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DEALER TALK

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Upcoming Events!

Monday 9/6/2021

MVDB Closed for Labor Day

Monday 9/13/2021

MVDB Board Meeting.

- [Get Board Meeting Details](#)

Fee Increases Effective December 1, 2021

During July 2021, the Motor Vehicle Dealer Board (Board) unanimously voted an increase in fees to cover the costs of much needed technology advances, and increasing operating expenses.

Over the years the Board has “stretched” dollars and saved money in many areas such as rent reduction using, refurbished equipment, streamlining work flow procedures and productivity for staff. [Cont'd on pg. 2](#)

Update on MVDB Dealer Exams

The MVDB will no longer take reservations for sales exams or proctor manual sales exams. Beginning **October 5th, 2021** ALL 75 DMV Customer Service Centers will be **open to walk-ins for exams** on alternating days. The days for walk-ins are TUESDAY, THURSDAY, and SATURDAY (hours vary by location). Dealers may still make exam appointments through DMV for Monday, Wednesday, or Friday.

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

Reconditioning Fees?

The Board has received some consumer complaints that some dealers are charging illegal fees 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 destination charges are not included in the advertised price, the amount of any such processing fee ... [Cont'd on pg. 3](#)

Virginians over the age of 12 can schedule a vaccination appointment by visiting

vaccinate.virginia.gov or calling 877-VAX-IN

-VA (877-829- 4682, TTY users call 7-1-1).

Beginning Monday, May 17, the call center hours will change to 8 a.m. until 6 p.m., Monday through Saturday.



Fee Increases Effective December 1, 2021

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

Be assured the Board is committed to the highest ideals in the stewardship of revenues received.

In order to ensure the viability of the agency and to operate effectively it has become necessary to adjust dealer and salesperson licensing fees.

While operating costs continues to rise, fees have remained constant since 2015. These fee adjustments are indicated in the chart below, and will adequately meet the

Board's operating costs while sustaining firm financial ground over the next several years. The fee adjustments for the categories stated below will apply to Dealers and Salespersons effective **December 1, 2021**.

Update on MVDB Dealer Exams

[Cont'd from pg 1...](#) Click [HERE](#) for the full DMV news release. The process returns to the original PRE COVID process where the salesperson takes the exam at the DMV, and after the salesperson has passed the exam, the dealership sends the completed MVDB 61 with fees to the MVDB.

Category	Current Fee	Effective Dec. 1, 2021
Dealer Certificate	\$225/per license year	\$270/per license year
Endorsements	\$25/per license year	\$50/per license year
Salesperson License **	\$30/per license year	\$50/per license year
Foreign Registrant	\$75/per license year	\$100/per license year

****Includes Originals, Transfers and Renewals**

REMINDERS.....

When contacting the Board, please be sure to put your Certificate license number, your name, your phone number, and your dealership name on ALL correspondence with the Board. We receive many emails, calls, and mail from dealers and we do not know who the dealer is. We encourage dealers to email dboard@mvdb.virginia.gov with general questions, but if you are sending personal identifying information (social security numbers, driver license number, home addresses, etc.), please be sure to send those documents via VIRTU at mvdb61@mvdb.virginia.gov. We encourage in any communication with the Board to use a cover sheet that tells us who you want the information to go to, and the reason for the email. To ensure your emailed requests are processed timely, please be sure to include your license number, name of your dealership, and a good contact phone number at a minimum.

Online Systems Fees

As part of our routine inspections, the Board views overcharging fees to customers on the buyers order to be a violation of Virginia Code, and the Board may take action. If a dealer uses Print on Demand (PoD) 30 day temporary plates, or use an Online Dealer system to deliver “hard” plates to the purchaser, the dealer may only pass on to the customer the exact amount the dealer is charged. PoD tags are \$3.00 per set, so the dealer may only charge a purchaser \$3.00 on the buyers order for the 30 day temporary tags. Similarly, the Online Dealer fee ranges from \$15.00-\$19.00, so **the dealer may only charge the exact amount the online dealer vendor charges the dealer.**

