

# THE WANADA BULLETIN

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

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Overtime changes halted *indefinitely* by federal judge

Dealers should make sure federal workplace posters are current

Dealers don't charge enough for CPO vehicles, study finds

Average car on the road ages slightly, to 11.6 years

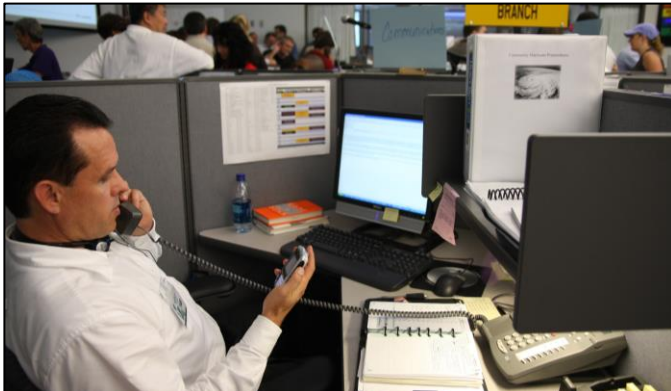
EVs, hybrids required to make sound at low speed under new rule

Washington area to add 1 million people in next 10 years

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## Overtime changes halted *indefinitely* by federal judge



Many white collar workers in dealerships could have been affected by changes to overtime rule, now temporarily blocked.

Following up on word from NADA, WANADA and others last week, the far reaching changes to workplace overtime rules put forth by the Obama administration to take effect December 1, 2016 have been delayed indefinitely. A federal judge in Texas blocked the Department of Labor's overtime rule changes on Nov. 22 until they can be reviewed for their consistency with the existing law. That means that until further notice, dealers and other employers *do not need to make any changes in their practices around paying overtime.*

The rule would have doubled the salary level that would make white collar employees exempt from overtime, from \$23,660 to \$47,476. The salary amount would be automatically adjusted up every three years.

The last-minute ruling by the court was in response to a lawsuit filed by 21 states and another suit filed by the U.S. Chamber of Commerce and other business groups, including NADA. The judge's ruling said that DOL exceeded its authority by making salary the *de facto* test for overtime exemption, effectively replacing the duties test written into the original law.

The U.S. Chamber of Commerce applauded the ruling, noting that the Congressional Budget Office had said the revised overtime rule would cost more than \$1 billion to implement. "The rule would have reduced workplace flexibility, remote electronic access to work and

opportunities for career advancement,” Chamber Senior Vice President of Labor Randy Johnson said in a statement.

The Labor Department said it strongly disagrees with the decision and is exploring its options. Although the ruling last week is not final, the aforementioned overtime changes could look very different under a Trump administration and a Republican Congress. For more information contact NADA’s Regulatory Affairs at <mailto:regulatoryaffairs@nada.org>.

## Dealers should make sure federal workplace posters are current



Dealers must post this updated poster on the Family and Medical Leave Act.

Dealers should make sure that the workplace posters required by the Department of Labor (DOL) are current, as three of them were recently changed. The revised posters cover these laws:

- *Family and Medical Leave Act.* The revised poster simplifies the explanation of employees’ rights to encourage employees to report misclassification.
- *Employee Polygraph Protection Act.* Some technical changes have been made to make it easier for employees to report grievances to the DOL.
- *Fair Labor Standards Act.* Because of DOL regulatory changes earlier this year, the FLSA poster has been changed to explain nursing mothers’ rights; explain the difference between employees and independent contractors, and make other technical changes.

All posters can be downloaded for free by clicking [here](#).

Dealers who treat particular workers as independent contractors, such as occasional drivers and piece workers, should check with legal counsel to make sure that classification

is correct. DOL, the Internal Revenue Service and the National Labor Relations Board are all pursuing misclassification as a violation.

Thanks to Michael Charapp of Charapp & Weiss, LLP, for providing this information.

## Dealers don’t charge enough for CPO vehicles, study finds

Certified pre-owned vehicles are a good profit center for dealers, but it could be a bigger one, said a new study from Cox Automotive. Three million consumers are currently interested in a CPO vehicle, and that number could increase to 5.2 million by 2020. That’s good news, with all the cars coming off lease in the next few years. Click [here](#) for more information on that trend, as reported in last week’s *WANADA Bulletin*.

