

It is Sunset Review Time at the Colorado Capitol

By Jeremy Cottrell-CAR

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It's that time again, time to evaluate, adjust and improve the Motor Vehicle Dealer Board and how it affects you as auto dealers. Twice already, the MVDB Sunset Review has been slated for "general discussion" in the Senate Business, Labor and Technology Committee. The first discussion was a last minute addition being added only a day after returning from the NADA Convention.

At the discussion with the committee, Bob Holden from the Department of Regulatory Agencies, made his recommendations which departed from CAR and CADA recommendations on a few major issues. Jeff Carlson offered testimony to the committee from the perspective of a present MVDB President as did Lee Payne from a perspective of CAR Legislative Policy Committee, Topic Chair, CADA member and Dealer Principal.

What points are we currently engaged in working on?

1. **Make-up of the MVDB**- DORA would like to alter the make-up to remove one to two dealers and replace them with a county clerk and a public member with financial or banking background. Our recommendation is to keep the current make-up of the MVDB of three new car dealers, three used car dealers and three consumer (public) members. It is our position that those engaged in the dealership daily operations are the best suited to judge the actions of their peers and hold them accountable. Further, those in the auto industry are able to provide a level of expertise not otherwise available. The addition of public members would be a distinct disadvantage both to the consumer public as well as dealers themselves.
2. **Length of MVDB Renewal**- DORA would like to extend the MVDB five more years whereas we would recommend extending the renewal to 10 years. Their rationale relates to correlating the Sunset Review with the Auto Industry Division. Our position is that this timing correlation is irrelevant and the MVDB should be continued for ten years. By spending time now ensuring the adequacy of the process, we can institute a quality system for ten years in order to make progress on outlined goals.
3. **Use of Administrative Law Judges (ALJs)**- While it is our position that ALJ's should be available as an optional resource for the MVDB, we feel DORA's recommendation that mandatory ALJ usage is an infringement on the authority and expertise of the MVDB. The necessity for an ALJ to provide the detailed minutia of legal doctrines for clarification of a complicated hearing to the MVDB is rare. Therefore, we would request that the use of ALJ be used sparingly when needed, rather than serving as

a complicated addition of yet another authoritative entity that may at times act at odds with cases and hearings the MVDB would like to examine without interference.

4. **Bonding requirements**- DORA has recommended eliminating salesman bonds altogether while increasing the dealership threshold from \$30K to \$50K. Our position is to increase the salesman bond from \$5K to \$15K, thus providing an avenue of accountability to the consumer public as well as the dealership in instances of malfeasance.

Out of eleven major points we feel we are in an advantageous position on virtually 75 percent of our issues at the outset.

Currently, we at CAR have met with Governor Ritter's new appointee to the Department of Revenue, Roxanne Huber accompanied by representatives of Colorado Independent Auto Dealers Association (CIADA), Colorado Auto Brokers Association (CABA), and the Powersports Dealer Association of Colorado (PDAC). Within the next week we will have a bill sponsor and bill number from which to work.

This is obviously the dominating issue at hand for us as it operates for several years affecting the actions of the MVDB, you as dealers, and public perception.

Bills in the CAR "Win" Column:

HB 1072 – Union organizing, veto by Governor Bill Ritter

SB 10 – Staffing ratios, defeated by Senate committee (7-0)

Bills in Session:

HB 1081- Powersports Motor Vehicle Dealers

This bill is important to us as it imposes a dealer/salesman licensing requirement on businesses that sell ATV's, snowmobiles, and off-road vehicles. Currently, these items are able to be sold on Sundays as they are classified differently than standard motor vehicles. This bill simply allows a level of accountability to the consumer public in the form of repair and service and effective warranties by those who sell them to the public. It is a consumer protection, advocacy and safety issue.

SB 112- Supervised Lenders Motor Vehicle Dealer Sales

This bill is very problematic for us as it attempts to de-regulate lenders such as credit unions and banks from the licensing requirement to sell repossessed vehicles. While we don't view the quantity of vehicles sold by these entities as a direct threat to dealers we do see a potentiality for future harm. The manner in

which the bill is written would technically allow for “captive lenders” to enter the marketplace and sell “used” cars- however slight- with no licensing requirement. We are in opposition to this bill with CIADA, CABA, PDAC and possibly the District Attorney’s claims office. This de-regulation of lenders will force consumers to file private actions against lenders rather than the current process authorized by the MVDB. This will greatly increase the DA’s caseload and lead to an even greater extent on the already, largely exhausted, District Attorney offices.