



THE WANADA BULLETIN

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

WANADA Bulletin # 38-15

September 29, 2015

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Thought for the week...

New Maryland spot delivery law goes into effect, Oct. 1 Dealers finally get a workable approach to vehicle sales on credit

As all are aware, the new law in Maryland establishing a tangible, workable approach for dealers delivering vehicles sold to consumers before the financing is finalized went onto the books after the General Assembly passed it last spring and becomes effective this week, October 1, 2015.

Maryland dealers, led by MADA with WANADA's support, came together earlier this year with the Motor Vehicle Administration to fashion a bill acceptable to legislative leaders that recognized, at long last, the widespread, time honored auto business reality of "spot deliveries" and the pressing need for a proper law to take the legal uncertainty out of the practice which gets sellers and buyers of vehicles on credit the consumer financing required from lending institutions.

Here are the important features of Maryland's new spot delivery law that have been covered in detail by management seminars, like the one MADA staged with automobile business lawyer, Mike Charapp, last week for dealers at Turf Valley Resort:

1) A period of four (4) business days – exclusive of the day of delivery, Sundays and legal holidays – comprises a notice period from the dealer to the consumer during which time the dealer is working to put the terms of the finance sale with a third party lending institution. For a copy of the required notice, [click here](#). Note that the law requires that the form be signed by both the dealer and consumer *before* the vehicle is delivered.

2) Once during the four day notice period the terms of the retail installment sales contract (RISC) or lease agreement have been approved and accepted by the lending institution, the sale *cannot* be cancelled.

3) Correspondingly, the dealer must notify the consumer within the four day period if the terms of the financing or lease *are not approved* either by the lending institution or dealer. Among other things, notice of non-approval preserves the dealer's right to cancel, so it is imperative for the dealer to have the customer's current address for this notice to go by U.S. Mail, in addition to via his/her FAX or email. Note: A notice of non-approval from the dealer to the customer triggers the customer's right to cancel.

If the dealer cancels the sale within the four day period, the consumer must be notified accordingly, in which case he/she has two (2) days to return the spot-delivered vehicle in the same condition it was when it left the dealership in the consumer's care.

For a sample copy of the non-approval notice devised by Mike Charapp, [click here](#).

4) *Renegotiation* of financing terms is authorized under the law, to include approval *after a non-approval notice is sent*. Note, however, that when new terms are negotiated, the original terms *need to be rescinded*.

For a sample copy of the form covering these circumstances, [click here](#).

5) If the deal fails altogether, the dealer must return the customer's trade-in, along with any and all fees or taxes collected, including title tax and processing fees. Note, too, that the dealer *may not* charge the customer for the use of the vehicle while it was out on spot delivery.

6) If the buyer does not return the vehicle, per a failed sale, within the prescribed two (2) day period, the dealer may repossess the vehicle in accordance with Maryland law.

7) The dealer's property and casualty insurance is primary on the delivered vehicle so long as the vehicle remains on spot-delivery, i.e., until such time as financing is finalized.

WANADA joined MADA the week before last at the MVA Dealer Advisory Forum meeting where MVA administrator Nizer and her staff pledged to sort out the new spot delivery rules with dealers until the various issues *likely* to arise with a change in the law of this magnitude are resolved. One thing is for certain: *The juice is worth the squeeze* with a spot delivery law in Maryland that fills the void where no tangible, workable rules of engagement previously existed. Now that they do, it is far preferable for all concerned, serving as it does the public interest.



GM sends franchise agreement to dealers to sign

General Motors has posted the 2015 Dealer Sales and Service Agreement on GM's GlobalConnect for dealers to review and sign.

A memo from NADA to GM dealers says, "NADA has reviewed the proposed changes, and it does not appear that they represent significant changes over the current Agreement." But NADA emphasizes that the memo does not constitute legal advice, and dealers should consult with GM or their own advisors if they have questions.

GM sent a [July 23 letter](#) to dealers outlining the changes in the new agreement, which appear to be minor and of a technical nature. For instance, changing “dealer owner” to “dealer investor” to reflect the majority of dealer arrangements.

At NADA’s request, GM has provided a version of the Agreement that shows the changes to the Standard Provisions. To access the “Comparison of 2010 and 2015 Dealer Agreement,” GM dealers should log on to GlobalConnect, go to Departments, then to the Business Office Reference Library.

As noted in GM’s July 23 letter, the new Agreement removes some of the successor limitations. When a successor is put in place, the existing Dealer Agreement will now be amended to reflect the change in dealer operator and will continue for the remainder of its term. GM has also removed language allowing it to condition the offer of a new Dealer Agreement at succession to a relocation of the dealership.

Dealers could receive rebate checks from health insurers

Dealers may receive rebate checks from their health insurance companies by the end of the month because of a requirement of the Affordable Care Act.

