



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

DEALER BOARD - NEW MEMBERS

Governor Ritter Appoints Three New Members to the Dealer Board

Scott Ehrlich of Ehrlich Motors is filling one of three new dealer positions on the Board. Mr. Ehrlich is a second generation car dealer; his father "Swede" Ehrlich started the business in 1946. There are four Ehrlich dealerships in the Greeley and Fort Morgan area. Scott is a native Coloradoan who completed two years at Western State College. He started as a licensed salesman in 1978 and moved to General Manager in 1987. Scott and his wife Holly have three teenage sons. As a family they enjoy skiing and spending time in the mountains. On his appointment to the Dealer Board, Scott stated, "I look forward to serving the industry. I'm sure I will learn and gain knowledge and look forward to serving in this capacity."

Bob Perry, Executive Vice President of EMI Automotive Group, is the Board's used car dealer member. Mr. Perry brings with him extensive experience in the automobile business. Bob began his career at Leo Payne Automotive Plaza in 1977 and worked there until 1987 when he joined Centennial Leasing and Sales as a consultant. In June of 2002 Bob became a partner with Gary Leisy at Englewood Motors which has been in business since 1960. In late 2006 Englewood Motors changed their name to EMI Automotive Group when they opened an office in Golden. Bob is a native and attended the University of Colorado in Boulder. He is a past president of the Kiwanis Club of Lakewood. Bob is single and is an avid golfer and currently a member of the Fox Hollow Men's Club.

Sheriff Fred Wegener is the Board's new public member. Sheriff Wegener is a Colorado native growing up in Bailey, Colorado. He served in the U.S. Air Force in Security Police before taking a job with the Park County Sheriff's Department in 1987. He was elected sheriff in 1999. Sheriff Wegener received national recognition for his handling of the student hostage crisis at Platte Canyon High School in 2006. He has also co-authored a book, Effective Police Supervision. Sheriff Wegener and his wife of 21 years, June, have a son and daughter who are both in college. Sheriff Wegener stated that he was "excited and humbled" to be named to the Dealer Board. He is very interested in the automobile industry and looks forward to all the new challenges.

Board members are appointed by the Governor for staggered three-year terms. The Board has the statutory authority to grant, deny, suspend, revoke and fine dealer and salesperson licenses. The Board is also empowered to adopt regulations that have the force of law as well as conduct hearings and monthly meetings.

The Dealer Board currently meets the second Thursday of each month for a business meeting and the fourth Thursday of each month for hearings, if needed. The meetings are open to people in the industry as well as the general public. At times, due to extenuating circumstances, the regular Board meeting may be changed to a different day.

ROUTING BOX

Owner
Finance Manager
General Manager
Sales Manager ✓

IDS (INTEGRATED DATA SYSTEM) LOCATOR ADDRESS TAX RECORDS (LATR)

The Department of Revenue has updated the Integrated Data System (IDS) for dealers using the Locator Address Tax Records (LATR) program to verify tax rates on vehicle purchases. There were some technical difficulties with the locator updates which have been resolved. The program is updated routinely and reflects information from all County Locator files accurately. Each County enters the addresses and tax rates specifically for their County and the files are then integrated into the program. Dealerships that rely on this database are provided with a hold harmless clause that can be found in C.R.S. 29-2-106.2.

The program appears in the drop down menu after you sign into IDS at <http://ids.dor.state.co.us>. The title of this item is Locator Address Tax Records (LATR). The program then shows address fields where the House # and Street Name are the required fields. There is an option at the bottom of the page where dealers may set the seller's address to their dealership address, and then enter the customer's address to help determine tax rates. There is also an option to enter the purchase price to assist in calculating the sales/use tax amounts.

To register for the IDS system, use the web site at: <http://ids.dor.state.co.us> and sign up using the "New User" IDS Link. For questions contact the administrator, Bud Heinrich from the Auto Industry Division at dheinrich@spike.dor.state.co.us or 303-205-5729.

