

# THE WANADA BULLETIN

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

WANADA Bulletin # 24-15

June 19, 2015

## Headlines...

Cash reporting for dealer transactions, besides retail vehicle sales

VA dealers must use new DMV forms as of July 1

CFPB opposes arbitration, favors lawsuits, class actions

Transaction prices rise as sales rate sets 10-year record

Loan terms are longer than ever – Experian

New product will help Honda gain share in next few years

Average age of region's vehicle fleet goes up

NTSB wants collision avoidance standard on all vehicles

Driverless cars coming to Northern Virginia

Register NOW! WANADA's F&I Seminar, July 16

WANADA's annual flu shot program for dealer employees: Registration is open

Staying Ahead...

## Cash reporting for dealer transactions besides retail vehicles sales



The IRS is continually auditing dealerships for compliance with cash reporting requirements.  
Photo by 401calculator.org.

The indictment of former House Speaker Dennis Hastert has brought the subject of illegal cash transactions back to the public eye. It's a good time, then, for dealers revisit with staff, everyone's obligation to report cash transactions over \$10,000. Historically, dealers looked only at cash reporting on retail vehicle sales. But what about in other departments?

### Used car wholesales

A dealer does business with a wholesaler and takes only cashier's checks or cash. The wholesaler buys four vehicles for \$12,600, paying cash. Is that a reportable transaction?

You bet. The dealer's cash reporting policy should cover wholesale used sales where the dealership receives cash of

more than \$10,000 for one or more vehicles sold in a 24-hour period, or when the sale of the vehicle(s) is negotiated within 24 hours, or when the cash is received within 24 hours. Staff in this role need to know the rules.

### Parts department

A customer comes to the parts department and orders \$24,000 worth of oil filters to be sent to South America. He returns to the dealership when the filters are ready for shipment and pays \$24,000 in cash. Is the transaction reportable?

Yes. The same 24-hour rule applies that does in the used-car wholesale example, above. Parts department staff need to know what's required on cash reporting and how to comply.

### Service department

A customer buys a car and makes an \$8,000 down payment in cash. At the time of sale, she arranges for new wheels, tires and suspension improvements for \$3,500. When she picks up the car from service, she pays \$3,500 in cash. Is that reportable?

Yes. The sum of the two cash transactions is over the \$10,000 reporting threshold. The dealership must report cash payments over \$10,000 for service to a vehicle or less than \$10,000, if the service is negotiated as part of a vehicle sale and all cash received on related transactions exceeds \$10,000. Fixed Operations staff should be aware of the cash reporting rules, too.

The IRS is continually auditing dealers for compliance with cash reporting laws. A dealership should have a cash reporting policy, and personnel in all departments affected by the policy should be regularly trained.

*Thanks to Michael Charapp of Charapp & Weiss, LLP, for this information.*

## Va. dealers must use new DMV forms as of July 1

Starting July 1, Virginia dealers will need to destroy old copies of 12 DMV forms and replace them with new ones. The change stems from legislation (HB 2189), adopted unanimously by the 2015 General Assembly, that transfers the licensing and regulatory responsibility of motorcycles, RVs and trailers from the DMV to the Motor Vehicle Dealer Board (MDVB). Click [here](#) for a table that lists forms that have been revised, combined or made obsolete effective July 1, 2015.

MVDB has also developed a brand new form, MVDB 57, *Dealer-Operator/Salesperson Qualification Test Application*. Applicants taking the salesperson or dealer-operator tests at a DMV Customer Service Center will complete this form before taking the appropriate test. It's a very simple "check and go test" form designed to streamline test registration time at DMV Customer Service Centers.

Dealers should prepare to *destroy all old form stock* that they have on hand. July dealer renewal applications will print on current form stock. But starting in August, all dealer renewals will be printed on new forms.

All forms listed in the table will be available online at [www.mvdb.virginia.gov](http://www.mvdb.virginia.gov) no later than July 1. Using online, fillable forms is the easiest way for dealers to print and store only what is needed. MVDB and DMV will keep only a very limited supply of these forms on hand for mailing to dealers.

