

NATIONAL LEGISLATIVE UPDATE

Little for Dealers in Obama's Stimulus/Budget Plans WANADA Joins NADA & Sister Associations To Put Dealers on the Radar

Franchise auto dealers looking for some relief in the sweeping \$787 billion economic stimulus package signed by President Barack Obama and the new budget he proposed last week will have to wait longer. A WANADA analysis of both packages reveals no action on franchise dealers' most immediate need: federal guarantees for dealer inventory financing and a mix of positive and negative developments on several other fronts.

Floor Plan Relief Paramount

Floor plan lending has been contracting dramatically in recent months, even for the most creditworthy dealers and where it is available, terms have not been encouraging. The issue is particularly critical because dealer inventories have risen dramatically and are now averaging near a four-month supply. For a typical dealer, that amounts to approximately \$20,000 at a .5% interest rate.

WANADA and MADA met this week with Congressman

Chris Van Hollen (D-Md.), to impress on him the dire need for federal relief on the matter. More meetings are planned with other members of Congress from the region. The WANADA effort is part of a wider one by NADA and state dealer associations to press the White House, Treasury Department, Federal Reserve, Small Business Administration and members of Congress for the inventory financing guarantees. NADA is telling all who will listen that the "program is about building confidence in the lending markets and that the cost to the government for the 3-year program would be next to nothing."

Floor plan financing relief cannot come soon enough, as Ford, GM, Edmunds.com and J.D. Power & Associates recently downgraded their sales forecast for the year by nearly a million units to a range of 10.1 million to 10.5 million, based on a February SAAR that dropped to a meager 9.3 million units.

Employers Now Responsible for Some COBRA Payments

Meanwhile, dealers and other small businesses are also looking at an increase in COBRA spending (see page 2) as part of the new stimulus package that calls for employers to now pay 65% of COBRA premiums beginning March 1, 2009 (retroactive to September

1, 2008). The bright spot here is that the employer subsidy to former employees on COBRA works out to be a loan rather than a payout because employers will receive a tax credit on their COBRA payments.

The president's budget proposal also calls for employers to automatically enroll workers in direct-deposit individual retirement accounts in an effort to reduce the number – estimated to be ½ the workforce – who lack retirement plans that supplement Social Security.

WANADA members are encouraged to consult with their tax advisors regarding the impact of the many corporate and individual tax changes proposed in the president's budget, all of which is very new and, in some instances, work still in progress.

Car Buyers Get Tax Credit on Title Tax but Not Interest

One sure positive in the stimulus bill signed by the president is a provision, championed by Senator Barbara Mikulski (D-Md.), that now permits new car buyers to deduct sales and excise taxes from their yearly income tax bill for vehicles purchased before the end of 2009. Sen. Mikulski's original measure had also called for a tax deduction for interest on new car loans, but even with that

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provision removed, R.L. Polk & Co., projects that allowing consumers to deduct sales and excise taxes on new vehicle purchases will stimulate 94,000 new-vehicle sales this year.

Specifically, individual taxpayers whose adjusted gross income is less than \$125,000 per year (\$250,000 per year for joint-filers) can now deduct state and local motor vehicle sales taxes and excise taxes — whether it is itemized or not — on all new model passenger cars and light trucks

(less than 8,500 pounds) retailing for up to \$49,500. For new vehicles above this price, consumers may deduct sales taxes on the first \$49,500. This provision applies to eligible purchases between February 17, 2009 and December 31, 2009.

(More details of the auto sales tax provision are enclosed with this WANADA Bulletin and are available at <http://www.govtrack.us/congress/bill.xpd?bill=h111-1>).

Where Things Are and Where

They Need To Go

“NADA is pleased that tax incentives on new auto sales are included in the economic stimulus package,” David Regan, NADA’s vice president of legislative affairs, told the Detroit News. “Allowing consumers to deduct sales and excise taxes paid on new vehicle purchases will help jump-start auto sales.”

Regan said that making interest deductible would have done even more to generate consumer demand for new vehicles, but he applauded lawmakers for recognizing the importance of automotive retailing to the overall U.S. economy. “Anything that increases auto sales will also provide help for state and local budgets that rely on sales tax revenues, consumers, dealers and the auto industry,” Regan said. “New-car dealers generate almost 20 percent of all retail sales in this country. Therefore, anything that can help get consumers back into dealership showrooms can also help stimulate an economic recovery.”

Regan also thanked Sen. Barbara A. Mikulski (D-Md.), for spearheading the effort to address retail car sales in the legislation. Sen. Mikulski called the passage of the tax provision “a victory for American consumers and a victory for American jobs.”

