



**Motor Vehicle Dealer Board**

**Biennial Report**

**2024**

## INTRODUCTION

The 1995 General Assembly overwhelmingly adopted legislation to shift the regulation and oversight of the new and used motor vehicle dealer industry from the Department of Motor Vehicles (DMV) to a professional board as described below. In 2015 the General Assembly adopted legislation that moved the oversight and regulation of motorcycle, trailer and recreational dealers from the DMV to the same board.

The Board consists of nineteen members for which the Governor, subject to confirmation by the General Assembly, appoints eighteen. To stagger appointments and ensure continuity, initially, eight members were appointed to two-year terms and nine were appointed to four-year terms.

The statute creating the Board stipulates that ten members shall be licensed franchise (“new”) motor vehicle dealers, and seven members shall be independent (“used”) dealers. Further, the statute requires that of the seven independent dealers, one shall be primarily engaged in trailer, recreational vehicle or rental vehicle business, and one shall be a licensed independent motorcycle dealer. The last members include an individual who has no direct or indirect interest, other than as a consumer, and the Commissioner of the DMV, who serves as the Board’s chair.

Members of the Board represent all areas of the Commonwealth. In addition, they represent all levels of ownership. Board members include those that own several dealerships to those with small operations and just a few employees. This cross section ensures that all perspectives of the industry have a voice on the Board.

The primary focus of the Board, as mandated by Virginia statute (Chapter 15 of Title 46.2), is to regulate new and used car, motorcycle, trailer and recreational vehicle dealers. This includes certifying and licensing dealers and salespersons. Additionally, the Board administers the Motor Vehicle Transaction Recovery Fund (MVTRF), handles consumer complaints regarding the dealers mentioned, monitors dealer advertising and conducts administrative hearings.

Organizationally, the Board’s staff is divided into two functional areas: Field Operations and Main Office Board Operations. The field operations consist of a supervisor, based out of Richmond, and twelve field representatives who work out of their “home offices” located throughout the Commonwealth. The field representatives are responsible for inspecting dealerships, educating dealers, salespersons and consumers. Enforcement becomes necessary only after continued and blatant disregard for Virginia’s motor vehicle laws by licensed dealers.

The number one priority of the main office Board operations staff is to review and ensure that all applications meet statutory requirements, to include local zoning ordinances, before processing

any applications (initial or renewal) for licensees (dealers and salespersons). This work constitutes the highest volume and work effort for the main office Board operations staff. As part of the licensing process, the Board also issues and renews dealer license plates and decals as authorized by the DMV.

Lastly, the Board is self-sufficient and funded solely by fees paid by the licensed dealers. These fees cover all the expenses of the Board. No general fund dollars are appropriated to the Board and no federal funds are used.

## **COMMITTEES**

Five statutorily mandated committees act as an extension of the Board: Advertising, Licensing, Franchise Law, Transaction Recovery Fund and Dealer Practices.

Historically, all committees meet on the second Monday of every other month (January, March, May, July, September and November) in Room 702 at the DMV Headquarters building, 2300 West Broad Street, Richmond, Virginia. The Board meeting follows the completion of the last committee meeting on the same day. However, the September and November 2021 committee and Board meetings were held at the Science Museum of Virginia at the request of the DMV Commissioner for the protection of Board members, DMV and Board staff, and dealers. The Science Museum space ensured all complied with social distancing and spacing requirements in place at the time.

The May 10, 2010, Motor Vehicle Dealer Board meeting was the first Commonwealth of Virginia Board or Commission meeting to be broadcast live over the web. All bi-monthly meetings are broadcast live and available to the public to view until the next meeting. All Board meetings are listed with the Virginia Town Hall and on the Board website, <https://mvdb.virginia.gov/board-meeting-library/>

Next, you will find the statutorily required committees and their responsibilities:

### **ADVERTISING COMMITTEE**

Donald Sullivan, Vice-Chair

#### **Committee Functions**

- To advise the Board and the Board staff on matters related to motor vehicle dealers advertising. The committee is to receive and identify advertising issues. The committee will discuss, and as needed, direct a study or investigate issues to make policy and procedural recommendations to the Board.

