

# THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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## Dealer associations from across North America convene to discuss hot button industry topics

### The Annual Automotive Trade Association Executives' Summer Conference July 12-16

Dealer associations from NADA on down to MADA, VADA and WANADA and all state, provincial and metropolitan area groups in between in North America came together last week in Banff, Canada to compare notes on dealer organization programming and member services. Topping the agenda at the multi-day conference of the Automotive Trade Association Executives (ATAE) were franchise protection, misguided government regulation, auto safety recalls and auto shows, which had its own separately arranged conference through Auto Shows of North America (ASNA).

Franchise protection focused on challenges to state dealer licensing laws, posed by Tesla's ongoing plan to retail its high end ECs without dealers. Franchise relations was covered in a high level OEM presentation of its plans to reposition its brand in the U.S. market with the support of its national dealer network.



Johan de Nysschen, president of Cadillac & executive vice president of GM, speaking at the ATA Summer Conference

Government relations conversations included the Consumer Financial Protection Bureau's ongoing quest to reorganize dealer credit arranging through banks they regulate. Responding to CFPB's allegation that minorities are discriminated against in dealer credit arranging, NADA presented their member guide for dealers to document their fair credit practices. NADA further reported on legislation they're shepherding through Congress to compel regulatory policy transparency and agency accountability from CFPB to elected leaders (see Senate Bill 2663, reported in WANADA Bulletin, #25-16, July 7, 2016).

Other government relations challenges spotlighted and discussed were new anti-employer actions by the National Labor Relations Board attacking such long established NLRB polices as the exemption of dealer service writers from federal overtime pay provisions.

Managing vehicle safety recalls at the dealer level was another *hot button* with the unprecedented level of NHTSA inspired recalls that have occurred in recent times.

Innovative state legislation, like the bills enacted in Virginia and Maryland this year regarding automaker obligations to their dealers and the industry's overall obligation to consumers on recalls, were also shared for comparison purposes.

The ASNA meeting that preceded the ATAE Conference gave WANADA staff the opportunity to discuss successful promotional programming among the dealer associations that produce auto shows, along with important logistical systems to facilitate such things as the need for tighter show security.

WANADA CEO John O'Donnell and some of his senior staff attended ATAE's Summer Conference and the ASNA meeting. Mr. O'Donnell, who was elected to the ATAE Board of Directors by his peers earlier this year, participated in the ATAE leadership meeting that occurred before the general session.



From the left, CEO members of ATAE Pete Kitzmiller (MADA), John O'Donnell (WANADA) and Don Hall (VADA), all in attendance at the Summer Conference.

## In reversal, NLRB makes it easier for workers to join a union



The NLRB decision makes it easier for employees to organize collective bargaining units.

The National Labor Relations Board has issued a decision that makes it easier for staffing agency employees to join with regular employees to organize collective bargaining units to form unions.

The decision in the case of *Miller & Anderson, Inc* (05-RC-079248) says that workers supplied by a staffing agency can be included in a single bargaining unit with regular employees and do not need the consent of both employers, as they did previously. NLRB said that the two types of employees must share a “community of

interest,” meaning they share supervisors and conditions of employment, such as pay and benefits.

The decision reverses the ruling in a 2004 case, *Oakwood Care Center* (343 NLRB 659), which in turn reversed a 2000 decision, *MB Sturgis, Inc.* (331 NLRB 1298). NLRB decisions often reflect the views of the current administration which is clearly the case here. NLRB is currently inviting input from interested workplace groups on its new decision.

## DC DMV's new same-day dealer window transactions policy

**Effective Tuesday, August 2, 2016**, DC DMV will process same-day Dealer Window Vehicle Registration and Titling transactions for vehicles with less than 15 days left on their dealer-issued temporary tags. For vehicles with 15 or more days left on their dealer-issued temporary tags, the dealership runners must use the Processing Center drop-off service with the 7 business days turnaround time. See below for the guidelines.