As a big part of the auto industry, dealers need to be as much of a consideration for federal stimulus planning as the manufacturers. As noted above, NADA and the dealer associations are working to ensure that.

With much happening, and much happening quickly, it underscores the necessity to keep an “eye on the ball.” Stay Tuned!

IMPORTANT NOTICE:

Stimulus Bill Expands COBRA, Raises Cost to Employers

Dealers Must Now Pay 65% of Premiums for Fired or Laid-Off Employees For Up to 9 Months

WANADA’s Insurance Agency is contacting all current dealership clients to make them aware that a portion of the recently passed stimulus bill expands COBRA and significantly increases cost to employers.

Under the new law, persons who have been involuntarily terminated (fired or laid-off) from September 1, 2008 through December 31, 2009, must be offered the opportunity to enroll in COBRA again with an effective date of March 1, 2009. These letters will be sent out by WANADA as soon as the DOL gives guidance on the language that must be included.

Persons who are already enrolled in COBRA as a result of involuntary termination will also have special rights as of March 1, 2009.

And in a major cost increase to employers, eligible former employees will pay 35% of the medical premium and the employer will pay 65% for a period of up to 9 months. Formerly, those with COBRA coverage paid 100% of premiums for up to 18 months with no cost to employers.

It is WANADA’s understanding that the employer will be able to take a dollar-for-dollar reduction on payroll taxes for both FIT and FICA. WANADA has requested written detail of the mechanics of this from our CPA, CBM. We will keep dealers advised.

In the interim, WANADA is contacting dealership employee benefits administrators to inform them of the changes to COBRA. If you have any questions talk to your employee benefits administrator in the dealership, or contact John O’Donnell at WANADA (202) 237-7200 or jod@wanada.org.

STATE LEGISLATIVE UPDATE

VA, MD Dealers Press for Franchise Legislation

As General Motors and Chrysler returned to Washington to present restructuring plans that call for the elimination of several franchises, MADA and VADA were hard at work in Annapolis and Richmond seeking legislation to enhance franchise relations statutes.

Virginia

The effort has been challenging in the Virginia General Assembly, where manufacturers have pushed back against **SB 1410/ HB 1778**, legislation that revises and clarifies responsibilities of manufacturers toward dealers in the event of the termination of a dealer franchise. The twin bills also add provisions against other unreasonable practices by manufacturers toward dealer franchises.

Despite passing both the House and Senate, VADA issued the following alert to dealers: "The governor and the economic development lobby have joined forces with the manufacturers against the legislation." VADA is urging dealers to send letters and e-mails to their elected representatives in the General Assembly to support the legislation.

On other fronts, VADA warned dealers that after passing the House with a unanimous vote, trial lawyers are working hard to kill a measure in the Senate (**HB 1687**) that simply clarifies that dealers can take a vehicle back if the financing falls through. Dealers are urged to call members of the Senate Transportation Committee and ask them to support this bill.

A bill which has passed both Houses, **HB 1722/ SB 1415**, provides for Virginia to recognize the title documents from another state that attest to the repossession of a vehicle. For more information, go to VADA.com.

Maryland

Having achieved significant franchise relations legislation in previous sessions of the General Assembly, MADA is seeking to strengthen the Maryland franchise law so that manufacturers may not employ discriminatory or unreasonable tactics to close targeted points in Maryland. Sponsored by Senators Raskin, Forehand and Stone, **SB 668** is designed to achieve the following objectives:

- Require manufacturers to consider geographic elements and consumer demographics when establishing a dealer's market area.
- Require manufacturers to equally provide incentives, rebates and special offers to all dealers in the state.
- Prohibit a manufacturer from requiring a dealer to build new dealership facilities.
- Prohibit a manufacturer from providing vehicle discounts to a dealer who agrees to the facility demands of the manufacturer.
- Eliminate the manufacturer's right of first refusal that prevents a dealer from selling to a person of his or her choosing.
- Prevent the manufacturer from penalizing the dealer if a customer subsequently exports the vehicle to another country, unless the manufacturer can show the dealer had specific knowledge of the purchaser's intent.
- Require a manufacturer who terminates a dealer franchise to reimburse the dealer for cost of any new vehicles in stock, facility upgrades, unsold parts, etc.

A hearing on SB668 has been scheduled for March 11, 2009, before the Senate Judicial Proceedings Committee. An alert to Maryland dealers to contact their senators is likely as that date approaches.