- Review staff reports on advertising complaints and violations. Present a summary report to the Board.
- Review, and then make recommendations to the Board, on individual advertising actions proposed by the Executive Director that are required to come before the Board.
- Direct the advertising staff on how they monitor and identify advertising violations and consumer complaints concerning advertising.

### **FRANCHISE REVIEW AND ADVISORY COMMITTEE**

Tom Bates, Chairperson

#### **Committee Functions**

- Advise the DMV Commissioner, through the Board, of any violations of Article 7 (Franchises) of the Motor Vehicle Dealer Act. (See §46.2-1573 (C))
- Assist the Commissioner in assembling panels, made of three Board members, as described in §46.2-1573 (D).
- Meet on an “as needed” basis and not every other month as the other committees.

### **LICENSING COMMITTEE**

Maurice Slaughter, Chairperson

#### **Committee Functions**

- To advise the Board and the Board staff on matters related to the licensing of dealers, dealer-operators and salespersons. The committee is to receive and identify dealer licensing issues. The committee will discuss, and as needed, direct a study or investigate issues to make policy and procedural recommendations to the Board.
- Review, and then make recommendations to the Board, on individual licensing actions proposed by the Executive Director or others who are required to come before the Board.

### **TRANSACTION RECOVERY FUND COMMITTEE**

Chris Maher, Chairperson

#### **Committee Functions**

- Monitor the activities and solvency of the Transaction Recovery Fund (Fund) and report findings to the Board.

- Review staff reports and hearing officer recommendations concerning actions against the Fund.
- Make recommendations to the Board on claims against the Fund.

## **DEALER PRACTICES COMMITTEE**

Andrew Wiley, Vice-Chair

### **Committee Functions**

- To advise the Board and Board staff on issues related to the conduct of business. The committee will receive and identify dealer practice issues. The committee will discuss, and as needed, direct a study or investigate issues to make policy and procedural recommendations to the Board.
- Review, and then make recommendations to the Board, on dealer related issues proposed by the Executive Director or others who are required to come before the Board.

## **ADMINISTRATIVE HEARINGS**

During this reporting, the Board staff conducted a total of 69 administrative hearings<sup>1</sup>, 34 in FY23 and 35 in FY24. An administrative hearing is the result of the dealer or salesperson appealing an administrative action (civil penalty, educational training requirement, denial of license, etc.) taken against the dealer or salesperson by the Board staff. An overwhelming majority of the civil penalties assessed are generated after a dealership has been inspected by one of the 12 agency field representatives. If the appeal is filed within the prescribed guidelines, the dealer or salesperson is allowed to have an administrative hearing to present their case to refute the administrative action.

An administrative hearing is also called when the Executive Director feels that the actions of the dealership or salesperson are egregious and warrant attention greater than a civil penalty. In such instances, the matter will be referred directly to an administrative hearing.

During these administrative hearings, the Board is represented by either the Field Representative Supervisor, the Operations Manager or the Transaction Recovery Fund Analyst. These individuals are the agency experts in their respective areas; therefore, they are the best to represent the agency during administrative hearings.

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<sup>1</sup> Administrative hearing – an Informal Fact-Finding Conference or Formal Hearing.

At the conclusion of the administrative hearing, the hearing officer<sup>2</sup> assigned to the case will make a recommendation to the Board concerning any disciplinary or administrative action that should be taken against the dealer or salesperson.

In all administrative hearings conducted by the Board, any member of the Board's staff may be required to participate in the hearing process as a witness and is expected to contribute their direct knowledge of the facts as they relate to the hearing.

