



**Newsletter of the
Colorado Motor Vehicle
Dealer Board
and
Auto Industry
Division
OCTOBER 2001, Vol. XXVII, No. 5**

President's Perspective

by Steve Perkins, Board President

Recently appointed as President of the Motor Vehicle Dealer Board, I would like to take this opportunity to thank the Industry and the Division in their quest to promote trust, confidence and good will affecting motor vehicle sales and the regulation thereof.

I intend to uphold the integrity and professionalism of our past President, Michael Faricy. I know I speak for all the members of the Dealer Board in expressing our appreciation to Mike for his dedication in his attempts to uphold the integrity of the Motor Vehicle Industry. Thanks Mike for a job well done!

I look forward to the upcoming year as Dealer Board President.

ROUTING BOX

Owner
Finance Manager
General Manager
Sales Manager

Off-Premise Permit Requirements

A dealer must obtain an off-premise permit to offer, display and sell vehicles away from the dealer's licensed place of business. The request for off-premise permits must be made in writing and list the dates and location of the sale. Requests are to be made prior to the event and the fee is \$50. The permit must be available for inspection at the sale.

Off-premise permits are valid up to 6 days except for the National Western Stock Show, the Colorado State Fair and the Denver Auto Show which cannot exceed 20 days. A dealer may not get consecutive permits for the same location. Also, off-premise permits do not negate the Sunday closing law.

All salespersons at an off-premise sale must be properly licensed. A salesperson may not sell or negotiate for a dealer at a sale unless (s)he is licensed to that dealer.

Taxpayer Services

Effective October 1, 2001, the fee to register a Trade Name with the Department of Revenue is lowered from \$10.00 to \$1.00. Sole proprietors and general partnerships register their trade name with the Department of Revenue. The annual renewal fee is also reduced to \$1.00 effective October 1, 2001. Revision of the forms related to trade names is not yet complete.

Registrations received by mail that remit the old fee will be processed for the old amount. Customers who walk in after October 1, 2001 to register a trade name will be advised of the new fee and processed at the new rate.

Reminder to Dealers

The Board wishes to remind dealers that they are responsible for the actions of their employees and salespeople. It is essential that dealers be aware of this when hiring, supervising and delegating duties to employees.

Investigation Insight

by Supervisor Investigator Mary Marvin

Odometer fraud news from around the United States. New York/New Jersey continues to be fruitful ground for odometer fraud. Gregory Saadi, also known as, "Greg Digital", so known for his expertise in altering digital odometers, pled guilty in New York/New Jersey to odometer fraud. A dealership known as Tri Way Auto Sales operating out of a trailer, with no vehicles on the lot, bought and sold numerous vehicles that lost mileage. All involved pled guilty. Solomon Abraham was sentenced to 63 months in prison for a case involving approximately 400 cars.

Jon Setzer, Federal Odometer Fraud Investigator, stationed in Denver, investigated a California individual

who pled guilty to odometer fraud, admitted to 170 rollbacks and a \$680,000 consumer loss.

Kansas City, Kansas – Art Korn pled guilty of conspiracy to commit odometer fraud, caused \$160,000 in consumer loss.

A Virginia investigation brought charges against Argov Motors. Defendant Gil Maor Saleet pled guilty stipulating to losses over \$800,000 and about 410 cars. He was sentenced to 30 months in prison and over \$600,000 in restitution. Another defendant, Ron Schichtman, fled to Israel, however, extradition is being pursued.

Colorado has several odometer investigations pending. I would like to encourage all to help us combat this crime by reporting any suspicious activities.

Compliance Corner

by Supervisor Mary Marvin

During several routine audits, the Compliance Section has learned that some dealerships are failing to comply with the required "business hours". Regulation 12-6-118(3)(m) states 'all motor vehicle dealers and all used motor vehicle dealers must be open for business at least three days per week for a continuous period of time not less than four hours per day between the hours of 8 A.M. and 9 P.M.

Any dealership open less than forty hours a week must post a clear and legible sign on its place of business indicating the days and hours that it is open for business. In addition such dealerships shall notify the Board in writing of any subsequent change in such periods of time.

Any dealership which will not be open for business for a period of at least two weeks must post a clear and legible sign on its place of business indicating this fact as well as notifying the board in writing of such fact.'

"Open for business" means a licensed salesperson is available during all hours the dealership is purportedly open for business.

Licensing Leads

by Larry Dyslin, Licensing Manager

You can now obtain automated information about sales tax rates over the telephone or via the Internet. The Revenue Sales Tax Information System will provide the following automated services:

- Colorado sales tax rates – find specific city, county and special district rates.
- Verify sales tax license exemption numbers and determine whether a Colorado sales tax license or exemption certificate is valid.
- Tax rates by account number. You can find sales tax rates and locations for specific sales tax accounts. These new self-service features complement the automated income tax services the Department of Revenue has been offering for filing income taxes, obtaining tax account information and ordering forms over the phone or the Internet.

All of these services allow taxpayers to help themselves to information 24 hours a day without requiring the assistance of a customer service representative. Listen and look for these services on the Department of Revenue's business tax information phone line, 303-232-2416, and the Web site at www.taxcolorado.com.

The City and County of Denver Motor Vehicle Department provides information for dealers and residents for registering vehicles in Denver at its Web site, www.denvergov.org.

