



Newsletter of the
Colorado Motor Vehicle
Dealer Board
and
Auto Industry
Division
April 2001, Vol. XXVII, No. 2

Robert Pastore, Assistant Attorney General Assigned To Motor Vehicle Dealer Board

Assistant Attorney General Robert (Bob) Pastore was assigned by Colorado Attorney General Ken Salazar to the Dealer Board. Bob replaces Assistant Attorney General Tracy Goins. He began his Dealer Board duties in February. Dealer Board President Mike Faricy welcomed Mr. Pastore at the March 13, 2001 Board meeting.

Bob earned an undergraduate degree from University of Colorado in Political Science. He later earned his law degree from University of the Pacific Law School in Sacramento California.

Mr. Pastore has an impressive work history that he brings to the Board. He was a State Senator for two terms from 1987 through 1994. He represented fourteen counties in south central

Colorado. Bob next served for two years on the State of Colorado Parole Board. From 1997 to 2000 he was a District Attorney in the San Luis Valley.

Bob and his wife Carol have four children. Besides, spending time with his family, hunting and fishing are two of Bob's favorite hobbies. He also enjoys showing Arabian and Quarter horses.

Assistant Attorney General Pastore commented, "I look forward to the challenges of my assignment to the Dealer Board. I have enjoyed my first weeks and find this work rewarding."

ROUTING BOX
Owner
Finance Manager
General Manager
Sales Manager

President's Perspective by Mike Faricy, Board President

I am fortunate to have the opportunity to work in an industry with so many great people. Most people in our industry are of high integrity and support good business practices. It is frustrating when I see cases come before the board that violate the laws and hurt the consumer and/or our fellow dealers. I ask myself, "Why do people do these things"? It is so easy to do business the right way. It is so easy to treat people the way we want to be treated. I suppose greed gets in the way. This is short-

term thinking because at the end of the day doing what is right for the customer or whoever else is on the other side of the transaction always wins out. So, the next time you find yourself in a situation that requires some give-and-take, put yourself in the other person's shoes and do what is right for them. It may seem like an expensive proposition but in the long run you'll be better off. The saying, "What goes around comes around" is remarkably true.

Director's Desk by Kirk Martelon, Exec. Secretary/Director

Dealers Urged To File Complaints When They Are Victimized

Dealers are victims too. Dealers who suffer damages caused by other dealers, wholesalers, auto auctions or salespersons are encouraged to file a complaint with the Auto Industry Division after all avenues of resolution have failed. Failure to file a complaint may lead to other dealers or third-party consumers suffering subsequent damages.

Dealers are especially encouraged to file complaints against other dealers and wholesalers who fail to honor checks

Words of Gratitude
The Auto Industry Division regrets the departure of Larry Herold, the Division's Public Information Officer since October 1997. Larry transferred to the Motor Vehicle Division's budget office to pursue a new career path in budgeting and accounting. Larry will be greatly missed and we wish him the very best in his new endeavor.

or drafts and against salespersons who embezzle money or pocket customers' deposits.

Dealers and salespersons are also reminded that although dealers are responsible for the acts of their salespersons, this does not diminish the salesperson's individual responsibility. Salespersons who violate motor vehicle industry laws and regulations are subject to the consequences of their actions, including a fine up to \$10,000 per violation, and/or a possible suspension or revocation of their license.

Investigation Insight by Mary Marvin, Investigator Supvr.

Misuse of Temporary Registration Permits

The Investigation Section has conducted numerous investigations regarding the misuse of temporary registration permits. Local law enforcement agencies have requested the assistance of our Investigators in several investigations involving permits. Permits have been used on vehicles transporting drugs and on vehicles involved in several homicide investigations. However, the majority of permits have been confiscated from stolen vehicles being transported to Mexico.

The security of your temporary registration permits is of utmost importance. Keep the permits in a secure place to avoid theft and potential misuse.

Also, when purchasing your permits it is suggested that you purchase the permits with a company check and not cash. Several dealership 'runners' have purchased a packet of permits for the dealership and a packet for themselves, purchased by cash. The permits illegally purchased by the 'runner' were sold on the streets for a healthy profit. Most counties will no longer accept cash due to these problems.

Curbstoners, Statutes & Regulations and Plates

Curbstoners

The Auto Industry Division recently created a webpage covering information and the reporting of curbstoners. The Division sent out a press release state wide.

The news release read in part, "Unlicensed motor vehicle dealers, 'curbstoners', pose a threat to consumers for many reasons. Curbstoners are more likely to roll back odometers, commit salvage fraud and/or not disclose material damage. They often do not put the title to the vehicle in their name, so that once the transaction is complete, there is no evidence that links the curbstoner to the sale. Curbstoners do not have a principal place of business and have a tendency to move around, thereby making it difficult or impossible for a consumer to locate the curbstoner after the sale if a problem occurs. Also these unlicensed dealers are not remitting sales tax to the State and local jurisdictions thereby avoiding their legal responsibilities."

"Kirk Martelon, Division Director of the Auto Industry Division stated, 'Unlicensed motor vehicle dealers present many potential problems for Colorado's citizens. A curbstoner is not necessarily an individual selling his own vehicle, but rather, someone that is in the business of selling vehicles but refuses to abide by the State's laws.' "

The release contained the Division's webpage address and information for consumers and dealers on filing complaints.

Statutes and Regulations

The February 2001 edition of the "Bluebook" which contains Colorado Motor Vehicle Industry Statute and Regulations is now available on the Internet. The Division's homepage address is www.mv.state.co.us/dealer.html and it has a link to the downloadable "Bluebook".

The Division does not have printed copies available for dealers. Contact your industry association for printed copies.

Dealer Plates

Beginning with the July 1, 2001 dealer license renewals, the following dealer plate fees will be in effect.

Full Use Passenger	\$261.00
Full Use Motorcycle	\$123.00
Dealer Demo 1	\$32.00
Dealer Demo 2-5	\$9.50 each
Dealer Demo 6 or more	\$12.00 each
Motorcycle Demo 1	\$27.00 each
Motorcycle Demo 2-5	\$9.50 each
Motorcycle 6 or more	\$12.00 each

DEALER BOARD MEMBERS

President, Mike Faricy

First Vice President, Steve Perkins

Second Vice President, Fred Emich

Gretchen Eberhardt, Lee Payne, Greg Sopkin,
Mark Striegnitz, Jim Varner, Mike Weiman

Executive Secretary, Kirk J. Martelon

AUTO INDUSTRY DIVISION

Division Director, Kirk J. Martelon

Licensing Manager, Larry Dyslin

Investigator Supervisor, Mary Marvin

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.mv.state.co.us/dealer.html

C A L E N D A R

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

Dealer Board Hearings: Fourth Tuesday 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, 3650 Austin Bluffs Pkwy, Ste. 188, in the Shops of the Bluffs Mall, Colorado Springs.

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) 205-5604.

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.

Compliance Corner by Mary Marvin, Investigator Supvr.

Change of Location Requirements

During several routine audits, the Compliance Section has learned that some dealerships have changed locations without notifying the Board. 12-6-116(1) C.R.S., states "should the motor vehicle dealer or used motor vehicle dealer change the site or location of such dealer's principal place of business, such dealer shall immediately upon making such change so notify the Board in writing." If a dealer abandons its license place of business for a period of more than thirty days, the licensee is required to file a new application to renew its license.

The location must also conform to local zoning ordinances. When locating a new site, the licensee should check with the local zoning office to ensure the location is zoned for motor vehicle sales. Do not assume that since the location previously housed an existing business such as a body shop, that the location has been zoned for motor vehicle sales.

Changes in a dealer's location should be reported to the Auto Industry Division on the form, DR2003 "Application For Change of Location". The form is available on the Division's website or by calling (303) 205-5604.

Licensing Leads by Larry Dyslin, Licensing Manager

We often get questions from salesperson applicants about their past criminal convictions and whether those records will disqualify them from being licensed to sell motor vehicles. It is not fair to the applicant for us to attempt to determine over the telephone whether an applicant will qualify for a license without having complete information and court documents.

The law gives the Board authority and responsibility to determine the fitness, including fitness of criminal character or record of all dealer and salesperson applicants. Statute also allows the Board to issue a temporary license up to 120 days while the Board is completing its investigation and determination of all facts relative to the qualifications of the applicant for such license.

A criminal history search is conducted through CCIC (Colorado Crime Information Center) on all applicants. Generally a license is approved or denied much sooner than the 120 day maximum permitted by law if the applicant has provided the required documentation. However, it is important for both dealers and salespersons to understand that the license is temporary during this period and is subject to denial.

When reviewing an application with a criminal record, the Board will consider a number of factors including the number of convictions, the nature of the conviction(s), when the crime occurred and parole or probation status.

