

REGULATORY ALERT

IMPORTANT REMINDER:

New FairPay Rules Take Effect August 23

New Wage & Hour Regs Impact Overtime Entitlement

Last April, the U.S. Department of Labor published a final rule revising its Fair Labor Standards Act regulations governing overtime eligibility for “white-collar” workers. The “FairPay” rules, as they are called, **take effect on August 23, 2004**. Before then dealers should review the duties, job descriptions and pay structures of their employees. It is also recommended that dealers consult with their tax advisors, CPAs and other advisors in order to be in compliance by August 23.

In short, the new FairPay rules expand the number of workers eligible for overtime by raising the annual salary threshold from \$8,060 or less to \$23,660 or less. The rules simplify and continue exemptions from both minimum wage and overtime for executive, administrative, professional, and outside sales employees.

The rules also contain new exemptions for certain computer employees, creative professional employees, and a highly compensated employee exemption. However, the new FairPay rules have *no* impact on other exemptions such as salespeople, parts department workers, technicians or commis-

sioned employees.

Generally, to be eligible for a “white collar” overtime exemption, an employee must meet certain criteria for job duties, and be paid on a salary basis at not less than \$455 per week.

For example:

Executive Employee Ex-

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DEALERS IN THE SPOTLIGHT

Martens Cars of Washington Receives First NADA Century Award

Congratulations go to Martens Cars of Washington for being the very first recipient of NADA’s newly created Century Award, which recognizes NADA member dealerships that have been run by the same family for 100 years or more. NADA Chairman Charley Smith and NADA President Phil Brady personally presented the award to Stuart and Harry Martens III last week at their Wisconsin Avenue Volvo-VW dealerships.



NADA Chairman Charley Smith (left) and NADA President Phil Brady present Century Award to Stuart Martens.

“This award underscores the point that dealers are in this business for the long haul,” said Smith. “NADA is pleased to recog-

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FairPay Rules

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Exemption (applies to dealers, dealership managers and shop foremen) To qualify for the executive employee exemption, employees must:

- Be compensated on a salary basis at a rate not less than \$455 per week; and
- Manage the enterprise, or a recognized department of the enterprise as their primary duty;
- Regularly direct the work of at least two or more employees; and
- Have the authority to hire or fire other employees, or be authorized to recommend hiring or firing of other employees.

Administrative Employee

Exemption (e.g., office managers and assistant managers) Here, the employee must:

- Be paid a salary of at least \$455 per week;
- Engage in office or non-manual labor directly related to management or general business operations; and
- Have discretion and independent judgment with regard to matters of significance.

“Incorrectly classifying employees as exempt could lead to liability for back pay, liquidated damages, interest, and even attorneys’ fees,” according to NADA. “On the other hand, incorrectly classifying employees as nonexempt may mean your labor costs are higher than they should be. Consider taking this opportunity to review the exempt/nonexempt status of *all* dealership employees, not just those covered by the

FairPay rule.”

For more information on the new rules, NADA has posted a comprehensive *Q&A on the FairPay Rule for Automobile and Truck Dealerships* on its Web site, nada.org.

The Q&A is available to members by logging onto “Members Only” and clicking on “Regulations.” NADA members can also refer to NADA’s *A Dealer Guide to Federal Wage-Hour Law and Equal Pay Act (L.1)* for further details on wage/hour record keeping and the length of time records must

be kept. Dealers may contact NADA Regulatory Affairs at (703) 821-7040, or regulatoryaffairs@nada.org.

Additional information is available at the Department of Labor’s Web site, www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm.

NHTSA Releases New Rollover Ratings

For the first time, the National Highway Traffic Safety Administration (NHTSA) released specific rollover-possibility data last week that show how prone individual models of new cars and light-duty trucks are to roll over in an accident. Instead of merely assigning a star rating to each model it tests, as it has done in the past, NHTSA released figures that allow consumers to compare rollover risk model by model. As expected, cars performed much better than SUVs or pickup trucks in the tests. But the new ratings also show wide differences among vehicles of the same type.

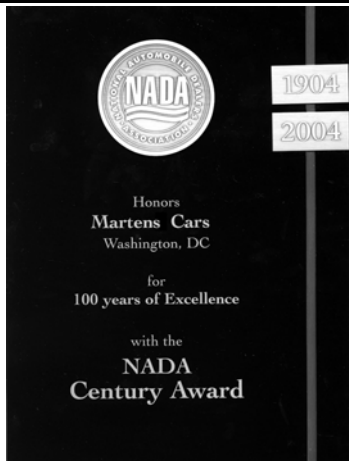
The new rollover data were released as part of NHTSA’s new enhanced five-star rating system. The agency ranked only the 68 most popular 2004-model cars and trucks – 36 SUVs, 20 cars, eight pickups, four minivans – out of about 300 models on sale. Vehicles missing from the list could be tested next year.

“This is a problem [rollovers] that continues to produce about a third of our occupant fatalities every year, even though they are less than 3 percent of our crashes,” said Jeffrey W. Runge, administrator of the traffic safety agency. The new rankings information, he added, “does arm the consumer with a little more sophisticated information.”

