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Staying Ahead...

Maryland legislators pass helpful dealer bills and expanded workplace rules

Not atypically, members of the General Assembly in Maryland passed some good legislation and some not so good legislation in the recently concluded session in Annapolis. Dealers fared well with a helpful franchise measure that passed, while employers statewide will need to figure out an unprecedented new sick leave law.

Dealer performance standards

The General Assembly passed a bill, sponsored by MADA with WANADA's support, that clarifies dealer performance standards in franchise agreements. State dealer performance standards will now apply to manufacturers despite any other agreements. The bill also provides that an assigned market area or performance standard, sales objective or program for measuring dealership performance must take into consideration specified factors that make the process more fair to dealers. The bill takes effect October 1.

Paid sick-leave bill

As has been well publicized, Maryland Democrats, who dominate the General Assembly, passed a paid sick-leave bill with a veto-proof margin. That likely makes Republican Gov. Larry Hogan's promise of a veto an empty threat. But any veto override would delay enactment of the law until at least January 1, 2018. Analysts predict the bill will affect about 700,000 Maryland employees.



Maryland is set to become one of the few states to require employers to offer paid sick leave.

The final version of the sick-leave bill requires businesses with 15 or more employees to offer five days of paid sick leave a year, prorated according to hours worked. The time can be used for the employee's illness, preventive medical care or care for a sick family member. The bill applies to employees 18 or older who work 12 or more hours a week and specifically includes such workers as janitors, building cleaners, building security officers, doorkeepers, and handymen and handywomen. Independent contractors are *not* included.

The bill will make Maryland one of the few states in the country, plus DC, to mandate paid sick leave. As of October 1, 2016, Montgomery County, MD, has a law requiring paid sick leave. The Montgomery County law is stronger than the one coming in Maryland, applying to every employee who works more than eight hours a week, which in turn can trigger up to seven paid days off per year and up to three more unpaid days. The county law also allows other reasons for leave, such as time to seek help from a victims' organization and temporary relocation due to domestic violence or stalking.

Plug-in EV tax credits and EV Recharging Equipment Rebate Program

In another positive direction for dealers, the newly passed Maryland Clean Cars Act of 2017 extends the qualified plug-in electric vehicle excise tax credit and the Electric Vehicle Recharging Equipment Rebate Program through June 30, 2020. The credit for customers is available for qualified vehicles that are "purchased new and titled for the first time on or after July 1, 2017, but before July 1, 2020." The bill also increases program funding to an annual maximum of \$3 million in credits each year through fiscal 2020. The credit amount is reduced to \$100 times the number of kilowatt-hours battery capacity of the vehicle, to a maximum of \$3,000. Qualifying vehicles must have a total purchase price of \$60,000 *or less* and a battery capacity of at least 5 kilowatt-hours. The bill takes effect July 1.

Shorter audit period for dealer chargebacks did not pass

Other franchise protection legislation did not pass the General Assembly this year. SB 566 would have reduced the audit period during which manufacturers could charge back payment or credits made to dealers under warranty and sales incentive reimbursement programs. The bill clarified language on denials of reimbursement for clerical errors and clarified the meaning of "adverse action" on claims made by dealers.

New MVA regulations for Maryland dealers now in effect



A Vehicle Damage Disclosure is required if a car is damaged and needs repairs costing more than 3 percent of MSRP while under control of the dealer and is then offered at retail.

Maryland Motor Vehicle Administration has clarified several regulations on the licensing of dealers and salespeople that took effect March 13. Some notable changes are these:

- Vehicle damage disclosure from a dealer to a consumer is required if a vehicle is damaged and needs repairs totaling more than 3 percent of MSRP while under control of the dealer and is then offered for sale or sold.
- The valid time for a dealer's license has been expanded to three years.
- Every dealer licensed after September 30, 2017, must have a continuing contract with a firm that provides electronic registration and titling services to the dealership.

- Requirements for dealer license records requirements were updated to allow for electronic storage.
- Policies on temporary tags were clarified: A dealer can electronically request a temporary 60-day registration permit. A dealer can issue a temporary 60-day registration permit to the buyers of vehicles who have current registration plates issued to another vehicle.
- Provisions on salesperson licensing and criminal background checks were updated. An applicant for a sales rep license must give the MVA an official copy of his/her criminal history record, dated within 30 days of the submission date.

VA General Assembly skirts Tesla store issue, passes dealer-supported tax bill

The Virginia General Assembly spent much of its time addressing the state's \$1.2 billion budget deficit. On dealer issues, legislators did not take up legislation to loosen dealer licensing laws because Tesla, the advocate for such legislation, is in court with VADA on the same subject.