Do Tow-Away Sales Require Emission Testing? , by Emissions Section

The question that often arises; can a dealer sell a Tow-Away vehicle without providing an emissions test or coupon? The answer is simple NO. Does a vehicle with a headlight out, a defective horn, inoperative tail lights, no seat belts etc. warrant emissions exemption? Again NO. The only circumstance a dealer can sell a Tow-Away without an emissions test or voucher is if it is sold in conjunction with a DR2023 "Notice of emissions Non-Compliance", sold outside the program area or sold wholesale to another dealer. This is if it meets the definition of "Inoperable or Cannot Be Tested" in accordance with the rules promulgated by The Department of Revenue 1 CCR 204-11, 42-4-310 C.R.S.:

116.0 Cannot be tested: Body, Frame Steering Damage or other malfunctions that render the vehicle unfit for an emissions test. It includes the provisions of the definition inoperable.

165.0 Inoperable: A vehicle that is incapable of moving under its own power due to a mechanical failure. A vehicle is inoperable when any one or a combination of the major internal components of the vehicle are not mechanically working or are damaged to the point that it does not allow the vehicle to move by utilizing that component(s). The major components of the vehicle are the engine, drive train and axles.

Motor vehicles that have non-functioning, malfunctioning or missing emission equipment may Not be categorized as "Inoperable" or "Otherwise cannot be tested" for the purpose of non-compliance with the emissions testing requirements upon the sale to a consumer.

The emissions section recommends that all tow-away sales inside the program area are sold with a current passing emissions test or an emissions coupon. It is the buyer's responsibility to have the vehicle emission inspected when provided at the time of sale an emissions coupon. The buyer has three business days beginning the day after the buyer takes possession of the vehicle to have this vehicle emissions inspected. If this vehicle is not inspected within this three-day time period the dealer will be relieved of any further responsibility to repair or repurchase the vehicle for compliance with the emissions program.

In conclusion, a dealer shall not sell a vehicle inside the air program area, tow-away or not, without an emissions test or coupon unless it is sold in conjunction with a DR2023 or sold wholesale to another dealer.

For more information pertaining to emission related vehicle sales please contact the emissions department at 303-205-5603.

Registration Delays?

Louisville, Colorado residents and businesses may be seeing delays in the registration of their vehicles as a result of the November election.

Colorado dealers may be overcharging Louisville residents and businesses on the City tax rate charged for motor vehicle purchases. The correct Louisville rate is 3.375% but many residents have been charged 3.5%.

The question surrounds the passage of a .125% sales tax increase earmarked for historic preservation. The ballot language imposed the increase upon the City sales tax rate but not the City use tax rate (imposed on motor vehicles and commercial building materials). This measure was approved by voters and the rate change effective January 1, 2009. Since that time, Louisville residents purchasing motor vehicles have been assessed the new sales tax rate of 3.5% by the Boulder County Department of Motor Vehicles for out-of-City purchases. The City voluntarily sought a determination from its City Attorney to resolve this matter believing that the collected rate should not have been changed and should have remained 3.375%.

The City Attorney concluded "that an in-City retail sale is subject to the 3.5% sales tax and that other sales would be subject to the 3.375% use tax, which is the approach utilized in the sales and use tax code, specifically Sections 3.20.200 and -.300" of the Louisville Municipal Code. Boulder County DMV anticipates delays in registration because documents will need to be returned to the dealers if the inappropriate tax amount was collected on a sale.

The current dilemma focuses on the resources used by dealers in determining the applicable tax rate to charge. Resources such as the State of Colorado, Department of Revenue web site and publication DR1002 list only sales tax rates for home-rule municipalities and not use tax rates which apply to motor vehicle purchases made outside a local jurisdiction. The only effective method is to contact a municipality directly and specifically ask what the tax rate is for motor vehicle purchases.

Louisville is not the only city or town that has different sales and use tax rates but outside of their own web sites, there is no venue to publish this information. Boulder County has agreed to update the information on their web site and the City of Louisville will be issuing refund checks to all affected purchasers.

Send Me Your E-Mail Address *by Kaye Kopecky, Licensing Manager*

Due to our server reconfiguration all email addresses that I had stored for the Wheels distribution were lost. I am asking all dealers, salespeople and the public who want to receive the Wheels via email to please send me your email address. Please send to: akopecky@spike.dor.state.co.us.

SUNDAY CLOSING

All Colorado dealers are expected to comply with the Sunday closing law (CRS 12-6-301 through 303). In many respects, dealers cannot prevent people from coming onto their lots to look at vehicles on Sunday. However, the Board considers any incentive for, or encouragement of, Sunday visits to the dealership for the purpose of looking at motor vehicles, as a violation of the Sunday closing law. Incentives/encouragements that are violations include, but are not limited to, drawings for prizes, refreshments, and/or any advertising intended to bring people to the dealership to look at vehicles on Sunday. Violations of the Sunday closing law could jeopardize your license and are also Class 3 misdemeanors. (Please note that the Sunday Closing Law and the Board's policy do NOT apply to the sale of boat/snowmobile trailers on Sunday.

Fee Increases Effective July 1, 2009

Matt D. Cook, Sr. Director of Enforcement

Effective April 1, 2009, the Auto Industry Division (AID) had to displace as many as nine members of its staff due to budgetary increases from 2007 and a shortfall of revenues. These nine full time employees are currently not employed by AID, which has had a significant impact on AID's workload. According to Bruce Zulauf, AID Director, the number of pending complaints has grown to more than 600 because AID does not have critical staff to investigate them. AID also had to borrow \$250,000.00 from the State Treasury just to continue its limited licensing operation. This loan must be paid back prior to June 30, 2009.

During the May, 2009, regular meeting of the Motor Vehicle Dealer Board, the Board was advised that it was critical that Auto Industry Division (AID) fees be increased by 90%. This fee increase is critical to maintain the viability of AID and its ability to provide consumer protection services and ensure a level playing field for the Industry it regulates. In addition, it was noted that the complexity of AID investigations has increased as it appears that more dealers are going out of trust.

In an effort to better understand these issues, during the past few months AID and its budget staff presented the Colorado Motor Vehicle Dealer Board with historical fiscal detail and revenue forecasts. The Board is required to make a recommendation to the Executive Director (EDO) of the Department of Revenue, who must establish fees annually to cover the costs of AID. In addition to the recommendation made by the Board, the Controller expressed concerns about the financial stability of AID during the next fiscal year, based upon a recommendation to increase fees by at least 80%.

While an 80% fee increase seems to be excessive, it is important to note that the economy is not the main factor for increasing fees. In 2007 the Auto Industry recommended, and the General Assembly approved the addition of five additional investigators to assist with a case load of more than 900 complaints. Fees were not raised when the new staff was employed due to a budgetary surplus, and AID has been deficit spending since that time. During this same time frame (2007), AID took on added responsibility for the regulation of power sports and added two full-time employees. AID is a cash funded agency. A cash funded agency's costs are paid by the industry it regulates. It was noted that additional costs were added to AID in fiscal year 2007 with the addition of seven critical staff, and fees were never increased to cover their costs. In addition, AID has seen about a 20% decrease in its revenue due to recent bankruptcies and the weak economy. These fee increases will affect all licenses issued by AID effective July 1, 2009, and will be re-examined again in the spring of 2010.

Renewal Applications - Late Fee, *by Kaye Kopecky, Licensing Manager*

Prior to the expiration of a license a renewal notice is mailed to the licensee's business address of record stating when such license is due to expire and the fee necessary to renew the license. Any renewal application submitted after the expiration date of the license will be assessed a late fee. There will be a 30-day grace period following the expiration date of the license to renew. Any licensee submitting a renewal during the 30-day grace period shall pay an additional \$25 late fee. Starting July 1, 2009 the late fee will be \$50. If the renewal application is submitted after the 30-day grace period the application will be **refused** and the applicant must apply as an Original License Applicant.

