367-1100  
Office Fax  
804-367-1053



# Dealer Talk

## Hurricane Sandy Aftermath

*DMV Warns of Potential Influx of Water-Damaged Vehicles Offers Tips to Spot Flood Damage When Purchasing a Vehicle.*

RICHMOND DMV- Massive flooding from super-storm Sandy serves to remind Virginia vehicle buyers to conduct a water damage inspection before buying used or new vehicles.

"While much of the major flooding occurred outside of Virginia, the potential exists for damaged out-of-state cars to find their way to the Commonwealth," said Department of Motor Vehicles (DMV) Commissioner

Richard D. Holcomb. "I caution Virginia consumers to check for water damage when purchasing any new or used vehicle."

The dangers of water damaged cars are often hidden. Aside from mold and rust, electrical systems could erode and fail over time. Computer sensors could be damaged, and safety protections like air bags could fail in a crash.

Various state laws require



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our office!***

water damage to be reported and disclosed on a vehicle's title. However, dishonest sellers can find ways around these requirements, putting buyers at risk. cont'd pg. 2

## IMPORTANT "BTRO" Changes January 1, 2013

<http://www.dcjs.virginia.gov/pss/towing/>

The 2012 Session of the Virginia General Assembly adopted legislation that transfers the functionality of the Board of Towing and Recovery Operators ("BTRO"), into two other State agencies. These changes are effective January 1, 2013. Effective that date, the Department of Criminal Justice Services ("DCJS")

will be moving forward with providing statutory oversight of tow and recovery operators and tow truck drivers, and the licensing aspect for tow truck drivers. The Office of the Attorney General – Division of Consumer Counsel will be handling complaints and compliance activities of tow operators and tow truck

drivers. The BTRO's laws and regulations will remain in full force and effect until January 1, 2013. BTRO would like to bring to your attention several legislative changes that will take place on January 1, 2013:

A person licensed by BTRO and holding

cont'd pg. 3



## Upcoming *EVENTS*

### BOARD MEETINGS

All Meetings are held at DMV Headquarters

2300 W. Broad Street, Room 702 Richmond, VA

Monday, January 14, 2013

Time: 8:30 a.m.

### Dealer Practices Committee Meeting

Monday, January 14, 2013

Time: Immediately following Dealer Practices

### Licensing Committee Meeting

Monday, January 14, 2013

Time: Immediately following Licensing

### Advertising Committee Meeting

Monday, January 14, 2013

Time: Immediately following Advertising

### Transaction Recovery Fund Committee Meeting

Monday, January 14, 2013

Time: 10:00 a.m.

### Full Board Meeting

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

## *Holiday Hours*

### **CLOSED:**

Monday, December 24

Tuesday, December 25

Wednesday, December 26

Monday December 31

Tuesday, January 1, 2013

Friday, January 18, 2013

Monday, January 21, 2013

Monday February 18, 2013

## *pg. 1 continued* Hurricane Sandy

Virginia Code § 46.2-624 requires insurance companies to report to DMV when they have paid a claim of \$3,500 or more on a vehicle due to water damage. Insurers are required to notify DMV of such water damage, even if the owner intends to retain ownership and continue driving the vehicle.

While there is no sure method to test for vehicle flood damage, here are several inspection tips that may help detect significant water damage.

- Examine the interior and the engine compartment for evidence of water and grit from suspected submersion.
- Check for recently shampooed carpet, and check under the floorboard carpet for water residue or stain marks from evaporated water not related to air-conditioning pan leaks.
- Look for rusting on the inside of the car and under interior carpeting, and visually inspect all interior upholstery and door panels for evidence of fading.
- Check under the dashboard for dried mud and residue, and note any evidence of mold or a musty odor in the upholstery, carpet or trunk.
- Check for rust on screws in the console or other areas where water would normally not reach unless submerged.
- Check for mud or grit in alternator crevices, behind wiring harnesses and around the small recesses of starter motors, power steering pumps and relays.
- Complete a detailed inspection of the electrical wiring system, looking for rusted components, water residue or suspicious corrosion.
- Inspect the undercarriage or other components for evidence of rust and flaking metal that would not normally be associated with late model vehicles.

