

THE WANADA BULLETIN

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

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Former Sen. Scott Brown to headline WANADA Annual Luncheon



Sen. Scott Brown

WANADA has organized its Annual Meeting and Luncheon for Wednesday, November 2, 2016, several weeks earlier than previous years. This year's keynote speaker will be former U.S. Senator Scott Brown (R-MA). The meeting will take place at the Ritz-Carlton/Tysons Corner from 11:30 a.m. to 2:00 p.m.

Sen. Brown has a long history of public service, including many years in the Massachusetts legislature before being elected to Ted Kennedy's seat as the first Massachusetts Republican elected to the U.S. Senate in more than 40 years.

During his time in the Senate, Brown was a ranking member on the Armed Services Committee and the Committee on Homeland Security and Governmental Affairs. He was

also a member of the Committee on Veterans' Affairs and, of special interest to dealers, the Committee on Small Business.

Brown was known as one of the most bipartisan members in the Senate and was responsible for many pieces of important legislation, including the Stock Act (which banned insider trading for members of Congress), the Hire a Hero Act (providing tax benefits for employers that hire returning veterans) and the 3% Withholding Bill (which abolishes the

Agenda

- 11:30 a.m. Networking Reception
- 12:00 p.m. Lunch
- 12:30 p.m. WANADA Business Session
 - Association Update
 - 2016-2017 Board Elections
 - Passing the chairman's gavel
- 1:00 p.m. Scott Brown
Keynote speaker
"Where is America
Heading?"
- 2:00 p.m. Adjournment

stealth tax for businesses doing work with the government).

Sen. Brown has been a popular contributor to Fox News and is a *New York Times* bestselling author, with his book *Against All Odds* reaching #4 on the bestseller list.

The Annual Meeting includes a state of the industry and regional automobile business report from WANADA's leadership. Members will also elect WANADA's 2016-2017 Board of Directors.

WANADA dealers, Kindred-Line members, key managers, business associates and dealer community friends are cordially invited to attend the Annual Meeting and Luncheon. Click [here](#) to register.

NADA's letter to the Post on its latest article on Tesla retailing cars

Per WANADA's Special Bulletin to members and readers of Sept. 13 regarding The Washington Post's latest article on Tesla retailing its cars without dealers, the Post published a letter from NADA in its Sept. 17 issue. The letter-to-the editor from NADA president Peter Welch tracked the response to the Post online article of Sept. 9, which ran in print on Sept. 10 and appeared first in NADA Headlines.

Welch's letter in the Post, captioned "Car-dealer competition helps buyers," aptly made that point in contrast to the Post article that left open the question whether the traditional auto dealer retail model will prevail over Tesla's *Johnny-come-lately* approach to retailing without dealers. Curiously, the Post article first appeared online Sept. 9 headlined "Battle between Tesla and your neighborhood dealer" and ran in print on Sept. 10 with a different headline captioned "For car buyers, an end to dickering?" The Post article on Tesla, like previous ones that have run on their pages, has been challenged by dealers. The effort by Tesla is a national effort on their part to avoid dealer licensing laws, enabling them to retail their highline electric cars without dealers.

NADA and its affiliates in the Automotive Trade Association network, which includes MADA, VADA and WANADA, will continue to monitor the Tesla situation and respond appropriately.

Maryland tax credit for plug-in EVs has ended

The allotted Maryland state funds for the excise tax credit for plug-in electric vehicles for fiscal year 2017 are depleted. The program has ended and will be revived only if the General Assembly passes a new law to extend the program in its 2017 session.

As a result, the state Motor Vehicle Administration will not accept or process any excise tax credits for plug-in electrics. *It is important that dealers take care that sales reps understand this to ensure customers are aware of this information before purchasing a related vehicle.*

Those with questions may call MVA's Refund Department at 410-768-7346.

The end of the state tax credit could affect the sales of electric vehicles in Maryland. With fuel prices at record lows, EVs could be a harder sell without the financial incentive.



Plug-in electrics, such as the Chevrolet Spark EV, will no longer be eligible for Maryland state tax credits.

Follow guidelines for MD finance/lease contracts

The Maryland Motor Vehicle Administration reminds dealers that the following guidelines must be observed for dealer financing and lease agreements. Verification of these requirements will be incorporated into the regular audit process.



Notice of the buyer's and dealer's rights and duties must be signed by both parties, with a copy provided to the buyer before delivery. Photo by

A motor vehicle dealer that sells or leases a vehicle before final approval of dealer-arranged financing must provide the buyer with notice of the rights and duties of both the dealer and the buyer. A copy of the notice must be provided to the buyer before he or she takes delivery of the vehicle.

The notice must contain: (1) signatures of the buyer and dealer and (2) the Maryland statutory language as written in Transportation Article 15-311.3(A). Dealers should discard any old notices that do not include the required language.

A dealer is required to provide **written** notice to the buyer if the dealer-arranged financing is not approved within four days of vehicle delivery. This notice may be by fax, email, text or mail. The dealer may also want to phone the

customer. If the dealer does not provide **written notice** to the buyer within four days of delivery, the deal is final according to its terms.

If financing does not go through, the buyer must return the vehicle within two days of receiving the written notice that the financing was not approved. A dealer may proceed with legal repossession methods if the vehicle is not returned.

