



The ability of Virginia dealers to charge a processing fee to the customer is the result of a long, arduous, and hard fought battle. Processing fees have been a lightning rod for complaints for years. This association regularly hears from legislators who hear complaints about processing fees.

Under present law, dealers may charge or not charge a processing fee at their own discretion. If they charge a fee, the amount may be chosen by the dealer in its own business judgment, provided that the fee and the amount is filed with the Motor Vehicle Dealer Board and is disclosed in accordance with the law.

From time to time, VADA receives questions from dealers who wish to charge additional fees not provided for in the Code. Most recently, we have seen fees for preparing and for handling the vehicle, vehicle prep, PDI, reconditioning and similar sorts of fees not specifically created by Code.

While VADA does not express an opinion on these other fees, VADA normally notes several things for dealers who ask these questions:

- The right to charge fees in addition to processing fees is questionable. The procedure for charging a processing fee and the means of disclosing it are set forth in the law. You should carefully comply with the disclosure requirements for your processing fee. Since the activities that can be included as processing fees are nearly boundless, fees for other activities may simply be considered processing fees under another name. In this circumstance, another fee that doesn't carry the precise term required by the Code, and that is not disclosed in accordance with the Code, and is not filed with the Motor Vehicle Dealer Board as required by the Code, may be considered a violation of the law.

**Additionally, both the Motor Vehicle Dealer Board and the FTC have been very aggressive in their enforcement actions against dealers whose ads include pricing that is deceptive, whether by use of added fees or stacking rebates.** The price included in the ad should reflect all charges the customer must pay and the advertising watch dogs on the state and federal level have cited dealers for additional charges and qualifiers included in disclaimers.

- Activities for handling the vehicle, preparing a vehicle, or other activities, especially with respect to new vehicles, may be included in the preparation and handling fee provided by the manufacturer to the dealer. An additional charge for these activities could run afoul of the Virginia Consumer Protection Act as charges to consumers for which the dealer has already been compensated.
- If the practice of charging other fees becomes widespread, once again the General Assembly will start asking why dealers should be entitled to a broadly applicable processing fee that they can set at their own discretion if certain dealers are only going to be charging for other specifically delineated services not specifically provided for by the Code.

If you are using or think you are using fees not specifically provided for in the Code, we suggest that you contact your legal advisor as to the propriety of that activity.

There are no points for creativity in charging these types of fees.