MADA also is opposing:

- **HB 629**, which requires a notice of specified defects to the buyers of used vehicles, and that dealers of used vehicles are responsible for the cost of specified repairs.
- **HB 547**, which prohibits dealers or an agent or employee of a dealer from stating the purchase price of a vehicle in an advertisement unless the purchase price is printed in the largest font in the advertisement, the advertisement identifies specified attributes of the vehicle, and the vehicle is currently available for sale at the price stated in the advertisement.
- **HB 1251**, which requires a dealer who charges a dealer processing charge to post a "Notice of Dealer Processing Charge" in the dealership in a prominent location that is clearly visible to customers.

The WANADA Bulletin will report updates on these bills as they firm up and more information is available, or call WANADA Executive Vice President John O'Donnell at (202) 237-7200 or jod@wanada.org.

FTC Civil Penalties Have Increased

The FTC has announced an increase in civil monetary penalty amounts effective Feb. 9, 2009. The adjustments are based on the increase in the Consumer Price Index (CPI), and include an increase in the maximum penalties per knowing violation of the Fair Credit Reporting Act (examples of which would include the Red Flags, Address Discrepancy, and Affiliate Sharing Rules) from \$2,500 to \$3,500. In addition, the maximum statutory penalty per

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2009 WASHINGTON AUTO SHOW UPDATE

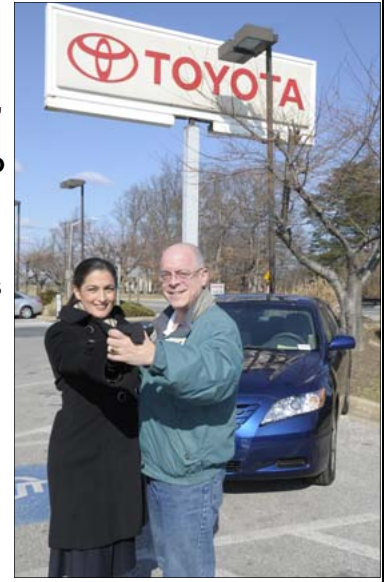
Winning Dancers Take Delivery of Their New Toyotas



"The new car is GREAT! Only after I drove it off the lot, and had it in my garage, did it finally sink in that it is mine. I still can't believe it. I've never driven such a cool car before, much less owned one!" said Diane Kadushin (left) of Gaithersburg, MD as she got the keys to her new Toyota Prius from Ethan Rossignol, General Sales Manager for DARCARS Toyota Silver Spring. Dianne was the Women 18+ Group winner in the recent Dancing for Toyotas contest at the 2009 Washington Auto Show.

The Men 18+ Group winner was Steve Black (right) of Montclair, VA, who not only got the keys to his new Toyota Camry from WANADA Chairman Tamara Darvish, but had a dance with her as well.

Expect more about the WAS car contest winners in future Bulletins.



Dealer Alert: Veterans Administration Auto Grants Available to Qualified Vets

WANADA Kindred-Line member Corky Crovato of BG Products & Services alerted WANADA to an important but little known Veterans Administration program that provides grants of up to \$11,000 to wounded service members for the purchase of a vehicle of their choice. The amount of the grant is determined by the extent of the injury and is issued directly to the dealer when there is an arrangement made between the service member and the dealer, according to Steve Springer, a case manager at Walter Reed's Amputee center. In addition to the VA voucher, Springer says the service member must also present the dealer with an approval form and letter from VA. "If they come in without that they may not be approved," he said. In this day and age of dealership scams, WANADA wants you to know this voucher is legitimate. For more information or to verify these VA auto grants, contact Steve Springer at (202) 356-1012.

FTC Civil Penalties *(Continued from page 3)*

violation for certain FTC rules that are enforced under the FTC Act have increased from \$11,000 to \$16,000.

Under the FTC Act, when a rule (such as the GLB Safeguards Rule, Privacy Rule, or the Red Flags and Address Discrepancy Rules) continues to be violated despite an order to comply with a rule, the FTC can file a lawsuit in federal court seeking \$16,000 for each violation of that rule, as well as equitable relief. For more information, go to <http://www.ftc.gov/os/fedreg/2009/january/090109federalcivipenalties.pdf>.

NOTE: Attorneys from the FTC's Division of Privacy and Identity Protection—which drafted and enforces the Red Flags Rule—will present a virtual seminar "A Deeper Dive into the FTC Red Flags Rule" on **March 26 from 1 to 3 p.m. EST**. To register, visit www.nada.org/seminars or call (800) 252-6232, ext. 2.

Staying Ahead...

In times like these, it helps to recall that there have always been times like these.

— Paul Harvey

Enclosure

Auto Ownership Tax Amendment Fact Sheet