

WANADA Bulletin # 47-04

November 22, 2004

REGULATORY UPDATE

New FACT Act Duties Begin December 1, 2004

New Rules Impose Several New Duties on Franchised Dealers

As previously reported by NADA and WANADA, the Fair and Accurate Credit Transactions (FACT) Act of 2003 imposes several new duties on franchised automobile and truck dealers. Although several of the law's provisions take effect December 1, 2004, the Federal Trade Commission (FTC) has yet to finalize (and, in some cases,

even propose) guidelines for complying with the new provisions. Consequently, NADA has prepared a summary of one FACT Act section that requires dealers' immediate attention. This section triggers anti-identity theft responsibilities.

In short, the FACT Act significantly amends the Fair Credit Reporting Act (FCRA), according to NADA legal staff. While the new law preserves uniform national credit reporting standards that were set to expire on December 31, 2003, it also imposes several new duties on consumer reporting agencies (CRAs), users of credit reports, creditors and others that are designed to combat identity theft, enhance the accuracy of credit reports, and provide consumers with greater control over the marketing solicitations they receive.

The FCRA is administratively enforced by the Federal Trade Commission (FTC) and generally authorizes consumers to bring a private right of action in federal court against those who violate its provisions. However, certain provisions (including section 311) are not subject to a private right of action.

The summary enclosed with this WANADA Bulletin has also been posted at www.nada.org/factact (requires member number) and will be mailed to all NADA members. NADA will use this page to post additional FACT Act developments, which will also be carried in the WANADA Bulletin. In addition, after the FTC finalizes its rules under pertinent sections of the FACT Act, NADA will develop and distribute an educational guide that highlights dealers' general compliance responsibilities.

DEALERS IN THE SPOTLIGHT



Fitzgerald Is Montgomery County Business Leader of the Year

Jack Fitzgerald (second from left) of Fitzgerald Auto Malls was honored last week as the Montgomery County Chamber of Commerce "Business Leader of the Year." Montgomery County Executive Douglas Duncan (left) presented the award, citing Fitzgerald's many outstanding contributions to his community, particularly his regional leadership in promoting life-saving child safety seat inspections. Fitzgerald dealerships have inspected more than 18,000 child seat installations in the past three years. Joining in the award presentation were Montgomery County Chamber of Commerce Chairman Charles Atwell and Chamber CEO Richard Parsons (far right).

Inside...

VA MVDB Takes Up Misuse of Temp. Tags.....p.2
EPA Simplifies Exemption for Used Oil.....p.2
Customer Relationship Managementp.3
Auto Show Sales Reps Must Register.....p.3
WANADA Annual Meeting with George Will.....p.4

VA MVDB REPORT

VA Dealer Board Takes Up Misuse of Temporary Tags

At its November 8 meeting, the Virginia Motor Vehicle Dealer Board (MVDB) received a report from the Assistant Commissioner of the Department of Motor Vehicles concerning temporary tags. The Assistant Commissioner noted that the DMV is trying to attack the problem of misuse of temporary tags by a few dealers who buy them in far greater numbers than is justified by the number of sales they have. The DMV has adopted a new policy that limits the number of temporary tags a dealer can buy to three times their prior year's sales. There will be a procedure for exceptions to this limit for dealers who are new to the business or who have had a substantial increase in sales.

The Assistant Commissioner of the DMV also noted that there will be a procedure established in the DMV for issuance of more than one temporary tag. The DMV has announced the intention to crackdown on issuances of more than one temporary tag. Subsequent temporary tags will only be allowed if state law is carefully followed by an explainable failure to finalize the tag work (such as lack of a title from a lien pay-off) and only if the application and tax and tag fees are filed with the DMV.

The WANADA Bulletin will report on any new temporary tag procedures when they are finalized.

The MVDB also addressed the following issues:

Customer Referral Payments. A dealer received a civil penalty for a referral program in which customers were paid by the dealership for referrals. Dealers are reminded that payments to anyone other than a licensed salesperson, either in cash or through some other form of consideration, are "birddog fees" and are illegal under Virginia law. A dealer who pays these benefits to anyone other than licensed salespeople of their dealership is subject to sanctions.

Independent Dealer-Operator Education. MVDB voted to support a requirement that applicants for an independent dealer-operator's license meet mandatory training requirements. MVDB noted that this is not an issue affecting

franchised dealers, since franchised dealers are subject to the requirements of franchisors that a dealer-operator have a minimum level of knowledge and experience in operation of a dealership. Franchised dealers are also subject to sanctions by franchisors in the event of serious problems in the dealership. It was noted, however, that independent dealer-operators do not operate under these requirements. MVDB felt it would be in the best interest of applicants for independent dealer-operator licenses to have more education so that they understand the laws that apply to them and the financial requirements. MVDB also spoke in favor of increasing the dealer bond to be posted by an individual dealer applicant to increase the personal responsibility of the dealer-operator.

