

December 2019

Volume 22, Issue 131

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## MOTOR VEHICLE DEALER BOARD



# Dealer Talk

## Reconditioning Fees

In the November 2019 Board meeting, the members discussed the fact that some dealers are charging a reconditioning fee in addition to the vehicle's advertised price. Virginia Code § 46.2-1581(8) states in part, "...the advertised price or credit terms shall include all charges which the buyer must pay; except buyer selected options, state and local fees and taxes, and manufacturer's or distributor's freight or destination charges, and a processing fee, if any. If a processing fee or freight or destination charges are not included in the advertised price, the amount of any such processing fee and freight or destination charges must be clearly and conspicuously disclosed..." During its January 2018 meeting, the MVDB (Board) agreed that adding fees at the point of sale on the buyers order that increases the advertised price is not allowed and is considered deceptive. **Dealers may NOT charge additional fees such as "dealer prep", "reconditioning", etc., these costs must be included in the price of the vehicle.** The Board staff will be stepping up enforcement and utilizing an accelerated penalty process for violators. First time violators will receive a written warning and second time violators will receive a \$1,000.00 civil penalty (can be appealed). Third time violators will be granted an informal hearing and eventually appear before the Board. If you have any questions regarding "fees" that you can legally charge to a customer you should contact the MVDB, VADA, or VIADA.

## Ceasing Operations

Regarding the unfortunate decision to close your business and cease operations, the following describes the steps you need to follow to ensure an easy transition out of the dealership and remain compliant.

Notify the Board at least 30 days prior to closing. As a reminder to dealers who plan to close their businesses, please notify the Board in writing of your intent to close. Va. Code § 46.2-1545 allows the dealer 30 days to dispose of all dealer inventory, and communicate to the Board where all dealer records will be stored after closing. DMV's Dealer Manual offers dealers a step by step process of what to do when you go out of business. When you cease operation as a motor vehicle dealer in Virginia, you should complete all pending title and registration work. You must surrender to MVDB the following:

1. Your Dealer License Certificate;
2. All dealer license plates which have been issued to your dealership;
3. Licenses of all salespersons that you employed;

### CONTACT US

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## Upcoming EVENTS

### BOARD MEETINGS

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

**Monday, January 13, 2020**

#### Dealer Practices Committee Meeting

**Time: 9:00 a.m.**

#### Licensing Committee Meeting

Time: Immediately following Dealer Practices Committee

#### Advertising Committee Meeting

Time: Immediately following Licensing Committee

#### Transaction Recovery Fund Committee Meeting

Time: Immediately following Advertising Committee

#### Full Board Meeting

**Time: 10:00 a.m.** or 5-15 minutes immediately following Transaction Recovery Fund Committee meeting.

## MVDB will be closed

- ◆ Tuesday, December 24, 2019
- ◆ Wednesday, December 25, 2019
- ◆ Wednesday January 1, 2020



*Cont'd from pg. 1*

## Ceasing Operations

4. All temporary license plates left in stock;
  5. All VSA 27 forms, "Receipt for Money Paid for Transfer of License Plates" (commonly called a temporary registration receipt) remaining in stock;
  6. If you are an "on-line" dealer: contact your online vendor or DMV's Dealer Services Workcenter at [dealerservices@dmv.virginia.gov](mailto:dealerservices@dmv.virginia.gov) about surrendering metal plates and decals. These items belong to DMV and cannot be collected by the MVDB.
  7. The former licensee shall continue to maintain and make available to DMV dealer records required by the Dealer Licensing Act.
- § 46.2-1545 states "No dealer, unless his license has been suspended, revoked, or canceled, shall cease business without a **30-day prior notification** to the Department and the Board. On cessation of the business, the dealer shall immediately surrender to the Board the dealer's certificate of license, all salespersons' license, and any other materials furnished by the Board. The dealer shall also immediately surrender to the Department all dealer and temporary license plates, all fees and taxes collected, and any other materials furnished by the Department. After cessation of business, the former licensee shall continue to maintain and make available to the Department and the Board dealer records as set forth in this chapter. The provisions of this section shall also apply to watercraft trailers and watercraft trailer dealers. If you need further assistance with any of this process, please do not hesitate to contact the Board for guidance.