If a customer receives proper timely notice of the original financing terms not being met, the customer and dealer may renegotiate the vehicle sale terms. If the customer decides not to accept renegotiated terms, the dealer must return any trade-in and/or down payment provided by the customer. Therefore, the dealer **may not** dispose of the trade-in until the deal is final in accord with the state statutory provisions.

The dealer is prohibited from charging any mileage costs or other fees for the use of the vehicle for which financing was not approved.

The dealer is required to maintain the minimum liability insurance required for Maryland for the vehicle until the terms of a financing or lease agreement are approved.

A buyer may not waive these rights.

A violation of this law by a dealer is an unfair and deceptive trade practice under the Maryland Consumer Protection Act, subject to that Act's civil and criminal penalty provisions.

Any questions or concerns may be directed to Gerry Murphy in the WANADA office at (202) 237-7200 or MVA directly, mvablsd@mva.maryland.gov.

Comments filed for CFPB class action waiver rule

Dealer law firm Charapp & Weiss, LLP has filed comments on the Consumer Financial Protection Bureau (CFPB)'s proposed rule on class action waivers on behalf of WANADA and 30 other state and metro dealer associations.

The CFPB proposal prevents the use of class action waivers in predispute arbitration clauses by creditors or lessors under CFPB jurisdiction. In its comments, Charapp & Weiss pointed out that

the proposal was inconsistent with the CFPB's own study and that even its study did not support preventing class action waivers in large balance transactions such as those for car deals.

The comments also noted the potential damage to dealers, over which the CFPB has no authority. The proposal would make dealers directly subject to class actions because creditors and lessors will include the rule's required language preserving class actions in form agreements that will bind dealers (who in most states are the initial creditor or lessor). Even more of a problem for dealers, creditors and lessors faced with liability will pass the liability on to dealers through the broad indemnification provisions in indirect finance and indirect lease agreements with dealers.

As of mid-September, the CFPB has posted 5,910 comments on the [Federal Register website](#), making the proposal a highly controversial one.

The CFPB is expected to announce its final regulation soon. It would apply to agreements entered into 210 days after the final regulation is published. The result could have a major impact on dealer liability.

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

Small business association protests overtime rule

The National Federation of Independent Business (NFIB), which represents small business interests, has petitioned the Labor Department to extend the deadline for complying with its overtime rule. The rule potentially affects 44 percent of small employers.

"In many cases, small businesses must reorganize their workforces and implement new systems for tracking hours, recordkeeping and reporting," said NFIB President and CEO Juanita Duggan.

The regulation, which takes effect December 1, doubles the pay threshold below where white collar employees are eligible for mandatory overtime, from \$23,660 to \$47,476 per year.

For coverage of the implications of the overtime rule for dealers as discussed at WANADA's Dealer Law Briefing this summer, click [here](#) and go to page 5.

Social media usage during car shopping rises

Consumers who use the Internet during their new-vehicle shopping process are increasingly turning to social media websites as a source of information, according to the J.D. Power 2016 New Autosopper Study.

Among automotive Internet shoppers, 22 percent use social media as a source while shopping for their new vehicles, up from 16 percent in 2015. The most popular social media sites used by auto shoppers are YouTube, DealerRater and Facebook. All are used by 13 percent of shoppers or less.

Among these shoppers, only 13 percent said that the information on social media influenced their purchase decision.

"Social media platforms aren't as useful as automotive shopping websites for automotive information, but they do serve the needs of consumers for unbiased dealer reviews, affirmations



Smartphone users have surpassed tablet users among Internet car shoppers. [Photo](#) by Christian Hornick.

from other vehicle owners, accessing automotive-related videos and exchanging ideas and opinions with friends and family members,” said Mike Battaglia, vice president, automotive retail at J.D. Power.

The study found that more than 90 percent of automotive Internet shoppers visit at least one automaker’s site during the shopping process, 84 percent visit a dealer site and 79 percent visit a third-party site. The average Internet shopper visits four automaker websites, three dealership sites and three third-party sites. They find dealer websites to be most useful for inventory searches.

More than half of automotive Internet shoppers used a mobile device, and in 2016 smartphone usage (37 percent) surpassed tablet usage (33 percent).

Self-driving cars unlikely to boost human productivity

Despite expectations, autonomous vehicles are unlikely to increase occupant productivity for about 62 percent of Americans, says a new study from the University of Michigan.

Here’s why: Twenty-three percent have said they would not ride in driverless cars, 36 percent would be so nervous they would only watch the road, and about 3 percent would frequently have motion sickness.

The study raises two other concerns. Passengers in autonomous vehicles could be seated in positions and postures that occupant protection systems are not set up for. And untethered objects being used to improve productivity, such as laptops, could become projectiles during a crash.

America’s 10 most stolen vehicles

The National Insurance Crime Bureau has released its list of the 10 most stolen vehicles in the nation.

Here are the top 10 MY 2015 vehicles stolen during 2015: Nissan Altima, Chrysler 200, Toyota Camry, Toyota Corolla, GMC Sierra, Dodge Charger, Hyundai Sonata, Chevrolet Malibu, Chevrolet Impala and Chevrolet Cruze.

Staying Ahead...

A man wrapped up in himself makes a very small bundle.

--Ben Franklin