Runge also pointed out that safety belts would prevent most rollover deaths. About 75 percent of those who die in rollovers are unbelted, and about 80 percent of those would live if belted, according to Runge.

The new rollover rankings, along with front and side impact test ratings, are available at the safety agency’s Web site, www.safercar.gov.

DEALERS IN THE SPOTLIGHT



The Steuart Lincoln-Ford Service Garage in September 1923, before it became Martens Cars of Washington.

Martens Receives Century Award

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nize the commitment that dealers like the Martens have made to their communities for generations," he added.

Martens Cars of Washington was also featured in a *Then & Now* article in the August issue of NADA's Auto Exec magazine.

"We are excited about the award," said Steuart Martens. "We feel kind of lucky. It's a hallmark, and it's dawning on us how long 100 years is. I think it's a tribute certainly to our grandfather and his vision way back in the early 1900s, and also to our father who continued that legacy. And now I think it's quite appropriate that four of the grandchildren are carrying on that legacy and running a business where there are only two dealers left in DC."

Sadly, Harry Martens, Jr. who ran the business since the 1950s, and was a former NADA director for Washington, D.C., passed away on July 3, 2004.

As we reported in the May 8, 2004 WANADA Bulletin, the

"NADA is pleased to recognize the commitment that dealers like the Martens have made to their communities for generations."

—NADA Chairman Charley Smith

business began in 1904, when Leonard (L.P.) Steuart, assisted by his younger brother Guy, founded LP Steuart & Brother – basically, a mule drawn cart that sold coal in the winter and ice in the summer.

The Steuart brothers rapidly expanded their operation to become one of DC's leading fuel oil and coal distributors.

In 1916, Henry Ford approached the Steuart brothers about selling his new 'horseless carriages' in DC. And that was the beginning of a dealership dynasty that eventually included BMW, Chevrolet, Chrysler-Plymouth, Citroen, Datsun, DeSoto, Ford, Hyundai, Jensen-Healey, Lotus, Mazda, Nissan,

Packard, Pontiac, Subaru, Toyota, Volvo and Volkswagen franchises.

The brothers separated their business interests in 1951, with LP taking the automobile business. Along the way, one of LP's daughters, Virginia, married Harry Martens Jr. and together they had five children – four of whom manage and work at Martens Volvo-Volkswagen today. The rest, as they say, is history.

NADA would like to hear from other longtime dealers. To be considered for the award, the dealer principal must have signed the NADA Code of Ethics, and must complete a short nomination form, which can be obtained from www.nada.org or by calling (703) 827-7411.

FOOTNOTES

AYES Approved Auto Tech Programs *Identify High School Students for the Service Department*

Theodore Roosevelt once said, "In any moment of decision the best thing you can do is the right thing. The worst thing you can do is nothing."

There is no wrong time to get involved with your local AYES approved school, but the right time is NOW. The process of determining the AYES student's qualifications begins in the fall of the year and you should have a say in who qualifies to intern in your store. AYES is all about relationships with local qualified high school auto tech programs, and your participation in their Business & Education Council will ultimately benefit your dealership with qualified entry-level technicians. There are several AYES schools around the Beltway. To learn more call Ric Glenn, AYES manager for Metro DC and MD, (301) 730-9960 or email RGLENN8199@aol.com.

Motor Vehicle Deaths Drop for First Time in Six Years; Seat Belt Use Cited

For the first time in six years, motor vehicle deaths fell last year, mostly because of increased seat belt use, according to Department of Transportation figures released last week.

Fewer people in vehicles and fewer pedestrians were killed, but motorcycle deaths rose by 12 percent last year, and were up 73 percent since 1997, because more people are riding motorbikes and fewer are wearing helmets. For all types of vehicles, the number of deaths per 100 million vehicle miles traveled, a standard measure of highway safety, fell to an all-time low. The number of crash-related injuries also declined.

Norman Y. Mineta, the secretary of transportation, said nearly 1,000 lives were saved last year because more people were using seat belts; he attributed the increase to tougher state laws and a federal campaign to encourage people to buckle up.

Highway officials were pleased that the number of motor vehicle fatalities had declined by almost 1 percent, or 362 deaths, but they said the broader problem was still enormous. "We will never refer to 42,643 people dying on our nation's roadways as a victory," said NHTSA Administrator Dr. Jeffrey W. Runge. "But we were bound and determined to reverse the trend, and we have done so."

NADA noted that as a member of the national Air Bag & Seat Belt Safety Campaign, it is working with its dealer members to improve seat belt usage. "Dealers are encouraging their state legislators to enact primary seat belt laws, which give law enforcement officials the ability to pull over and ticket unbelted drivers for that reason alone. Overall, deaths and injuries are down in the states that have passed primary seat belt laws," said NADA.



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"It's amazing what you can accomplish if you don't care who gets the credit."

—Harry Truman

Enclosures:

- Optional Labor Day closing signs
- ASE Certification Test Registration Booklet, Newsletter and Poster