



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Motor Vehicle Dealer Board
Virginia Administrative Code (VAC) citation	24 VAC 22-30
Regulation title	Motor Vehicle Dealer Advertising Practices and Enforcement Regulations
Action title	Reform the Motor Vehicle Dealer Advertising Practices and Enforcement Regulations
Date this document prepared	January 31, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

These regulations have not had a comprehensive review for nearly 15 years. The advertising laws have not changed over this period of time however; the “advertising world” has changed much over this period of time.

We recognize that after working with stakeholders we will be able to reform these regulations so that some may be repealed and others rewritten to make them less burdensome.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

§ 46.2-1582. Enforcement; regulations.

The [Motor Vehicle] Board may promulgate regulations reasonably necessary for enforcement of this article [Article 9. Motor Vehicle Dealer Advertising.] In addition to any other sanctions or remedies available to the Board under this chapter, the Board may assess a civil penalty not to exceed \$1,000 for any single violation of this article. Each day that a violation continues shall constitute a separate violation.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

By adopting a set of laws concerning advertising for the sale of motor vehicles by dealers, the Virginia General Assembly has determined that it is in the interest of the consuming public and legitimate motor vehicle dealers to ensure that the advertising of motor vehicles is honest, fair, and clear and that deceptive or misleading advertising of the retail sales of motor vehicles should be prohibited. Regulations are necessary to provide detailed guidance that is not found in the laws.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

The current set of regulations requires a comprehensive review and reform. It is essential that stakeholders play a major role in this review so that the regulations are reformed in such a way that they better meet the current trends in advertising including the internet.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

The Advertising laws provide the framework for ensuring that dealer advertising is honest, fair, clear and not deceptive or misleading. The regulations provide the details not found in the laws. The regulatory process provides a means to allow input from all stakeholders. As the advertising laws provide a framework, it is necessary that regulations are adopted to fill-in the detail. There are no other means available to accomplish this requirement

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The Motor Vehicle Dealer Board is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, and 2) potential impacts of the regulation. The Motor Vehicle Dealer Board is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

A panel will be appointed and the agency’s contact if you’re interested in serving on the panel is **Bruce Gould, 2201 West Broad Street, Suite 104, Richmond, VA 23220; by email to: bruce.gould@mvdv.virginia.gov**

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Bruce Gould, 2201 West Broad Street, Suite 104, Richmond, VA 23220; by email to: bruce.gould@mvdv.virginia.gov or by Fax to: 804-367-1053**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

For many families, a motor vehicle is the most expense or close to the most expensive purchase they will make. Therefore it is essential that dealer advertising is honest, fair, clear and not deceptive or

misleading. Making a “bad” vehicle purchase based on bad advertising can be devastating to a family’s economic well being.

Periodic review/small business impact review result

Periodic review/small business impact review announcement

In addition, the agency is undergoing a periodic/small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.
