

THE WANADA BULLETIN

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

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MARYLAND LEGISLATIVE WRAP-UP

MD Session Ends With Big Win for Dealers *Dealer Involvement Helps Clinch Successorship/Dualing Bill on Last Day*



Despite all the partisan wrangling that marked the Maryland General Assembly session this year, dealers got what they wanted most: passage of **SB 634, Vehicle Dealers – Succession**, which greatly improves franchise protection, succession and the ability to have dual franchises.

But it was a nail-biter.

After earlier easily passing in the Senate (vote), the bill stalled in the House until it was unanimously approved late last Monday – the last day of the session!

Sponsored by Sen. Jennie Forehand (D-17) and pushed hard by MADA and WANADA, SB 634 helps ensure dealer directed succession by prohibiting a manufacturer from making unreasonable demands when the primary dealer contact changes for one reason or another. The legislation requires a dealer to appoint a person who is primarily responsible for dealing with the manufacturer, and limits the authority of manufacturers to object to the designation of dealer representatives, while establishing the burden of proof in the

event of objection. Simply put, it also allows, dealers to add additional franchises if they are able to do so.

MADA President Peter Kitzmiller called it “a great bill that gives Maryland dealers one of the strongest allowances for dualing and much better succession terms for locally owned and operated family dealerships.” He credited the success in getting the bill passed “to strong and direct communication dealers have with the legislators.”

WANADA Chairman Jack Fitzgerald of Fitzgerald Auto Malls, who got the franchise bill off to a good start with his testimony before a House committee, added: “It shows that when the legis-

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SIGN UP TODAY!

Space Filling Up Fast!

2006 WANADA Open, Monday, June 5

More Prizes, But You Must be Present to Win

Golfers wanting to compete in this year’s WANADA Open need to respond quickly as spaces are filling up fast. The venue will be the recently expanded Golf Club at Lansdowne Resort in Leesburg, VA, which now includes two championship courses — the Robert Trent Jones and Greg Norman courses. Registration will begin at 9:00 a.m. with a shotgun start at 11:00 a.m. The driving range will be open during registration.



The tournament will be followed by a cocktail reception at 5:00 p.m. and dinner at 6:30 p.m. In lieu of a dinner show this year, WANADA and its sponsors will be giving out even more great prizes, including HD TVs, I-Pods, digital cameras and more. But participants must be present to win. So, make your reservations today!

A WANADA Open flyer and registration form is enclosed with this WANADA Bulletin. For more information, call Trish Frisbee at (202) 237-7200.

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MARYLAND LEGISLATIVE WRAP-UP

Big Win for Dealers

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lators understand the facts they will be fair and do what's right. Fortunately, we had the opportunity to visit with them one-on-one, explain our issues and answer questions."

Fitzgerald pointed out that the dualing issue was consistent with Maryland's "Smart Growth" policy of keeping commercial activity in areas already zoned for commercial use rather than zoning new ground. This provision, he noted, even gained the support of the Maryland Consumer Rights Coalition "because they like side-by-side consumer comparison which dualing encourages."

Fitzgerald also praised the team effort between MADA and WANADA and the exceptional assistance of Rifkin, Livingston, Levitan and Silver, the associations' government relations consultants in Annapolis, as well as "lots of dealers who got involved and talked to legislators," he said. "There are 360 dealers in Maryland, and even if they only talked to one senator or delegate, it was an important contribution."

More Good News for MD Dealers

In other realms, Maryland dealers were concerned that California Car and Car Buyers Bill of Rights measures could come back. They didn't, which was good news for dealers. After being soundly thwarted on proposed California Car standards last year, environmentalists chose instead to push for the **Healthy Air Act**, which was aimed at curbing emissions at older power plants.

Maryland dealers also opposed **SB 248, Consumer Protection - Motor Vehicles Financed Through Dealers**, sponsored by Sen. Alexander Mooney (R-3). This bill died in the House after being passed in the Senate with favorable dealer group amendments. SB 248 was aimed at finance disclosure and spot delivery, and would have allowed the customer to bring the car back any time before the dealership got paid.

