



**Newsletter of the
Colorado Motor Vehicle
Dealer Board
and
Auto Industry
Division**

DEALER BOARD - NEW OFFICERS - NEW MEMBERS

At the August 10, 2006 meeting, **Jeff Carlson** was elected President of the Board, **Steve Perkins** was elected 1st Vice-President, and **Jim Varner** was elected 2nd Vice-President. **John Medved** was sworn in as a new Board Member replacing Dale Spradley. Eva Wilson was sworn in replacing Board Member Gretchen Olson and Philip Harris replaces Mark Striegnitz.

ROUTING BOX

Owner _____

Finance Manager _____

General Manager _____

Sales Manager _____

Todd Tucker Joins the Division

Division Director Robert Sexton has appointed Todd Tucker as a Criminal Investigator for the Auto Industry Division. Todd is from Maryland and moved to Colorado four years ago. He comes to the Division with 10 years of law enforcement experience.

Todd started his career with the St. Mary's County Sheriffs Office in Leonardtown, Maryland assigned to the Vice/Narcotics section where he spent six years in an undercover capacity then transferring to white collar financial crimes. Todd then moved to Colorado and began working for the Douglas County Sheriffs Office in the traffic unit as a motorcycle officer until he became an investigator for the Auto Industry Division. Todd states he looks forward to working in a professional environment and is excited about the positive future of the Division as it works to support the Motor Vehicle Dealer Board.

Closing Your Dealership?

If a dealer or wholesaler, through either a voluntary or involuntary action, ceases to be a motor vehicle dealer or wholesaler, must surrender their dealer license, plates and temporary permits to the Department of Revenue, Enforcement, Auto Industry Division. Any plates that are not in the dealer's possession shall be reported on an affidavit and submitted to the Department of Revenue in order that the missing plates can be denoted upon the appropriate motor vehicle law enforcement files.

MASTERY EXAM

The distribution of the new Mastery Exam and Answer Key has been postponed pending the upcoming Sunset Review process scheduled for next legislative session. Dealers should continue to use the prior exam, which can be downloaded at: www.revenue.state.co.us/dlr/home.asp. If you have any questions, please contact Kaye Kopecky at 303-205-5784.



COMPLIANCE CORNER, *by Jerry Smith, Compliance Supervisor*

Off-Premise Permits

Most of you have known me through my infrequent stops at some of your dealerships. While I have enjoyed working in investigations these past 11+ years, earlier this summer the Auto Industry Director asked me to serve in the compliance section.

Please allow me to point out the following:

When requesting an off premise permit for an off-site sale please apply early enough for it to be returned to you before the sale. We recommend sending them at least 2 weeks before the show.

To those dealers who affiliate with credit unions to offer and show vehicles please remember the following:

- Vehicles can be placed at a credit union for display purposes only by a licensed new or used dealer. To actively offer and sell vehicles at a credit union requires an off premise permit;
- Having a desk or any identifiable area within a credit union specifically set aside as a place for a dealer to conduct business is not permissible without an off premise permit. That does not preclude a display of new or used dealer business cards or advertising materials within the credit union.

Principal Place of Business

CRS 12-6-102(16) defines a dealership business as follows:

“**Principal place of business**” means a site or location devoted exclusively to the business for which the motor vehicle dealer is licensed and businesses incidental there to, sufficiently designated to admit of definite description, with space thereon or contiguous thereto adequate to permit the display of one or more new or used motor vehicles, and on which there shall be located or erected a permanent enclosed building or structure large enough to accommodate the office of the dealer and to provide a safe place to keep the books and other records of the business of such dealer, at which site or location the principal portion of such dealer’s business shall be conducted and the books and records thereof kept and maintained; except that a dealer may keep its books and records at an off-site location in Colorado after notifying the board in writing of such location at least 30 days in advance.

CRS 12-6-117 Principal place of business – requirements.

- (1) The building or structure required to be located on a principal place of business shall have electrical service and adequate sanitary facilities.

CRS 12-6-116 Notice of Change of address or status.

- (1) The board, through the executive director, shall not issue a motor vehicle dealer’s license or used motor vehicle dealer’s license to any applicant therefore who has no principal place of business as defined in this part 1.

To comply with these provisions of the law this office can no longer accept new applications or renew used or new motor vehicle dealer applications that do not comply with the principal place of business requirements.

This matter is set to be discussed at the November 9th meeting of the Dealer Board.

Additionally, the US Patriot Act and Executive Order 13224 requires financial institutions, including car dealers, to verify their customers’ identity and check their customers’ names against the “blocked persons” list. You can check this list by visiting <http://www.ustreas.gov/offices/eotffc/ofac/>. Compliance of this requirement will be checked during routine audits by this office.

Please contact Jerry Smith, Compliance Supervisor at 303-205-5742 if you have any questions about these issues.

When Should a Dealer Use An Emissions Voucher?, *Rick Salazar, Emissions*

We received several questions about the use of the emissions voucher, hopefully this article will clarify your questions and concerns. Licensed Colorado dealers have been using emissions vouchers as a convenient, cost-effective way of having vehicles emissions tested since 1997.

A voucher is also known and referred to as a dealer coupon by many dealers. The voucher can be used in place of a passing emissions test that is to be provided to the buyer at the time of sale of a used motor vehicle, by the dealer to the buyer that lives in the enhanced emissions program area. The bearer of the voucher, the buyer is entitled to an emission inspection at an enhanced emissions inspection station in accordance with laws and regulations covering the emissions test of the sale of a used motor vehicle.

What are the enhanced emissions program areas? They are the counties of Denver, Douglas, Jefferson, Boulder, Broomfield and portions of Adams and Arapahoe counties.

What are the emissions requirements when selling a used vehicle to a buyer that resides in the enhanced program areas? When a dealer sells a vehicle and the buyer gives an address located in one of the enhanced areas, the dealer is required to provide the buyer with a passing enhanced emissions test or a voucher that is to be delivered to the buyer at the time of sale. The voucher is to be filled out by the dealer with the selling dealers name and the vehicle's VIN number and then signed and dated by the buyer.

It is recommended that the dealer retain their copy of the voucher in their files or the vehicle deal jacket for a one year time period. The voucher copy is proof that the dealer provided the buyer with an emissions voucher.

What about the three day rule? On the voucher there are requirements that the buyer needs to abide by. When the selling dealer issues the voucher at the time of sale, the buyer has three business days (Sundays and major holidays are excluded), beginning the day after the date the buyer takes possession of a motor vehicle to obtain an emissions test on the vehicle at an Envirotest testing facility.

If the vehicle fails the emissions test, or is rejected or is unable to be tested by Envirotest and is returned to the selling dealer within three business days. The dealer then, at its option, shall notify the consumer that the dealer has chosen to repair the vehicle, pay a third party to repair the vehicle, or unwind the deal and repurchase the vehicle from the buyer at the vehicle's purchase price.

If the dealer chooses to repair the vehicle to pass the emissions test, it is the dealer's responsibility to have the vehicle retested in order to confirm the repairs and provide a passing emission test to the buyer at no additional cost. The dealer has ten days to complete repairs from the date of the emission test failure or rejection.

Unable to be tested, is defined as a vehicle that has been rejected due to a potentially unsafe condition that cannot be accepted for emissions testing. The selling dealer is responsible for providing the consumer with a vehicle that will pass the emission test. The dealer is relieved of this responsibility when the buyer does not return a failing or rejected vehicle within the initial 3-day time period.

Where can vouchers be purchased? Dealers can purchase vouchers from Envirotest. The vouchers are purchased from Envirotest for a fee of \$25.00 and \$15.00. The \$25.00 voucher is to be issued to a vehicle of model year 1982 and newer. The \$15.00 voucher is to be issued to a vehicle of model year 1981 and older. The voucher is a two piece carbon less copy form that has the required disclosure statements and a control number enclosed on the form. If you have any questions you can call Envirotest at (303) 456-7090 to obtain vouchers.

Can a voucher be used with a diesel vehicle sale? No. The voucher is only used for gasoline-powered vehicles.