The next date for Board and Committee meetings is January 10, 2005 at the Department of Motor Vehicles in Richmond, Virginia.

EPA Simplifies Service Station Dealer Exemption for Used Oil

After more than a decade of urging by NADA, EPA has simplified its used-oil Superfund exemption process. "NADA is pleased that EPA has finally issued a simple process that dealers involved in used-oil Superfund sites can use to exempt themselves," says NADA Regulatory Affairs Committee chairman Ed Tonkin. "The exemption requires that dealers properly manage their oil and accept oil from do-it-yourselfers." "Properly managed" means that dealers may not mix used oil with other substances.

To access a PDF file that includes a memo from EPA as well as the exemption application, NADA members (member sign in needed) can click on <http://www.nada.org//Template.cfm?Section=20044&Template=/MembersOnly.cfm&ContentFileID=760>.

NADA MONTHLY DEALER OPERATIONS COMMENTARY**Customer Relationship Management and Sales Force Automation**

Your dealership may already be using technology-based Customer Relationship Management (CRM) and Sales Force Automation (SFA). If not, you're probably looking into these systems to help you build rapport, generate floor traffic, streamline selling, and process customer information. How do you select the right system for your dealership? Here is a checklist you can use at the NADA Convention as you visit various vendors. The "trade show checklist" is excerpted from NADA Management Guide CR8, A Dealer Guide to Automotive CRM and Sales Force Automation. For more information or to order, call the National Automobile Dealers Association at 800-252-6232, ext. 2 or 703-821-7227, or visit our website at www.nada.org/mecatalog. NADA members' price is \$35 plus shipping; cost to non-members is \$70 plus shipping.

Company Name: _____ **Booth #** _____

Background

Years as a CRM/SFA provider _____

Total dealerships currently using the system _____

Dealerships using system for more than 3 years _____

Staff members who said hello: President ____ V. P. ____

Installations ____ Training ____

General response from other dealers: Weak ____

Moderate ____ Strong ____

Floor traffic

Leads

Renewal opportunities

Sold/Ordered units

Missed opportunities

Core Functionality**Planners:****Data Acquisition:**

Interview method _____

On-line reverse lookup _____

Optical D. L. scanner _____

Updated "buy or die" style

Floor traffic *and* leads to call

Owners *and* renewals to call

Viewable by salespeople

Letters: Printed w/envelopes _____

E-mailed when pre-

ferred _____

and managers

Logbooks:**Reports:****Important Reminder!****MD, VA Sales Reps Must Register for 2005 Auto Show**

Sales representatives from Maryland and Virginia dealerships who plan to be working at The 2005 Washington Auto Show, Dec. 26, 2004 through Jan. 2, 2005, *must register* with the District of Columbia government through WANADA in order to receive a waiver from D.C. automotive sales licensing law requirements. Please fill out the registration form enclosed with this *Bulletin* with the names and sales license numbers of the dealership and all dealership representatives who will likely work at the show, and fax it to the WANADA office, (202) 237-9090, by Friday, Dec. 10. Reps who do not register may trigger regulatory scrutiny not only for themselves but for the auto show as well.

Your immediate attention and cooperation is appreciated!

Auto Show Jobs: A limited number of slots for auto show clerical jobs are available for this year's Washington Auto Show. The pay is \$8 an hour with long days (up to 10 hours) over the course of the show. If interested, call Tom Mann at WANADA, (202) 237-7200. This is a great way for college students to be productive over winter break!

WANADA Annual Meeting

Thursday, Dec. 2, 2004

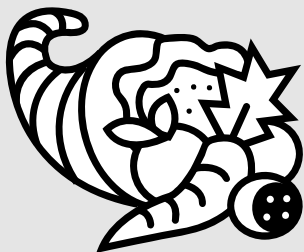
Featuring Keynote Speaker

George F. Will

Renowned Columnist & Commentator



There is still time to reserve a seat for WANADA's Annual Meeting and Luncheon, Thursday, Dec. 2, at the McLean Hilton in Tysons Corner, VA. The keynote speaker will be George F. Will, one of America's foremost political commentators and columnists, who will offer his up-to-the-minute perspective and analysis of where America and the world are going in a second Bush Administration. For more information and reservations, see the flyer enclosed with this WANADA Bulletin. Do it today!



*WANADA Wishes One and All
A Joyful and Bountiful Thanksgiving*

Note: WANADA will be closed November 25 & 26

Thought for the Week of November 22...

The American, by nature, is optimistic. He is experimental, an inventor and a builder who builds best when called upon to build greatly.

--John F.

Kennedy, assassinated Nov. 22, 1963

Enclosures:

- NADA FACT Act Overview
- Auto Show Sales Rep registration form
- WANADA Annual Meeting & Luncheon flyer and registration form