

THE WANADA BULLETIN

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

WANADA Bulletin # 38-16

October 4, 2016

Headlines...

Washington Auto Show reps visit sister show in Paris

WANADA Annual Meeting is less than a month away, Nov. 2

Amended Military Lending Act could affect dealers

WANADA's 100-year anniversary gala is April 1, 2017

Changes in federal overtime rule effective Dec. 1

Automakers, lawmakers raise CAFE concerns

DOT issues autonomous vehicle guidelines

Consumer confidence reaches post-recession high

Staying Ahead...

Washington Auto Show reps visit sister show in Paris

U. S. ambassador to France hosts WANADA, NADA, OICA



Industry/Media Day at the Paris Motor Show.



WANADA and guests with U.S. ambassador to France. From the left, Charles Stringfellow, WANADA; Nancy Carlson & Jeff Carlson, NADA; Ambassador Jane Hartley; Peter Welch, NADA; John O'Donnell, WANADA; Christian Peugeot, French Automakers; and Yves Van der Straaten, *Organisation Internationale des Constructeurs d'Automobiles* (OICA).

As one of the grandest events of its kind, the Paris Motor Show attracts media and industry executives from across the globe as the *2017 Mondial de l'Automobile en Paris* launched last week with its Industry/Media Days, Sept. 29-30. As a rule, a number of major auto shows on the global circuit mix with media and industry executives in Paris, including the Washington Auto Show (WAS) represented by a delegation led by WANADA CEO and show producer John O'Donnell.

This year's WANADA visit to the Paris Motor Show was positively accentuated at the outset by a special reception hosted for the Washington Auto Show and their guests by the American ambassador to France, Jane Hartley. Other industry notables at the ambassador's embassy reception were NADA dealer

chairman Jeff Carlson and O’Donnell’s CEO counterpart at NADA, Peter Welch. The European OEMs were represented at the ambassador’s residence, too, by Christian Peugeot, president of the French Automakers, *Comite des Constructeurs Francais d’ Automobiles* (CCFA) which sponsors the Paris Auto Show, along with Yves Van der Straaten, secretary general of the OEM group, *Organisation Internationale des Constructeurs d’Automobiles* (OICA).

WAS Committee member and WANADA officer, Charles Stringfellow joined O’Donnell representing Washington, as did WAS director of communications Barbara Pomerance, WAS show manager Bob Yoffe and WANADA counsel Gerard Murphy.



Pictured left, from the left, Jeff Carlson, NADA; John O’Donnell, WANADA; and Ambassador Hartley; with Christian Peugeot, CCFA, in the background. Pictured at right is the residence of the U.S. Ambassador to France in Paris.

“Auto Shows like ours in Washington attend the big European shows to essentially ‘fly the flag’ of our expo before all the automakers who are there,” said O’Donnell. “So what better way to do that than with the *full faith and credit of the U.S.*, which Ambassador Hartley perfectly symbolizes?” O’Donnell also recognized WANADA’s consultant on DC government relations matters, Doug Patton, for lining up the ambassador, with whom Patton has had a longstanding business connection and friendship.

Making the rounds at the Paris Motor Show with the plethora of industry leaders gave WANADA the opportunity to present the 2017 Washington Auto Show Industry/Media Days plan to OEM exhibitors in attendance. This WAS plan includes the expansion of last year’s Industry/Media Day symposium, *MobilityTalks International: a Peer to Peer Exchange of Best Practices*. Industry/Media Days, additionally, will move to broadly present cutting edge technological directions in automotive design, especially in the autonomous vehicle realm, where a series of VIP ride and drives will be an important component.



Pictured left, from left, Charles Stringfellow, WANADA, with Sage Marie, senior manager of PR, American Honda. Pictured center, from the left, Scott Keogh, president, Audi of America, with John O’Donnell, WANADA. Pictured right, from the left, Rod Alberts, Detroit Auto Show, with O’Donnell.

Industry/Media Days will launch the 2017 Washington Auto Show commencing January 26-28 with symposium presentations before Congress on Capitol Hill; a new, unique approach to autonomous car demonstrations; and a wide array of OEM new product announcements and new vehicle roll outs.



Featured at the Paris Motor Show, pictured left, the Jaguar F-Type SVR. Pictured right, the Vision Mercedes Maybach 6 sports car.

WANADA Annual Meeting is less than a month away, Nov. 2

WANADA dealers, Kindred-Line members, key managers, business associates and dealer community friends will not want to miss WANADA's 2016 Annual Meeting and Luncheon, featuring former U.S. Senator Scott Brown as the keynoter. The event, on Wednesday, November 2, will be at the Ritz-Carlton Tysons Corner in McLean, VA, from 11:30 a.m. to 2:00 p.m.