State Of Colorado

LICENSE FEE SCHEDULE

Effective July 1, 2009-June 30, 2010

License Type	Fee
Original Dealer, Wholesaler, Buyer Agent, Wholesale Auctions	\$635
Original Powersports Dealer	635
Renewal Dealer, Wholesaler, Buyer Agent, Wholesale Auctions	525
Renewal Powersports Dealer	525
Temporary Out-of-State Dealer	275
Original Salesperson	150
Renewal Salesperson	115
Additional/Multiples	115
Reissue Salesperson	115
Original Manufacturer/Distributor	635
Renewal Manufacturer/Distributor	525
Original Manufacturer Representatives	150
Renewal Manufacturer Representatives	115
Late Fee – All License Types	50
Dealers:	
Off-Premise Permits	115
Additional Location	265
Address Change	150
Class Change	150
Ownership Change	150
Name Change	150

Attention Dealers and Salespersons Reporting Convictions to the Board

The division has received numerous renewal applications for both dealers and salespeople that are reporting recent convictions. Please note the statutes and regulations below pertaining to reporting to the board convictions within 30 days after receiving such conviction. **Do not wait until renewal time to report such convictions.**

C.R.S. 12-6-118(3)(d) Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4 or 5 of title 18, C.R.S. or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of such conviction in any hearing held pursuant to this article.

Regulation 12-6-118(3)(d) *Dealers, wholesalers, wholesale auction dealers, officers, directors or stockholders of corporations owning five per-cent or more, licensed as such who are convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to article 3, 4 or 5 of title 18, C.R.S., or like crime pursuant to federal law or the law of any other state, shall provide to the board written notice of such conviction within thirty days after receiving such conviction. The licensee shall provide complete information including copies of such conviction and pre-sentence reports within thirty days of the conviction.*

C.R.S. 12-6-118(5)(j) Having been convicted of or pled nolo contendere to any felony, or any crime pursuant to article 3, 4 or 5 of title 18, C.R.S. or any like crime pursuant to federal law or the law of any other state. A certified copy of the judgment of conviction by a court of competent jurisdiction shall be conclusive evidence of such conviction in any hearing held pursuant to this article.

Regulation 12-6-118(5)(j) *A salesperson who is convicted of or pled nolo contendere or a plea in a deferred judgment and sentence to any felony or any crime pursuant to article 3, 4 or 5 of title 18, C.R.S. or like crime pursuant to federal law or the law of any other state, must give the board written notice of such conviction within thirty days after such conviction. The licensee shall provide complete information including copies of the conviction and pre-sentence reports within thirty days of the conviction.*

Closing Your Dealership?, by Kaye Kopecky, Licensing Manager

If a dealer or wholesaler, through either a voluntary or involuntary action, ceases to be a motor vehicle dealer or wholesaler, they 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, Auto Industry Division in order that the missing plates can be denoted upon the appropriate motor vehicle law enforcement files.

Change of Location, by Kaye Kopecky, Licensing Manager

Remember to notify the Board **prior** to 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 thereupon 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.

New State Legislation Impacting Consumer Credit

Companies that extend consumer credit in Colorado should be aware of amendments to the Colorado Uniform Consumer Credit Code (UCCC) due to the passage of Colorado House Bill 09-1141. Highlights of the changes are listed below.

■ **Consumer Leases** – As of July 1, 2009, consumer leases subject to the UCCC must comply with the following:

- Return check fees are limited to \$25.00.
- Delinquency/late fees are generally limited to \$15.00.
- Guaranteed automobile protection must comply with UCCC Rule 8.

Note that all fees must be disclosed and contracted for. The UCCC applies to consumer leases of \$75,000 or less.

■ **Fees** – As of January 1, 2010, some UCCC fees will change:

- **Credit Sellers/Lessors** – Most businesses that make consumer credit sales and consumer leases will pay an annual notification fee (now \$20.00). Currently, only businesses that collect consumer credit sale and lease payments for more than 30 days after the contract date must pay. In addition, volume fees for credit sellers and lessors will be eliminated. Sales finance companies will continue to pay volume fees.
- **Licensed Supervised Lenders** – The volume fee for consumer insurance premium finance loans paid by licensed supervised lenders will be eliminated.
- **Fee Amounts** - Most UCCC fees will be set administratively rather than by statute, subject to state limits on reserve funds.

■ **Compliance Examinations** – As of January 1, 2010, the UCCC administrator may examine credit sellers, lessors, and sales finance companies for compliance with UCCC requirements. Examination reports advise businesses of practices that do not comply with the UCCC and request corrective action. There is no examination fee unless the business has failed to pay the required notification fee.

