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MVDB "Educational Emails"



As part of our ongoing education efforts the Board has implemented a new email system to communicate with our Dealer community. This system incorporates the email addresses of those who have signed-up to receive *Dealer Talk* and dealer email addresses provided to us by dealers on applications, through our WEB site, etc.

Legislation effective July 1, 2013 requires all Dealers to have a valid email address and internet connection associated with their dealership. The Board will be emailing educational notifications to our Dealers using the email address that dealers have provided to us. To ensure receipt of these educational emails, please be sure to put dboard@mvdb.virginia.gov in your "trusted sites". The graphic illustration is a sample of what you might expect from the Board when we send an educational email.

Notice to all Dealer-Operators

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 <u>HERE</u> for more information and <u>HERE</u> 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 ann.majors@mvdb.virginia.gov.

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Upcoming EVENTS

BOARD MEETINGS

All Meetings are held at DMV Headquarters 2300 W. Broad Street, Room 702 Richmond, VA Monday, November 4, 2013

Time: 9:00 a.m.

Dealer Practices Committee Meeting

Monday, November 4, 2013

Time: Immediately following Dealer Practices

Licensing Committee Meeting

Monday, November 4, 2013

Time: Immediately following Licensing

Advertising Committee Meeting

Monday, November 4, 2013

Time: Immediately following Advertising

Transaction Recovery Fund (TRF)

Committee Meeting

Monday, November 4, 2013

Time: Immediately following TRF.

Full Board Meeting

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

MVDB HOLIDAY Office Hours

CLOSED:

Monday, October 14, 2013 Monday, November 11, 2013 Wednesday, November 27, 2013* Thursday, November 28, 2013 Friday, November 29, 2013 *closing at noon

Virginia Receives \$57.3 Million in 'Bonus' Funding to Accelerate Transportation Projects

Additional funding originally allocated to other states will go toward transportation projects in Virginia

RICHMOND — Governor Bob McDonnell recently announced that the Commonwealth of Virginia has received an additional \$57.3 million in federal funds for transportation originally allocated to other states.

The Virginia Department of Transportation (VDOT) will use this additional funding for paving projects in each of its nine construction districts: \$16.7 million will go toward interstate paving, \$25.6 million is designated for paving primary roads and \$13.7 million is allocated for paving secondary roads. Additionally, \$1.3 million is slated for bridge painting/preventative maintenance. Later this month, VDOT will make its recommendation to the Commonwealth Transportation Board, which has final

approval on how money is spent on transportation projects.

"This has been a historic year for transportation funding in Virginia," said G o v e r n o r M c D o n n e ll. "This 'bonus'



funding, along with the new and sustainable funding from the transportation bill, will enhance VDOT's ability to move projects forward and continue to improve the condition of our roads. Virginia's transportation system is vital to both economic opportunity and to the quality of life of every Virginian. These strategic investments will mean shorter commutes, new roads and more jobs across the Commonwealth."

Each September, the FHWA reviews every state's ability to commit allocated highway dollars as the federal fiscal year ends. States that cannot obligate federal funding must return that spending authority to the FHWA. The funds are then redistributed to states that can obligate all of their federal allocations and have additional eligible projects ready to move forward.

Email and Internet

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.

If your dealership is not listed, that means we have your email address

Enter your email address 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 e -newsletter, *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, and no further action is required.

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 alternate 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, please direct those inquires to your service providers.



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Advertising Incentives & Rebates

Many of the rebates and incentives offered by manufacturers are not available to everyone. As such it is deceiving to advertise a vehicle for a price that includes all of the available rebates and incentives if everyone is not qualified to receive all of the rebates and incentives, or if rebates are mutually exclusive. (example: \$1,000 loyalty rebate and \$1,000 first time buyer rebate). Adding a "disclaimer" that requires consumers to determine what incentives and rebates for which they qualify does not "fix" the fact that the advertised price does not apply to everyone.

When advertising a price of a vehicle that is eligible for rebates/incentives, that price may be based on incentives and rebates that are available to ALL purchasers. If other incentives/rebates are available based on specific criteria (e.g. military rebate) these additional incentives/rebates **can be listed but not subtracted** from the advertised price. Also, if a specific vehicle is advertised, the advertisement may not include

"Amount" if the stated "up to" dollar amount is not available for that vehicle.

