



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: The Honorable Richard D. Holcomb, Commissioner
Department of Motor Vehicles

FROM: Eric K. G. Fiske *Eric KG Fiske*
Senior Assistant Attorney General

DATE: June 6, 2013

SUBJECT: Letter of Assurance for Periodic Review of Regulations -- 24 VAC 20-110
(T & M Vehicles, Trailer and Motorcycle Dealer Advertising)

You have asked for a letter of assurance from this Office that the Department of Motor Vehicles ("DMV") has statutory authority to have promulgated 24 VAC 20-110 (T & M Vehicle, Trailer and Motorcycle Dealer Advertising Practices and Enforcement Regulations). I understand that DMV is conducting a periodic review of this regulation and is seeking an examination by this Office to ensure statutory authority.

It is my opinion that DMV has statutory authority to promulgate regulations governing the enforcement of advertising practices by T & M vehicle dealers, trailer dealers and motorcycle dealers. I believe that this authority can be found in the provisions of Va. Code § 46.2-203 (general authority to adopt regulations) and in § 46.2-1991 for T & M vehicle dealers, § 46.2-1992.85 for trailer dealers; and § 46.2-1993.82 for motorcycle dealers (specific authority to promulgate rules and regulations for these subject matters).

This memorandum only addresses legal matters regarding the authority to promulgate regulations and does not address and does not serve as a comment for or against the merits of the regulations themselves. I would conclude that DMV has the authority to have promulgated the existing regulation in question in its entirety.

I hope that I have addressed all of your concerns. If any other questions arise, please do not hesitate to contact me.