You can also access the Auto Industry Division and Motor Vehicle Dealer Board Web site at www.mv.state.co.us/dealer.html to read the dealer law and regulations, download forms, read Wheels, read license requirements and license fee schedule, and find other helpful information.

Titles and Registrations

By Mary Tuttle and Chris Lowe

Did you know?.....Bonded Title applications are often rejected by the Motor Vehicle Business Group Titles Section because the appraising dealer's license number has been omitted. One possible solution is to have the license number printed on the dealer's letterhead.

We have been informed that dealers throughout the state are not being consistent with Body Styles used for the PT Cruiser and the Avalanche. The PT Cruiser should be classified as a passenger 4D and the Avalanche is an SUV (if it has a bed, title as a light truck, if the bed is enclosed, it can be classified as a passenger vehicle).

The County Motor Vehicle offices are requesting dealers to use either black or blue ink on all paperwork.

This is a reminder that when vehicles are traded in, the plates and the registration receipts should be returned to the owner(s).

Certificate of Emissions Compliance

When a seller turns over a vehicle to a buyer and does not give the buyer a certificate of emissions compliance at the same time, the seller violates the emissions statutes and undermines the purpose of both the State and federal clean air laws. Under the emissions statutes, buyers have no right to waive emissions compliance including no right to waive the issuance of a certificate of emissions compliance. Also, sellers have no authority to request that a buyer waive a certificate of emissions compliance and act upon such a waiver.

A seller does not have the option to separate the sale of a roadworthy vehicle from delivery of the emissions compliance. Colorado statute identifies the only exception to the requirement that sellers provide a certificate of emissions compliance at the time of sale or transfer of a roadworthy vehicle in Colorado as: vehicles that are inoperable or otherwise cannot be tested. The General Assembly expressly intends that vehicles on Colorado's roads comply with the federal Clean Air Act. A vehicle that does not meet the emissions standards or one where it is not determined whether the vehicle meets the clean air standards undermines the express purpose of the emissions standards.

A seller that does not deliver the certificate of emissions compliance at the time the buyer takes physical

custody of the vehicle violates the emissions statutes. Thus a sale without the certificate of emissions compliance is not a sale recognizable under the law.

The dealer cannot enforce a contract provision waiving a certificate of emissions compliance because the dealer cannot enforce a contract provision that violates the emissions statutes and the clear public policy which underlies the Clean Air Act. Buyers and sellers are required to unwind sales that do not conform to emissions statutes. A consumer would have to bring a civil suit based on the void contract to unwind the deal if the dealer does not agree voluntarily or in settlement.

Colorado statute gives the Dealer Board the authority to take action against a dealer's license. Colorado statute also prohibits the defrauding of buyers by violating any federal or state law, such as violating emissions statutes. In lieu of a certificate of emissions compliance, a dealer that sells a vehicle subject to the enhanced emissions program may comply by providing the consumer an emissions voucher at the time of sale.

Emissions compliance questions may be directed to the Emissions Section at (303) 205-5603.

DEALER BOARD ACTIONS

John Baldwin, dba John Baldwin Chevrolet Buick-Holyoke #611 – defrauding any buyer/seller (4 counts), illegal sale (4 counts), failure to honor written agreement (4 counts), failure to honor check/draft (2 counts). **LICENSE REVOKED.**

Holland White, dba Boulder Auto Exchange-Longmont #7151 – defrauding any buyer/seller (18 counts), failure to honor written agreement (18 counts). **LICENSE REVOKED.**

Gary Nelson dba Motor City Sales-Colorado Springs #3408 – failure to honor written agreement (2 counts), defrauding any buyer/seller (7 counts), failure to deliver title (4 counts), emissions. **LICENSE REVOKED.**

Richard Langley dba Langley's Colorado Auto-Pueblo #3364 – failure to deliver title (6 counts), defrauding any buyer/seller (2 counts), illegal sale (3 counts), place of business. **LICENSE REVOKED.**

Windish RV Center-Lakewood #7826-defrauding a financial institution. **\$2,200 FINE, 2 YEARS PROBATION.**

Derek Cordova, Salesperson – felony conviction. **LICENSE REVOKED.**

Jeremy Salas, Salesperson – felony conviction. **LICENSE REVOKED.**

Anthony Bich, Salesperson – misappropriating funds. **LICENSE REVOKED.**

David Rivard, Salesperson – misappropriating funds, fraudulent business practices. **LICENSE REVOKED.**

Anthony Persaud, Salesperson – misappropriating funds, fraudulent business practices. **LICENSE REVOKED.**

Tim Baird, Salesperson – misappropriating funds, fraudulent business practice, theft. **LICENSE REVOKED.**

DEALER BOARD MEMBERS

President, Steve Perkins

First Vice President, Fred Emich

Second Vice President, Leo J. Payne

Gretchen Eberhardt, Jeff Carlson, Greg Sopkin,
Mark Striegnitz, Jim Varner

Executive Secretary, Kirk J. Martelon

AUTO INDUSTRY DIVISION

Division Director, Kirk J. Martelon

Licensing Manager, Larry Dyslin

Investigator Supervisor, Mary Marvin

Public Information Officer, Kaye Kopecky

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.

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