In a related ruling the FTC recently announced a consent agreement with two dealers for deceptive advertising. The FTC charged that Timonium Chrysler, Inc. of Cockeysville, MD., violated the FTC Act by advertising discounts and prices that were not available to a typical consumer. Ganley Ford West, Inc., in Cleveland, OH, also is charged with misrepresenting that vehicles were available at the specific dealer discount, when in fact the discounts only applied to specific, and more expensive models of the advertised vehicles. Click <u>HERE</u> to read more.

This is an example of a compliant Incentive/Rebate advertisement:



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DID YOU KNOW ??

As of September 3, 2013, there were:

Independent Dealers	2,870
Salespeople	8,223

Franchise Dealers	551
Salespeople	9,401

As of September 4, 2012, there were:

Independent Dealers	2,913
Salespeople	8,292
Franchise Dealers	548

9,188

Salespeople



Governor Bob McDonnell announced that Falls Stamping & Welding Company, a metal stamping company serving the automotive, trucking, and non-automotive markets, will invest \$5.7 million to establish an operation in the Town of Pulaski in Pulaski County. The company will supply metal sub-assemblies to the Volvo Trucks plant in Dublin, Virginia through a major contract. Virginia successfully competed against North Carolina, Ohio and Tennessee for the project, which will create 112 new jobs. Virginia is home to 152 automotive companies with 155 locations throughout Virginia.

The average age of US cars and trucks is 11.4 years, with an average of 171,000 miles per vehicle. So far in 2013, there are approximately 247 million registered passenger cars and light trucks, and industry experts project this number will rise to 260



Board Actions

Blue Ridge Auto Sales and Abdul A. Nahibkhil. Based on the evidence and a report of an informal factfinding conference as prepared by a hearing officer, the Board assessed a civil penalty of \$8,000 and mandated that Mr. Nahibkhil's dealership should be the subject of a satisfactory inspection and if the inspection was not satisfactory, then all licenses and certificates issued by the Board to Mr. Nahibkhil would be suspended until he had a satisfactory inspection. Mr. Nahibkhil appealed the Board's decision and requested a formal hearing that was conducted on June 18, 2013. Based on the evidence and a report from the formal hearing, during the July Board meeting, the Board assessed a civil penalty of \$8,000; mandated that Mr. Nahibkhil's dealership have a satisfactory inspection, and required that Mr. Nahibkhil successfully complete the dealer-operator class. Before the September 9, 2013 Board meeting, Mr. William Lehner, attorney for Mr. Nahibkhil, filed a Notice of Appeal with the Circuit court and asked that the Board reconsider their decision at the July 2013 meeting, and that this item be placed on the September agenda for reconsideration; to present his explanations on why Mr. Nahibkhil failed to appear before the Board at the July meeting. Additionally, before the July Board meeting, Mr. Lehner asked that a Board field representative conduct an inspection prior to the September Board meeting. The inspection of August 22, 2013 was conducted and it was unsatisfactory. Mr. Nahibkhil was given a copy of this inspection report that showed the following deficiencies: advertisements on Craigslist do not include the dealer's name or VA DLR; some advertisements include false information and photos; sales records are incomplete and many do not have evidence that a safety inspection was conducted; transport tag log not available and DSD 5's and 27's were not fully completed as required. After consideration, during the September Board meeting, the Board assessed a civil penalty against Blue Ridge Auto Sales and Abdul A. Nahibkhil of \$3,500, a re-inspection of the dealership, and requires Mr. Nahibkhil to successfully complete the dealer-operator course by October 25, 2013. Failure to pay the civil penalty, have a satisfactory inspection, and successfully complete the course by this date will result in the revocation of all licenses and certificates issued to Mr. Nahibkhil by the Board.

U Wanna Car and Maurice Jennings. An informal fact finding conference was held on June 27, 2013 concerning U Wanna Car and Maurice Jennings for alleged violations of failure to have an established place of business, buyers guides, odometer statements, transferable license plates records, and misuse of D-tags. Based on the hearing officer's recommendation, the Board assessed a \$1,250 civil penalty against U Wanna Car and Maurice Jennings, and the dealership must have a satisfactory inspection. If Mr. Jennings' dealership has an unsatisfactory inspection, the Board suspends all licenses and certificates issued by the Board to Mr. Jennings until such time as he has a satisfactory inspection by a Motor Vehicle Dealer Board Field Representative.

The Boulevard Car Lot and Brenda Lewis. On at least two separate occasions, field representative Youngsma attempted to conduct a random inspection of this dealership only to discover that the individual at the dealership did not have access to the dealership's records. Ms. Lewis was sent an educational/warning letter. On June 11, 2013, an informal fact-finding conference was conducted to address the alleged violations of costs associated with examination or audit of Dealer records, have available Dealer records, and willful failure to comply with previous written warnings. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$4,000, the dealership should be re-inspected and be billed for the cost of the inspection and that Ms. Lewis should be required to successfully complete the Dealer-Operator Course. The Board assessed a civil penalty of \$1,000, a satisfactory inspection, and successfully completing the 2-Day Dealer-Operator course before March 9, 2014.

Jim's Used Cars and James S. Crewey Consumer complaints related to not safety inspecting vehicles and inspections showing alleged misuse of dealer tags caused the Board staff to convene an informal fact-finding conference on June 21, 2013, to address the alleged violations of, inspection of vehicles required, misuse of Dealer's li-

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Board Actions

cense plates, and failure to comply with previous written warnings. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$5,000, the dealership is re-inspected at the Board's discretion and that Mr. Crewey should be required to successfully complete the Dealer-Operator Course. The Board assessed a \$5,000 civil penalty, required a successful field inspection, and successful completion of the 2 -Day Dealer-Operator course before March 9, 2014.

Aberdeen Auto Brokers, LLC and Johnnie Ray Barnes. In less than four months time this dealer had three failed inspections related to record keeping. Other problems discovered included; not titling vehicles/remitting taxes to DMV, open titles, and misuse of transport plates. As a result, on August 12, 2013, an informal fact-finding conference was conducted to address the alleged violations of Dealer records, no record of safety inspection of vehicles as required, misuse of D-tags, misuse of transport tags, no record of use and issuance of tags, Dealer records kept by dealers for inspection, failure to comply with written warnings, possessing titles which have not been completely and legally assigned to Dealer, and failure to submit fees to DMV within 30 days. Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$5,500, all licenses and certificates revoked, and suspension of sales staff that are currently employed at Auto Depot and called in to a conference regarding their practices while employed at Aberdeen Auto Brokers. In the September Board meeting, the Board assessed a \$5,500 civil penalty, and a satisfactory field inspection. In the time between the informal fact finding conference and the September Board meeting, Mr. Barnes appealed the hearing officer's findings, and a formal hearing was held on September 17, 2013. The findings of the formal hearing will be heard at the November 4, 2013 Board Meeting.

Little Man's Auto, Inc. and Charles R. Mullins. This dealer had two failed inspections and educational/warning letters for record keeping. Based on consumer complaints, Board staff have documented at least three vehicles being sold without first being safety inspected and at least one sale where a title was not provided in a timely manner. On June 20, 2013, an informal fact-finding conference was conducted to address the alleged violations of non-compliant buyers orders, the amount of any sales and use tax, title fee, fees that the Dealer has collected, the net balance due at settlement, safety inspection of vehicles required, temporary registration, and willful failure to comply with a written warning. Based on the information provided at the conference, the hearing officer recommended revocation of all licenses and qualifications issued to Mr. Mullins and Little Man's Auto, Inc. and assess a civil penalty of \$13,000. At the request of Mr. Mullins, the Board voted to accept Mr. Mullins' request to table this issue to the November 4, 2013 meeting to allow Mr. Mullins the opportunity to fully prepare and present his case to the Board.

Dealer Practices

.American Idol and Naveed Ahmed. Assessed a \$250 civil penalty for misuse of D-tags.

Truslow Motors and Adeel Khan. Assessed a \$250 civil penalty for misuse of D-tags.