MVDB and DMV have worked collaboratively on implementing the law to ensure a smooth transition effective July 1. The new and updated forms are the result of simplifying many dealer forms and including only information required for processing. Please take time to review this listing. Any questions can be directed to MVDB director Bruce Gould at [bruce.gould@mvdb.virginia.gov](mailto:bruce.gould@mvdb.virginia.gov).

## CFPB opposes arbitration, favors lawsuits, class actions

The Consumer Financial Protection Bureau issued a report in March, required by the Dodd-Frank Act, on how the use of pre-dispute arbitration agreements affects consumers. Although the report showed benefits of arbitration, the CFPB afterward came out *against* arbitration agreements, comparing them unfavorably with lawsuits and class action suits.

The CFPB did a five-year study that found that consumers who filed class action suits recovered at least \$220 million per year in settlement funds, though the study did not break down the amount each member in the class received. Lenders are much more likely to invoke the arbitration clause to stop class action lawsuits than individual lawsuits, the study found.

But the CFPB discovered that arbitration is much faster and less expensive for consumers – 3 to 5 months versus nearly 2 years, and a cap of \$200 for arbitration filing versus \$400 to file suit.

Although the CFPB regulates lenders and not dealers, the effects of the CFPB’s actions have already been felt by dealers. Dealers would be wise to set up “a process to resolve customer disputes under a formal in-house program,” says Randy Henrick, lead compliance counsel for DealerTrack Technologies. The customer should be able to discuss his complaint with a dealership officer not involved with the matter.

The CFPB will likely write regulations restricting arbitration clauses, Henrick says. Any proposed regulations will be subject to public comment, which would be reviewed and analyzed by the CFPB before it writes final regulations, which would likely take effect in late 2016 or early 2017.

*Thanks to Randy Henrick for the information in this report. A longer version was originally published in the NADC (National Association of Dealer Counsel) Defender. This article is not intended as legal advice. Consult your attorney about your individual situation.*



Even though the CFPB’s own report says arbitration is faster and less costly for consumers, the agency’s preference is lawsuits, especially the class action variety.

## Transaction prices rise, as sales rate sets 10-year record



With the price of gas still low, strong sales of CUVs and SUVs are driving up transaction prices.

WANADA *Bulletin* readers are no doubt well aware of May’s strong new vehicle sales, up 1.4 percent from a year ago even with one fewer sales day. The seasonally adjusted annual sales rate (SAAR) soared to 17.8 million, the highest in 10 years. And a Bank of America forecast sees auto sales topping out at 20 million in 2018.

With the low price of gas (though it’s been creeping up), light trucks and SUVs did especially well. That in turn raised the average transaction price by 4.3 percent from May 2014, or \$33,363, according to Kelley Blue Book. Domestic brands profited the most from this trend, as cars make up only one in three units sold for the Detroit Three.

“We also saw incentive spending remain nearly flat in May, which shows the strength of the overall new-car market,” said Karl Brauer, senior analyst for Kelley Blue Book.

“Relatively easy credit availability is helping drive transaction prices up, but it will be interesting to see if this trend continues if the long anticipated interest rate hikes materialize,” Brauer said.

## Loan terms are longer than ever – Experian

Average loan terms for new and used vehicles have reached new records of 67 and 62 months, respectively, according to a new report by Experian Automotive.

Longer loans, those with terms lasting 73 to 84 months, are now a bigger portion of the market than ever, at 29.5 percent of all new vehicles financed. Long-term used-vehicle loans also broke records, with loans of 73 to 84 months making up 16 percent of the market.

“While longer term loans are growing, they do not necessarily represent an ominous sign for the market,” said Melinda Zabritski, Experian’s senior director of automotive finance. “However, it is critical for consumers to understand that if they take a long-term loan, they need to keep the car longer or could face negative equity should they choose to trade it in after only a few years.”