Tesla breached its agreement to limit its *direct-to-consumer* sales stores to one location in Northern Virginia, the one currently open in Tysons Corner. The General Assembly discussed potential legislation on OEM direct sales without dealers, but none was introduced because of the lawsuit. The General Assembly traditionally avoids introducing bills on issues where lawsuits are pending. VADA's suit, with WANADA's financial support, seeks to reverse the decision by the Commissioner of Motor Vehicles to allow another *direct-sales* Tesla store in Virginia. A victory by VADA would reaffirm the sanctity of the dealer licensing laws in the Commonwealth.

Legislation that passed the Virginia General Assembly, with support by VADA and WANADA, clarified the taxation of shop supplies. Dealers may buy wholesale parts with a tax exemption. But if they buy parts for use in retail repair orders, they must tax the parts. Under current law, dealers pay the tax when they buy the parts. The new law takes effect July 1.

General Motors proposed legislation on autonomous vehicles, but legislators, along with the Transportation Secretary, said it was too soon to discuss such a measure in Virginia.

Revised Used Car Rule brings new dealer responsibilities

The Federal Trade Commission (FTC) issued a revised Used Car Rule on January 27, 2017 with which all dealers must comply. The requirement to post Buyers Guides on all used cars for retail sale has not changed, but the Guide itself has changed. Dealers have two options for compliance in the near term. After January 27, 2018, all dealers must use the revised Guide.

Recommended option: Under this approach, dealers use the form redesigned by the FTC. In the revised form, dealers can no longer check a box saying the vehicle is being sold with a limited warranty. With the new form, if there is no dealer warranty, a dealer must mark the box stating that the vehicle is being sold "as is" (or with "implied warranties only" in Maryland), with disclosure of the available non-dealer warranty in the space provided below that.

Other changes in the rule are as follows:

In describing the systems covered by a dealer warranty, the dealer can no longer simply list “powertrain.” The individual components must be listed – engine, transmission, differential.

The new, required language inviting the customer to review the non-dealer warranty and its terms means the dealer should have a copy of the warranty. Disclosure of coverage remaining on the manufacturer’s original warranty is optional. But disclosure of the availability of a service contract (if there is one) is mandatory.

The form’s reverse must also be completed. The dealer name, address and contact for complaints must be listed. Any signature on the form should be on the reverse. Virginia requires the buyer’s signature on the reverse, with the language, “I hereby acknowledge receipt of the Buyers Guide at the closing of this sale.”

Option 2: Alternatively, dealers may continue to use up remaining stock of the former Buyers Guide form until January 27, 2018. On vehicles where “manufacturer’s warranty still applies,” or there is a manufacturer’s certified warranty, or one not backed by the dealer, the following statement must be made: “Ask the dealer for a copy of the warranty document and an explanation of warranty coverage, exclusions, and repair obligations.”

Thanks to Michael Charapp of Charapp and Weiss, LLP for this important update.

WANADA is part of Fleets for the Future, bringing AFV fleet orders

Two organizations of which WANADA is a member – the Greater Washington Region Clean Cities Coalition and the Metropolitan Washington Council of Governments – are working with the National Association of Regional Councils to consolidate bulk orders of alternative fuel vehicles (AFVs) and infrastructure. The name of the program is *Fleets for the Future* with the mission of reducing the costs of propane, electric and natural gas vehicles. Local fleets, governmental organizations and universities in the Washington region are being invited to participate.

The program is designed to increase the use of AFVs, bring down their cost, and share best practices.

Save the Date!

WANADA Open returns to Lansdowne Resort on June 7



Coming to the WANADA Open is a great way to start off the summer!

The 2017 WANADA Open is scheduled for Wednesday, June 7, at the Golf Club at Lansdowne Resort in Leesburg, VA.

This event provides an excellent networking opportunity and a

great chance to catch up with old friends and make new ones. Those who prefer not to golf are invited for the cocktail reception and dinner.

Here is the schedule.

9:00 a.m.	Registration and breakfast
10:00 a.m.	Practice green and driving range
11:00 a.m.	Shotgun start
4:00 p.m.	Cocktail reception
5:00 p.m.	Awards dinner

For sponsorship opportunities with the WANADA Open, Kindred-line members are invited to contact Bob Storin at rs@wanada.org, or (202) 237-7200.

WANADA welcomes two new Kindred-line members

The Board of Directors approved two organizations for Kindred-line membership in WANADA.

Bank of America, Silver Spring, MD, offers floor plan, commercial mortgages, merchant, banking, and new and used vehicle lending. The usual representative is Luis Verduguez.

Chesapeake Bay Trust, Annapolis, MD, is a grant-making nonprofit organization that distributes funds generated by the Maryland Chesapeake Bay license plate to schools, civic associations and other nonprofits for natural resource education and restoration. The usual representative is Jana Davis.

WANADA heartily welcomes these new Kindred-line members and urges their active participation in dealer group affairs and WANADA activities!

Staying Ahead...

Keep your fears to yourself, but share your courage with others.

--Robert Louis Stevenson

