

Motor Vehicle Advisory Board 1/21/14

Those in attendance were:

Greg Miller, Chair, Advisory Board Member
John Beutler, Advisory Board Member
David Morris, Advisory Board Member
Michael Cragun, Commissioner, Tax Commission
Barry Conover, Executive Director, Tax Commission
Kent Jorgensen, Director, MVED
Curtis Stoddard, Assistant Director, MVED
Jenny Stanger, Office Manager, MVED
Wayne Jones, IADA
Craig Bickmore, NCDU

Gary Petersen, Advisory Board Member – Absent
Sam Barber, Advisory Board Member – Absent

Greg Miller wanted to thank anyone that had filled in for him. Greg Miller called meeting to order at 2:18 PM.

The only public present was Dane Wood with NICB, who had no public comment at this time.

Commissioner Cragun had another commitment and so his agenda item will be held later in the meeting.

Greg asked for a motion to approve the minutes from the January 2013 meeting. David made a motion to approve the minutes. John seconded. Approved by all board members in attendance.

Greg read the proposed Motor Vehicle Advisory Board meeting dates of 1/21/14, 4/21/14, 7/21/14 and 10/20/14 proposed time is 2:00 PM. John Beutler asked that the meeting on 7/21/14 be moved to August to increase attendance. Greg and David agreed. John made a motion to move the meeting to August 18th. Greg seconded. All board members agreed to have the meeting dates for 2014 be as follows:
1/21/14, 4/21/14, 8/18/14 and 10/20/14.

Update on brokering from AG office will be moved to later in the meeting as Gale Francis is not here yet.

Jenny Stanger discussed the price of the MVED 45 day temporary permits pads changing on 2/1/14 from \$304.00 per pad to \$279.00 per pad. Kent stated the volume of temporary permits being sold has increased so the price of the permits is decreasing by \$1.00 per permit. John stated we discussed in past meetings about hiring additional officers but the agency never had the funds. Kent stated we had to give up one position in the agency. We are going to be at full staff this week. We just hired some new investigators. We gave up the one position due to the economic down turn. Greg asked what makes it so difficult to get it back. Kent stated you must have legislative approval to get another FTE. The position can be taken away if not filled after a specific amount of time but you have to have approval to get it back. Greg stated that if MVED ever needs another officer he would be willing to do whatever he can do to support MVED to get another officer. John agreed that not only is MVED losing man power but the dealer counts are increasing. Greg said we need to keep a close eye on that. Craig asked about the statute that allowed MVED to hire their own prosecutor. Kent stated that Rod Marrelli meet with the AG and David Yokum and the league of prosecuting attorneys around the state would not want us to have our own prosecutor even though the statute allows it.

Jenny stated that in addition to the 45 day permits decreasing the fee to clear a permit also changes on 2/1/14. The DMV is increasing the registration fees for vehicles so that also affects the fee due to clear a temporary permit from the dealer's permit audit. The fee is increasing from \$44.25 to \$45.25 on a passenger vehicle.

Curtis due to the feedback we have received about the new computer system and website, Curtis showed the board the new MVP website that allows a dealer to renew, purchase permits, clear permits, etc. We want the dealer owner to be responsible and know who they are giving access to. The business would go to business sign in. Then the owner must sign up first under option 1. Then if they gave someone access they can sign up under option 2. The owner must set up the account first. They need to sign in using their information and the information under which they are licensed with MVED. The owner will then get an email with an authorization code. The owner can log in with all the authorization code and get a PIN to give to an employee to manage the account.

Commissioner Cragun provided the annual open meetings act training.

Update from Gale Francis from the AG office in regards to brokering and True Car.

Gale wanted to summarize that brokering is not defined in the motor vehicle section. There are a few other areas where it is discussed in the Utah Code. The dictionary definition is someone that acts as an agent for others as in negotiating contracts, purchases or sale in return for a fee or commission. Gale recommended having this legislated to define the pros and cons of brokering in the motor vehicle code and whether or not an out of state person could act as a broker in our state. Minnesota defines brokers as a person who arranges the sale of a motor vehicle between the buyer and the seller or the lease of a motor vehicle between a lessee and a lessor for which service the broker gets a fee. He believes that Minnesota law is what the board is wanting.

The other concept is the internet and Utah doesn't have any laws that really cover internet sales. A distinction should be made between publishing notices and brokering. Out of state companies in the past have made claims for interstate protection on other internet transactions. If the nature of the transaction is regulatory, to protect the public on motor vehicle purchases, we will probably be okay.

Curtis said the current law 41-3-201.5 states a person may not, for a fee, commission or other form of compensation, arrange, offer to arrange or broker a transaction involving the sale or lease of more than two new or used motor vehicles in any 12 consecutive month period, unless the person is licensed under 41-3-202(1) or used motor vehicle in any 12 consecutive month period, unless the person is licensed under subsection 41-3-202(2). Also 41-3-210(6) states a dealer may not assist an unlicensed dealer or salesperson in unlawful activity through active or passive participation in sales, or by allowing use of his facilities or dealer license number, or by any other means. 41-3-210(1)(u) states as a new motor vehicle dealer or used motor vehicle dealer, encourage, or conspire with any person who has not obtained a salesperson's license to solicit for prospective purchasers.

Curtis stated that TrueCar was claiming they were doing nothing other than providing a customer the dealer's price. It is not any different than placing an ad in the paper in that case.

Gale state the AG intern that worked on this research proposed changes to 41-3-201.5 and a definition of broker added to the definition. Legislative intent should also be included in the changes. Gale provided a hand out to the board members with information from several other states showing their definitions and requirements for brokering in their states.

Curtis said since this was not an action item on the agenda all they can do is consider this information but it would have to be on another meeting agenda to do any voting on this. Greg felt like this is something that should be taken to the boards at both associations. Gale also stated they should network with their other state contacts. Greg asked that Craig and Wayne both take this item to their board for more discussion.

John stated that financial institutions have the right to determine the amount of money they loan on vehicles with branded titles. An individual came to him and stated that credit unions are saying this: Are we going to have to look at a Carfax on every used car? A Carfax issue can affect value just as much as a branded title affects value.

John stated Carfax has changed the life of used car dealers. He does a Carfax on every used car he is going to bid on before he goes to the auction. If a credit union starts doing pulling a Carfax it could make a used car worth significantly less money. Greg asked wouldn't the market work itself out with that? John said it might but it might compound it. Greg stated the dealers could protect themselves by not buying a vehicle with a bad Carfax, or doing research into the Carfax report before making a purchase. Banks are looking at Carfax in case they have to do a repossession on the car, as they want to ensure that they aren't going to lose any more money due to a Carfax report. Greg says this will force his organization to be better. There isn't any legislation that can be done to handle this problem.

Curtis stated a dealership got a phone call to purchase a vehicle that was listed on the internet. The credit card being used was checked on and the dealer found out that the credit card number was valid but not to the purchaser. The purchaser tried 5 different cards, each declined, before the dealer checked further into it. Dealers should verify credit cards being provided to make a purchase.

Greg asked if items like this come up could they be listed somewhere? Curtis said we have in the past sent out a newsletter or advise the dealer association to notify their members.

Curtis stated he found statute 41-3-105(9) which was discussed earlier and it states: the administrator may contract with a public prosecutor to provide additional prosecution of this chapter.

Curtis stated that he found statute on when the board shall meet and it just states quarterly which is 41-3-105(7).

Greg Miller adjourned at 3:42 PM.