Under the ACA, health insurers must spend a minimum percentage of the premiums they collect on health care services and quality improvement. (The percentage is 85 percent for groups with 51 or more employees and 80 percent for groups with 50 or fewer employees.) The percentage, called the Medical Loss Ratio (MLR), is calculated on an insurer’s business in a market segment, not in the group (e.g., a dealership).

If a minimum MLR is not met, the insurer must pay a rebate to the groups in that market. That means dealers could receive rebate checks this week. The deadline to receive the checks is September 30. Aetna, CareFirst and UnitedHealthcare have started mailing their checks. The group generally puts the money toward the employer’s share of future medical premiums.

Any dealers with questions may contact Ed Mullaney in WANADA’s insurance department, at 202-237-7200 or em@wanada.org.

FTC regional director warns auto dealers about deceptive ads

An FTC regional director told WardsAuto that the agency is focused on dealer advertising, and dealers should make sure they are following ad regulations.

There is not an explicit set of criteria for deceptive ads, FTC southeast regional director Cindy Liebes told Wards’ reporter Steve Finlay. It depends on what the average consumer would consider deceptive.

“Disclosures should be clear and conspicuous,” Liebes said. Consumers should not be expected to scroll down to see them. The ad’s size, placement and color are all important. Pale yellow type on a white background, for example, is not acceptable.



Insurers must spend 80-85% of their premiums on health care services and quality improvement – or send rebate checks. Photo by TaxRebate.org.uk

Examples of deceptive dealership practices that the FTC has pursued: offering to pay off a customer's negative equity when the plan is simply to roll the debt into a new loan; and advertising low monthly payments of \$99 when that deal applies only for the first two months. FTC is also looking at truth-in-lending violations and standard bait-and-switch ad presentations.

Liebes encouraged dealers to report other dealers who run deceptive ads, and said the FTC has gotten more leads from dealers than from consumers.

WANADA dealers should have a look at NADA's auto advertising guidelines found in the members' section of www.nada.org. Dealers can also go onto FTC's website, which covers Internet advertising rules as well at www.FTC.gov.

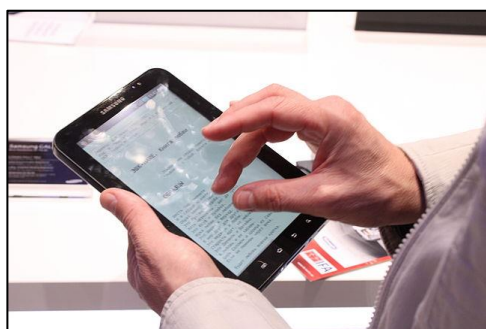
Maryland Gov. Hogan cuts fees totaling \$10 million a year

Maryland Governor Larry Hogan has announced that he will cut or reduce state fees totaling \$10.2 million a year from the state's total budget of \$40 billion. They are all administrative fees. He said he wants to cut more fees, but he needs the legislature's help.

Governor Hogan asked all state agencies to review their fees to see which ones could be cut or reduced. Several of the reduced fees are in the Department of Transportation, where the new car dealer's license will cost \$225 instead of \$250, and the vehicle salesperson's license will drop to \$67.50 from \$75. Other reductions focus on business licensing fees, but cover fees ranging from real estate broker license fees to boat licenses. Some \$5.9 million is saved by eliminating the E-Z Pass maintenance, as announced earlier this year.

Hogan said the cuts will not affect the agencies' operation. "In many agencies we saw that departments were simply collecting more than was needed, or in other words, overcharging taxpayers," he said.

More car shoppers use mobile devices to research cars



Tablet use for car shopping has jumped by 83 percent since 2012. Photo by Bin im Garten.

More than half of new-vehicle Internet shoppers now use a mobile device – tablet or smartphone – to conduct automotive research. They research vehicles, dealers and price that way, according to the J.D. Power 2015 New Autosopper Study.

Since 2012, the use of tablets for car shopping has jumped by 83 percent and smartphone car shopping, by 70 percent. About a third of new-vehicle shoppers use a smartphone for research, and a third use a tablet.

"Outside of the home, the location where new-vehicle shoppers use their smartphone to conduct auto research prior to purchase is at a dealership," said Arianne Walker,

senior director, automotive media and marketing at J.D. Power. Nearly half use their smartphone and 13 percent use a tablet to gather information while at the dealership. They are researching vehicle pricing, model information, inventory, special offers and incentives.

Increasingly, new-vehicle shoppers initially contact their dealer digitally. Although the majority of shoppers make their initial contact by simply walking into a dealership, nearly one-fourth do so digitally, by email, the dealer's website, online quote request, text, online forum or Facebook.

More shoppers are entering the process with a specific make or model in mind. Nearly half know either the exact make or model they initially want and buy it.