Earlier in the session, dealers and manufacturers strongly opposed and were able to kill **SB 452, Consumer Access to Ignition Key Information**, which would have required vehicle manufacturers to provide owners or lessees of

motor vehicles access to information sufficient to allow the reproduction of a key required to operate the motor vehicle.

A helpful bill that didn't pass was **SB 879, Motor Vehicle Excise Tax - Trade Difference Allowance**, calling for a three year phase-in of the excise tax trade-in difference. With all the larger, more contentious issues that dominated the General Assembly, SB 879 never made it out of committee. However, dealer advocates are confident they have laid the groundwork for another attempt at this legislation next year.

NOTE: The Virginia General Assembly reconvened April 19 to try and thrash out a budget and consider Gov. Tim Kaine's vetoes and amendments to hundreds of bills passed this year. The WANADA Bulletin will bring you the results when the session is finally concluded.

Dealers Reminded to Speak to US Lawmakers Over Their Spring Recess

Despite the close of the state legislative season in most jurisdictions, NADA is reminding dealers that they "are likely to run into Members of Congress who are back in their localities during the two-week spring recess, April 8 - 23. Dealers should touch base with lawmakers and mention NADA's top priorities on Capitol Hill.

"First, Congress must help create a consumer database of total-loss vehicles to address the problem of flood/salvage vehicles coming back into the marketplace," said NADA. "Second, Members should be discouraged from co-sponsoring the so-called "Right to Repair" bill (H.R. 2048), which requires the federal government to regulate auto repair and service information," said NADA.

For more information, please contact the Legislative Office at 1-800-563-1556.

REGULATORY REMINDER

Don't Overlook the CAN-SPAM Act

NADA recently sent to all state and metro auto dealer associations the following reminder of several important aspects of the CAN-SPAM Act, which imposes restrictions on commercial e-mail messages to businesses and consumers:

Many businesses assume the CAN-SPAM Act only applies to massive e-mail marketing campaigns to thousands of consumers. The law actually imposes much broader restrictions that reach even the occasional sender of commercial e-mail. Here's a brief recap of some of the law's basic features:

- It applies to any *commercial* e-mail, which is defined as an e-mail whose *primary purpose* is to advertise or promote a commercial product or service (including content on a web site operated for a commercial purpose).
- It applies not just to mass e-mail marketing campaigns but also to a single commercial e-mail (there is no *de minimus* rule). It also applies to commercial e-mails to businesses as well as to consumers.
- Its disclosure requirements do not apply to *transactional* e-mails, such as messages confirming a commercial transaction that the recipient has agreed to enter into with the sender.
- The FTC has developed several criteria for determining whether dual-purpose messages are commercial and thus subject to the disclosure requirements outlined below.
- Commercial e-mails to non-wireless devices must:
 1. clearly and conspicuously state that the message is an advertisement or solicitation;
 2. clearly and conspicuously state that the recipient has the right to opt-out of receiving further commercial e-mail messages from the sender; and
 3. provide a valid physical postal address for the sender's business.
- The opt-out notice must include a functioning return e-mail address (or other Internet-based mechanism) that permits the recipient to submit an opt-out request for at least 30 days after the sender transmits the original message.
- Senders have up to 10 business days to process an opt-out request.
- Commercial e-mails to wireless devices are more restrictive and require recipients to provide express authorization (opt-in) before the messages are sent. There are several required disclosures that must accompany a request for a recipient's *express prior authorization*.
- The way to distinguish wireless from non-wireless e-mail addresses is to consult a registry of wireless domain names maintained by the Federal Communications Commission. It is available at www.fcc.gov/cgb/policy (click on "Download Registered Domain Names").
- There is no *established business relationship* exemption to any of these requirements.
- The law also prohibits commercial e-mails from containing false or misleading subject headings and any e-mail from containing false or misleading header or "from" line information.
- Several more important details are provided in a comprehensive summary of the CAN-SPAM Act that is available at www.nada.org/regulations.