Sen. Brown has a long history of public service, including many years in both houses of the Massachusetts legislature before being elected to Edward M. Kennedy's seat as the first Massachusetts Republican elected to the U.S. Senate in more than 40 years. Brown was on several key Senate committees, including the Committee on Homeland Security and Governmental Affairs and the Committee on Small Business.



Former Senator Scott Brown

Sen. Brown was a popular contributor to Fox News and was a *New York Times* bestselling author for his book *Against All Odds*.

WANADA's Annual Luncheon will include a state of the industry and regional automobile business report from WANADA's leadership. Members will also elect WANADA's 2017 Board of Directors.

The WANADA Annual Meeting and Luncheon is sponsored by Armatus Dealer Uplift (formerly Armada); BG Products and Services; and SunTrust Bank.

To register for the meeting, click [here](#).

Amended Military Lending Act could affect dealers



At issue is whether the amended regulation covers financing of a motor vehicle plus other related items.

The Department of Defense (DOD) recently amended the Military Lending Act that imposes certain restrictions and requirements on creditors – including, potentially, auto dealers – when they extend credit to service members and their dependents.

That “potentially” is the question. The changes in the law, which take effect October 3, 2016, excludes from its coverage “any credit transaction that is expressly intended to finance the purchase of a motor vehicle when the credit is secured by the vehicle being purchased.” That exclusion would seem to indicate that the new rules do not apply to auto dealers originating vehicle financing.

But a recent DOD interpretation of a separate exclusion to these requirements has caused some observers to question whether DOD views the motor vehicle exclusion as narrow and applying only to the financing of the vehicle itself, and not to related items that are financed with the vehicle. To date, DOD has been *unwilling* to meet with NADA to clarify the scope of the exclusion.

Because of this uncertainty, NADA anticipates that some finance sources that take assignment of credit contracts from dealers may communicate with them about this topic soon. So NADA asked lawyers from Covington and Burling to prepare a general analysis of the scope of the motor vehicle financing exclusion. Attorney Andrew Smith explained in his analysis why the amended regulation covers the financing of a motor vehicle *plus* other related items, so the requirements of the amended regulation should not apply to dealers who engage in such financing.

Smith offered several *caveats*: Most important, there is no guarantee that courts, administrative agencies or others reviewing the issue will agree with his analysis. Second, finance sources that participate in indirect auto financing may have a different view and so may require dealers to perform or refrain from certain actions that relate to credit contracts dealers assign to them. The analysis by Smith is not intended as legal advice to individual dealers. It is essential, then, for dealers to consult their own counsel for legal advice on whether and to what extent the amended MLA Regulation applies to their individual operations.

WANADA’s 100-year anniversary gala is April 1, 2017

It may seem like a long way away, but WANADA is already excited to announce a gala evening marking the association’s 100-year anniversary on April 1, 2017. We are asking for historical pictures of your dealership and/or events to help in the assembly of a first class videography show.

Please contact one of these WANADA staff for related questions:

Historical pictures and/or dealership historian
Sponsorships
Registration

Joe Koch, jk@wanada.org
Bob Storin, rs@wanada.org
Kathy Teich, kt@wanada.org

Changes in federal overtime rule effective Dec. 1



Positions exempt from overtime typically include in-house attorneys.

The U.S. Department of Labor has revised its “white collar” overtime exemption rules, effective December 1. WANADA staff recently sat in on a webinar on the new rule, hosted by NADA chief regulatory counsel Doug Greenhaus, and offers a recap here. NADA and several other employer trade groups have challenged the rule in federal court. But until the court makes a decision, dealers should plan to comply with the new rule starting in December.

The new rule adjusts salary thresholds but makes no changes to job duties tests. For most white collar employees, the salary threshold for exemption from overtime pay will more than double, from \$455/week (\$23,660/year) to \$913/week (\$47,476/year). The new salary thresholds will automatically increase every three years starting in 2020.

Until December 1, bonuses and incentive pay do not count. After December 1, up to 10 percent of the salary threshold may be satisfied by nondiscretionary bonuses, incentive pay or commissions, if paid at least quarterly. Catchup payments are allowed in the first pay period of the following quarter.

Job duties tests, though they will not change, are detailed for each job category (executive employees, administrative employees, “learned” professionals such as in-house attorneys and accountants, computer professionals, outside sales and highly compensated employees).

