

NADA WASHINGTON CONFERENCE

Conference Targets Death Tax, Asbestos, Olds and Credit Bills

After a stunning victory last year in gaining passage of a voluntary arbitration bill, legislative priorities cited at the 2003 NADA Washington Conference held last week focused on a range of industry-specific legislative priorities that can benefit new vehicle dealers, including the permanent repeal of the death tax, asbestos ban clarification, a tax break for Oldsmobile dealers and protection of the national credit reporting system.

The conference, attended by over 400 top dealers and dealer association executives, also included a lineup of powerful lawmakers, including Speaker of the House J. Dennis Hastert, Senator George Allen (R-VA), and House Majority Leader Tom DeLay (R-TX). Michael Duffy, Washington Bureau Chief, Time magazine also added a Washington insider's perspective on current political issues.

NADA's priority issues for the remainder of the 108th Congress include:

- ***H.R. 8 and S. 13, Permanent Repeal of the Estate Tax Help to Preserve Family-Owned Businesses.*** In 2001, Congress passed a law that phases down and repeals the draconian estate or death tax in 2010. However, the entire 2001 law sunsets December 31, 2010, which will bring back the estate tax as it existed before the 2001

legislation unless Congress takes action to make estate tax repeal permanent.

NADA supports H.R. 8 to make permanent estate tax repeal after 2010 and S. 13

to make permanent estate tax repeal beginning in 2005. On June 18, 2003, the House approved H.R. 8 by a vote of 264 to 163. S. 13 is pending on the Senate calendar, but 60 votes will likely be necessary to consider the legislation on the Senate floor.

- ***S. 1125, The Fairness in Asbestos Injury***

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From The World Desk...



Washington Auto Show Chairman George Doetsch with Ford President & Chief Operating Officer Nick Scheele at the Frankfurt Auto Show on September 10, 2003. A WANADA delegation attended the show media days with scores of trade press and auto industry representatives from across the world. WANADA was there meeting with industry leaders about the new and expanded Washington Auto Show.

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From left, WANADA Vice Chairman Dennis Rippeon, Sen. George Allen (R-VA), NADA Director-elect for Virginia, Mike Martin, and former NADA Chairman Carter Myers during the NADA conference. WANADA joined VADA in hosting members of Congress at a luncheon on Capitol Hill.

Resolution Act. Exposure to asbestos has led to civil claims estimated at nearly \$275 billion, put many businesses into bankruptcy, and burdened the courts for 30 years. S. 1125 would create a \$153 billion privately funded national trust to compensate people suffering from asbestos exposure and eliminate tort as a remedy. The bill would also ban the use of asbestos in consumer products.

Though the amount of asbestos in automotive products has been drastically reduced, millions of used cars on the road still have asbestos parts, such as brake linings. NADA has urged Congress to require EPA to consider how the legislation would affect retailers. For example, any asbestos ban should afford retailers sufficient time to eliminate any existing stock of asbestos-containing products. Despite heavy opposition from unions and trial attorneys, the legislation is a Republican leadership priority, and Senate Majority Leader Bill Frist (R-TN.) has expressed his desire to bring the bill to the Senate floor in October.

- **H.R. 2622, Fair Credit Reporting Act.** Enacted by Congress in 1970, the FCRA streamlines credit reporting and provides consumers protection from inaccurate and inappropriate disclosures of personal information. In 1996, Congress updated FCRA by strengthening consumer protections and recognizing the importance of a national, uniform

credit reporting system. To achieve uniformity, Congress preempted certain aspects of state law, precluding state laws on affiliate sharing, prescreening, furnisher obligations, contents of consumer reports, consumer notifications of adverse action notices, access and correction of files, and summaries of rights. The preemptive provisions of FCRA governing these areas expire on December 31, 2003.

Combined with technological advancements, FCRA has fostered a national credit reporting system that allows automobile retailers virtually instant access to credit reports. If FCRA preemption lapses and states enact new laws, the ability of consumer reporting agencies to quickly, accurately, and completely present a consumer's creditworthiness could be jeopardized. NADA supports H.R. 2622, which permanently extends federal preemption and grants consumers the right to obtain a free credit report annually.

- **S. 1305/H.R. 870, Oldsmobile Dealer Tax Relief.** Since 2,801 Oldsmobile dealers were notified on Dec. 12, 2000 that the brand would be eliminated, NADA has worked hard to gain partial compensation agreed to by GM. However, if a dealer is required to pay federal income tax when the payment is received, the financial burden will be even more severe. Therefore, NADA is strongly backing S. 1305, introduced by Senate Finance Committee member Jeff Bingaman (D-NM), and House Ways and Means Committee member Dave Camp (R-MI), which would provide an opportunity for Oldsmobile dealers to reinvest their compensation proceeds from GM in other dealership property without incurring tax consequences.

In addition to these priority issues, NADA will continue to oppose unreasonable increases in CAFÉ, along with supporting bankruptcy reform to extend the lien perfection period from 20 to 30 days, and legislation to reform Superfund.

WANADA joined MNCTDA and VADA in visiting members of Congress from the region.

MD, VA UPDATES

VA Dealer Board Meets, Greets New Members

The bi-monthly meeting of the Virginia Motor Vehicle Dealer Board (VMDB) held September 9, 2003 was the first for new board members appointed by Governor Warner to replace previous members whose terms expired. New franchised dealer board members were: Jim Mitchell, Lynchburg; Pat Patrick, Richmond; Frank Pohanka, Fredericksburg; Larry Shelor, Christianburg; and Robert Woodall, Danville. The newly appointed independent dealers are E. Todd Hyman, Virginia Beach, and Hugh McCreight, Richmond.

Other notable MVDB actions included:

- **Unlicensed Salespeople.** The MVDB continued its informal policy of assessing a \$100 per sale civil penalty by unlicensed salespersons by assessing an independent dealer a fine of \$300 for three sales by an unlicensed salesperson. A busy salesperson who sells a number of vehicles can become a very expensive problem for a dealer if there is some problem in licensing. Dealers are reminded to have in place a system to ensure that every salesperson is properly licensed with the Motor Vehicle Dealer Board.
- **Advertising.** The Advertising Committee discussed new vehicle price advertising with the disclaimer that the advertised price "includes all rebates and incentives." The committee

noted that this is an insufficient disclosure. The advertised price, which includes any rebates or incentives, must specifically list, or be subject to a disclaimer that lists, each rebate or incentive applicable. This will allow consumers to understand whether they qualify for the incentives and comparison shop.

The committee also considered advertising of monthly payments in balloon arrangements. The committee expressed its concern that a balloon payment disclosure in a

disclaimer might actually contradict the monthly payment information in the body of the ad. The committee expressed its opinion that, to be legal, the advertisement of a monthly payment on a balloon contract must contain a disclosure in the body of the advertisement of the final balloon payment amount due. Regular meetings of the MVDB and Committees will be November 10.

Maryland Employers Facing Increase in Unemployment Tax

Unless legislators reform the law pertaining to unemployment insurance, all Maryland employers will have to pay more unemployment insurance taxes starting in January, according to MNCTDA. The law currently states that when trust fund reserves fall below a minimum set by law then employers will have to pay an extra unemployment surtax of about 1% to replenish the trust fund. It is estimated that this extra tax will cost employers about \$85 per employee.

On September 30, the Maryland Department of Labor and Licensing will release trust fund numbers for the current year. It is estimated that the unemployment insurance trust fund will stand at \$695 million this year; whereas, \$832 million is the required minimum set by law. To compensate for this delinquency, a surtax on employers is automatically triggered.

A task force of legislators and business leaders has been created to review this problem and seek alternative solutions. Since employers pay the unemployment insurance quarterly, legislators have time before the 2004 session concludes to change the current law which requires a mandatory surtax on employers. The surtax last went into effect in 1996.

MNCTDA and WANADA will be watching this issue closely, especially when the final statistics are released on September 30th. If this issue becomes a debate during the 2004 legislative session, dealers should contact their legislators directly.

FOOTNOTES:

Sign Up Now for Flu Shots



○ ○ ○ Last year influenza cost employers 32 million hours of lost productive employee work time. So don't delay, sign up now for on-site flu shots provided by Norvar Health Services in Centreville, VA., – the only company recognized by WANADA to deliver this on-site flu immunization program.

On-site immunization services will be available to member dealers during the October to December timeframe for **\$19 per immunization** with a minimum guarantee of 20 participants. For more information on Norvar Health Services see the FAX-back reservation form enclosed with this WANADA Bulletin, or contact John O'Donnell at WANADA, (202) 237-7200.

FMCSA Won't Expand Rules To Dealership Shuttles

At NADA's urging, the Federal Motor Carrier Safety Administration will not expand its rules to dealership shuttles that carry 9 to 15 passengers, including drivers. NADA successfully countered attempts to impose mandates such as commercial driver licensing, vehicle inspections and driver record keeping. Commercially operated dealership vehicles over 10,000 lb. GVWR (e.g., certain tow and parts-delivery vehicles) used in interstate commerce must comply with all applicable federal safety standards. For more info, visit www.nada.org; click on Government Affairs, then Regulation.

NHTSA'S New School Bus Classification In Effect

The National Highway Traffic Safety Administration's new class of school buses-multifunction school activity buses (MFSABs)—transport children on trips other than those between home and school. MFSABs do not need flashing lights and stop-arms, but must meet all crashworthiness and safety standards. As MFSABs will be more affordable, bus dealers could see more sales. Dealers should only sell MFSABs after getting in writing that they'll be used only for non-home-to-school transportation, including to and from school-related activities. For more info, visit www.nada.org; click on Government Affairs, then Regulation.

Sign up today for NADA's audio seminar, "The Federal Telemarketing Restrictions- Including the New National Do-Not-Call Rules." The two-hour telephone conference from 1 - 3 p.m. EDT Sept. 25 covers the Federal Trade Commission rule that both automobile and truck dealers must have in place by Oct. 1, 2003 to be in compliance. Send questions before noon EDT Sept. 24 to legal@nada.org. Call 800/252-6232, Ext. 2 for more info or to register before noon EDT on Sept. 24.

Thought for the Week...

No taxation without respiration.

—Sen. George Allen (R-VA) on the death tax

Enclosures:

- Flu Shot FAX-Back Form
- Universal Underwriters Loss Prevention Series: *Manual Material Handling*