## Online Test Preparation

If you need to take a salesperson or dealer-operator exam, MVDB has added an online study resource. In addition to the MVDB 34 and MVDB 35 study guides, we have revamped our online test preparation practice questions. Click [HERE](#) for the revised online study quizzes. The salesperson and dealer-operator qualification practice tests contains questions to help you prepare for the salesperson and dealer-operator examination. When you take the actual examination, you will be presented with similar questions that will be displayed as they appear in these practice questions. Remember, passing the exam does NOT mean you are licensed to sell vehicles. After passing the exam at the DMV, you must apply and be issued a license by the MVDB before you may sell vehicles.

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## *FTC and Social Media Influence*

The Federal Trade Commission has halted the deceptive online marketing tactics of two companies and their principals, the first of which allegedly sold fake indicators of social media influence, and the second of which allegedly used fake product reviews posted by its employees on a well-known retail website.

Posting deceptive or inaccurate information online pollutes the e-commerce marketplace and prevents consumers from making informed purchasing decisions. With these two actions, the FTC makes it clear that it will take enforcement action against this type of illegal behavior.

“Dishonesty in the online marketplace harms shoppers, as well as firms that play fair and square,” said Andrew Smith, Director of the FTC’s Bureau of Consumer Protection. “Posting fake reviews on shopping websites or buying and selling fake followers is illegal. It undermines the marketplace, and the FTC will not tolerate it.”

Click [HERE](#) for the full FTC enforcement article.

### *FTC Disclosures 101*

Are you an influencer who works with brands to recommend or endorse products or services in social media? Or perhaps you’re an advertiser that uses influencers in your marketing. [The FTC just issued a publication](#) you need to know about: [Disclosures 101 for Social Media Influencers](#). And that’s not all. To accompany the brochure, the FTC released a new video to help streamline influencers’ and advertisers’ efforts to stay on the right side of the law. The publication is new, but it breaks the compliance message down to the well-established basics. If you endorse a product or service through social media, your endorsement message should make it obvious when you have a relationship – a “material connection” – with the brand. What’s a “material connection”? It could be a personal, family, or employment relationship or a financial relationship – for example, if a brand pays you or gives you free or discounted products.



[Disclosures 101 for Social Media Influencers](#) discusses when to disclose, how to disclose, and what else influencers need to know. It also answers questions on influencers’ minds:

How does the disclosure requirement apply in pictures, videos, and live streams?

What about tags, likes, and pins?

What kind of wording effectively discloses a material connection?

What about influencers who post from outside the United States?

What if a person doesn’t have a relationship with a brand, but is just telling others about a product they bought and happen to like?

Is it OK to assume a platform’s disclosure tool is good enough?

(Spoiler alert: No, that’s not OK.)

How can you use this new resource?

**Read the brochure.** [Disclosures 101 for Social Media Influencers](#) is heavy on the specifics and light on the legal mumbo jumbo. Ten minutes is all it takes for influencers to understand the basics. If you work for an advertiser, PR firm, or agency that works regularly with influencers, get free copies from the [FTC bulk order site](#) to share with your team, use it to supplement your training efforts, and then monitor what influencers are doing on your behalf.

**Share what you know.** Influencers and the brands that use them should want everyone to follow the same established truth-in-advertising standards. Tell your networks about the new publication and talk it up at industry events. Looking for more resources? Visit [ftc.gov/influencers](https://ftc.gov/influencers).

**Watch the video.** To go along with the brochure, the FTC has produced a video that explains some compliance fundamentals. Use it as a training refresher.

## *DMV News*

### **Auto Auctions Processing Dealer Work**

Effective January 1, 2020, all dealers currently utilizing CSCs and DMV dealer centers will need to begin using any one of three Virginia auto auctions (located in Fredericksburg, Harrisonburg and Virginia Beach) for the manual processing of title and registration work. DMV will no longer process dealer title and registration transactions in the CSC's and dealer centers. This applies to all Virginia dealers, out of state dealers and dealer work being presented by titling agencies. DMV has expanded its contracts with the three auto auctions to include processing of all manual dealer title and registration transactions (i.e. original, replacement, substitute and supplemental titles, and all registration transactions).

#### **Auction Locations:**

Manheim Fredericksburg, 120 Auction Drive, Fredericksburg, VA 22406

America's Auto Auction, 656 South Military Highway, Virginia Beach, VA 23464

Manheim Harrisonburg, 3560 Early Road, Harrisonburg, VA 22801

Work can either be dropped off or mailed and will be processed within 5 business days of the date it is received. Since mailing timeframes will vary, DMV recommends that dealers send all mail with a tracking number. Work can either be picked up or mailed back with return envelopes provided by the dealer. Dealers that are not mandated to process work online can still utilize a DMV Select.

Want to be an online dealer? Visit DMV's website to get more information on how to be an online dealer <https://www.dmv.virginia.gov/commercial/#odealer/index.asp>.

### **Independent Dealer Mandate**

As of January 1, 2020, all independent dealers that sell 100 or more vehicles annually are required to join the Online Dealer program and are considered Online Dealers. Independent dealers selling fewer than 100 vehicles annually are encouraged to take advantage of this convenient, cost-saving program. These requirements apply to all dealer types licensed by the Motor Vehicle Dealer Board (e.g., car, truck, motorcycle, trailer, and RV).

**Note:** The 100 vehicle sales threshold for independent dealers is a total of all vehicles sold at a location.

### **Mailing in bundles to DMV**

Bundles consist of the title documents (dealer re-assignments, bill of sales, etc...) used by online dealers to finalize transactions in the vendor systems. All complied title work is required to be sent to DMV within 14 days of the transaction being finalized. As you know all title work/bundles are randomly audited to ensure full compliance of the law. When submitting bundles to DMV, online dealer may continue to use DMV's courier service at no cost. If you chose to use DMV's courier service, the service is only intended to send paper-work/bundles to DMV only. Any other use of DMV's courier service will be billed to the dealer accordingly.

## **Reminders...**

**ALL IDO's of independent dealerships must recertify their IDO qualification every three years by either taking an online course, classroom course, or by passing an administered DMV test. Click [HERE](#) for more information and [HERE](#) to determine your recertification deadline. Please note that dealers with [Franchise](#) endorsements 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@mvdb.virginia.gov](mailto:ann.majors@mvdb.virginia.gov)**



# Board Actions

## Dealer Practices

### Informal fact-finding conferences:

**All City Motors, LLC and Nikita L. Howard** – On August 26, 2019, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a civil penalty of \$750 and a satisfactory inspection. Ms. Howard may appeal to a Formal Hearing.

**Abraham's Autos and Mildred D. Bruce** – On September 17, 2019, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a \$1,000.00 civil penalty and a satisfactory inspection. The civil penalty will be waived if a successful inspection is achieved before January 4, 2020. Ms. Bruce may appeal to a Formal Hearing.

**Jefferson Davis Auto & Tire and Cory D. Brown** – On October 3, 2019, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain posted business hours and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a civil penalty of \$750 and a satisfactory inspection. Mr. Brown may appeal to a Formal Hearing.

**All In One Brokers and Finance, LLC and John Henderson** – On October 8, 2019, an informal fact-finding conference was conducted to address the alleged violations of failure to have salespersons acting as independent contractors, dealer records, liability insurance on each dealer tag, material misstatement, and failure to comply with previous warnings. Based on the information provided at the conference, the Board assessed a civil penalty of \$8,000 and a satisfactory inspection. Mr. Henderson may appeal to a Formal Hearing.

**Autosource, LLC and Dwaine Tolliver.** On October 28, 2019 an informal fact-finding conference was conducted to address the alleged violations of failure to maintain liability insurance on each dealer tag. The Executive Director agreed with the hearing officer's recommendation to issue a written warning. Mr. Tolliver may appeal to a Formal Hearing.

### Administrative Actions:

**Expressway Auto, LLC and Daoud M. Anwari.** Paid a \$750 civil penalty for failure to maintain posted business hours.

**Headliners Auto, LLC and Harry Schein Jr. and Casasndra Schein.** Paid a \$750 civil penalty for failure to maintain posted business hours.

**Crossroads Ford of South Boston and Glenn A. Boyd.** Paid a \$250 civil penalty for salespersons acting as independent contractors.

**West Capitol Financial, LLC and Gregory L. Armstead Jr.** Paid a \$750 civil penalty for failure to maintain posted business hours.

**Carzstudio and Omar Abifaraj.** Paid a \$750 civil penalty for Failure to maintain posted business hours.

**Titan Motors Inc. and Enaytullah Babe.** Paid a \$500 civil penalty for failure to provide title, assignment, reassignment, or proof of ownership of vehicles in the dealership inventory.

