

THE WANADA BULLETIN

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

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July 29, 2014

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Appeals court setback on Obamacare could curtail impending employer mandate

Va. Motor Vehicle Dealer Board imposes fines on Craigslist ads

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SUVs, CUVs surpass sedans as most popular body style

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Route 50 being widened, repaved in the Va. counties of Fairfax & Loudoun

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Thought for the Week...

Appeals court setback on Obamacare could curtail impending employer mandate



The fate of the employer mandate could depend on whether individuals in states that use a federal health care exchange can receive federal premium subsidies.

The much publicized decision about the Affordable Care Act by the U.S. Court of Appeals for the District of Columbia last week, could mean that employers in Virginia, along with employers in surrounding states with employees who live in Virginia, will no longer be penalized for failing to provide health insurance to their employees. The same holds true for states like Virginia, which opted not to create ACA state healthcare exchanges. This will only result, of course, if the DC Circuit decision stands after the legal challenge that is likely coming.

By way of background, the employer mandate section of the ACA provides that employers with 50 or more employees must offer health insurance to their employees. But if they offer it and it is too expensive for the employee – more than 9.5 percent of the individual's income – then the employee is eligible to get a premium subsidy through the health care exchange. Currently, more than 85 percent of those buying insurance through the exchanges receive a federal subsidy to help pay for it.



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If a dealer's employee receives a premium subsidy through the exchange, because the company's insurance is too expensive, then the government may fine the dealer \$3,000 for each employee for whom the situation applies. The DC Circuit Court of Appeals ruled that the government cannot give subsidies to individuals in states that are using a federal health care exchange instead of setting up a state exchange. Virginia is among 36 states that do not have their own health care exchange. Maryland and DC each set up their own health care exchanges.

One more twist: The state (or jurisdiction in the case of DC) where an individual applies for health insurance is based on the person's home zip code. That means, for example, if a dealership is based in Maryland, but the employee lives in Virginia, the DC court's decision would apply. Conversely, if a dealership is based in Virginia, but the employee lives in DC or Maryland, the employer mandate would apply.

The Obama administration has said it will appeal the decision by the three-judge DC panel to the full court.

On the same day as the decision by the court in DC, the Fourth Circuit Court of Appeals in Richmond ruled that the subsidies *could* be given to individuals in states such as Virginia that use a federal exchange, so the employer mandate would still hold – the opposite of the DC Appeals decision. Most legal experts think the case is bound for the U.S. Supreme Court early next year.

As has been the case for much of the bumpy roll out of the ACA, America will *stay tuned* in a wait and see posture on the employer mandate.

Va. Motor Vehicle Dealer Board imposes fines on Craigslist ads

The Virginia Motor Vehicle Dealer Board in its meeting on July 14, 2014 considered three advertising cases related to listings on Craigslist.

State law requires that a Virginia dealership identify itself in ads with the dealership name or the abbreviation "VA DLR." Some dealers have been trying to circumvent the per-listing fee for dealers, recently instituted by Craigslist, by listing vehicles for sale without identifying themselves as dealers or using the required abbreviations. The MVDB imposed civil penalties of \$250, \$500 and \$4,000 in the three cases before it. MVDB staff also said it has become more vigilant to dealer ads that look like vehicle listings by individual owners.

MVDB also hosted a meeting of interested parties to discuss forming an Internet task force. The group concluded that it might be more effective to create a subcommittee of the Dealer Licensing Committee to study more effective tools to combat the increasing problems of Internet brokering, sales by unlicensed businesses and improper *bird dog* fees. The proposal will be discussed at a later meeting of the Board.

The next meeting of the MVDB will be September 8.

Thanks to Michael Charapp of Charapp and Weiss LLP for providing this information.