The Board staff implemented the practice of conducting administrative hearings via video conferencing in FY21 to comply with COVID-19 guidelines. The agency continues to utilize this practice which provides many cost and time savings benefits to all involved. A dealer or salesperson may be granted an in-person hearing upon request.

Hearing officers submit their findings/recommendations to the Board's Executive Director who reviews all the recommendations. The Board has granted the Executive Director the authority to make decisions on certain recommendations deriving from Informal Fact-Finding Conferences. During this reporting period the Executive Director exercised this authority concerning four cases, all of which were minor dealer disciplinary related issues that the Executive Director shared with the Board during the next scheduled meeting.

In advance of Committee and Board meetings, all Board members are provided with the hearing officer's recommendations and all evidence presented during the administrative hearings. This includes all comments/exceptions to the report as submitted by the respondent. Using the hearing officer's recommendation as the starting point, the Committee and Board discusses each case individually and makes their respective decisions based on all the information before them, to include the respondent's responses to questions asked.

All respondents are strongly encouraged to attend the Committee and Board meetings, although in most cases, the respondent fails to attend. Those who attend are provided the opportunity to briefly state their position and respond to questions posted by Committee and Board members.

The Board, regarding administrative hearings, has the authority to accept, change or disregard the hearing officer's recommendation. The Board may also remand the matter back to the hearing officer with specific instructions. The Board and the Executive Director have the authority to suspend and revoke licenses, certificates of dealer registration or dealer qualification as outlined in §46.2-1575.

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<sup>2</sup> Hearing Officer – Non-MVDB staff contracted to conduct administrative hearings.

## **BUSINESS ACTIVITIES**

### **LICENSING**

One of the primary functions of the Board is to license franchise (new) and independent (used) automobile, motorcycle, trailer, recreational vehicle dealers and salespersons in the Commonwealth. Of the 3,200 dealerships licensed by the MVDB, 297 of them are Foreign Registrants<sup>3</sup>, Manufactured Home, Non-Profit or Watercraft dealerships. In FY23, MVDB issued or renewed 1,403 licenses, and FY24, that number was 3,060. During this reporting period, approximately 50% of all license renewals were issued for a two-year period.

Many dealerships in Virginia possess multiple endorsements (licenses) which allow them to sell different types of vehicles, i.e., new cars/trucks, used cars/trucks, new trailers, used trailers, new motorcycles, used motorcycles, new recreational vehicles and used recreational vehicles. A franchise dealership selling new trailers, used cars/trucks and used motorcycles is required to have a primary license (franchise trailers) and two endorsements (used cars/trucks and motorcycles)<sup>4</sup>.

By far the largest number of licenses issued each year are to salespersons. In Virginia, salespersons are tied to the hiring dealership. Their license is tied to the dealership's license and expires when the dealership's license expires. A salesperson's license can be transferred<sup>5</sup> to another dealership and will take on the expiration date of the gaining dealership. During FY23, the MVDB issued approximately 11,135 salespersons licenses compared to 17,397 in FY24.

### **TRANSACTION RECOVERY FUND**

During this reporting period, funds were paid out of the Transaction Recovery Fund<sup>6</sup>. The Fund is in place to assist retail purchasers or dealers participating in the Fund who have a judgment from a competent Virginia court finding that fraud was practiced on them by the dealer, or fraudulent representation made to him by a licensed or registered motor vehicle dealer participating in the Motor Vehicle Transaction Recovery Fund or a dealer's salesperson acting on behalf of the dealer or within the scope of his employment.

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<sup>3</sup> Foreign Registrant – By Virginia Code, this dealer is licensed in another state and is only allowed to sell vehicles at Virginia auctions.

<sup>4</sup> Endorsement – a secondary license, not the primary license.

<sup>5</sup> Approximately 2,900 salesperson licenses are transferred annually.

<sup>6</sup> §46.2-1527.3 of the Virginia Code.