If you have any additional questions about the use of the vouchers or questions about the emissions program, contact the Department of Revenue, Emissions Section at (303) 205-5603.

Titles & Registration

Effective September 1, 2006, use of the new 8 1/2 x 11 DR 2175 - Non Secure Power of Attorney for Motor Vehicle form is required in all title and registration transactions where the Power of Attorney is dated 9/1/06 or after.

Old versions of the DR 2175 - Non Secure Power of Attorney for Motor Vehicle (8 1/2 x 7, "yellow" form) dated prior to September 1, 2006, will be accepted until November 1, 2006. After November 1, 2006, the new 8 1/2 x 11 form will be required in all title and registration transactions regardless of the date on the Power of Attorney form.

Questions should be directed to the State Titles and Registration Section at 303-205-5608.

Secure & Verifiable Documents

The DR2421 Statement of One in the Same is required if there are any differences in the legal name as it appears on the secure and verifiable identification presented and the name that will appear on the new title.

Moving to Another Location?, by Kaye Kopecky, Assistant to the Director

The Compliance Section has been attempting to conduct routine location verification of dealerships only to learn that the dealership is no longer at its licensed location. Remember to notify the Board of any change of location. If a dealership abandons its licensed location for more than 30 days, the licensee is required to file a new application to renew the license. C.R.S. 12-6-116 states: that should a dealership change the site or location of such dealers' principal place of business, such dealer shall immediately upon making such change so notify the Board in writing, and there upon a new license shall be granted for the unexpired portion of the term of such license. You must submit a DR2003 Application for Change of Location and the appropriate fee.

DEALER BOARD ACTIONS

Dennis Netherton, dba Auto World LLC – Pueblo - #38461 – unlicensed salesperson (10 counts). \$10,000 FINE (\$5,000 held in abeyance for three years probation), dealer, dealer principal and all sales personnel attend the Licensing Seminar class.

William Wooten, dba Car Palace, Inc. – Lamar - #32431 – exercising the privileges of a new motor vehicle dealer when not licensed to do so. \$5,000 FINE, (\$4,000 and 3 days suspension held in abeyance for one-year probation.

Gregory Shottenkirk, dba Silverthorne Motors - Silverthorne - #37286 – unlicensed sales personnel (6 counts); failing to have Colorado title assigned to dealership (2 counts); Odometer disclosure (3 counts); advertising. \$54,200 FINE, (\$50,000 fine and 1 day suspension held in abeyance for one-year probation.

Gregory Shottenkirk, dba Silverthorne Pontiac, Buick, Cadillac, GMC – Silverthorne - #36948 – unlicensed sales personnel (3 counts); failure to deliver title (2 counts); failure to properly complete title assignment (3 counts); odometer disclosure (2 counts); advertising. \$2,000 FINE.

Tom Fink, Sr., dba Auto Finance Center, LLC – Greeley - #4443 – defrauding any buyer/seller (4 counts); failure to perform written agreement (3 counts); failure to deliver title (2 counts). \$204,300 FINE, LICENSE REVOKED.

Vilyam Filmonchuk, dba Filyas Auto – Colorado Springs - #38110 – principal place of business (3 counts). ONE-YEAR PROBATION, ATTEND LICENSING SEMINAR.

Tom Keller, dba Rocky Mountain Auto Sport – Parker - #3464 – defrauding any buyer/seller, fraudulent transaction; misrepresentation. \$5,000 FINE, \$4,500 HELD IN ABEYANCE FOR 12 MONTHS PROBATION).

Ross Netherton, Salesperson - #160719 – fraudulent business practice; unfitness. LICENSE REVOKED.

SECURE & VERIFIABLE ID'S FOR OBTAINING LICENSES, *by Debby Shriver*

On August 1, 2006 HB-1023 was passed into the forefront of immigration reform. HB 1023 requires government entities in Colorado to verify, the lawful presence of every adult 18 years or older seeking a government benefit for which citizenship is a requirement.