Dhillon Auto Sales and Hardee Singh Dhillon. Assessed a \$250 civil penalty for Odometer disclosure violation, and failure to comply with previous written warnings.

SS Autoworks, LLC and Renae Shaw. Assessed a \$250 civil penalty for failure to have insurance on D-tags.

360 Automotive and Kevin D. Williams, II. Assessed a \$250 civil penalty for failure to maintain business hours.

Price Point Motors, LLC and James D. Rose, III. Assessed a \$250 civil penalty for failure to maintain business hours.

Board Actions

Papa D's and Howard W. Dawson. Assessed a \$250 civil penalty for failure to maintain business hours.

Auto City and Tremayne McCoy Jernigan. Assessed a \$500 civil penalty for failure to maintain business hours, and failure to comply with previous written warnings.

Good Deal Auto Sales and Nael A. Abouzaki. Assessed a \$250 civil penalty for failure to maintain business hours, and failure to comply with previous written warnings.

Licensing

Ahmad Z. Abassi, Salesperson Applicant. Per the Board's policy and guidelines; the executive director denied the application for a sales license submitted by Mr. Abassi based on criminal convictions and deceptive acts and practices. Mr. Abassi appealed the denial and on June 27, 2013, an informal fact-finding conference was conducted to address the alleged violations of deceptive acts or practices, having been convicted of any fraudulent act in connection with the business of selling vehicles, and having been convicted of a felony. Based on the information provided at the conference, the hearing officer recommended issuing Mr. Abassi a salesperson's license. The Board accepted the hearing officer's recommendation and approved Ahmad Z. Abassi's application for a salesperson license.

Samad Jafari and United Imports Company, Ltd. Mr. Jafari is the owner and dealer-operator of this dealer-ship. Recent convictions caused the Board staff to convene an informal fact-finding conference on June 13, 2013, to address the alleged violations of acts of officer, directors, partners and salesperson, deceptive acts or practices, having been convicted of any fraudulent acts in connection with the business of selling motor vehicles, having been convicted of any criminal act involving the business of selling motor vehicles, and having been convicted of a felony. Based on the information provided at the conference, the hearing officer recommended that Mr. Jafari have all licenses and qualifications to sell motor vehicles in the Commonwealth of Virginia revoked. The Board accepted the Hearing Officer's recommendation, and revoked all licenses and certificates issued by the Board to Mr. Jafari.

Advertising

Coast 2 Coast Auto Sales and David Maher. Assessed a \$1,000 civil penalty for knowingly advertising by any means any assertion, representation, or statement of fact which is untrue, misleading, or deceptive.

Harrisonburg Nissan, Inc. and Edward Lewis. Assessed a \$500 civil penalty for misuse of advertised dealer rebates.

Staunton Nissan and Subaru, Inc. and Edward Lewis. Assessed a \$500 civil penalty for misuse of advertised dealer rebates.

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

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What's Wrong with this Picture??

In the example shown, there are a couple of violations:

- 1. The hours on file with the Board are different than the hours posted on the door of the dealership.
- 2. The temporary closing notice is not compliant in the fact that it does not indicate the time in which the dealership will re-open.
- § 46.2-1533 states that the Dealer's hours shall be posted and maintained conspicuously. The business hours must be accurate on every license application & renewal, and any changes to these hours shall be immediately filed with MVDB using a faxed change of hours notification or DSD-10 form. Additionally, all temporary closings must be requested prior to closure, and for your convenience, you may download the following form: MVDB-40





The Buyers Guide

Please follow this checklist to see if your Buyers Guide is in full compliance.

How Am I Doing?

☐ Do you complete a Buyers Guide properly for each used vehicle offered for sale?	
\square Do you post the Buyers Guide <i>prominently and conspicuously</i> on each used vehicle you offer for sale	÷5
☐ If you choose to include a signature line for the buyer's signature, do you include the following <i>required</i> closure language:	dis-
I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.	
☐ Do you put the following <i>required</i> disclosure in your sales contract:?	
The information you see on the window form for this vehicle is part of this contract. Information	n

☐ Do you give the vehicle's Buyers Guide or a copy to the purchaser at the time of sale and make sure it states the final negotiated warranty coverage accurately?