Nine of the 69 administrative hearings conducted during this biennial were consumer claims against the Fund. The Board approved all nine of the claims presented.

<b>Transaction Recovery Fund Claims</b>	
Number of Claims	9
Number of Claims Approved	9
Average Payout	\$16,830.45
Total Claims Paid	\$151,474.05

## **ENFORCEMENT/CIVIL PENALTIES**

As stated earlier, when it comes to enforcing the laws, regulations, and policies, the Board’s philosophy is “education first”. If educational efforts do not produce the desired outcomes, then the Board will resort to its enforcement authority. The Board’s primary enforcement tool is to assess civil penalties. In this reporting period, the MVDB assessed civil penalties totaling \$649,950 and collected more than \$493,711 (75%) of the assessed amount. No civil penalty money is retained or used by the MVDB. By law, collected civil penalty assessments are sent to the Commonwealth Transportation Fund. Individuals failing to pay their civil penalties are reported to the Department of Taxation’s Debt Set-Off Program for collection and the overwhelming majority end up losing their license to be a dealer or salesperson in Virginia.

During the reporting period roughly 2% of all initial civil penalty assessments were appealed to an administrative hearing. 255 administrative actions<sup>7</sup> with civil penalties were accepted by dealers and salespersons. In all instances involving administrative actions, the dealer/salesperson is allowed to present their position to the Executive Director and his staff. The assessed penalty may be adjusted depending on the evidence/information presented. However, in most instances, the dealer or salesperson opts to pay the assessed civil penalty rather than risk the possibility of being assessed greater penalties during an administrative hearing.

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<sup>7</sup> Administrative actions – Corrective steps taken against the dealer or salesperson to bring them into compliance.



## DEALER EDUCATION

The Board, in partnership with the DMV, offers the following exams at all DMV Customer Service Centers.

Exams		
<i>Exam Type</i>	<i>FY23</i>	<i>FY24</i>
Combined Dealer-Operator	360	421
Franchise Dealer-Operator	24	29
Independent Dealer-Operator	215	165
Salesperson	5,083	5,526
Totals	5,862	6,141

Legislation initiated by the Board and adopted by the 2005 General Assembly requires all applicants for an original independent dealer-operator certificate of qualification to successfully complete a course of study before they can take the certificate of qualification test. Working with the Virginia Independent Automobile Dealers Association (VIADA), a two-day class was instituted. The partnership between the Virginia Community College System (VCCS) and the VIADA ended in 2018. Currently, the VIADA conducts all the two-day, in person dealer-operator classes. During this reporting period, 42 dealer-operator classes met and over 1,000 attendees successfully completed the two-day course. The vast majority of those attending the two-day class did so voluntarily while others attended the course as mandated by the Board.

Dealer-operators typically run the day-to-day affairs of the dealership. In 2011 the Board, to educate independent dealer-operators and keep them abreast of the ever-changing business, implemented continuing education using the regulatory process. This process required all independent dealer-operators to recertify every three years by taking an online course or taking a dealer-operator exam at any DMV Customer Service Center. During this period, 1,740 dealer-operators recertified, which was the last group to recertify under the previous three-year requirement. Legislation (HB 1107 – Wyatt) passed by the 2023 General Assembly changed the recertification process. The legislation, pushed by the VIADA, required the dealer-operator to recertify every two years and required the training had to be instructor-led, whether it was conducted online or in person.

One of the Board's greatest outreach efforts and educational tools is the *Dealer Talk* newsletter. This newsletter is published six times<sup>8</sup> yearly. The focus of the newsletter is to educate dealers regarding business trends, statutory requirements, changes in laws, policies and regulations. Through the newsletter, the dealer community is introduced to recommended best practices and learn of administrative actions taken by the Board and Board staff against licensed dealers and

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<sup>8</sup> Published in February, April, June, August, October and December.

salespersons. The newsletter is emailed to over 9,100 business/individuals and is posted on the agency's website.