The average amount finance and average monthly payment for a new vehicle also increased to record highs.

## New product will help Honda gain share in next few years

The entire industry will ramp up new product introductions in the next few years, but Honda’s accelerated pace will help it gain market share, according to Merrill Lynch’s annual “Car Wars” report. The company plans to redesign 96 percent of its portfolio by the end of MY 2019.

The report predicts an average of 48 new models annually for the next four years, with 57 introductions in model year 2019 – and most will be crossovers. In the past 10 years, automakers averaged 38 *new* models a year.

John Murphy, senior auto analyst for Bank of America Merrill Lynch Global Research, said the speeded-up new model introductions are a natural result of a recovering auto industry.

The longer lifecycle of Detroit Three models is a major reason why the companies have lost market share in recent years, Murphy said. Those companies’ aggressive new product plans will help them hold onto their current share, but Honda and Toyota will likely gain U.S. market share.

## Average age of region’s vehicle fleet goes up

The average age of the region’s vehicle fleet increased in the past three years, according to an analysis by the Metropolitan Washington Transportation Planning Board (TPB). The average age of a vehicle was 9.5 years in 2014, about 0.4 years older than in 2011. That’s still younger than the average age nationwide, which is 11.4 years.

The change means that vehicle owners on average are waiting longer to replace older cars and trucks with newer ones. Here’s a way for dealers to make that a marketing tool for the sales force: The TPB notes that new federal fuel efficiency and other vehicle emission standards may now take longer to improve the region’s air quality. Such measures, the Board notes, work only when consumers buy vehicles that meet the new standards and drive those vehicles instead of older, less efficient models.

Though 0.4 years older may not sound like much, the aging is part of a longer term trend. Since 2005, the average age of the region’s vehicle fleet increased by 1.65 years, the TPB says.

## NTSB wants collision avoidance standard on all vehicles

The National Transportation Safety Board has recommended that collision avoidance systems become standard on all new vehicles.

“You don’t pay extra for your seatbelt,” said NTSB Chairman Christopher Hart. “And you shouldn’t have to pay extra for technology that can help prevent a collision altogether.”

Rear-end crashes kill about 1,700 people every year and injure half a million more, according to the National Highway Traffic Safety Administration (NHTSA). More than 80 percent of these deaths and injuries might have been mitigated had the vehicles been equipped with a collision avoidance system, said the NTSB.

Although the NTSB has recommended the advanced safety systems 12 times in the past 20 years, progress has been limited. The NTSB report says a lack of incentives and limited public awareness has stunted the wide adoption of the systems.

Only 4 out of 684 passenger vehicle models in 2014 include a complete forward collision avoidance system as a standard feature.

The NTSB also recommends that NHTSA develop tests and standards to rate the performance of each vehicle’s collision avoidance systems and incorporate those results into an expanded NCAP 5-star safety rating scale. Bipartisan legislation has been introduced in both houses of Congress that would have NHTSA do just that.

The Alliance of Automobile Manufacturers told the *Detroit News* that consumers, not the government, should make decisions about how they want to spend their money on safety systems.

## Driverless cars coming to Northern Virginia

Driverless cars will soon be on Northern Virginia roads, in a test by the Virginia Tech Transportation, in partnership with VDOT; DMV; Transurban and HERE; and Nokia’s mapping business. The Virginia Automated Corridors will cover more than 70 miles of roads, including Interstates 55, 495 and 95 plus state routes 29 and 50.

As Virginia Tech notes, that area is one of the most congested corridors in the nation. The automated roads will integrate many resources, including access to dedicated high-occupancy toll lanes managed by Transurban along I-495 and I-95; high-definition mapping; real-time traffic; intelligent routing, and connected vehicle capabilities.

“Next-generation vehicle technologies can help transform our transportation system, from enhancing safety to supporting driver convenience,” said Tom Dingus, director of the Virginia Tech Transportation Institute.



The BMW X5 has a collision avoidance system as an option.