☐ If a sale is conducted in Spanish, do you use the Spanish language Buyers Guide?

on the window form overrides any contrary provisions in the contract of sale.

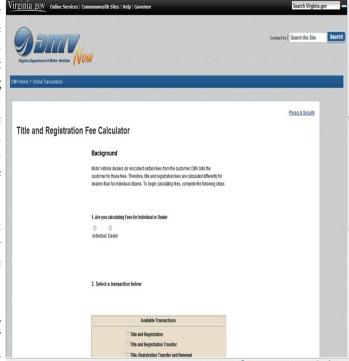
☐ If you offer a written warranty, do you prepare a warranty document that complies with federal law? Is the warranty document available for examination by potential buyers?

Fees on Buyers Orders

Every motor vehicle dealer shall complete, in duplicate, a buyer's order for each sale or exchange of a motor vehicle. A copy of the buyer's order form shall be made available to a prospective buyer during the negotiating phase of a sale and prior to any sales agreement. The completed original shall be retained for a period of five years, and a duplicate copy shall be delivered to the purchaser at the time of sale or exchange. A buyer's order shall include:

- **1.** The name and address of the person to whom the vehicle was sold or traded.
- 2. The date of the sale or trade.
- **3.** The name and address of the motor vehicle dealer selling or trading the vehicle.
- 4. The make, model year, vehicle identification number and body style of the vehicle.
- **5.** The sale price of the vehicle.
- **6.** The amount of any cash deposit made by the buyer.
- 7. A description of any vehicle used as a trade-in and the amount credited the buyer for the trade-in. The description of the trade-in shall be the same as outlined in subdivision 4.
- **8.** The amount of any sales and use tax, title fee, uninsured motor vehicle fee, registration fee, purchaser's on-line systems filing fee, or other fee required by law for which the buyer is responsible and the dealer has collected. Each tax and fee shall be individually listed and identified. To further clarify, the following is the MAXIMUM dollar amount a Dealer may charge the purchaser on a buyers order:
- The sales and use tax for 2013 through June 30, 2014 is 4%. (Manufacturer incentives and rebates should be **subtracted** from the final vehicle price **before** calculating the sales and use tax.)
- The title fee is \$10.00
- Registration Fee \$2.00 (only if the Dealer is transferring the customer's current registration to the new vehicle, OR use the DMV Fee Calculator link below)
- "Online Systems Filing Fee" (but **ONLY** if you are an online dealer, and you may **ONLY** pass on the amount charged to you by the Online Dealer Vendor you are using.)
- Temporary Tag fee is \$3.00 for online PoD
- Furthermore, DMV has a <u>Fee Calculator</u> tool to assist Dealers with charging the appropriate fees.
- **9.** The net balance due at settlement.
- 10. Any item designated as "processing fee," and the amount charged by the dealer, if any, for processing the transaction. As used in this section, processing includes obtaining title and license plates for the purchaser, but shall not include any "purchaser's on-line systems filing fee" or any "dealer's manual transaction fee". The processing fee is the fee a Dealer may charge to process the sale, but a Processing Fee disclosure sign MUST be posted in a conspicuous sales area in the Dealership and registered with the MVDB. Dealers are not required to charge a processing fee.
- 11. Any item designated as "dealer's business license tax," and the amount charged by the dealer, if any. This is a tax that may or may not apply to all Dealers. Each locality may or may not charge a business license tax, so please check with your specific locality for details.

Lastly, to ensure your Buyers Order is in compliance, please send a copy of your Buyers Order (that shows your processing fee) along with your renewal documents each year or every 2 years.



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MOTOR VEHICLE DEALER BOARD



Come visit us at our office!

2201 W. Broad Street

Suite 104

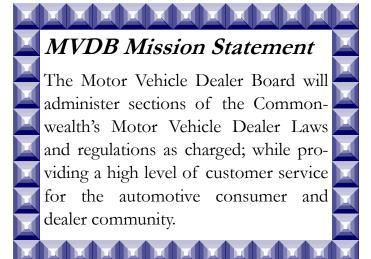
Richmond, VA 23220

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

E-mail: dboard@mvdb.virginia.gov

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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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, into 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
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