Dealers and others may subscribe to our email list to receive periodic messages and news related to Virginia dealers and the dealer community. In addition, the agency's Education Coordinator works closely with the trade associations (Virginia Automobile Dealers Association (VADA) and VIADA) and the DMV to educate and inform the dealer community via SendPulse, a targeted email platform, and dealer training classes. Lastly, the Board's Executive Director gives presentations at various association meetings and seminars throughout the state and during this biennial period served as the President of the National Association of Motor Vehicle Boards and Commissions. In this role, he shared many of Virginia's licensing and administrative processes with association members as best practices in hopes of establishing national standards.

### **DEALER LICENSE PLATES**

The DMV is responsible for allocating and distributing license plates, including dealer's license plates. To create a "one-stop shopping" experience for dealers, the Board and DMV maintain a Memorandum of Understanding that authorizes the Board to distribute dealer license plates. The following table displays the number of dealer plate transactions handled during the reporting period by Board staff:

<b>Dealer License Plate Transactions</b>	
<i>FY23</i>	<i>FY24</i>
7,207	24,718

### **CONSUMER ASSISTANCE**

The Motor Vehicle Dealer Board employs two full-time employees whose primary responsibilities include responding to consumer concerns and initiating investigations on the consumer's behalf. It is not the intent, nor shall Board staff act as legal counsel to the consumer at any time.

Consumers wishing to file a complaint, seeking mediation or assistance with a dealer matter can do so in several ways. By an overwhelming margin, calling the Board staff and talking to one of the consumer representatives is the most common method used by consumers. Other methods include submitting a consumer complaint form (via our website), emailing, sending letters/faxes, and in person visits at our Richmond location.

During this biennial period, the Board staff assisted with approximately 6,000 consumer assistance requests<sup>9</sup>. This assistance does not include a multitude of phone calls, emails and office visits

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<sup>9</sup> In previous Biennial reports, the total number of consumer complaint calls received was reported.

which were also received by the field representatives and Board staff. In many instances, the MVDB staff served as a mediator between the consumer and the dealership. Unfortunately, staff had to present consumers their legal options as the majority of the complaints proved to be civil matters and out of the purview of the MVDB. The most common questions and complaints received from consumers were related to:

1. Title/Registration related matters
2. Out of business dealerships
3. Contract/Pricing questions and disputes
4. Vehicle service and repairs
5. Vehicle warranties
6. State inspections

On the agency's website ([www.mvdb.virginia.gov](http://www.mvdb.virginia.gov)), consumers can register a complaint against a dealer by completing the "Request for Consumer Assistance" form. Once completed and submitted by the consumer, Board staff will review the submission and respond accordingly. In this reporting period, there were 393 formal customer complaints that resulted in a violation letter or Board action. The MVDB works feverishly to ensure that all "Request for Consumer Assistance" submissions are replied to within 48 hours.

In the meantime, the Board staff is expending its energies working with individual dealerships and updating the Board's website to educate consumers and the dealer community about Virginia's advertising laws, policies, and providing links for consumers regarding purchasing vehicles. This effort is in line with the Board's philosophy of "education first".