Highway bill delayed; funding runs out this week

This Congress is known for leaving legislation until the last minute, and the Transportation bill is no exception. Senate Majority Leader Harry Reid (D-Nev.) had said he would take up the measure last week, but the process got bogged down in amendments and alternative versions before the Senate adjourned for the week early Thursday afternoon. The

Highway Trust Fund, which funds infrastructure projects, is projected to run out of money this week, August 1, as Congress is scheduled to take a five-week recess.

The House had previously passed a short-term \$11 billion bill that would last until next May, forcing the new Congress (theoretically) to make tough decisions about where the funding for a longer term solution would come from. The Senate discussed an even shorter term extension, until just after the midterm elections. And amid calls by transportation groups like the American Automobile Association to raise the gas tax to bring the Highway Trust Fund back in line with infrastructure needs, Sen. Mike Lee (R-Utah) introduced an amendment to *lower* the tax, from 18.4 cents a gallon currently to 3.7 cents in five years.



Congress is mired in different versions of the Transportation Bill.

The White House has endorsed the House bill, as best can be ascertained for now. But Transportation Secretary Anthony Foxx, speaking last week at the National Press Club, said a short-term fix is not enough.

“It’s hard to imagine that Congress will not push the snooze button on this issue when it’s crunch time,” Foxx said. “Every year that Congress puts off passing a long-term funding solution, the cost of catching up grows further and further out of reach.”

New technologies don't always improve a car's appeal

Automakers are trying to differentiate themselves by putting more gizmos and functionality in their new and redesigned vehicles, but the advanced technology, *whiz-bangery* quotient won't necessarily bring greater buyer interest and/or satisfaction. That's the conclusion of J.D. Power's 2014 Automotive Performance, Execution and Layout (APEAL) study.

“Designing systems that consumers find intuitive and easy to use has been a challenge,” said Renee Stephens, vice president of U.S. automotive at J.D. Power.

The overall APEAL score dropped one point from 2013, to 794 out of 1000. Fuel economy is the only category that saw an improvement (up 6 points), but it is still the lowest scoring category by far. “Automakers must find the right balance between owner expectations of fuel economy and areas that affect the driving experience, such as horsepower and transmission performance,” said Stephens. “Customers are not always happy with the tradeoff.”

Porsche is the highest ranking nameplate in the survey, and Hyundai is the highest ranking non-premium brand.

SUVs, CUVs surpass sedans as most popular body style

SUVs and crossovers have surpassed sedans for the first time as the most popular body style in the U.S., according to an analysis by IHS Automotive. IHS looked at retail registrations in the first five months of 2014.

In that period, SUVs and CUVs accounted for 36.5 percent of the new vehicle market versus 35.4 percent for sedans. Five years ago, sedans led with 36.3 percent of the market, and SUVs/CUVs were 31.4 percent. SUV/CUV market share has increased 2.6 percentage points in the past year.

A key driver of the growth of SUVs/CUVs is the substantial product innovation and launch activity in the segment, led by larger models such as the Chevrolet Tahoe and GMC Yukon and smaller ones such as the Jeep Cherokee and Nissan Rogue, said IHS.

Hatchbacks, pickups, coupes, passenger vans and convertibles have all lost share in the past five years, especially hatchbacks and pickups.

“Between product introduction activity and expected decline in fuel prices, market conditions in the short-term forecast point to continued momentum within the SUV/CUV segments,” said Chris Hopson, manager, North American light vehicle sales forecasts for IHS Automotive. “Longer term, concerns over fuel efficiency standards and rising oil prices are expected to pressure light truck sales.”



New models, such as the Jeep Cherokee, have helped propel crossover sales.

Previous use affects sale price of used vehicles

Consumers would rather buy an off-lease vehicle than a repo or off-rental car, according to CNW Research. Shoppers are willing to pay an \$800 premium for a CPO pickup, but they expect a discount of more than \$4,100 if the truck was in a fleet.

“When asked if a dealer or private party should reveal the source of a vehicle, the vast majority say it would play a major role in the selection,” says CNW president Art Spinella, “but the overall decision would be based on the suitability of the car or truck to driving needs; mechanical inspection or certification; an historic document such as Carfax, and price/payment.