**Super Bee Auto, LLC and Mohsen Babaeian Koupaei.** Paid a \$1,000 civil penalty for failure to maintain dealer records, odometer records, and salespersons acting as independent contractors.

**Lakeview Motors and Brent K. Toone.** Paid a \$250 civil penalty for failure to maintain dealer records.

# Board Actions

**Larry's Auto Parts, Inc. and Tammy P. Montgomery.** Paid a \$250 civil penalty for failure to provide proof of safety inspection prior to retail sale.

**Smithfield Family Automotive, LLC and Tommy Eugene Lightfoot.** Paid a \$2,400 civil penalty for failure to maintain automobile liability insurance on each dealer tag.

**Today's Price Auto and Herman Brackens Jr.** Paid a \$250 civil penalty for failure to maintain dealer records, copies of completed sales, and proof of safety inspection prior to retail sale.

**United Auto Groups, Inc. and Hamed H. Abouzieid.** Paid a \$250 civil penalty for misuse of dealer plates, and written records of dealer plate usage.

**Truck & Equipment Corp and Sonny G. Lasam.** Paid a \$500 civil penalty for failure to maintain dealer records, salespersons acting as independent contractors, and proof of safety inspection prior to retail sale.

**G & J Motors, LLC and Harold Groom III.** Paid a \$750 civil penalty for failure to maintain posted business hours.

**M & L Auto Sales, LLC and Mario Thompson.** Paid a \$750 civil penalty for failure to maintain posted business hours.

**West Suffolk Auto, LLC and Michael Drier.** Paid a \$250 civil penalty for failure to maintain dealer records.

**Priority Nissan Williamsburg and Dennis M. Ellmer.** Paid a \$2,400 civil penalty for failure to post current salespersons sign, dealer records, and salespersons acting as independent contractors.

**Auto-Mattox and Christopher M. Mabry.** Paid a \$6,250 for failure to pay salespersons acting as independent contractors.

**The Auto Superstore and Dennis Minetos.** Paid a \$2,000 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

**Forish Family Auto Sales, Inc. and Brian D. Forish.** Paid a \$750 civil penalty for failure to maintain dealer records, proof of safety inspection prior to retail sale, and salespersons acting as independent contractors.

**Affordable Autos, LLC and David Huff.** Paid a \$250 civil penalty for failure to maintain liability insurance on each dealer tag.

**Jamie's Discount Auto Sales and James Crutchfield.** Paid a \$250 civil penalty for failure to provide proof of safety inspection prior to retail sale.

**Fitzgerald Peterbilt of Bristol and Tommy Fitzgerald.** Paid a \$250 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

**Joe's Tire & Auto Sales, Inc. and Joseph R. Searce.** Paid a \$1,000 civil penalty for failure to maintain dealer records, and maintain liability insurance on each dealer tag.

**Exit 19 Auto Sales and Michel Landon Inscore.** Paid a \$250 civil penalty for failure to maintain dealer records, and salespersons acting as independent contractors.

**Automax of Virginia, Inc. and Barry J. Adenauer.** Paid a \$1,000 civil penalty for failure to maintain dealer records.

**T & S Auto and Steven Nguyen.** Paid a \$250 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

**4 Wheels Auto Sales and Nancy Majano.** Paid a \$750 civil penalty for failure to maintain posted business hours.

# Board Actions

**Richmond Harley-Davidson and George B. Willis.** Paid a \$250 civil penalty for failure to maintain processing fee sign, dealer records, and failure to comply with previous warnings.

**Silver Motors, LLC and Amare Seraw Awoke.** Failed to pay a \$750 civil penalty for failure to maintain posted business hours, and was suspended and sent to debt set-off.

## Licensing

### Informal fact-finding conferences

**Jerome F. Schmitt, Salesperson Applicant** - On July 15, 2019, an informal fact-finding conference was conducted to address the alleged violations of material misstatement, and having been convicted of a felony. Based on the information provided at the conference, the Board assessed a \$250 civil penalty and approval for Mr. Schmitt to reapply. Mr. Schmitt may appeal to a Formal Hearing.

**Robyn C. Gray, Salesperson Applicant** - On September 16, 2019, an informal fact-finding conference was conducted to address the alleged violation of being convicted of a felony. Based on the information provided at the conference, the Board denied the application for a salesperson's license. Mr. Gray may appeal to a Formal Hearing.