## Register NOW! WANADA's F&I Workshop, July 16

Learn the importance of legal compliance and protecting the dealer's assets! WANADA's ever popular Finance and Insurance Workshop through JM&A is custom crafted for dealership F&I Managers.

The workshop will cover the following hot button topics:

- Tax Reform Act and FinCen Form 8300
- Truth in Lending Act --Regulation Z
- Consumer Leasing Concept -- Regulation M
- Rate Speed
- Equal Credit Opportunity Act--Regulation B
- Fair Credit Reporting Act & FACT Act
- Gramm-Leach Biley Act
- Magnuson-Moss Warranty Act
- USA Patriot Act & OFAC
- Unfair and Deceptive Trade Practices

This workshop will school F&I professionals in the legal and regulatory things they need to know and act upon to avoid the pit falls set for dealers by regulators and plaintiffs lawyers who focus on the automobile business. Additionally, participants will walk away with a framework of *best practices* for reviewing paperwork, general compliance and the keys to good selling. Participants, finally, will take a multiple choice exam at the end and receive compliance certification upon passing the test. To register, [click here](#). Direct questions to Kathy Teich at [kt@wanada.org](mailto:kt@wanada.org) or 202-237-7200.

## WANADA's annual flu shot program for dealer employees Is accepting registrations over the summer

Registration is now open for WANADA's seasonal flu shot program for dealership employees. With the flu annually infecting over 40 million people, resulting in workplace disruptions averaging 4-5 work days per employee, this is a popular, well received WANADA employee benefit for dealer members.

Once again, WANADA's flu shot program will be available on-site at WANADA dealerships, administered by Norvar Health Services. The on-site service will be available for adults aged 18 and older.

This year Norvar Health Services is offering both the trivalent (3-strain) and quadrivalent (4-strain) vaccines. For years, flu vaccines were designed to protect against 3 different flu viruses (trivalent). This included an influenza A H1N1 virus, an influenza A H3N2 virus and one B virus. Experts had to choose one B virus, even though there are two very different lineages of B viruses that both circulate during most seasons. This meant the vaccine did not protect against the group of B viruses not included in the vaccine. The quadrivalent flu vaccine is designed to protect against *four* different flu viruses: two influenza A viruses and two influenza B viruses. Adding another B virus to the vaccine aims to give broader protection against circulating flu viruses.

The fee will be \$24 per shot for the trivalent vaccine, and \$31 for the quadrivalent vaccine with a minimum of twenty (20) participants required at each location. Locations with less than 20 participants will be billed as if 20 doses of the trivalent vaccine were administered.

Adults 65 and older have a choice of getting the high-dose trivalent flu shot, which offers better protection against the flu compared with the regular trivalent shot. The fee for the high dose shot will be \$38. Human immune defenses become weaker with age, which places older people at greater risk of severe illness from influenza. Also, aging decreases the body's ability to have a good immune response after getting influenza vaccine. A higher dose of antigen in the high-dose vaccine gives older people a better immune response against the flu. Data have shown that that leads to greater protection against influenza.

To have your dealership participate, please register online at [www.norvarhealthservices.com](http://www.norvarhealthservices.com), under "Scheduling". *Please do not fax your registration!* Alternatively, you may call Norvar at 202-744-1360. Given the popularity of this program, all are encouraged to register early to guarantee the date of your choice. Any request received after Aug. 31 may be subject to vaccine availability. Hence, look at Aug. 31 as the registration deadline!

Norvar Health Services will begin conducting on-site visits starting September 14, 2015. All scheduling will be done by Norvar upon submission of your registration. Norvar will contact the dealer's designated representative with the scheduled date/time and forward all appropriate forms. Norvar will invoice the dealership directly for all flu shots administered via the program, subject to the 20 doses minimum.

If you have questions, please contact Connie Ryan at WANADA at (202) 237-7200.

### Staying Ahead...

Success is not final, failure is not fatal; it is the courage to continue that counts.

--Winston Churchill



WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION