

# THE WANADA BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

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## 2015 MD Legislature provides clarity on spot deliveries and Tesla sales as new governor reigns in "Rain Tax" and other taxes



Maryland Statehouse in Annapolis

The Maryland General Assembly helpfully addressed the automobile business practice of "spot deliveries" as the 2015 session was winding down earlier this month by passing important legislation that once and for all recognizes the time honored practice of dealer credit arrangers selling vehicles to consumers before the financing is finalized. Spot deliveries that have long been standard operating procedure in dealerships have correspondingly been mischaracterized by consumer groups and plaintiff lawyers who sue dealers as "yo-yo" sales. These industry critics have long contended that dealer credit arrangers regularly, and by design, "bait" vehicle buyers into loans with unrealistically low rate offers, that these same dealers change up into higher rates when the financing is ultimately concluded after the vehicle is delivered.

"The idea that dealers everywhere are laying in wait for unwary car buyers for the chance to bump up the finance rates they're working to finalize for those buyers is patently absurd," said Peter Kitzmiller, president of the MADA, who, along with WANADA leaders, fashioned and directed the spot delivery legislation. "The extent to which there are vehicle sellers who engage in so-called yo-yo sales there are ample consumer protection laws, enforced by readily available consumer protection agencies across the state to deal with it," he said. So with such abuses in today's car business few and far between, dealer advocates argued, there is no reason not to

recognize spot delivery in the law as the reality that has been and will continue to be which is what this legislation accomplishes.

What the legislation provides -- that will likely be signed into law by the governor -- is a dealer disclosure methodology for the buyer's order that makes it clear to the consumer vehicle purchaser utilizing dealer-arranged financing that the transaction is final, unless the finance rate presented the day the vehicle is delivered comes back from the bank higher, in which case either party can unwind the deal, to include the return of any trade-in to the consumer.

The buyer's order disclosure method -- which is similar to the law in Virginia -- institutionalizes the practice of spot deliveries in Maryland for financed vehicle transactions. "The real value of the legislation is that it addresses the Maryland Motor Vehicle Administration's longstanding position that dealer spot deliveries are only acceptable when the vehicle is delivered on dealer tags, as opposed to temporary tags, when financing isn't finalized," said John O'Donnell president of WANADA. "Since most Maryland vehicle buyers over the years experienced no issues with the credit arranged by dealers, consumers took delivery, going off with their new ride on temporary tags, no problem."

To ensure that all dealers understand how the new Maryland spot delivery methodology will work when the law takes effect next October, MADA will be presenting webinars, the first being May 12 at 11 am. To register, [click here](#).

In other automotive related legislation, Maryland will join a growing number of other states, including Virginia, that have come to terms with the well-publicized, high end, electric sports car manufacturer, Tesla, on its national quest to retail vehicles without dealers as an exception to the state's vehicle sales law. Provisions of the legislation, with Tesla in mind, carve out an exception to the Maryland law that vehicles be retailed by dealers. The circumstances under which this can happen are these: 1) licensing as a "dealer" only exclusive EV manufacturers where 2) no other dealer holds a franchise from that manufacturer; and 3) there is no cross ownership between licensees; and 4) only four licenses this sort may be issued.

In tax related legislation, first term, first year Republican Governor Hogan *delivered* on his promise to have the General Assembly repeal the controversial stormwater remediation fee, a.k.a. the "Rain Tax." While the General Assembly did, indeed, repeal the Rain Tax, the governor and lawmakers recognized the basis of the stormwater management requirements originating at the U.S. EPA that looks to states like Maryland to keep large water estuaries, like the Chesapeake Bay, under control for ground water runoff pollution. As a result, the Rain Tax is no longer required by the state of localities, like the counties in the Maryland suburbs. These same localities, however, are instead directly involved with the federal requirements and are mandated under the new Maryland approach to develop their own programs to accomplish the EPA objectives. Dealers in Montgomery County, for example, aren't apt to see much lessening in local property assessments and stormwater runoff programs than what is correctly required.

## Update: Maryland's electric vehicle excise tax credits

The Maryland Motor Vehicle Administration has issued a clarification on 2015 state excise tax credits. All requests for plug-in electric vehicle excise tax credits will be processed until the funds for this fiscal year are depleted. MVA will continue to accept applications for the excise tax credit until July 1, the end of the fiscal year, even after the fund is depleted.

The program for EV credits will be continued in fiscal year 2016, starting July 1. All applications submitted to MVA before that date will be processed in the order in which they are received. Dealers should alert customers that there may be a delay in processing their credit until the fund has been replenished for FY 2016.

For more information, contact the MVA Refund Department at (410)768-7346.



EV's, like the Chevrolet Volt, could be affected by Maryland's revised excise tax credits.

## Court upholds Connecticut warranty reimbursement law

The U.S. Second Circuit Court of Appeals has issued an order affirming Connecticut's warranty reimbursement law, which had been challenged by the Alliance of Automobile Manufacturers. The case was Alliance of Automobile Manufacturers Inc. v. Melody A. Currey (Commissioner of the Connecticut Department of Motor Vehicles, defendant), with the Connecticut Automotive Retailers Association joining the case on behalf of the defendant.

The Alliance alleged that the franchise law violated several provisions of the U.S. Constitution. The Alliance also claimed that the warranty law would harm its automakers by raising the cost for them to do business in Connecticut. Several constitutional points were examined, and in the end, the Court upheld the law favored by dealers.

The outcome is very positive for dealers across the country. Maryland, for instance, passed an improved warranty reimbursement bill in 2014. Kudos to the Connecticut Auto Retailers for marshalling this positive result for dealers nationwide.



Jack Fitzgerald (left) and Dave Ford, Subaru Zone Dealer Development Manager.

## Fitzgerald stores win Subaru Eco-Friendly Dealer Award

Jack Fitzgerald's Subaru dealerships in Rockville and Gaithersburg both won the Subaru Eco-Friendly Dealer Award this week. The award recognizes environmental stewardship and the reduction of a dealer's carbon footprint on the environment and helping the earth in five key areas: energy efficiency, water conservation, recycling, waste management and community involvement.

Auto dealerships are an energy-intensive industry, with facilities consuming about 110 kBTU per square foot compared with prime office space at 93 kBTU. That amount can add up to thousands of dollars in water and energy costs for the typical dealership per year. All dealerships have the

ability to reduce energy costs by at least 20 percent with more advanced energy efficiency and aggressive energy management approaches.

“We are grateful for Subaru’s recognition of our Environmental Management System,” said Jack Fitzgerald, CEO of Fitzgerald Auto Malls and longtime WANADA member. “We know it’s just the right thing to do.”

Fitzgerald Auto Malls is the first dealership group in North America to become ISO 14001 certified the highest recognition available for quality management with a focus on the environment. The Fitzgerald group recycles more than 80 percent of all solid waste generated at its dealerships – twice the national average for businesses.

## Net dealership profit holds steady at 2.2%, says NADA

For the third straight year, net pretax profit at new-car dealerships as a percent of total sales was 2.2 percent, says NADA in *NADA Data 2014*.

“The 2.2 percent figure represents sales in the new- and used-vehicle and service and parts departments,” said NADA Chief Economic Steven Szakaly. “That’s more than a full percentage less than many other retailers.”

Other highlights from the report:

- Total dealership revenue reached an all-time high of \$806 billion in 2014, an increase of 8.6 percent from the year before.
- The average retail transaction price of new vehicles rose to \$32,618, up 2.7 percent from 2013. Average used-vehicle retail prices also rose by 4 percent to \$18,846.
- The number of retail customers buying a new- or used-vehicle service contract remained virtually unchanged from last year at 41.7 percent.
- With all the recalls in 2014, combined recall and warranty work performed by dealers jumped 21.6 percent to \$8.5 billion.

And a couple of figures to have handy when discussing the effect dealerships have on the local economy: Franchised dealers, on average, employed 64 people per dealership. And dealership wages have risen an average of 3.3 percent since 2011, with employees, on average, earning more than \$55,000 per year.

## NHTSA wants dealers to check service cars for recalls

NHTSA Administrator Mark Rosekind said last week he wants franchised dealers to check all service vehicles for open recalls and notify the owner of the results.

President Obama’s transportation bill would make that requirement. “It’s a simple step that can take less time than checking the oil,” Rosekind said in a speech at the World Traffic Safety Symposium. “This is a step dealers could take today, without congressional action.”

Rosekind noted that dealers are already required to ensure that any new car they deliver is free from open recalls. Twice in the past six months, he said, NHTSA has assessed civil penalties on dealers who sold vehicles that were under recall. To help address the situation GM changed its computer inventory system so dealers cannot submit requests for dealer sales incentives on vehicles under recall that have not been repaired.

Rosekind encouraged all automakers and dealers to take such proactive stands. “The more proactive we are, the more lives we can save,” he said.

The NHTSA administrator also said that dealers should fix any open recalls on a used vehicle before they can sell it. NADA president Peter Welch met with Rosekind last month and said that such a requirement would be difficult to meet, reported the *Detroit News*. Welch asked if NHTSA could provide aggregate data to dealers so they could more easily check for recalls, but Rosekind said NHTSA did not have the resources to do that.

“The overwhelming majority of recalls involved issues that do not warrant the drastic step of grounding, so we look forward to reviewing government estimates of how much these proposals would cost consumers,” NADA spokesman Jared Allen told the *Detroit News*.

NHTSA plans a summit this summer to discuss vehicle safety practices with the CEOs of the major automakers, Rosekind told the *Detroit News*. He said that other modes of transportation, such as the aviation industry, are more proactive about safety culture than the auto industry. The fact that “people are concerned that the fines aren’t high enough to change behavior” means more needs to be done, Rosekind said.

## Gas prices will keep falling this summer and through 2015

During the April through September summer driving season, retail gasoline prices are expected to average \$2.45 a gallon, substantially below last year’s \$3.59, says the U.S. Energy Information Administration (EIA). Throughout 2015, the average U.S. household is expected to spend about \$700 less on gasoline than last year – the lowest level in more than a decade.

If the United States and other nations lift sanctions on Iran as agreed to in the framework agreement reached earlier this month, the forecast for world crude oil prices could drop by \$5.00 to \$15.00 a barrel, says the EIA. And if oil prices fall, gas prices fall.

Light vehicle sales in recent months show that when gas prices fall, light truck sales tend to rise at the expense of passenger cars. That has been enough of a trend recently and in the foreseeable future for NADA to forecast a rise in the light truck share of 2015 sales to 56 percent (see [last week's WANADA Bulletin](#)).

## Autonomous car drives 3,400 miles – but watch for car sickness



The “driver” rarely had to intervene during the 3,400-mile trip across country.

There’s good news and bad news about autonomous cars this week. The good news is that an Audi Q5 outfitted by Delphi with the latest in active safety technology completed a coast-to-coast 3,400-mile trip, with 99 percent of the drive in fully automated mode.

Delphi engineers collected nearly three terrabytes of technology – about 30 percent of all the printed material in the Library of Congress. The nine-day trip crossed 15 states and DC. Along the way, the car encountered complex driving situations such as traffic circles, construction zones, bridges,

tunnels, aggressive drivers and a variety of weather conditions.

The only times a human driver had to intervene were when traffic was diverted around a construction cone, and another time when traffic was moved to the left lane to avoid a police cruiser on the right shoulder, reported the Associated Press.

A new study by the University of Michigan lays out the bad news that being a small percentage of riders in autonomous vehicles are likely to experience motion sickness. More than a third of Americans say they would pursue activities that increase the likelihood and severity of motion sickness – reading, texting, watching movies or TV, playing games or working.

The main factors contributing to motion sickness--conflict between balance and visual inputs, inability to anticipate the direction of motion, and lack of control over the direction of motion -- are elevated in self-driving vehicles, the researchers say. As a result, 6 percent to 12 percent of American adults riding in fully autonomous vehicles would be expected to experience moderate to severe motion sickness at some time.

But the researchers said manufacturers can design self-driving vehicles to lessen the likelihood of motion sickness, to include maximizing the visual field with large, transparent windows; mounting transparent video and work displays that require passengers to face forward; and eliminating swivel seats, restricting head motion and installing fully reclining seats.

### Staying Ahead...

It is by the grace of God that in our country we have the three unspeakably precious things:  
freedom of speech, freedom of conscience and the prudence never to practice either.

--Mark Twain