Dealer websites play an important role. A whopping 83 percent of new-vehicle Internet shoppers visit at least one dealership website, and 75 percent visit their selling dealership's website. Eight in 10 visit a third-party site, with Consumer Reports, Edmunds.com and Kelley Blue Book the most popular. Third-party sites are especially useful for vehicle comparisons and ratings/reviews.

NADA showcases consumer voice in auto financing campaign

The stories of consumers who saved money by financing through dealerships are at the center of NADA's campaign to showcase the economic value of dealer-assisted financing.

Through video testimonials and a new public website, www.nada.org/autofinance, NADA is bringing the voices of consumers back into the debate. The association has been fighting to preserve the current competitive financing model since it came under threat from the Consumer Financial Protection Bureau (CFPB) in 2013.

"Consumers save money every day when they finance through dealerships, but that truth is getting lost in Washington, and that needs to change," said NADA President Peter Welch. NADA's current initiative highlights dealers' ability to shop a customer's credit application to many lenders and to discount their rates to the consumer to meet or beat a competing credit offer.

"Most consumers know that financing is available at their local dealership, but what many don't know is that dealer-assisted financing usually saves them money," Welch said. NADA is pushing for the CFPB to include an analysis of the economic impact on consumers when it works to eliminate or restrict dealer discounting.

A bipartisan bill supported by NADA, HR 1737, would promote transparency at the CFPB to ensure that its policies do not unintentionally hurt consumers. House Republicans have indicated that the bill may come to the floor for a vote in the coming weeks.

10 automakers agree to make automatic braking standard

Ten automakers have agreed to make automatic emergency braking (AEB) standard on new vehicles in a deal brokered by DOT, NHTSA and the Insurance Institute for Highway Safety (IIHS).

"We are entering a new era of vehicle safety, focused on preventing crashes from ever occurring, rather than just protecting occupants when crashes happen," said U.S. Transportation Secretary Anthony Foxx.

The 10 manufacturers – Audi, BMW, Ford, General Motors, Mazda, Mercedes-Benz, Tesla, Toyota, Volkswagen and Volvo – will work with NHTSA and IIHS in the coming months to work out a timetable and other details.

The emergency braking includes a range of systems designed to address crashes, especially rear-end crashes, in which drivers do not apply the brakes, or fail to apply sufficient braking power to avoid or mitigate a crash. AEB systems use on-vehicle sensors such as radar, cameras or lasers to detect an imminent crash, warn the driver and, if the driver does not take adequate action, engage the brakes. Several studies, including a recent report from IIHS, show that AEB technology can reduce insurance injury claims by as much as 35 percent.

Highway funding deadline looms, Oct. 29

Work on a transportation bill that would fund highways and other infrastructure has been pushed to the back burner as Pope Francis came to town and Congress scrambled to avert a government shutdown.

To add to the confusion, DOT announced that the \$8 billion highway funding extension passed by Congress in July would cover payments to states for transportation projects until June, 2016. But Transportation Secretary Anthony Foxx quickly followed that announcement by saying that the Highway Trust Fund would be at dangerously low levels in November, 2015 without a further cash infusion.



Prospects for a compromise between the House and Senate on highway funding by the October 29 deadline look dim.

The Senate has passed a bill that sets up transportation programs for six years, but offers funding for only three. The House has not even brought a bill to committee. Republicans in the House are pushing to pay for highways with a tax on corporate profits earned overseas. Meanwhile, an October 29 deadline looms, and it appears unlikely the two chambers will work out a compromise on long-term funding before then.

AT&T offers WiFi plug-in device for cars with OBD II

With connectivity consistently at the top of car buyers' list of wants, the first plug-in vehicle WiFi hotspot device should make a lot of customers happy. AT&T and ZTE USA have introduced the ZTE Mobley, available in AT&T stores and online.

The ZTE Mobley allows up to five devices to connect to the Internet and use the hotspot data plan to surf the Web, play games and watch videos. The device plugs into the OBD II port and works with most vehicles 1996 and newer. Once the device is plugged in, the car will be automatically connected to the Internet any time it's on. A Qualcomm MDM9215 processor and AT&T's 4G LTE network offer fast speed and performance.

The device is available at no charge with a two-year agreement or \$100 with no annual commitment.

Several automakers offer built-in connectivity, including Chevrolet, which will have standard WiFi on 14 MY 2016 models. Others offer WiFi hotspots as an option. Mobile hotspots can also be bought from electronics manufacturers, but they require cable hookups and are more cumbersome to install.

Register NOW! WANADA's F&I Workshop, Oct 20

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 next session is scheduled for Tues., Oct. 20, 2015, WANADA headquarters.

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 or 202-237-7200.

Thought for the week...

Our revolution is based on unabiding kindness, through the joy that always comes from people being close to and compassionate with one another, which in turn leads us to concerned involvement in the lives of others and service to all.

--Pope Francis
while visiting the U.S.
September 22-27, 2015



WASHINGTON AREA NEW AUTOMOBILE DEALERS ASSOCIATION