Convertible buyers are more educated, affluent, analysis shows

We always knew it: Convertible buyers are more educated and affluent than average new car buyers, according to an analysis by Experian Automotive.

In the first quarter of 2014, more than 50 percent of convertible buyers had at least a bachelor’s degree, compared with 38 percent of average new car buyers. Nearly 19 percent of convertible buyers had an average household income above \$175,000 versus 11 percent of average new car buyers who did.

One reason for the income difference could be that “more luxury brands tend to have a convertible option,” said Brad Smith, director of Experian Automotive.

Consumers want safer driving options, but still want control

New car buyers increasingly want features that help them drive more safely, particularly lane drift warning and backup collision intervention. But only 10 percent say they want Full Auto-Pilot Driving, autonomous driving that gives up control of the vehicle to cameras, sensors and GPS navigation. Figures are from the Future Attribute Demand study by AutoPacific, based on responses from more than 92,000 new vehicle owners.

Other features with the greatest increase in demand from 2013: Backup camera, drowsy driver detection, split fold-down rear seats and touch screen instead of traditional buttons.

Route 50 being widened, repaved in Va. counties of Fairfax & Loudoun

U.S. Route 50 is being widened from four lanes to six in Fairfax and Loudoun counties, a multi-year, \$95 million construction project that will repave the road surfaces, widen and upgrade bridges, and create a 10-foot shared-use path on the north and south sides.

Three lanes eastbound should be completed and open to traffic by the fall, Virginia Department of Transportation Mega-Projects Director Susan Shaw told WTOP.

In other changes, several traffic signals will be added, and pedestrian signals will be added to crosswalks.

In Memoriam Gary Higgins DARCARS

WANADA is sad to report the passing of longtime fixed operations director Gary Higgins of the DARCARS Group. He died at his home on Saturday, July 26, 2014, after a hard fought struggle with cancer. He was 63.

Gary was as highly regarded as one can be on the service side of the business across the years and the multiple lines of vehicles DARCARS handles. Joining DARCARS early on in his 40-year career, and rising promptly through the management ranks to oversee all fixed operations from the mid-1970s forward, he took care that everything in the vast realm of vehicle service and repairs for a multi-franchised, multi-location dealer organization came together to run as it needed to for all the stakeholders, but, most important, for the customer.

He also recognized what he believed to be the single most significant component for success in his world, namely, the people on staff to get the job done. This mentality clearly formed the basis of his consistent and continual support of career training, education, and recruitment of young people into the field of auto technology, tangibly evidenced by his longstanding leadership of the Montgomery Students Automotive Trades Foundation Mini-Dealership Program, his co-founding of WANADA's ADEI Technician Development Program at Montgomery College, his personal involvement in Toyota's T-10 Program, and the mentoring he did through Toyota at the AutoTech Center at Ballou High School in DC.

Funeral arrangements in the form of a memorial Mass at St. Mary's Catholic Church are scheduled for 1:15pm, this Thursday, July 31, 520 Veirs Mill Rd, Rockville, Md., followed by a reception and visitation with the family at Avenel Country Club, 10000 Oaklyn Drive, Potomac, Md. Contributions to his memory can be made to Montgomery Hospice, 1355 Piccard Drive, Suite 100, Rockville, Md. 20850.

To his wife, Connie, sons Bryan, Kevin, Collin and Martin, and daughter Meghan, WANADA extends its sincerest sympathy.

Thought for the Week...

Despite Christian leaders, united across the world, speaking out about the systematic extermination of Christians in Iraq, the silence in this town is *deafening!* Does Washington even care?! Where is the Obama administration?! Where is Congress?! If something isn't done, and done soon, we will see the end of Christianity in the place it began.

--Rep. Frank Wolf (R-Va.)



WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION