

WANADA Bulletin # 12-09

March 27, 2009

## INSIDE THE BELTWAY

### Labor's "Card Check" Proposal Loses Steam

*Key Republican Senator and Business Moderates Drop Support of Union Measure*

Organized labor's efforts to pass "Card Check" legislation that would make it easier for unions to organize workers by having them sign cards rather than by voting in secret ballot elections suffered a setback last week as Senator Arlen Specter (R-PA) announced he could not support the legislation as it was now written. The Republican's backing, which had been given earlier, was considered critical in getting the measure to a vote in the Senate this year.

Just as detrimental to labor's goal, however, was the announcement by the CEOs of Starbucks Corp., Costco Wholesale Corp., and Whole Foods Corp., that they had a "third way" for unions and employers to settle the representation issue. Their plan calls for management to retain the right to secret ballot elections and eliminates binding arbitration, but would allow unions access to employees during nonworking hours, increase penalties for

violations and mandate fixed times for elections so companies could not delay them.

Labor faulted the measure as "not going far enough" and most business groups called it a "nonstarter," as far as they were concerned.

In Congress, the lead sponsors of the bill, Rep. George Miller (D-CA) and Sen. Tom Harkin (D-IA) said the proposal "is nothing more than a classic Washington lobbying campaign intended to confuse the issues and disguise the real agenda of maintaining the status quo."

The three companies are known, however, for their progressive approach to employee relations although only Costco has some unionized employees. President Obama has indicated a willingness to consider alter-

natives to the controversial measure, however, he has also said he wants Congress to pass the measure.

The House is believed to be ready to pass the legislation as introduced, but without Senator Specter's support in the Senate, it is widely believed a promised Republican filibuster of the measure would succeed in blocking it.

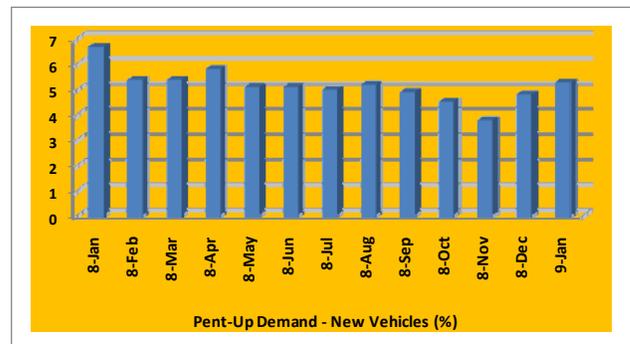
The compromise offered by Starbucks, Costco and Whole Foods is aimed at a group of moderate Democrat senators who want "improvements" to the measure.

WANADA and NADA are urging dealer members to oppose (S. 560 and H.R. 1409) and call Congress. See [www.nada.org](http://www.nada.org) for details.

### Pent-Up Demand for New and Used On The Rise

*Used Market Likely to Hit 40 million in 2009*

The U.S. new vehicle market may not yet be in bloom, but signs are growing that a revival may be in the near term offing. ADESA Executive Vice President for Analytical



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## Vehicle Demand Building

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Services, Tom Kontos and Art Spinella, President of CNW Research, both note in their most recent reports that over 50% of consumers are saying they intend to buy a new vehicle in the next 6 months and that a big jump in used sales can be expected this

spring. They note that the number of consumers intending to

buy a used vehicle is already approximately 180% higher than this time last year and that used vehicle transaction prices, particularly for franchised auto dealers, continue to rise.

Kontos and Spinella expect the new vehicle market to “kick-in” by early fall and the used vehicle market to build over the next 3 months. They note in their respective reports that this is largely a function of consumer confidence returning and an easing in credit. They also note average FICO scores have continued to drop from the October 2008 high of 759 to 723 in February 2009.



### **The WANADA Open May 18**

Attendance is limited to the first 128 registrants.  
Register online at  
[www.wanada.org](http://www.wanada.org)

## INSIDE THE BELTWAY

### LIFO Fight on the Horizon

#### *New Budget Calls for Elimination by 2012*

Democratic leaders in the House and Senate are being urged to oppose a plan by President Obama to repeal the “last-in, first-out” method of accounting popular with franchise auto dealers and many other businesses in the U.S.

The President’s budget would eliminate “LIFO” beginning in 2012 and is projected to raise nearly \$61 billion in revenue for the U.S. Treasury as a result.

“While we recognize the implications of this proposal on government revenue, we are concerned with the far-reaching ramifications that the repeal could have on businesses large and small said Democrat Reps., Ben Chandler of Kentucky and Lincoln Davis of Tennessee.

The LIFO method of accounting, available since 1963, enables auto dealerships, among others, to base their profits on the price of the most recent inventory purchased. This allows them to save on taxes because the higher, inflation-adjusted price is subtracted from sales, which shows up as lower earnings on the balance sheet and therefore less tax liability.

### Fed Agency Proposed to Check Financial Products

#### *Car Loans Could be Included*

Riding on the current wave of public sentiment to curb some aspects of credit devices in the U.S. marketplace, legislation has been introduced by Sen. Dick Durbin (D-Il) to create a Financial Products Safety Commission (FPSC) whose purpose would be to “help consumers obtain financial products and services without being subject to predatory or deceptive financial practices.”

The legislation, co-sponsored by Sen. Chuck Schumer (D-NY), Sen. Ted Kennedy (D-MA) and Representatives Bill Delahunt (D-MA) and Brad Miller (D-NC) aims to coordinate the oversight of the nation’s financial products enforcement. Those products include mortgages, credit cards and every other kind of consumer loan, including car loans. Currently there are at least 10 federal regulatory agencies tasked with monitoring the various credit and financial products.

It is unclear how much traction the measure has, but it should be noted that it has the support of over 55 national and state organizations, including the Consumer Federation of America, NAACP, the AFL-CIO, Consumers Union and others. It is also being championed by the Chairwoman of the Congressional Oversight Board, Elizabeth Warren, which is monitoring the disposition of funds in the \$700 billion Trouble Asset Relief Program. WANADA will continue to monitor this legislation.

## IN ANNAPOLIS

## NADA NEWS

## Maryland Moving to Tighten Price Advertising

### "Lemon Law" Manufacturer Warranty Likely to be Extended

The Maryland House of Delegates has approved legislation that would limit franchise auto dealers and other retailers of new and used vehicles to show only the "full delivered purchase price" of a vehicle and that this price be stated in the largest type used to provide "any" information related to the price of the vehicle.

The measure, HB 547, defines the "full delivered purchase price" as the price of the vehicle less taxes, fees and typical charges like transportation and dealer processing fees. The legislation is now moving its way through the Maryland Senate (SB 859) and is expected to be signed by Governor O'Malley and likely become effective October 2009.

A WANADA analysis of the measure indicates the requirements are very similar to current Motor Vehicle Administration regulations regarding price advertising.

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Also working its way through the Maryland legislature is a measure (HB 121 and S 133), which will extend the manufacturer's warranty in Lemon Law cases from the current 15,000 miles and 15 months to 18,000 miles and 24 months. This measure is expected to be signed by the Governor as well, though its impact on the franchise dealer body is insignificant.

### *Attention Members*

#### NADA Compensation and Employee Benefit Survey

NADA, as part of its ongoing effort to tell the story of how dealerships contribute to the well being of their local communities and the country as a whole, is once again asking you to complete this very important survey.

This year the data will be collected on a secure website; <https://www.nada.org/survey> and you are asked to complete the survey by April 15, 2009.

A copy of the prepared reports will be available to dealer principals only.

Remember, the greater the number of respondents, the more credible the information.

## New Maryland Effort to Regulate Credit Terms

### *Car Loans Could be Impacted*

Legislation passed in the House of Delegates last week to make it illegal for credit card companies to retroactively change the interest rates they charge their card holders could impact arbitration provisions or waivers often included in dealer buyers orders or retail installment sale contracts used in car deals. That's the assessment from Mike Charapp, legal advisor to WANADA and the Maryland Auto Dealers Association.

The legislation is in response to a nationwide push to prevent credit card companies from retroactively changing credit terms on one card when a consumer misses or is late with a payment on a different card. It is expected to pass the Maryland senate and if signed by Governor O'Malley, would go into effect by summer, a year ahead of similar federal protection.

WANADA and MADA, noting that the bill's definition of a consumer contract is broad enough to include a retail installment sale contract for the purchase of a vehicle, intends to ensure that the measure clearly and specifically applies only to "revolving credit" issuers.

"Proponents of the legislation may say it won't affect auto dealers since it does not apply to contracts between parties of equal bargaining power," Charapp said, "but we regularly see arguments in litigation that customers are being forced to take contracts of adhesion in a vehicle purchase. We intend to make sure this is not the case," he added.

**Greater Washington Urban League  
Honors Tamara Darvish  
Receives Whitney M. Young Jr. Community Service Award**

Tamara Darvish, Vice President, DARCARS Automotive Group and Chairman of WANADA, was presented with the prestigious Whitney M. Young Jr. Community Service Award mid-month at the Greater Washington Urban League's 37<sup>th</sup> Annual Memorial Gala. The award is in recognition of those individuals "who have stepped up against all odds and made a difference."

Ms. Darvish and the DARCARS organization were cited for their ongoing efforts in support of the Urban League's youth internship/scholarship programs and employment/technology training efforts.

Master of Ceremonies Lindsay Czarniak (Sports Anchor & Reporter, NBC4-TV) presented the award to Ms. Darvish who was joined onstage by fellow recipients Craig Jeffries, football coach at Dunbar High School, General Belinda Pinckney, Director, Army Diversity Task Force, and Chartese Burnett, Communications Director for the Washington Nationals.

The Greater Washington Urban League has been in existence for more than 60 years and focuses on changing and improving the lives of at-risk teens, unemployed adults and needy senior citizens. Last year it provided services to more than 60,000 persons in the Washington Metropolitan Area through more than 26 distinct programs.

WANADA salutes Tamara Darvish and DARCARS on this recognition.

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## Something That Made Us Say "Hmmm"

Last week, Austin, Texas entered into a car-sharing partnership with Daimler AG that will see a demonstration fleet of 200 Smart Fortwo cars put in service this fall for use by city employees. It's all part of an effort to limit air pollution and vehicle congestion in the city. The car sharing program, known as "car2go" is similar to a project in the German city of Ulm, but where the public can also participate.

Let's hope this doesn't catch on across the country, for not only does such a program raise public-private partnership antitrust, conflict of interest, and the "use of public money to foster private profit" issues, but also concerns about the financial harm such programs might do to automakers and franchise dealers precluded from participating.

New vehicles sold in the U.S. already meet the toughest emission standards in the world. Cities selecting one group of vehicles over an equal group of others to achieve a noble, but perhaps dubious environmental goal, reminds us of the old saying that, "The road to hell is paved with good intentions."

### **Staying Ahead...**

*Everything analysts know about the auto industry, they've learned from riding in New York City taxicabs.*

**-Anonymous Motor City Executive-**

## Enclosure:

**WANADA OPEN** Registration