While these inspection suggestions will not detect flood damage in every case, they do provide some information to protect consumers from purchasing a vehicle damaged by floodwaters. If you are considering purchasing a vehicle that you suspect may have been damaged by flooding, consider having it inspected by a licensed mechanic.



# Reminders.....

**Please plan your December license renewals to accommodate the Holiday office closures. We suggest you get your renewals in EARLY to avoid costly late fees!**

**Taking time off during the Holidays?** Be sure to notify the Board in WRITING the date & hours your dealership will be closed..... AND post a detailed closure date, that is **visible** to customers at your dealership.

## *cont'd from pg. 1* **BTRO Changes**

a valid driver authorization document shall be considered licensed in the same manner by DCJS. On or after January 1, 2013, initial and renewal driver applicants (holding a current valid BTRO issued driver authorization document) will make application for a registration to drive a tow truck with DCJS. (Notification of these changes have been mailed to licensees.)

- Modifications to the criminal history review process for drivers have been made. BTRO has encouraged driver applicants to become familiar with the new requirements that includes, but is not limited to, conviction of a violent crime as defined in subsection C of Section 17.1-805 of the Code of Virginia, or a conviction of any crime involving the driving of a tow truck, including drug or alcohol offenses, but not traffic infraction convictions. A person required to register as a sex offender will continue to not qualify for a registration. Detailed information regarding the renewal background check requirements are available on the BTRO's web site at [www.btro.vi.virginia.gov](http://www.btro.vi.virginia.gov).

- The only exemption from registration as a driver will be for drivers driving a tow truck for a franchised motor vehicle dealer as defined by Section 46.2-1500 of the Code of Virginia using a tow truck owned by a dealer when transporting a vehicle to or from a repair facility owned by the dealer when the dealer does not receive compensation from the vehicle owner for towing of the vehicle or when transporting a vehicle in which the dealer has an ownership or security interest. All other persons driving a tow truck will be required to hold a registration with the DCJS.

*cont'd pg. 7*

## ***DID YOU KNOW ??***

**....That** you are responsible for all advertisements for your motor vehicles including all internet advertising? We urge all dealers who advertise on the internet to review these ads very carefully as we are finding many that are not in compliance with VA law and regulations. We suggest that you periodically "shop" websites so you see exactly how these 3rd parties are advertising your vehicles. Review your advertising contracts carefully—YOU are responsible for where your vehicles appear on the internet! If you have further questions, contact us to clarify!

**....That** if you became an Independent Dealer-Operator (IDO) between 11/1995 and 06/2010 you should **RE-CERTIFY as soon as possible?**

**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 if you may recertify between now and MAY 31, 2013. Or, call Ann Majors at the MVDB. She may be reached at 804-367-1100 x 3016, or email her at [ann.majors@mvdv.virginia.gov](mailto:ann.majors@mvdv.virginia.gov)

**....That** the dollar thresholds in **Regulation Z** (Truth in Lending) and **Regulation M** (Consumer Leasing) for exempt consumer credit and lease transactions have been **INCREASED?** The adjustments to the thresholds reflect the annual percentage increase in the consumer price index as of June 1, 2012 and will take effect on January 1, 2013. Based on the adjustments announced today, the protections of the Truth in Lending Act and the Consumer Leasing Act generally **will apply** to consumer credit transactions and consumer leases of **\$53,000 or less in 2013. For example, TILA in 2011 was \$25,000...in January 2013, the TILA threshold will be \$53,000 & rise every year thereafter by the CPI.**



# Board Actions

## **Boris Auto Sales and Repair and Boris R. Caballero**

A DMV Special Agent observed a red pick-up truck being operated with expired dealer tags. He followed the truck until it stopped and he was able to question the driver. It was discovered that the driver of the truck was the brother-in-law of the owner (Boris Caballero) of Boris Auto Sales. Additionally, the driver was using the truck for his construction business and was not authorized by law to be using dealer plates. It was also discovered that the dealer plates had been renewed and Caballero (the owner) had not affixed the new decals. Caballero was convicted of improper use of dealer plates and at the November meeting, the Board voted to require Mr. Caballero successfully complete the dealer-operator course by May 5, 2013.