**Same-day Dealer Services** – Customer Service Windows – Maximum of 3 transactions daily.

Tuesday, Thursday, Friday, Saturday – 8:15 a.m. to 3:00 p.m.

Wednesday – 9:15 a.m. to 3:00 p.m.

**Drop-off and Pick-up Dealer Services** – Processing Center – 7 business days processing time.

Tuesday, Thursday, Friday, Saturday – 8:15 a.m. to 12:00 p.m.

Wednesday – 9:15 a.m. to 12:00 p.m.

## Virginia Motor Vehicle Dealer Board July report

The Virginia Motor Vehicle Dealer Board (MVDB) with its auto industry balanced leadership discussed a variety of issues at their July 11 meeting, ranging from insurance of dealer tags to alleged violations by the Tesla dealership in Tysons Corner.

*Insurance of dealer tags:* MVDB has been studying this issue and determined that many dealers have blanket coverage for all tags, and other dealers have coverage for enumerated tags only. The Board decided not to change its policy on inquiries about dealer tag coverage during inspections.

*Insurance agencies in dealerships:* MVDB staff had questions whether a Nissan dealership could continue to operate the Allstate agency it had opened in the store. The agency sells all forms of insurance. The staff contended that under Virginia law, a dealer's building must be dedicated exclusively to the automobile business. MVDB determined that the law requires only 250 square feet to be devoted to vehicle sales, such that a dealer with a larger building can have other businesses operating on site so long as they are effectively separated from the amount of space dedicated to sales.

*Shift used-car business:* MVDB's executive director reported on his activities involving the web-based used-car business Shift. Working with DMV investigators, MVDB staff determined that Shift is in the business of retailing used cars in Virginia, and it must be licensed. MVDB staff has put the company on notice and has said it will consider criminal action if Shift ignores its obligations under Virginia law.

*Tesla violations:* VADA has filed a complaint with the MVDB alleging multiple violations by the Tesla dealership in Tysons Corner. The information was developed during a hearing about Tesla's request to own its own dealership in Richmond. The executive director reported that the MVDB staff is currently investigating the complaint.

*Thanks to WANADA advisor and dealer lawyer Mike Charapp of Charapp & Weiss, LLP for backgrounding this report.*



Tesla has asked to build its own retail store in Richmond like this one in Century City, CA.

## Economic analysis shows franchise laws benefit consumers



Consumers have benefited from the auto franchise system, new study finds.

A new study by two economists at the nonprofit Phoenix Center concludes that state franchise laws do not limit competition and in fact lower prices for consumers. The analysis was done in response to a recent inquiry posed by the Federal Trade Commission as to whether these decades-old laws still benefit consumers.

“All the evidence suggests that there is intense competition leading to very low margins on new-car sales,” said study coauthor and Phoenix Center Senior Fellow T. Randolph Beard.

Instead of consumers engaging in one-off transactions with powerful manufacturers, dealerships are in a continual relationship with manufacturers and choose to bundle sales and service in a manner preferred by consumers, the Phoenix Center said.

“When selling an automobile-service bundle, our analysis indicates that franchised auto dealers have a better incentive with respect to consumer desires than car manufacturers,” said study coauthor and Phoenix Center Chief Economic George S. Ford.

The Phoenix Center is a Washington-based nonprofit that studies broad public policy issues related to governance and social and economic conditions.

## Auto loans lengthen, but buyers stay in loans for less time

A new study by TransUnion found that even as the term of new auto loans has increased, the time a consumer stays in the loan has shortened.

The average term for new auto loans rose to 67 months in 2015 from 62 months in 2010. In third-quarter 2015, seven in 10 auto loans were longer than 60 months, compared with just half of loans five years earlier.

“Longer-term auto loans have grown in popularity as consumers aim to keep monthly payments at a certain threshold,” said Jason Laky, TransUnion senior vice president. “However, consumers are keeping their loans for a shorter period.” That is likely because low interest rates allow more borrowers to refinance their loans.