### **ADMINISTRATIVE ACTIONS – Advertising**

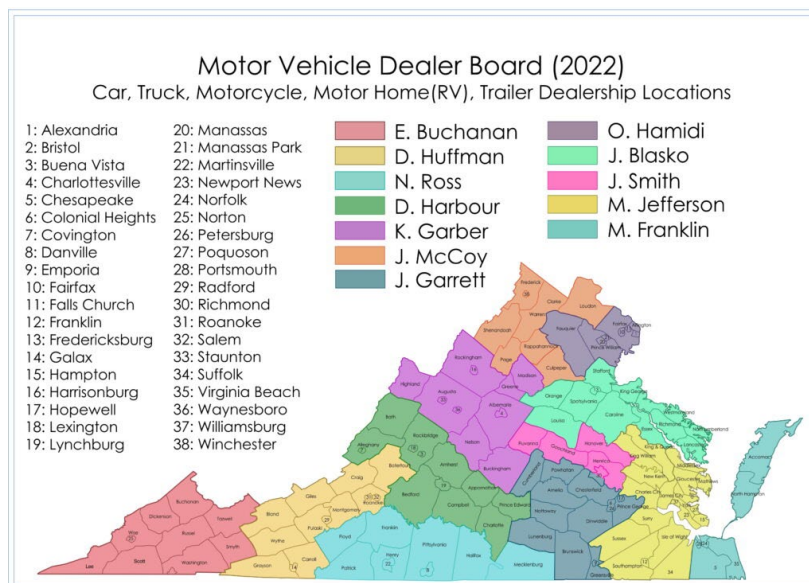
Keeping the "education first" intent in mind, the MVDB staff routinely publishes articles in the Board's *Dealer Talk* newsletter concerning identified trends in advertising violations and clarification of advertising laws and regulations.

Board staff randomly reviews internet, social media sites, dealership websites and vehicle sales advertisements to ensure compliance with our laws and regulations. In cases where there appears to be a violation, Board staff will initiate a phone call or letter (email) to the dealer to address the advertising issue in question, review the alleged violation(s) and provide directions for revising the advertisement as needed. Repeat offenders most likely will receive a civil penalty. Most advertising violations involve improper disclosures as required by Virginia Code. During the reporting period, there were 32 written advertising violations.

During this biennial period, the Board has been aggressive in monitoring dealer business practices, i.e., operating hours, insurance on dealer tags, safety inspections, unlicensed salespersons, failure to provide title within 30 days, as well as other dealer practices. More attention is needed in the advertising arena. The Board staff is challenged when monitoring dealer advertising on social media platforms. The Board staff is exploring innovative methods and processes to monitor the exploding dealer advertisement market, which has grown via the internet and other social media platforms. As we move forward, the Board staff will be better positioned to deal with advertising via social media and has started addressing this issue. This is essential to maintaining a level playing field for all licensed dealers.

## FIELD OPERATIONS

The Commonwealth is home to approximately 3,200 licensed franchise and independent dealerships. With new dealerships opening and closing weekly, our field operations staff is very busy and is the backbone of the agency. The field representatives serve as the eyes and ears of the agency across the Commonwealth while working closely with consumers, dealerships and law enforcement personnel. Divided into six districts, there are twelve field representatives ready to assist dealers and consumers by providing education, guidance and enforcement as it pertains to Virginia's dealer licensing laws. Each field representative has an assigned area that they are alone responsible for. Their geographic area typically covers several counties, and all the independent cities/towns located within their assigned area. All field representatives are resources for one another and have the freedom to assist each other when the need or situation warrants.



In addition to inspecting dealerships, field representatives investigate consumer complaints, participate in association functions/meetings in their assigned areas and work with law enforcement agencies in criminal investigations. Working to educate the dealer community, the field representative serves as a liaison between the consumer, dealer, and the MVDB.

During FY23, field representatives performed approximately 3,391<sup>10</sup> inspections. During FY24, field representatives performed approximately 3,177<sup>11</sup> inspections.

## **SELECTED AGENCY INITIATIVES AND LEGISLATION INSTITUTED**

**HB 1106 (Wyatt) / SB 452 (Marsden)** – Allows dealer-operators the ability to recertify their qualifications by taking one of the three dealer-operator examinations at any DMV Customer Service Center in lieu of attending the instructor led course. The cost of the exam is \$50 and will be paid at the time of the exam. The applicant may take the exam as frequently as they would like, however, they must pay \$50 for each exam.