## **Variety Motors, Inc. and Richard Green**

Based on affidavits received from several US Navy Personnel that they received "bird dog" fees from Variety Motors; and a random MVDB Field inspection of this dealership, that revealed a number of deficiencies including: the dealership location was not specified in all advertising, poor record keeping, non-compliant buyers orders, unlicensed salespersons, no record of liability insurance, misuse of dealer plates, and knowingly advertising something that the dealer knows is false. In the course of following-up on this deficient inspection, additional advertising violations were discovered primarily relating to Variety Motors advertising that they were "military approved" and "BBB approved", when in fact they were on the military's off-limits list and BBB had suspended their membership. The Board voted to assess a \$4,500 civil penalty against Variety Motors, Inc. and Richard Green; and all licenses and certificates issued by the Board to Mr. Green be suspended until such time as he has had a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative, and the Board revoked Mr. Green's dealer-operator certificate of qualification. In addition, all advertisements and WEB sites associated with Variety Motors should not imply that the dealership is military approved; and any advertisement or WEB site associated with Variety Motors may not imply that the dealership is approved by the military.

## **Victory Lane Motors, Inc. and Shawn D. O'Dell**

Based on two consumer complaints from military personnel, the MVDB conducted an investigation and inspection of this dealership. This investigation revealed multiple non-compliant infractions such as buyers orders, record-keeping, consignment contracts, failure to provide odometer disclosure, failure to conduct safety inspections, and misuse of dealer plates. The Board assessed a \$3,000 civil penalty against Victory Lane Motors, Inc. and Shawn D. O'Dell; Mr. O'Dell must provide evidence to the Board of a full and satisfactory refund to customer Ms. Destiney Butler; and Mr. O'Dell must successfully complete the dealer-operator course by May 5, 2013.

## **Quality Auto Group, Inc. and Kevin J. Brown**

In the course of investigating a consumer complaint, DMV Special Agent discovered that this dealer had falsified title applications for 29 vehicles that were salvage vehicles and obtained clear titles. Per a plea agreement, Mr. Brown was convicted of 5 misdemeanors of obtaining titles unlawfully. The Board assessed a \$34,000 civil penalty against Quality Auto Group, Inc. and Kevin J. Brown; and revoked all licenses and certificates issued by the Board to Mr. Brown. In addition, the Board directed the executive director to request that the Department of Motor Vehicles investigate and review Mr. Brown's Salvage license for possible administrative action concerning Mr. Brown's Salvage license.

# Board Actions

## **We Finance Auto and Gary R. Cowand**

Board staff received information indicating that Mr. Cowand “rented” dealer tags. Based on this information MVDB Field Representative Youngsma attempted to inspect this dealership on four separate days. On the first three attempts, the dealership was closed during its posted hours. On September 7, 2012, Field Representative Youngsma noted a number of deficiencies during his inspection. These violations include failure to: maintain business hours, post a list of all salespersons, and notify the Board of terminated salespersons. In addition, there were a number of record keeping problems; not all licensed salespersons were on payroll, and he lacked adequate liability insurance. The Board assessed a \$15,000 civil penalty against We Finance Auto and Gary R. Cowand; and all licenses and certificates issued by the Board to Mr. Cowand were revoked.

## **Jeffrey A. Wetherell, Salesperson**

On April 17, 2012, Mr. Wetherell was convicted of a misdemeanor for making a false statement on an application for title in order to lower the tax. This incident occurred when Wetherell was the owner of South Main Motors. Wetherell closed this dealership in August and is currently working as a salesperson at Harrisonburg Mitsubishi. The MVDB found that while owning South Main Motors; Mr. Wetherell had used deceptive acts or practices, and was convicted of a criminal act involving the business of selling vehicles. The Board decided not to take any further action against Mr. Wetherell and that he may retain his salesperson license.