For questions, please contact UCCC staff at (303) 866-4494 or uccc@state.co.us or consult an attorney for more information. Copies of House Bill 09-1141, the UCCC, and the UCCC Rules are available at www.ago.state.co.us/UCCC/UCCCmain.cfm.html.

Colorado Springs Office

As of July 1, 2009 the Colorado Springs office will no longer provide walk-in service for dealers and salespeople wanting Off-Premise Permits, duplicate salesperson licenses, transfer of salesperson license or new salesperson applications. Dealers and salespeople will have to come to the Lakewood office at 1881 Pierce Street or if under time constraints over night paperwork to the Lakewood office. The address is: Department of Revenue, Auto Industry Division, 1881 Pierce Street, Suite 142, Lakewood, CO 80214. The Auto Industry Division apologizes for the inconvenience.

Closing comments.....from the Director, By Bruce Zulauf

Motor Vehicle Dealer Board

In this issue of Wheels you have been introduced to three new Board members. I would be remiss if I did not talk some about the very talented Board members that have just completed their service to the Board and the citizens of Colorado. As many of you may be aware, the Colorado Motor Vehicle Dealer Board is comprised of 9 members. The makeup includes 3 new car members, 3 used car members and 3 members of the public. They are appointed by the Governor and serve 3-year terms.

Bob Feder was a public member. He served the citizens of Colorado on the MVDB for 13 ½ years. Mr. Feder is now the owner of Limo-DIA in the Denver metro area. Mr. Feder is proud that the Board members were able come together in an objective manner and properly dispense justice, regardless of their car dealership affiliation. Due to his length of service, Mr. Feder brought a great deal of historical knowledge to the Board. He was also known and appreciated for his sense of humor.

Steve Perkins was a used car dealer member. His business is Centennial Leasing and Sales in Englewood. He served on the Board for 9 years and was Board President for 2 years. Mr. Perkins feels that he was able to help bring continuity to the Board during times of change, both when the Division changed personnel and when the new Governor was elected. Mr. Perkins was an excellent Board member who demonstrated great "balance" in his decision-making.

Lisa Schomp was a new car dealer member. She was a Board member on two different occasions, serving a total of over 10 years. Her business is the Ralph Schomp Automotive group. Ms. Schomp commented that she walked away with a better understanding of the Auto Industry Division, appreciating the Division's position in balancing the needs of the industry and the concerns of consumers. She brought both passion and compassion to the Board in her discussions on issues before the Board.

Jeff Carlson was also a new car dealer member. He was a Board member for 6 ½ years. His business is Glenwood Springs Ford in Glenwood Springs and Summit Ford in Silverthorne. Mr. Carlson was the President of the Board for 2 ½ years. He is pleased that during his tenure the Board was able to complete the Sunset review that included some substantial rulemaking. He always made every attempt to make the auto industry as self-regulating as possible. Mr. Carlson contributed a high level of professionalism to the Board.

As you can clearly see, these 4 former members served the Motor Vehicle Dealer Board and the Citizens of the State of Colorado extremely well during their tenures. I wish to thank them personally and on behalf of the Auto Industry Division, the Department of Revenue, and the citizens of the State of Colorado for their valuable service.



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.colorado.gov/revenue/enforcement. You may also send an email to: dealers@spike.dor.state.co.us with any questions or concerns.

DEALER BOARD MEMBERS

Acting President, Jim Varner

Jim Reitz, Scott Erlich, Bob Perry,
Eva Wilson, John Medved, Phil Harris,
Fred Wegener

Executive Secretary, Bruce A. Zulauf

AUTO INDUSTRY DIVISION

Division Director, Bruce A. Zulauf

Licensing Manager, Kaye Kopecky

Agent-in-Charge, Chris Rouze

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.

Correspondence is welcome. Address to:
Department of Revenue
Auto Industry Division
1881 Pierce Street, Room 142, Lakewood, CO 80214
Phone: (303) 205-5604 FAX: (303) 205-5977
E-mail: dealers@spike.dor.state.co.us
Internet: www.colorado.gov.revenue/enforcement

***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.*