This requirement applies to both temporary PoD tag fee and the “online systems filing fee.” On a buyers order, §46.2-1530 is clear on exactly what fees can be collected by the dealer, on behalf of the customer. The dealer is only collecting the actual fees that the customer would be responsible for if the customer chose to process their own title and registration work themselves. Thus, **dealers are not allowed to increase these fees or approximate these fees** at the dealer’s discretion. If you are not an online dealer, you may not charge an online systems filing fee on your buyers order. Most dealers use a computerized dealer

management system for the buyers order that allows dealers to calculate these pass through fees automatically. Please be aware that these automatic calculations are only as good as the information entered into the dealer management system. As a best practice, the Board recommends that dealers validate the fees printed on their buyers order with their dealer management system as part of their ongoing computer system

Reconditioning Fees

Cont’d from pg 1... and freight or destination charges must be clearly and conspicuously disclosed...” The Board agrees that adding fees specifically not allowed by Virginia law to the advertised price is deceptive. Dealers may not charge fees such as “dealer prep”, “reconditioning”, etc... These costs must be included in the advertised price. First time violators will receive a written warning, second time violators will receive a \$1,000.00 Civil Penalty and 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.



Please click [HERE](#) or on the graphic on the left to view our Dealership Education videos! More videos will be uploaded on an ongoing basis, so stay informed and receive notifications when new videos are released. 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!**

FTC Fines Capital One CEO

The Federal Trade Commission announced that Richard Fairbank, CEO of Capital One Financial Corp., will pay a \$637,950 civil penalty to settle charges that his acquisition of Capital One Financial stock violated the Hart-Scott-Rodino (HSR) Act. Fairbank's recent multi-million dollar compensation package included over 100,000 Capital One Financial shares in 2018, which increased his holdings to \$168 million. The complaint alleges that Fairbank failed to report his sizable stock windfall to federal antitrust authorities and illegally finalized the acquisition before the agencies could investigate. While Fairbank is a repeat filing offender with wrongdoing spanning two decades, today's FTC order is the first time he has been penalized.

"As the CEO of one of America's largest banks, Richard Fairbank repeatedly broke the law," said Holly Vedova, Acting Director of the Bureau of Competition. "There is no exemption for Wall Street bankers and powerful CEOs when it comes to complying with our country's antitrust laws."

The HSR Act requires companies and individuals to report large transactions over a certain threshold to the FTC and DOJ so that the federal agencies can investigate the deals before they close. The agencies have 30 days after a transaction has been reported to conduct an initial investigation and file a "second request" demand for additional information. It is generally illegal to finalize an acquisition during this investigatory period. The maximum civil penalty for an HSR violation is currently \$43,792 per day.

According to the complaint, Fairbank twice failed to comply with the HSR Act in making filings relating to his multi-million dollar compensation package. In 1999 and 2004, Fairbank failed to file under the HSR Act prior to acquiring Capital One Financial voting securities.

In making a corrective filing in 2008, Fairbank alleged that his filing was inadvertent, and he pledged to



implement a system to ensure that, going forward, the required HSR notifications would be. Despite these warnings for his failures to comply, as the complaint alleges, in 2018 Fairbank again violated the notice and waiting period requirements of the HSR Act because he did not file before acquiring additional Capital One Financial voting securities in excess of the HSR filing threshold, as adjusted. Specifically, Fairbank was in violation of the HSR Act from March 8, 2018 until he made a corrective filing and observed the 30-day waiting period, which ended on Jan. 17, 2020. The Commission vote to accept the settlement and refer the matter to the Department of Justice for filing was 4-0-1, with Chair Lina M. Khan not participating. The Department of Justice filed the complaint and proposed stipulated order on the FTC's behalf in the U.S. District Court for the District of Columbia on September 2, 2021.

As required by the Tunney Act, the proposed settlement, along with a competitive impact statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed settlement during a 60-day comment period to Maribeth Petrizzi, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580 bccompliance@ftc.gov. At the conclusion of the 60-day comment period, the U.S. District Court for the District of Columbia may approve the proposed settlement upon finding that it is in the public interest. Cont'd on pg. 5

FTC Fines Capital One CEO

[Cont'd from pg 4...](#) The Federal Trade Commission works to [promote competition](#), and protect and educate consumers. You can learn more [about how competition benefits consumers](#) or [file an antitrust complaint](#). For the latest news and resources, [follow the FTC on social media](#), subscribe to press releases and [read our blog](#).

