



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

April 16, 2020

Ms. Melissa Velazquez
Virginia Department of Motor Vehicles
2300 West Broad Street
Richmond Virginia 23269

Re: T&M Vehicle, Trailer, and Motorcycle Dealer Advertising Practices and Enforcement Regulations

Dear Ms. Velazquez:

At your request, I have reviewed the Department of Motor Vehicles' posting for a fast-track repeal of the T&M Vehicle, Trailer, and Motorcycle Dealer Advertising Practices and Enforcement Regulations (24 VAC 20-110) pursuant to § 2.2-4007.1 of the *Code of Virginia*. This memorandum addresses legal matters only and is not intended as a comment for or against the merits of the proposed regulations.

Pursuant to Virginia Acts of Assembly 2015, c. 615, the responsibility to regulate these vehicle dealers in Virginia was shifted from DMV to the Motor Vehicle Dealer Board, Virginia Code § 46.2-203 provides general statutory authority for DMV to promulgate regulations "necessary to carry out the laws administered by the Department." Such authority, by implication, includes the authority to repeal such regulations when DMV no longer maintains authority over the subject matter.

In addition, Va. Code Ann. § 2.2-4012.1, which governs the "[f]ast-track rulemaking process," states that "rules that are expected to be noncontroversial may be promulgated or repealed" in an expedited process. Because the responsibility for these dealers no longer lies with DMV, the need for DMV to maintain these regulations has been obviated and the repeal of the regulations is necessary and should be noncontroversial.

As such, with regard to DMV's actions, it is my legal opinion that DMV has both the statutory authority and implied authority repeal the existing regulations referenced above.

Sincerely,

Janet W. Baugh

Janet W. Baugh
Senior Assistant Attorney General