For prior issues of Dealer Talk click [HERE](#)

# IMPORTANT NOTICE TO PROSPECTIVE DEALERS

The path to a Dealer-operator license begins with a required two-day course of study, which is offered for your convenience 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.

Date	College	Contact Information
<b>2013</b>		
Jan 08-09	Germanna Fredericksburg	Kelly Bennett 540-937-2913 <a href="http://www.germanna.edu/workforce">www.germanna.edu/workforce</a>
Jan 22-23	Patrick Henry in Martinsville	Registration 276-656-0260 <a href="http://www.ph.vccs.edu">www.ph.vccs.edu</a>
Feb 05-06	Paul D Camp in Franklin	Renee Brown 757-569-6053 <a href="http://www.pdc.edu/workforce-development">www.pdc.edu/workforce-development</a>
Feb 19-20	VA Western in Daleville	Registration 540-966-3984 <a href="http://www.virginiawestern.edu">www.virginiawestern.edu</a>
Mar 05-06	Northern VA in Manassas	Registration 703-878-5770 <a href="http://www.nvcc.edu">www.nvcc.edu</a>
Mar 19-20	New River in Dublin	Patty Ryan 866-462-6722 <a href="http://www.nr.edu/workforce/">www.nr.edu/workforce/</a>
Apr 09-10	Lord Fairfax in Middletown	Registration 540-868-7021 <a href="http://www.lfccworkforce.com">www.lfccworkforce.com</a>
Apr 23-24	J Sargeant Reynolds in Henrico/Richmond	Sandy Jone 804-523-292 <a href="http://www.ccwa.vccs.edu">www.ccwa.vccs.edu</a>
May 07-08	Thomas Nelson in Hampton	Registration 757-825-2937 <a href="http://www.tncc.edu">www.tncc.edu</a>
May 22-23	Blue Ridge in Weyers Cave	Registration 540-453-2215 <a href="http://www.brcc.edu">www.brcc.edu</a>
Jun 04-05	Germanna Fredericksburg	Kelly Bennett 540-937-2913 <a href="http://www.germanna.edu/workforce">www.germanna.edu/workforce</a>
Jun 18-19	Danville Danville	Donna 434-797-6437 <a href="http://www.dcc.vccs.edu/workforce">www.dcc.vccs.edu/workforce</a>

# MOTOR VEHICLE DEALER BOARD

MVDB

2201 W. Broad Street

Suite 104

Richmond, VA 23220

Phone: 804-367-1100

Fax: 804-367-1053

E-mail: [dboard@mvdb.virginia.gov](mailto:dboard@mvdb.virginia.gov)

Visit us on the Web!

[www.mvdb.virginia.gov](http://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.



## 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.



## *cont'd from pg. 3* BTRO Changes

- Section 45.2-116.D. provides that any tow truck driver failing to register with DCJS is guilty of a Class 3 misdemeanor. A tow truck driver registered with DCJS shall have such registration in his possession whenever driving a tow truck on the highways.

- Towing related consumer complaint functions will be transferred to the OAG, and complaints will be handled by a newly created Division of Consumer Counsel that will legisla-

tively be operational on January 1, 2013, and whose function shall be to serve as a central coordinating agency and clearinghouse for receiving and investigating complaints by the Commonwealth's consumers of illegal, fraudulent, deceptive or dangerous practices and referring appropriate complaints to the federal, state, and local departments or agencies charged with enforcement of consumer laws.

Further updates and information on this transi-

tion will be mailed to licensees. After January, 1, 2013, questions concerning tow and recovery operators and tow truck drivers, and the licensing aspect for tow truck drivers can be made by calling 804-367-0714 or by visiting DCJS's Web site at <http://www.dcjs.virginia.gov/pss/towing/> <http://www.oag.state.va.us>

Picture courtesy of :

<http://www.virginia.gov/government/legislative>