Chip Shortages

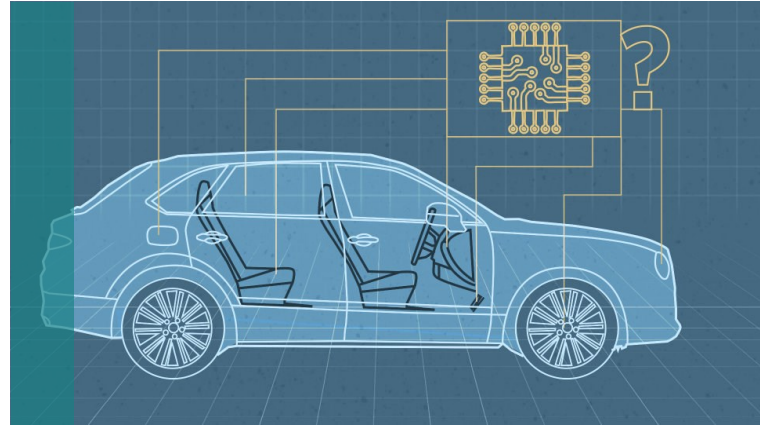
With no end in sight, the semiconductor chip shortage is now expected to cost the global automotive industry [\\$210 billion](#) in revenue in 2021, according to consulting firm AlixPartners.

The forecast is almost double its previous projection of [\\$110 billion in May](#). The New York-based firm released an initial forecast of [\\$60.6 billion](#) in late January when the parts problem started causing automakers to cut production at plants.

“Of course, everyone had hoped that the chip crisis would have abated more by now, but unfortunate events such as the COVID-19 lockdowns in Malaysia and continued problems elsewhere have exacerbated things,” said Mark Wakefield, global co-leader of the automotive and industrial practice at AlixPartners, in a statement. AlixPartners is now forecasting that 7.7 million units of production will be lost in 2021, up from 3.9 million in its May forecast.

The biggest hit to production occurred in the second quarter, according to Dan Hearsch, a managing director in the automotive and industrial practice at AlixPartners.

“The second quarter of this year is still the worst of chip shortage so far in terms of lost vehicles,” he said in an email to CNBC. “But what’s changed is that the auto industry globally simply hasn’t recovered as



quickly as we thought when we did our forecast back in May due to unforeseen things since then like the rise of the delta variant and the COVID breakouts in Malaysia and other Southeast Asian countries.”

Automakers across the globe, including [Ford Motor](#) and [General Motors](#), had warned of massive earnings cuts this year due to the chip shortage. But some, if not much, of those losses have been offset by resilient consumer demand and [higher profits from record vehicle prices](#).

AlixPartners expects the parts problem to continue into



at least the second quarter of next year, according to Hearsch. He said “it will probably be a bit longer” until vehicle inventory levels noticeably improve, citing other supply issues with labor, transportation and other materials.



Spot Delivery

Please ensure your buyer's order is compliant regarding the "spot delivery" notice printed on the buyer's order. This notice must be printed in bold type no less than 10-point on all buyer's orders because many times the sale is contingent upon the dealer arranging financing for the customer. Please double-check to make sure you have the statement on your buyer's order.

