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Staying Ahead...

Alert!
**The MD MVA will
be closed
September 4-5-7
for the Labor Day
Holiday**

NHTSA says it Working Harder on 'Clunkers Cash'

Dealers Say "Work Smarter"

The National Highway Traffic Safety Administrator said this week that over 2,000 examiners have been hired to review Cash-for-Clunkers applications, up from the 225 examiners it started with and that dealers would receive all the money due them by the end of the month, despite the delays they are experiencing. Welcome news to everyone, but the announcement gave no indication that the government was still anywhere close to meeting the 10-day turnaround reimbursement requirement specified by the Cash-for-Clunker law.

NADA, which has been meeting regularly with the agency, believes that can only happen if NHTSA changes its *method* of review. For example, NHTSA is still reviewing resubmitted applications on a *de novo* basis, or subsequent basis, and by a new examiner. NADA is strongly urging NHTSA to reconsider this as it does little more than slow down what is already a slow process.



In its announcement NHTSA also said:

1. It has resolved the stability issues that have plagued the online reimbursement submission system;
2. that it is getting back to the "first in, first out" method of review (i.e., older applications are reviewed first);
3. that it is no longer rejecting applications for "multiple errors" and now specifies each error so it can be corrected;
4. that it is instituting a case by case process for dealing with applications that missed the submission deadline (about .01 percent of the total);

5. that VIN mismatches, a major cause for rejection, will now only be rejected for a complete mismatch, and not if one number or letter appears incorrect; and
6. that there are sufficient funds to cover all the claims it has received.

Both NHTSA and NADA are urging dealers:

- to pay close attention to the checklist found on the CARS website (<http://www.cars.gov/files/user-guide/CARS-checklist.pdf>)
- to make every effort to provide the precise information and documentation that NHTSA requires; and
- to spell out any data point that is unclear to aid the examiner (e.g., if you are a New Hampshire dealer, explain why there is no insurance documentation)

NADA will continue to conduct weekly dealer surveys on reimbursement to ensure NHTSA meets its new deadline. In its most recent survey, NADA found that only 5.7 percent of total claims have been paid; and 83.7 percent of applications are still under review.

NHTSA said in its announcement it had processed about 120,000 claims for \$500 million and that it expects to approve up to \$100 million a day in claims by the end of next week. Dealers have found, however, that approved claims and paid claims have tended to be two different things. The Treasury Department is responsible for issuing reimbursement checks.

For the information of WANADA Bulletin readers, you will find attached a timeline on the genesis and administration of the CARS Program, which we trust you will find interesting.

Bankruptcy Court Rules Against Chrysler Dealers

Says State Franchise Rights Cannot Supersede Bankruptcy Code

New York bankruptcy judge Arthur Gonzalez has ruled against 11 rejected Chrysler dealers who were hoping to get their franchises back under state franchise laws. The judge ruled the U.S. Bankruptcy Code pre-empts those state franchise laws.

Dealer attorney and WANADA kindred-line member Mike Charapp says the ruling has implications for legislation that has been passed in a number of states that would give dealers rights of first refusal, or, in the alternative, money damages if their dealerships were terminated and the manufacturer attempts to replace the points. Says Charapp, “the court ruling makes it very clear that such requirements are a burden on the effectiveness of the bankruptcy sale and rejection orders will not be tolerated.”

Judge Gonzalez ruled that dealer rights granted under state franchise laws only apply to the former manufacturer (old Chrysler) that terminated the dealer and that any damages would be available only against that manufacturer. Those obligations cannot not be imposed on the new company (new Chrysler) which specifically did not assume them, the court said.

In so doing Gonzalez sided with New Chrysler, which had asserted that the suits violated the bankruptcy court's rulings on the sale of its assets and rejection of selected dealer agreements. The dealers, who reside in Wisconsin, Ohio and Arkansas, have been ordered to withdraw from the proceedings or face contempt of court penalties of \$10,000 per day until they do so.

Efforts to restore franchises or achieve restitution for both Chrysler and GM dealers who lost their franchises in the bankruptcies of both companies continue in earnest. Since the August recess in Congress, this effort is being conducted behind the scenes and involved senior Congressional staff from the major supporters of House (HR 2743) and Senate (S 1304) legislation to restore dealer rights, NADA, NAMAD and ATAE representatives and members of the Committee to Restore Dealer Rights. In addition to the prospect of Congress passing the legislation, a concerted and now completely unified national dealer effort is underway to explore coming to terms with the Auto Task Force and reorganized companies without legislation.

Meanwhile, Chrysler dealers who lost their franchise are reminded that the deadline to file a claim in bankruptcy against Old Chrysler is September 28, 2009, and that if it is not filed by that date, any claim will be banned.