The majority of salesperson licenses that are denied are for one of two reasons. Either, the applicant failed to properly disclose all arrests, charges and/or convictions, or the applicant has a felony conviction for a crime that falls under Title 18, Articles 3, 4 or 5 of the Colorado Revised Statutes, or a similar crime under federal law or the law of another state. False applications may be considered a material misstatement in an application for a license and will often result in denial of the license.

Title 18, Article 3 includes crimes against persons, Title 18, Article 4 includes crimes against property, and Title 18, Article 5 includes offenses involving fraud. The law gives an applicant the right to a hearing if the license is denied, but if a license was denied because of a felony conviction that falls under any of these articles, the Board has no choice but to deny the license.

Regulations Define "Material Misstatement"

The Motor Vehicle Dealer Board has two regulations on material misstatements. Regulation 12-6-118 (3)(b) covers dealer license applications while 12-6-118 (5)(b) covers salesperson license applications. Material misstatements may result in the denial or revocation of a license.

REGULATION 12-6-118(3)(b). "Material misstatement" means any material false or misleading statement, omission, or misrepresentation by the applicant or a partner, officer, director, or shareholder of 5% or more of any corporation, limited liability company, limited liability partnership or any other business entity authorized under law to hold a license, regarding personal identification information, employment history, personal or business entity financial information, prior occupational licensing history, whether regarding a license issued by the Board or any other licensing/regulatory agency, criminal background and

history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and deferred judgments, civil judgments, assurances of discontinuance, consent order/deed, and/or stipulation arising from the operation of a business in this state or any other engaged in the sale, lease, or distribution of motor vehicles.

REGULATION 12-6-118(5)(b). "Material misstatement" in an application for a salesperson license means any material false or misleading statement, omission, or misrepresentation regarding personal identification information, employment history, prior occupational licensing history, whether regarding a license issued by the Board or any other licensing/regulatory agency, criminal background and history including arrests, criminal information filings, indictments, municipal, misdemeanor, and/or felony convictions, and deferred judgments.

DEALER BOARD ACTIONS

Joe Hightower, dba Hightower & Shorty-Denver #7808 - defrauding any buyer/seller, violating any state or federal law, forgery, filing false documents, false oath, failing to deliver title and operating from an unlicensed location. **\$80,000 FINE, 3-YEARS PROBATION and 30 DAY SUSPENSION.**

Thomas Michnal, dba Sierra Motors - Calhan - #7343 - 2nd degree perjury, falsely obtaining full use plates. **\$1000 FINE, 6-MONTHS PROBATION and SURRENDER FULL USE PLATES.**

Robert D Wilcox, dba J&B Auto Wholesale - Blackhawk - #8439 - failure to honor a written agreement (failure to honor a draft or check). **LICENSE REVOKED.**

Disciplinary Actions by the Dealer Board Against D.E.O. Enterprises, Inc. and Universal Motors, Inc.

D.E.O. ENTERPRISES, INC. IS FINED \$150,000 AND HAS LICENSE REVOKED

Brighton's Best Auto Brokers, Inc. dba D.E.O. Enterprises, Inc., a wholesale motor vehicle dealer located in Brighton owned by David E. Ott, had its dealer license revoked by a January 2001 Motor Vehicle Dealer Board Order. The Board Order also ordered that D.E.O. Enterprises, Inc., be fined \$150,000.

The charges against D.E.O. Enterprises, Inc., included failing to pay for vehicles, providing false documents to the Auto Industry Division, failing to honor written agreements, failing to honor a floor plan agreement, defrauding a creditor by obtaining duplicate titles for vehicles that were not paid for and making false statements on Department of Revenue documents.

UNIVERSAL MOTORS, INC. IS FINED \$62,000 AND HAS LICENSE SUSPENDED

An Order to William Cox, dba Universal Motors, Inc. a.k.a Tagamet Motors, Inc. was also issued by the Dealer Board. Universal Motors, Inc., located in Aurora, was fined \$62,000 and had its license suspended for five years. The dealer will be required to serve 30 days of the suspension with the rest of the suspension held in abeyance during a five-year probationary period. The dealer was also required to resolve all complaints.

Universal Motors, Inc. was charged with failing to honor an agreement with a financial institution, failing to pay for a vehicle, failing to provide a certificate of emissions compliance, failing to deliver title in 30 days and employing an unlicensed salesperson.

RETURN SERVICE REQUESTED

STATE OF COLORADO
MOTOR VEHICLE DEALER BOARD
DENVER CO 80261-0016