To ensure compliance with the new rule, NADA recommends that each dealer carefully review how and how much white collar employees are paid. Dealers may decide to revise their pay plans in any combination of three ways:

- Increase salaries to new thresholds;
- Reduce or eliminate overtime where possible, or divide jobs between two or more employees;
- Increase commission compensation to satisfy “commissioned employee” exemption.

More information is available in NADA’s new guide, *A Dealer Guide to Federal Wage and Hour, Child Labor, and Wage Discrimination Compliance*. The guide is included with NADA/ATD membership and is \$129 for nonmembers. To obtain a copy, click [here](#) or call 800-557-6232.

Automakers, lawmakers raise CAFE concerns

The revised fuel economy rules have been controversial since the Obama administration introduced them in 2012. But the midterm report issued by the Environmental Protection Agency and National Highway Traffic Safety Administration this summer only added fuel (so to speak) to the fire.

The report said that automakers would likely fail to meet the goal of 54.5 mpg by 2025. Still, the agencies expressed confidence that the goal could be met and appeared disinclined to change the target. For more information on the report, click [here](#).

In late September, the House Energy and Commerce Committee held a hearing on the midterm report and future fuel efficiency goals. Automakers and some members of Congress voiced their



Fuel-efficient alternative fuel vehicles, like the Nissan Leaf, aren't selling well enough for automakers to meet the fuel economy standards for 2025, automakers say.

concern over the stringent rules, especially in light of the low gas prices that have driven consumers to buy more SUVs and light trucks.

“If we jam standards that are inconsistent with consumer behavior, we’ll jeopardize the health of this industry, cost thousands of jobs, diminish environmental gains and sacrifice improved safety standards,” said Mitch Bainwol, president of the Alliance of Automobile Manufacturers. “The way to get it right is to honestly acknowledge the impact of low gas prices so future targets are achievable, to recognize consumer demand for more powerful vehicles, and to finally harmonize government programs to reduce inflationary compliance costs.”

The Alliance said the standards must acknowledge the importance of consumer affordability – an issue NADA has also emphasized – and of vehicle safety.

Some members of Congress also expressed concern about the rules’ effect on vehicle affordability and safety. Rep. David McKinley (R-WV) said it was a particular problem for people in rural, low-income states, according to *The Hill*.

Rep. Pete Olson (R-TX) worried about how the rules were affecting dealers. He told the committee about a Texas dealer who was forced to stock electric cars that were taking space from the pickups and SUVs his customers wanted, *The Hill* reported.

The final rules will be adopted by the next administration no later than April 1, 2018.

DOT issues autonomous vehicle guidelines

The U.S. Department of Transportation has issued long-awaited federal guidelines for autonomous vehicles. Automakers had looked forward to the guidelines, eager to avoid a patchwork of state laws similar to the one that had threatened to upend national standards on fuel economy before the 2012 rules.

Transportation Secretary Anthony Foxx called the new guidelines a “culture change” for DOT, expressing, as they do, support for an innovative technology that has not been completely proven. Safety considerations are the overriding factor.

“Automated vehicles have the potential to save thousands of lives, driving the single biggest leap in road safety that our country has ever taken,” Foxx said.

The guidelines use a 15-point Safety Assessment to set clear expectations for OEMs developing and deploying automated vehicle technologies. Automakers are asked to sign and submit the safety assessment to certify that their vehicles are ready for public roads.

The guidelines’ model state policy delineates the federal and state roles in regulating the vehicle technologies.

Overall, the guidelines call for what Reuters terms “deeper government involvement in the design of autonomous vehicle systems.” For instance, DOT asks manufacturers to share information on how their autonomous systems work and why they fail. And the Department of Transportation specifically asks what OEMs are doing to prevent hacking of the systems and to protect consumer privacy.

Foxx said he will seek to make the voluntary guidelines mandatory. They will be updated at least annually.

Consumer confidence reaches post-recession high

Consumer confidence increased in September for the second month running and is now at its highest level since the Great Recession, according to the Conference Board.

“Consumers’ assessment of present-day conditions improved, primarily the result of a more positive view of the labor market,” said Lynn Franco, director of economic indicators at the Conference Board. “Overall, consumers continue to rate current conditions favorably and foresee moderate economic expansion in the months ahead.”

More confident consumers, of course, are often more willing to spend money on big-ticket items like cars. Many observers also believe that consumers’ confidence in the economy affects the way they vote.

Staying Ahead...

Freedom is hammered out on the anvil of discussion, dissent and debate.

--Hubert H. Humphrey