**HB 1107 (Wyatt)** – Authorizes the Board to establish the cost of an examination of licensee records, which existing law requires the licensee to pay if such examination shows a violation of law. This legislation removes the Board’s ability to recover such costs in a court of competent jurisdiction and allows the Board the authority to deny, suspend or revoke a dealer’s license, certificate of registration or qualification when the dealer fails to pay the examination costs.

**Dealer Licensing System (In Process)** – The purpose and implementation of the Dealer Portal is to provide a web based online licensing system to streamline and expedite the issuance of dealer and salesperson licenses and a more responsive means to submit requests for services that are currently provided by the MVDB in addition to allowing the dealerships to perform other functions such as updating MVDB required information (contact information, hours of operation, processing fees, etc.) and remitting payments online.

During the July 2021 Board meeting, the Board authorized the Executive Director to negotiate and sign the contracts for System Automation, the VITA approved software vendor selected to build the MVDB dealer licensing system. On behalf of the Board, the Executive Director signed a contract with System Automation in May 2022 to build the licensing system. The MVDB’s loss of its IT Coordinator (only IT resource) in May 2023 brought the project to a standstill. The replacement, hired in August 2023, left the agency in May 2024, again delaying the project. The agency hired an IT Coordinator who has previous experience with the vendor and the DMV. His

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<sup>10</sup> Includes 282 closing inspections and 195 opening inspections.

<sup>11</sup> Includes 291 closing inspections and 228 opening inspections.

official date of service began November 10, 2024. We look forward to reestablishing dedicated focus to this important initiative.

**Advertising** – The MVDB is increasing its focus on dealer advertising due to increased online advertising on social media platforms and other websites, particularly those requiring memberships or invitations to belong. MVDB staff is working with VITA and consulting with the Virginia State Police (VSP) to learn how VSP monitors social media platforms.

## **FISCAL AFFAIRS SUMMARY**

In FY96, through the APA process, the Board adjusted licensing fees that dealers paid to the Board. These fees cover all the Board's expenses. When these fees were adjusted, it was done with a five-year planning horizon. The plan was for the Board to collect sufficient yearly revenues to accumulate a fund balance that would meet operational needs throughout that five-year period.

Business processes implemented by the Board staff expanded the original five-year projection. This fee structure provided an adequate revenue base that supported the Board until the fees were adjusted in December 2007. The Board successfully completed the APA Regulatory process in Fall 2007 to adjust fees. The new fees became effective December 1, 2007, nearly twelve years after the initial fees were put in place.

The 2007 fee structure was designed to produce balances in the first few years to support expenditures that would exceed revenues in future years. When the new fee structure was developed, it was projected that the new fee structure would provide an adequate revenue stream through 2013.

Legislation adopted by the General Assembly in 2014 capped the fees that dealers could be charged, but more importantly, this legislation gave the Board the authority to adjust fees not exceeding the cap. In July 2015, in concert with legislation that moved the oversight of motorcycles, trailers, and recreational vehicles from the DMV to the Board, the Board exercised its authority and adjusted dealer fees, which were sufficient until the Board decided that the dealer community needed enhanced technology with expanded online service options and additional funding was needed by the Board staff for rent, salary increases, and to fill vacant positions. On December 1, 2021, fee increases authorized by the Board in September 2021 became effective.

The Board's financial accounting and reporting functions are provided by the DMV. Because of this joint effort, the Board has been able to conduct its statutory responsibilities and its financial

management functions in a most cost-effective manner. Increasing information technology expenditures, salaries/benefits, equipment, and vehicles require the Board to continuously review the fee structure to ensure adequate revenue is in place to support the agency and its mission going forward.

The Board's operating revenues, expenditures/transfers and year-end balances for FY23 and FY24 follow:

<b>FISCAL AFFAIRS REPORTING</b>		
	<i>FY23</i>	<i>FY24</i>
Revenues	\$3,237,765	\$3,302,687
Expenses/Transfers	\$3,136,496	\$2,959,927
Cash Balance	\$2,084,671	\$2,410,279