The process includes producing secure photo identification and requires that the dealerships maintain a copy. The following is a list of identification which will demonstrate lawful presence:

- A valid Colorado driver's license (includes only a current driver's license; minor driver's license; probationary driver license, commercial driver's license. Restricted drivers license; instruction permit or identification card) or a Valid Colorado identification card
- U.S. military card or military dependent's identification cards
- U.S. Coast Guard Merchant Marine Card
- Native American Tribal Document

Effective immediately all dealerships when employing salespeople will be required to obtain identification demonstrating lawful presence in the US in addition to obtaining the Affidavit (DR 4679) for each salesperson. Dealerships will be required to submit copies of the identification and the required Affidavit form with all applications.

When a salesperson transfers from one dealership to a new dealership the new dealership will be required to obtain the required identification and a new Affidavit (DR-4679) and submit copies to the Auto Industry Division.

The Auto Industry Division is in the process of revising applications to include this information. The new application should be available mid-October.

The Auto Industry Division recommends that you begin immediately obtaining a secure photo and the required Affidavit (DR 4679) for all of your salespeople.

All dealer owners will be required to submit copies of their identification with their renewal applications along with the Affidavit (DR 4679) for each owner.

For further information you may visit our web site at www.mv.revenue.state.co.us/dlr/home.asp and click on Lawful Presence.

Wholesaler Resolution

The Board **passed a Motion** (5:1) to follow C.R.S. 12-6-118 on the issue whether or not a wholesaler can consign vehicles to a dealer.

Motion carries (4:2) to rescind the initial wholesaler resolution of the June 2006 Board meeting. The Board determined that wholesalers **may not** consign inventory to a licensed dealer.

Share The Wheels

Owners, managers, salespersons and office staff can all benefit from reading Wheels. The articles provide information on topics that affect the many different employee functions. Keep your staff knowledgeable, "Share the Wheels".

Reminder to Dealers

All AID forms are available on our website and can be downloaded; however, when submitting these forms make sure that you fill them out thoroughly and accurately and provide the **correct number of copies**.

Besides obtaining all AID forms, our website contains other written material regarding the Auto Industry Division. Please check out our Internet home page website at www.revenue.state.co.us/dlr/home.asp. You may also email our Public Information Officer at dealers@spike.dor.state.co.us with any questions or concerns.

DEALER BOARD MEMBERS

President, Jeff Carlson

First Vice President, Steve Perkins

Second Vice President, Jim Varner

Bob Feder, John Medved, Lisa Schomp,

Phil Harris, Jim Reitz, Eva Wilson

Executive Secretary, Robert C. Sexton

AUTO INDUSTRY DIVISION

Division Director, Robert C. Sexton

Assistant to the Director, Kaye Kopecky

Agent-in-Charge, Eugene Tardy

Compliance Supervisor, Jerry Smith

Correspondence is welcome. Address to:
Auto Industry Division

1881 Pierce Street, Lakewood, CO 80214

Phone: (303) 205-5604 FAX: (303) 205-5977

E-mail: dealers@spike.dor.state.co.us

Internet: www.revenue.state.co.us/dlr/home.asp

C A L E N D A R

Dealer Board Business Meeting: Second Thursday of each month at 9:00 am, 1881 Pierce St, Lakewood.

Dealer Board Hearings: Fourth Thursday of each month, if necessary, at 9:00 am, 1881 Pierce St, Lakewood.

License Law Seminar - Colorado Springs: First Tuesday of each month at 10:00 am, 4420 Austin Bluffs Pkwy, Colorado Springs.

License Law Seminar - Ft Collins: BY APPOINTMENT ONLY, Second Wednesday of each month at 10:00 am, 1121 W Prospect Road, Ft. Collins

License Law Seminar - Lakewood: Third Tuesday of each month at 9:00 am, 1881 Pierce St, in the Department of Revenue Building, Conf. Rm. C, Lakewood.

Note: Times and locations are subject to change.
Call the Auto Industry Division at (303) 205-5784.

Please note: While every effort is made to make the information in *Wheels* as accurate and helpful as possible, it is not offered as a substitute for legal advice.