Very long loans have grown. One quarter of loans originated in third-quarter 2015 were between 73 and 84 months, compared with just 10 percent five years earlier.

Even as average loan amounts increased, the average monthly payment dropped. In third-quarter 2015, the average new loan amount was \$21,368, compared with \$18,009 in third-quarter 2010. The average monthly payment dropped to \$398 from \$420.

But consumers with longer loans are more likely to be seriously delinquent (60 days or more past due) than those with shorter terms, even when controlling for credit score.

## U.S. gas prices fall for 30 straight days

Pump prices have fallen for 30 days running and have hit their lowest point for mid-July since 2004, according to the American Automobile Association. The national average price for regular, unleaded gas is \$2.23 per gallon. But in DC, which has the seventh highest price in the nation compared with all states, it's \$2.51.

Prices are expected to stay low for the immediate future as both crude oil and wholesale prices are down. A recent Energy Department report said that domestic gasoline production is just 100,000 barrels per day short of the all-time record – another factor that should keep prices low.

Gas prices are of continuing interest to the auto industry because of their demonstrated effect on sales of SUVs and light trucks. Those sales have risen in recent months, even in the sedan-dominated Washington area retail vehicle market.

## Most small SUV headlights get poor rating in safety test



Not a single small SUV out of 21 tested earns a good rating in the Insurance Institute for Highway Safety (IIHS)'s headlight evaluations, and only four had an acceptable rating. Of the 47 possible headlight combinations, more than two-thirds were rated poor.

The problem, said IIHS: Government standards are based on lab tests, which don't accurately gauge performance in

real-world driving. That's important because about half of traffic deaths occur either in the dark or around dawn or dusk.

The evaluations showed that the quality of the headlights is not connected to the vehicle's price. Nor are modern lighting types, including high-intensity discharge (HID) and LED lamps, and curve-adaptive systems, which swivel in the direction of steering, a guarantee of good performance.

The only type of technology that improves a vehicle's rating is high-beam assist, which automatically switches between high and low beams based on the presence of other vehicles. The feature is helpful because it could increase the low rates of high-beam use.

The best-performing headlights in the small SUV group are on a new model, the Mazda CX-3, available on its Grand Touring trim. The other vehicles with acceptable headlights are the Ford Escape, Honda CR-V and Hyundai Tucson. The worst headlights are on the Honda HR-V.

## Study suggests more focus on medium, heavy truck emissions

A new study examining long-term trends in the contribution of transportation to total U.S. greenhouse gas emissions suggests that medium-and heavy-duty trucks could be the next frontier.

The study by the University of Michigan found that the relative contribution to total U.S. emissions of the largest sector, industry, *decreased* from 1990 through 2014. The transportation, commercial, residential and agriculture sectors *increased* their contribution to emissions. In transportation, most of the increase came from medium and heavy trucks rather than passenger cars and light trucks.

Based on the results, the researchers say we can expect more emphasis on reducing emissions from non-industry sources, including transportation – especially medium and heavy trucks.

## DC Council delays paid family leave bill until fall

The DC City Council has delayed the initial vote on a paid family leave bill until the fall, reports the *Washington City Paper*.

The original proposal would have required all District employers to offer 16 weeks of paid family leave to workers caring for a family member, with the rate tied to income. After experts estimated that implementation would cost from \$280 million to more than \$1 billion, the proposal was scaled back to 12 weeks at a lower pay rate. The revised bill could be cut again.

The paid leave was to be financed by a 1 percent employer tax on payroll, but that could also be cut back in a future version. Council Chairman Phil Mendelson has said the DC Council is working to strike a balance between its desire to offer paid leave and to remain competitive with Maryland and Virginia, the *City Paper* said.

Although the District no longer has any franchised dealerships, those in neighboring jurisdictions are always aware of the competitive landscape for finding quality employees.

### Thought for the Week ...

If we have no peace, it is because we have forgotten that we belong to each other.

--Mother Teresa