The foregoing summary is offered for informational purposes only and is not intended as legal advice. Consult your attorney for guidance on appropriate measures your dealership must institute to comply with the CAN-SPAM Act and its implementing regulations.

Dealer Alert: Beware of Persons Impersonating FTC Employees

The Federal Trade Commission has received reports of persons visiting dealerships to inquire about their compliance with the Safeguards Rule and other federal privacy regulations. According to the agency, its staff is not currently conducting on-site investigations of dealers for privacy violations and generally would not make such visits before establishing contact with the dealership.

NADA advised dealers, "If you are visited by persons identifying themselves as FTC employees investigating privacy compliance, please ask for their names and phone numbers, do not disclose any information—and certainly not customer information—unless you have confirmed that the visitors are in fact FTC personnel, and notify NADA of this visit so we can contact the appropriate authorities. Questions? Call the NADA Legal Office at 703/821-7040."

LAST CHANCE REMINDER**WANADA Apprenticeship Training Program Spring Kickoff Meeting**

9:30 a.m.– 11:00 a.m., April 27, 2006

Kenwood Country Club, 5601 River Road, Bethesda, Maryland

Dealers representing all nameplates are invited to come and learn more about WANADA's uniquely successful apprenticeship training program at its annual Spring Kickoff Meeting on April 27. Find out about "home growing" your own skilled apprentices who will be on the line in your repair operation in a relatively short amount of time.

For more information on the April 27th meeting and the program generally, see the fact sheet and registration form enclosed with the mailed copy of this WANADA Bulletin, or call Bill Belew or Archie Avedisian at WANADA, (202) 237-7200.

Hybrid Vehicles Certified for New Energy Tax Credit

The IRS has certified the following hybrid vehicles and will provide tax credits to buyers:

- 2006 Ford Escape Hybrid, front-wheel drive: \$2,600
- 2006 Ford Escape Hybrid, 4WD: \$1,950
- 2006 Mercury Mariner Hybrid, 4WD: \$1,950
- 2005 Toyota Prius: \$3,150
- 2006 Toyota Prius: \$3,150
- 2006 Toyota Highlander 4WD Hybrid: \$2,600
- 2006 Toyota Highlander 2WD Hybrid: \$2,600
- 2006 Lexus RX400h 2WD: \$2,200
- 2006 Lexus RX400h 4WD: \$2,200

The tax credit for hybrid vehicles applies to vehicles purchased on or after Jan. 1, 2006. It replaces the

tax deduction of \$2,000 that previously was allowed for the purchase of new hybrid vehicles before Dec. 31, 2005.

However, the new tax credits come at a time when sales of some hybrids have begun to slow, according to The Wall Street Journal. "Hybrids like the Toyota Prius and Honda Civic Hybrid still enjoy strong demand. But the slowdown for some other models comes as more consumers are questioning whether hybrid vehicles deliver sufficient fuel savings in real-world driving to justify the extra cost of the technology. Consumer demand for hybrid gas-electric vehicles is being watched closely by auto executives, and advocates of technology to cut automotive petroleum consumption," WSJ reported.

IN MEMORIAM

WANADA just learned the sad news that longtime member and dealer group leader Peter Zourdos, Courtesy Chrysler/Jeep, passed away. Friends can call on the family from 2-4 p.m. and 6-9 p.m., on Monday April 24 at St. George Greek Orthodox Church at the corner of Bradley Boulevard and Seven Locks Road. Funeral Services are at 10 a.m. April 25th at St. George's. (See the enclosed memorial announcement for more information.)

Wisdom...

God must truly love common people because he made so many them.

-- A. Lincoln

Enclosures:

- WANADA Apprenticeship Training Spring Meeting Information Sheet and Registration Form
- WANADA Open Information Sheet and Registration Form