"IF YOU ARE FINANCING THIS VEHICLE PLEASE READ THIS NOTICE: YOU ARE PROPOSING TO ENTER INTO A RETAIL INSTALLMENT SALES CONTRACT WITH THE DEALER. PART OF YOUR CONTRACT INVOLVES FINANCING THE PURCHASE OF YOUR VEHICLE. IF YOU ARE FINANCING THIS VEHICLE AND THE DEALER INTENDS TO TRANSFER YOUR FINANCING TO A FINANCE PROVIDER SUCH AS A BANK, CREDIT UNION OR OTHER LENDER, YOUR VEHICLE PURCHASE DEPENDS ON THE FINANCE PROVIDER'S APPROVAL OF YOUR PROPOSED RETAIL INSTALLMENT SALES CONTRACT. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS APPROVED WITHOUT A CHANGE THAT INCREASES THE COST OR RISK TO YOU OR THE DEALER, YOUR PURCHASE CANNOT BE CANCELLED. IF YOUR RETAIL INSTALLMENT SALES CONTRACT IS NOT APPROVED THE DEALER WILL NOTIFY YOU VERBALLY OR IN WRITING. YOU CAN THEN DECIDE TO PAY FOR THE VEHICLE IN SOME OTHER WAY OR YOU OR THE DEALER CAN CANCEL YOUR PURCHASE. IF THE SALE IS CANCELLED, YOU NEED TO RETURN THE VEHICLE TO THE DEALER WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR. ANY DOWN PAYMENT OR TRADE-IN YOU GAVE THE DEALER WILL BE RETURNED TO YOU. IF YOU DO NOT RETURN THE VEHICLE WITHIN 24 HOURS OF VERBAL OR WRITTEN NOTICE OF CANCELLATION, THE DEALER MAY LOCATE THE VEHICLE AND TAKE IT BACK WITHOUT FURTHER NOTICE TO YOU AS LONG AS THE DEALER FOLLOWS THE LAW AND DOES NOT CAUSE A BREACH OF THE PEACE WHEN TAKING THE VEHICLE BACK. IF THE DEALER DOES NOT RETURN YOUR DOWN PAYMENT AND ANY TRADEIN WHEN THE DEALER GETS THE VEHICLE BACK IN THE SAME CONDITION IT WAS GIVEN TO YOU, EXCEPT FOR NORMAL WEAR AND TEAR, THE DEALER MAY BE LIABLE TO YOU UNDER THE VIRGINIA CONSUMER PROTECTION ACT."

This notice requires the dealer to return the down payment and trade-in to the customer provided the customer returns the vehicle to you within 24 hours of you notifying them that you were not able to obtain financing. The customer must return the vehicle to you in the same condition it was when they took possession, except for normal wear and tear. If the customer meets the conditions as set-out in this notice, you must also meet the conditions required of you.

On a "Spot Delivery" where you are not able to obtain financing for your customer as outlined in the proposed Retail Installment Contract (RISC) and the customer returns the vehicle to you as required, you must return to the customer their down payment and trade-in. You may not withhold any of the down payment

and must return any trade in. You may not ask or require the customer to sign a separate agreement that changes the responsibilities as outlined in the notice that is printed on the buyer's order. For example, you may not charge any "rental" or other fees for use of the vehicle; you must return the actual vehicle traded-in and not a substitute or money. If financing is approved contingent upon installation on the vehicle, a device that allows the vehicle to be disabled for non payment, and that condition was not on the proposed RISC, the customer may return the vehicle to you as if you were not able to obtain financing. The proposed RISC must include installation of the device as one of the conditions of obtaining financing. [Cont'd on pg. 7](#)

Spot Delivery

[Cont'd from pg 6...](#) The proposed RISC must include installation of the device as one of the conditions of obtaining financing. DMV is printing a "Title Established Date" on titles. This date is printed just above "Year" and "Make" of the vehicle. The "Established Date" is printed when the title was established in the name of the owner listed on the title.

Buyer Beware: Flood-damaged Cars for Sale

The floodwaters from last year's hurricanes receded months ago, but their wrath could still affect used car buyers across the nation. That's because storm-damaged cars are sometimes cleaned up and taken out of state for sale. You might not know a vehicle is damaged until you take a closer look or have a mechanic check it out. Here's what to do:

- ▶ **Look for** water stains, mildew, sand, or silt under the carpet, floor mats, and dashboard, and in the wheel well where the spare is stored. Look for fogging inside the headlights and taillights. New carpet or upholstery in an older vehicle may be another red flag.
- ▶ **Do a smell test.** A heavy aroma of cleaners and disinfectants is a sign that someone's trying to mask a mold or odor problem.
- ▶ **Get a vehicle history report** from a database service. There are [reliable services](#) that charge a small fee. The [National Insurance Crime Bureau's](#) (NICB) free database lists flood damage and other information. But take note: [NICB](#) reports are only helpful if the car was insured. If the owner of an uninsured flood-damaged car tries to sell it on the open market and you're the buyer, you may never know there's a problem until things like the electrical system go bad.
- ▶ **Understand the difference between** a "salvage title" and a "flood title." A "salvage title" means the car was declared a total loss by an insurance company because of a serious accident or some other problems.

A "flood title" means the car has damage from sitting in water deep enough to fill the engine compartment. The title status is part of a vehicle history report. Either way, every used car needs an inspection and records before you buy, but with salvage- and flood-titled cars, you need to be extra careful.

- ▶ **Have your mechanic inspect** the car's mechanical and electrical components, and systems that contain fluids, for water contamination.
- ▶ **Report fraud.** If you suspect a dealer is knowingly selling a storm-damaged car or a salvaged vehicle as a good-condition used car, contact your auto insurance company, local law enforcement agency, or the [NICB](#) at (800) **TEL-NICB (835-6422)**. You'll help someone else avoid a rip-off.

For more tips, check out our [used car page](#).

COVID-19 Tips for Dealers

The following article is written by an outside source for informational purpose only, and does not constitute legal advice and does not create an attorney-client relationship.

Another article about COVID-19?

Ugh! Snap! And oh, my!

Employers everywhere are tired with having to handle this additional burden to running their business. But, now, more than ever, it's important to mitigate your risk by being consistent and current in how you handle COVID. Don't let your guard down now. In this article, we will limit our discussion to the federal perspective on COVID as each state may have its own rules or requirements. [Cont'd on pg. 8](#)

COVID-19 Tips for Dealers

Cont'd from pg 7...

► **FACT:** The Equal Employment Opportunity Commission (EEOC) says you can mandate employee vaccinations for employees physically entering the workplace based on business necessity subject to reasonable accommodation requirements. In essence, if it is a threat to the safety and well-being of employees and customers, you can require vaccinations. Very few jobs at the dealership may be completed by being isolated by plexiglass or office walls. Most require daily face to face customer contact that cannot be eliminated.

- **FACT:** If vaccines are required, employees may claim two (2) accommodations:
- Because of their sincerely held religious beliefs (i.e., Title VII of the Civil Rights Act), or
 - Because of their disability (i.e. the American with Disabilities Act)

If an employee asserts an accommodation request, call your employment lawyer for more specifics on how to handle the situation. Each case is different based on the facts.

- **FACT:** To protect your employees and customers, ensure you have the latest signage from the Centers for Disease Control (CDC), Occupational Safety and Health Administration (OSHA) and your state safety and health departments. **For example, current CDC guidance has different masking requirements depending on whether you are in a low or medium to high risk transmission area.**

Click [HERE](#) for more information.

- **FACT:** As the employer, you are still required to provide personal protective equipment (PPE) and sanitizing stations.

Outbreaks at the dealership? If you are having frequent positive COVID situations at the store, you may need to revisit your policies and their efficacy. If you make changes, document what you are doing. Are you required to keep a log of positive cases, or report to your state? Make sure you are doing so if required. If OSHA, or any agency, visits you, they want to know what you are doing to protect everyone. Be diligent here.

- **FACT:** If you sell fleet vehicles to the government, or have a federal contract, then you may be a federal contractor. If so, you must follow federal COVID mandates required by Executive Order. You may also be subject to mandatory vaccine requirements if you have 100 or more employees.

- **FACT:** On September 9th, President Biden signed an Executive Order requiring employees of contractors doing business with the federal government be vaccinated which builds off a previously issued Executive Order from July. President Biden also mandated that OSHA is developing a rule requiring all businesses with more than 100 employees ensure their employees are fully vaccinated or require workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work. This mandate also requires employers to provide paid time off for the time it takes workers to get vaccinated or to recover if they are under the weather post-vaccination. It is unknown if employers will have to pay for the cost of testing and/or the time associated with testing.