NADA Washington Conference

September 15-16

Renaissance Mayflower Hotel

The annual NADA Washington Conference of dealer association leaders from across the U.S. is coming to town this month to grapple with the multitude of developments and challenges that have confronted the industry and the world economy in recent times. Over the past year, Washington has become ever more important to the auto industry as a whole and the survival of a robust retail auto network in particular. This year's NADA Washington Conference will provide dealer group leaders with the latest updates and information on NADA's efforts and success in advocating dealers' concerns to the nation's lawmakers.



The two-day conference begins on September 15 with an "Inside Washington Briefing" and will be followed on Wednesday with a general session from 9 a.m. to Noon hosted by political analyst Charlie Cook and NADA Government Relations Committee Chairman David Westcott. State delegation visits to member of Congress will then be the order of the day thereafter.

In addition to the Washington Conference activities, NADA will also be holding its fall Board Meeting at the event and representatives from dealer associations across the country will participate in their annual Automotive Law Conference.

Among the topics to be discussed by government relations experts and federal agency representatives at that gathering are:

- The Credit Crisis for Dealers
- The Future of Financial Regulation for Franchised Dealers
- The Dealer Body in Transition: New Legal Issues and Concerns
- Unicap and other Federal Tax Law Developments

Germans Do Better with 'Cash for Clunkers'

2 Million Turned In

In the race to see who can incentivize consumers best to trade in their foul emitting, gas guzzling clunkers, the award goes to Germany. Its 5 billion Euro incentive program for new car buyers ran out early Wednesday and the government estimates some 2 million old cars were exchanged.

"Cash-for-Clunkers" programs surged in popularity across Europe after France introduced the idea in December 2008. Germany, Italy, Britain, Romania, Austria, the Netherlands, Spain and Serbia have had their own versions aimed at shoring up local automakers.

In Germany, the program paid consumers a 2,500 Euro bonus to scrap cars at least nine years old in exchange for cleaner, more fuel efficient new ones.

The German program, launched in March, was credited with strongly boosting sales and, in April, the government decided to expand the program's funding to 5 billion Euros (\$7.1 billion) from 1.5 billion Euros. Unlike the U.S. government, however, it did not require that vehicles traded in be disabled and the reimbursement procedure to franchise dealers reportedly was much simpler.

According to Germany's car importers association, VDIK, the "Cash-for-Clunkers" program played a major role in boosting German car sales to 1.7 million units in the first eight months of 2009 -- double the number in 2008.

Road Repairs Threatened as Highway Trust Fund Runs out of Gas

More Fuel efficient cars part of the problem



The Highway Trust Fund is going to be \$17 Billion short of money for the 2010 fiscal year that starts next month. It could be worse with every passing year if Congress doesn't come up with a new way to fund the program responsible for maintaining America's highways and bridges.

Just about everyone agrees that U.S. roads, highways and bridges need more maintenance and rebuilding, but a depression and huge budget deficits are making it very difficult for Congress to address the shortfall.

The current funding mechanism for the Trust Fund (gas tax) doesn't generate enough income to support the work required to keep roads repaired. The gasoline tax of 18.4 cents a gallon has not been raised in 15 years. If it is not raised, it is estimated that the Fund will be almost \$100 billion short over the period 2010-2015.

To offset that deficit and the impact of ever more fuel efficient cars and a general decline in miles driven, federal gas taxes will likely have to double from current levels. A new study by the U.S. Chamber of Commerce found that even among those willing to spend more on long-term transportation improvements in their area, only 36% of respondents supported higher gas taxes while 52% backed raising tolls and 45% favored boosting public transportation fares.

Dealers are in the business of selling new and used cars. Let's hope their buyers have decent roads to drive them on.

Auto Forum for Consumers at Sport Chevrolet

Washington Post's Warren Brown Will Moderate September 10th Event



Entitled "Car Buying/Ownership in a Changing Economy," the forum will deal with such topics as lending and leasing options, lemon law issues, repossession issues, buying tips and the impact of dealership closings and manufacturer bankruptcies.

The event will run from 7:00 p.m. to 9:00 p.m. and be moderated by Warren Brown, renowned auto writer for The Washington Post. Mr. Brown will be joined by Eric Friedman, Director of the Montgomery County Office of Consumer Protection, Michel Mora of the Federal Trade Commission and Andre Lucas of the Maryland and District of Columbia Credit Union Association.

Sport dealership principal Robert Fogarty cordially invites all WANADA members, whether they are located in the county or not, to attend the event. It promises to be informative and useful. For more information contact Helen at Helen@sportautomotive.com.

Breathalyzers May Soon Be an Option in Cars and Trucks

A number of states passed legislation earlier this year requiring drunken driving offenders to install a breathalyzer in their vehicle. It's likely they won't be the last and a number of manufacturers are now at work developing anti-drunken driving equipment that would lock the ignition of a vehicle if high levels of alcohol are detected in the driver.

This week Toyota showed off a system it has near to production that features a hand-held breathalyzer, equipped with a digital camera, that detects alcohol consumption and photographs the driver's face for identification, a company statement said.

If the driver tests positive, the system either warns him or her, or locks the vehicle's ignition depending on the level of alcohol detected, Toyota said.

Toyota is conducting tests of the equipment with its affiliate truck maker Hino Motors, and says the first installation will likely be in trucks and other vehicles of fleet customers that include companies and government organizations.

The device is also designed to alert fleet administrators if the driver is detected with excessive alcohol levels, Toyota said.

Nissan, GM, Ford and several other automakers are developing similar equipment and may offer it as an option even in the absence of legislation requiring the device for known drunk driving offenders.



Toyota engineer
and Breathalyzer

Staying Ahead...

WHUR FM talk show host Richard Baisden dispensing advice to a caller.

Baisden - "Your best friend and your boyfriend are real tight. That means you better get rid of them both."

Caller - "Why is that?"

Baisden - "Girl, you CAN'T be asking that!"

Have an Enjoyable and Safe Labor Day Holiday!

Washington Area New Automobile Dealers Association

WANADA Special Bulletin Sept. 4, 2009

Historical Timeline on “Cash for Clunkers” (from a franchised dealers’ standpoint)

The Recurring Theme – “Show Me the Money”

- April Two proposals initiated in Congress to invest \$4 billion in a “Cash-for-Clunkers” program.
Rebates up to \$5,000 for domestically made vehicles.
Sales of 1 million vehicles expected by program end (November 1, 2009).
- May 5 House and Senate agree on a compromise proposal.
\$1 billion total funding and rebates of \$3,500 to \$4,500, preference for domestic products removed.
- June 19 Measure is passed by Congress and signed by President.
Dealers begin immediate promotion of the program.
- June 20 WANADA and NADA urge caution and suggest dealers do not “Jump the Gun” on program, absent the rules of engagement.
- June 27 Dealers continue to wait for Clunker Rules
- June 30 DOT gears up for a program it is not prepared to handle
- July 7 DOT continues to prove it is not prepared to handle C4C program
Website not ready, only 200 staff hired to handle applications
First inkling of 130 page “Rule Book” from NHTSA
- July 24 DOT “Launches” CARS registration site (Problems commence immediately)
- July 27 NADA and NHTSA hold first of three webinars to “explain” C4C program
- July 28 Warnings sound that program will run out of funds quickly. Dealers struggle to register sales
- July 29 Warnings repeated. Dealer struggles continue
- July 30 Move begins in Congress to boost funding by \$2 Billion
Sales continue apace. Dealer reimbursements still nowhere to be found.
- August 7 Legislation passes adding \$2 Billion to fund, though dealers still see no reimbursement as sales pass 200,000 mark. NADA and NHTSA hold another webinar to “explain” program.
- August 14 Dealer inventories thin, NHTSA OK’s ‘Not-in-Stock’ vouchers, changes rule to allow for “disabling of engine” after receipt of reimbursement. Dealers see very little money. Float of program by dealers mounts to \$1.8 billion.
- August 16 NHTSA adds 1,000 staff to help with dealer reimbursement requests. NADA asks for simplification of review procedures.

More

WANADA Special Bulletin, Sept. 4, 2009 – Continued-

"Cash-for- Clunkers" Timeline

- August 19 NADA calls for suspension of program as fears rise dealers will be left holding the bag. President Obama says reimbursement delays "not extraordinary."
- August 21 CARS system crashes for 12 hours
- August 22 DOT says program will end August 24 at 8 pm EST
- August 24 CARS system crashes again as dealers scramble to file crush of applications
- August 24 DOT extends filing deadline by one day to August 25
- August 25 CARS system crashes for an hour. Program ends
- August 26 NADA/NHTSA hold another webinar to address filing issues
- August 27 NADA continues push for easing review criteria
- August 28 DOT Announces program moved 690,114 vehicles and spent \$2.88 billion
- September 3 NADA announces dealers have received less than 6% of rebates due them
- September 3 Analysts predict only slight fall off in sales trend. See a 9 million to 10.5 million rate for September.
- September 4 Dealers continue to wait for reimbursement. Some in serious cash flow situations.