**Hafez K. Gaballah, Salesperson Applicant** - On September 10, 2019, an informal fact-finding conference was conducted to address the alleged violations of material misstatement, deceptive acts and practices, and having been convicted of a felony. Based on the information provided at the conference, the Board approved for Mr. Gaballah to reapply for a salesperson license and a \$250 civil penalty. The Board further requires that the employing dealership and Mr. Gaballah both notify the Board if or when he transfers or terminates employment. Mr. Gaballah may appeal to a Formal Hearing.

## Advertising

### Informal fact-finding conferences

**United Auto Groups Inc. and Hamed Abouzied.** On October 10, 2019 an informal fact-finding conference was conducted to address the alleged violations of advertising in the owner category of Craigslist and not the dealer section, which is considered to be misleading, and failing to disclosing the dealership name or VADLR. Based on the information provided at the conference, the Executive Director issued a written warning. Mr. Abouzied may appeal to a Formal Hearing.

### Administrative Actions:

**Amp's Autos Incorporated and Erice Osei Ampadu.** Paid a \$250 civil penalty for advertisements placed on Craigslist under the category "owner" instead of the "dealer" category which is considered to be misleading. Also, ad failed to disclose the processing fee and the dealers name or VADLR.

**Number 1 Auto Group, LLC and Gurpreet Singh.** Paid a \$250 civil penalty for advertising under the owner category on Craigslist, and failed to disclose the processing fee \$395.

**Rick Hendrick Chevrolet and Hag Group Colonial Chevrolet Company LP.** Paid a \$250 civil penalty for advertising 2 years of "free" oil changes.

# IMPORTANT NOTICE TO PROSPECTIVE DEALERS

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, into a sampling of opening and operating expenses, and ending with a discussion on ethics. The course is also open to all existing dealers and their employees.

## THE FOLLOWING COURSES ARE REGISTERED THROUGH VIADA,

**CALL 1-800-394-1960 to register or visit [viada.org](http://viada.org)**

	<b>2019</b>
December 10-11	<b>Reynolds Community College - Henrico</b>
	1651 East Parham Rd, Henrico 23228
	<b>2020</b>
January 14-15	<b>Germanna Community College - Fredericksburg</b>
	10000 Germanna Point Dr, Fredericksburg 22408
January 28-29	<b>Danville Community College - Danville</b>
	121 Slayton Ave, Danville 24541
February 11-12	<b>Thomas Nelson Community College - Hampton</b>
	600 Butler Farm Rd, Hampton 23666
February 25-26	<b>New River Community College - Christiansburg</b>
	Suite 400 Room 142
	782 New River Rd NW, Christiansburg 24073
March 24-25	<b>Reynolds Community College - Henrico</b>
	Community College Workforce Alliance
	1651 East Parham Rd, Henrico 23228
April 7-8	<b>Comfort Suites - Manassas</b>
	7350 Williamson Blvd, Manassas 20109



Please click [HERE](#) or on the graphic on the left to view our newest efforts for Dealership Education----videos!

Our first two videos are available now with more to be uploaded on an ongoing basis. These first two videos are about Advertising compliance, but the MVDB Education video library will eventually cover a wide range of topics that Dealerships can use to remain compliant with Virginia Code.

You may also access these videos from a link on our website Home page.

**BE SURE TO SUBSCRIBE TO OUR [MVDB CHANNEL](#)!**

Stay informed and receive notifications when new videos are released.

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# MOTOR VEHICLE DEALER BOARD

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**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; promote the best interest of both the automotive consumer and dealer community; while providing a high level of customer service.

## ***What's Wrong With This Picture?***



This sign is not a "processing fee" sign.

Many dealers, as a convenience to their customers, act as agents on behalf of their customers by completing all the paperwork to title and register the customer's vehicle. The fees associated with title and registration are "passed through" the dealer, and the dealer may collect and pass on to DMV only the amount DMV would charge the customer if the customer did it themselves. In short, dealers may NOT charge more than the fees DMV charges to title, register, and issue a temporary tag to customers.

Regarding Temporary Tag charges,

§ 46.2-1558 states in part that "...the fee shall be no more than the fee charged the dealer by the Department.."

Regarding Registration and Plates

The following link lists the amount you are allowed to collect from your customer. <https://www.dmv.virginia.gov/webdoc/pdf/dmv201.pdf>