This situation continues to evolve. Don't "take on" risk by being lackadaisical when it comes to COVID.

Board Actions

Dealer Practices

Informal Fact-Finding Conferences:

Cash 4 Your Auto, LLC and Aimal Siddiqi.

On July 14, 2021, an informal fact-finding conference was conducted to address the alleged violations of failure to provide dealer records, maintain business hours, and comply with previous warnings. Based on the information provided at the conference, the Board assessed a \$1,000 civil penalty, a satisfactory inspection, and completion of the 2-day dealer operator course. Mr. Siddiqi may appeal to a Formal hearing.

Millennial Automotive, LLC and Kayana Murray.

On July 22, 2021, an informal fact-finding conference was conducted to address the alleged violations of failure to maintain dealer records, title within 30 days, PoD records, and having used deceptive acts and practices. Based on the information provided at the conference, the Board assessed a civil penalty of \$36,500.00 and suspend all licenses and certificates issued by the Board to Kayana Murray until the Department of Motor Vehicles' Law Enforcement Division conducts an investigation into Millennial Automotive and provides a report from that investigation to the MVDB during a regularly scheduled meeting. Ms. Murray must also complete the 2-day course, and a satisfactory inspection completed on dealership records, and the security of the POD records, and especially security and access to the dealership POD system. Ms. Murray may appeal to a Formal hearing.

Administrative Actions:

Yes Auto Sales and Yasmine Hamad.

Paid a \$750 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

Five Star Motors and Lener J. Paz Garcia.

Paid a \$1,250 civil penalty for failure to maintain dealer records, deceptive acts and failure to provide records of PoD tags printed.

USAuto Center and Igor Coadia.

Paid a \$1,250 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

Off the Hook Automotive, LLC and Donald Belin.

Has agreed to pay a \$15,700 civil penalty for failure to maintain dealer records, and failure to provide records of PoD tags printed.

Star Auto Sales and Ziad Aboulhosen.

Paid a \$1,750 civil penalty for failure to maintain dealer records, and proof of safety inspection prior to retail sale.

Advertising Practices

Absolute Auto Sales LLC and Derrick King.

Paid a \$250 civil penalty for advertising on Craigslist and not disclosing the processing fee.

Independent Dealer Operator Course Schedules

The Following Courses are Registered Through VIADA

2021 Course Schedules

October 7-8 :

Lansdowne Resort (44050 Woodbridge Pkwy, Leesburg, VA 20176)

October 26-27 :

VIADA Home Office (1525 Huguenot Road, Suite 200, Midlothian, VA 23113)

November 9-10 :

Hilton Garden Inn (1999 Power Plant Pkwy, Hampton, VA 23666)

November 16-17 :

VIADA Home Office (1525 Huguenot Road, Suite 200, Midlothian, VA 23113)

December 7-8 :

Home2 Suites by Hilton (43340 Defender Dr, Chantilly, VA 20152)

****You can register for your IDO Course on the VIADA website [HERE](#) ****

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

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:

**2201 West Broad St.
Suite 104
Richmond, Va. 23220**

**We are located inside
The BookBindery**

Contact Us:

804-367-1100

Executive Director:

William R. Childress ext:3002#

Field Representative Supervisor:

Lisa Mack-Nelson ext:3005#

Operations Manager:

Rick Sipe ext:3006#

Agency Analyst/Education:

Ann Majors ext:3016#

Email:

dboard@mvdv.virginia.gov

What's Wrong With This Picture?

Misuse of D-tags

§ 46.2-1550 (4) states in part.... "It shall be unlawful for any dealer to cause or permit dealer's license plates to be used on vehicles used in conjunction with any other business."



MVDB Website Upcoming Additions

A new section is being added to our MVDB website called "Frequently Asked Questions". This new section will provide our dealer community with quick answers to those questions such as:

- How do I send Sales Applications encrypted through Virtru?
- How do I replace a lost or stolen dealer tag?
- What is the process for a Temporary Closure?
- What is the maximum amount a dealer can charge for a processing fee.
- And many more questions like these will be added soon....

Dealer Talk Editor:

Ann Majors

Layout/Graphics

John Saul



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