CPO vehicles have many benefits for dealers, according to the Cox study: They sell five days faster than other used cars. They have 20 percent more turns per years. And consumers are willing to pay \$3,144 more for CPO than for a noncertified used car. Yet dealers report that consumers pay just \$1,260 above the noncertified price.

## Average car on the road ages slightly to 11.6 years

The average vehicle on the road is slightly older than last year, at 11.6 years, said IHS Markit. Vehicles in operation reached a record of 264 million – up more than 6.2 million from last year. That represents the highest annual increase since the industry began tracking growth.

A key reason is the high quality of today's cars, said Mark Seng, director of global automotive aftermarket practice at IHS Markit. Consumers are holding on to their cars longer than ever. At the end of 2015, the average length of ownership was 79.3 months, more than 1.5 months longer than a year earlier. For used vehicles, it is nearly 66 months.

The oldest vehicles on the road are the fastest growing category. Vehicles 16 years and older are expected to grow from 62 million units today to 81 million units in 2021. By 2021, more than 20 million vehicles on the road will be more than 25 years old.

## EVs, hybrids required to make sound at low speed under new rule

All new hybrids and light-duty electric vehicles will be required to make an audible sound at lower speeds under a new rule from the National Highway Traffic Safety Administration (NHTSA). The rule, which had been anticipated for years, is intended to help pedestrians who are blind or have low vision.

“With more, quieter hybrid and electrical cars on the road, the ability for all pedestrians to hear as well as see the cars becomes an important factor of reducing the risk of possible crashes and improving safety,” said Transportation Secretary Anthony Foxx. NHTSA estimates that 2,400 pedestrians are injured a year because they do not see or hear the quiet cars.

The sound will be required for EVs and hybrids traveling up to 30 km per hour (about 19 mph) At higher speeds, tire and wind noise will provide adequate warning, NHTSA said.

Automakers have until September 1, 2019, to meet the new standard, with half of EVs and hybrids required to comply before that date.



Under the new rule, hybrids, such as the Toyota Prius, will have to make an audible sound at low speeds.

## Washington area to add 1 million people in next 10 years

There's good news and bad news about projected population growth of 955,500 people in the Washington area in the next 10 years. It's good news if you're in the business of selling cars to consumers. The bad news is there won't be enough roads on which to drive all those cars.

The projection comes from the American City Business Journals, which forecasts 7.4 percent growth to 6.55 million people in the metro area by 2020 and 16 percent growth to 7.053 million people by 2025. George Mason University economist Stephen Fuller sees smaller growth, with 750,000 people added by 2025. Either way, everything will be more crowded.

The biggest problem is housing; There simply isn't enough of it, especially at a price that young people can afford. Fuller told the *Washington Business Journal* that high housing prices will make it harder to attract a qualified workforce.

Fuller predicted that more people will work from home or work during off hours. Of course, that would not be possible for some jobs, such as car sales.

## Different messages from automakers on driverless car rules

Alliance of Automobile Manufacturers president Mitch Bainwol told a Congressional committee recently that President-elect Trump will likely approve the autonomous car guidelines proposed by the National Highway Traffic Safety Administration (NHTSA). Congress, he added, ought to do the same.



Self-driving Uber in recent Pittsburgh test

But the Self-Driving Coalition for Safer Streets wants to see the guidelines amended to allow autonomous vehicles to be operated without a driver. The Coalition's founding members are Ford, Google, Volvo, Uber and Lyft. The group wants to prevent a patchwork of state laws, as some states have already enacted their own laws.

NHTSA Administrator Mark Rosekind has pushed for speedy, safe development of autonomous vehicles, emphasizing their potential ability to save lives. He told the House Energy and Commerce Committee that for that reason, NHTSA took the unusual step of issuing proposed

guidelines rather than going through the longer, more bureaucratic rulemaking process. Rosekind spoke in the same hearing where Bainwol testified.

The issue will undoubtedly be discussed at the Washington Auto Show's MobilityTalks International, January 24-25, 2017. Stay tuned!

### Thought for the season...

Be kind, for everyone you meet is fighting a hard battle.

--Plato

**WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION**