

THE WANADA BULLETIN

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

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Happy Halloween!!

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Thought for the week...

Close vote in the U.S. Senate to overturn CFPB arbitration rule



The Senate had a November deadline to overturn the CFPB arbitration rule. Photo by Bjoertvedt.

As the WANADA Bulletin reported last week, the Senate voted 51-50 (with Vice President Mike Pence breaking the tie) to overturn the Consumer Financial Protection Bureau (CFPB)'s arbitration rule. The House passed the bill in July to overturn the rule, with President Trump now expected to sign the legislation into law. What does all this mean for dealers, and how was such a close vote able to pass?

The CFPB rule would have allowed consumers to band together to file class action suits, and a clause would be required in financial contracts stating that. Currently, most contracts--from those with mobile phone

companies to loan contracts from financial institutions of all sizes--include a clause that the consumer must agree to settle all disputes through arbitration. Now those arbitration clauses can and will remain.

The CFPB is explicitly prevented from regulating dealers, and under the arbitration rule financial institutions had to include language stating that the ban on class action suits did not apply to franchised auto dealers. But under the rule, that ban on consumer class actions *did* apply to the financial institutions dealers use for loans and leases. That means that dealers would face indirect liability as a result of the master agreements they sign with finance and lease sources.

The business community at large opposed the arbitration rule, saying that it was based on a flawed study and would benefit trial lawyers more than it would consumers. The U.S. Chamber of Commerce and other business groups sued the CFPB over the rule. The Chamber called the rule "a prime example of an agency gone rogue."

Republicans in Congress have opposed the CFPB since its creation in 2010. But Congress was on deadline if it wanted to overturn the arbitration rule. Republicans decided to use the Congressional Review Act, which says Congress may overturn any agency rule within 60 working days of its passage with a plurality vote instead of the veto-proof 60-vote majority required for most legislation.

It was clear it could be a close vote and tough sell in the Senate when Democrats invoked the image of scandal-plagued Wells Fargo and Equifax profiting from the bill. The tipping point came when the Treasury Department released a report critical of the CFPB rule one day before the vote. Dealer attorney Michael Charapp of Charapp and Weiss, LLP, said the report “provided coverage certain Senators needed to support the resolution.” Some key points in the Treasury Department report were these:

- The CFPB estimated that 3,000 additional class action suits would be brought in the next five years. The Treasury report said those suits would cost \$500 million in additional legal defense fees, \$330 million in payments to plaintiffs’ lawyers and \$1.7 billion in additional settlements.
- The extra costs to the businesses would be passed on to consumers.
- In 87 percent of class action cases, either no plaintiffs or only named plaintiffs receive relief.

We will let President Trump have the last word: “By repealing this rule, Congress is standing up for everyday consumers and community banks and credit unions, instead of the trial lawyers, who would have benefited the most from the CFPB’s uninformed and ineffective policy,” he said in a White House statement.

Thanks to Michael Charapp, Esq. for providing some of the information in this article.

WANADA Annual Meeting and Luncheon is fast approaching – Nov. 17



Bret Baier, Fox News

All WANADA members and friends may now buy tickets for the Annual Meeting and Luncheon on Friday, Nov. 17, at the Ritz-Carlton/Tysons Corner.

Popular Fox News anchor Bret Baier will be the luncheon speaker, offering his insights on the Washington scene and American politics. Baier joined Fox in 1998 and has reported from Iraq and Afghanistan and interviewed major figures ranging from George W. Bush and Barack Obama to the Dalai Lama.

Before Baier’s lunch remarks, the Annual Meeting will include a state of the industry and regional automobile business report from WANADA’s chairman, Charles Stringfellow. Members will also elect WANADA’s 2018 Board of Directors.

New this year is a “Fireside Chat” with Bret Baier. After his lunch presentation, Baier will stick around and conduct the *chat* in a room in the Ritz-Carlton with members who sign up for an extra fee of \$50 to attend this exclusive session. Only 40 tickets will be offered on a *first come, first served* basis. Fireside Chat registration will be emailed to luncheon registrants starting Nov. 1.

WANADA members and luncheon guests who do not plan to attend the "Fireside Chat" are invited to attend the post-luncheon "Happy Hour," a great opportunity to mingle and network with other members, friends and associates. The "Happy Hour" will be held from 2:00 to 4:00 pm in the salon area just outside the ballroom where the luncheon takes place.

The Annual Meeting and Luncheon is jointly sponsored by Armatus; BG Products & Services; Councilor, Buchanan & Mitchell, and SunTrust. The Fireside Chat is sponsored by WellNet Healthcare. The post-luncheon "Happy Hour" is sponsored by Architects Group Practice and Buch Construction.

Please click [here](#) to pay by credit card or check (invoice).

Senate panel approves Trump nominee for EPA clean air office

A Senate committee approved President Trump's nominee to be assistant administrator of Air and Radiation at the Environmental Protection Agency. The Environment and Public Works Committee approved the nomination of attorney Bill Wehrum with a narrow party-line vote, 11-10.

When Trump announced Wehrum's nomination in September, it was controversial because his clients have included coal, oil, gas and utility companies as well as some automakers. If confirmed by the Senate, he would be in charge of a greenhouse gas emissions program for automobiles. In a former role at the air office at the EPA, Wehrum resisted efforts to regulate carbon as a pollutant. After the Supreme Court ruled that regulating carbon was part of EPA's mandate, the agency started writing stricter fuel economy and auto emissions standards under former President Obama.

Wehrum has said states should have more authority for addressing air pollution. But he does not believe California should be permitted to have stricter auto emissions standards because the state has not shown it is disproportionately affected by global warming.

With that background, it's no surprise that Republicans have praised Wehrum's nomination as an important part of EPA Administrator Scott Pruitt's deregulatory thrust, and Democrats and environmental groups have opposed Wehrum. No date has been set for a full Senate vote.

NHTSA gives MDOT grant to test program to notify owners of open recalls

The National Highway Traffic Safety Administration has given a \$222,300 grant to Maryland to pilot a program for the state to notify owners of open recalls when they register their vehicles.

On average, only 70 percent of recalled vehicles are repaired. Improving recall repair rates is a priority for NHTSA. The FAST Act provided grants for up to six states that agreed to notify consumers of open recalls on their vehicles at the time of registration. Only Maryland applied for the grant.



EPA headquarters, by David. Photo courtesy of [Creative Commons](#).

“This first-in-the-nation grant will serve as an example to the rest of the country as we continue to work across government to reach consumers in new and creative ways with potentially life-saving information about their vehicles,” said Transportation Secretary Elaine Chao.

Maryland will provide owners and lessees with a brief description of the defect and the nature of the recall, and tell the owner that the vehicle should be repaired immediately at the dealer. At the end of the two-year pilot, the state will provide NHTSA with an evaluation of the notification program.

NHTSA targets regulations that hinder automated vehicles

As part of its effort to speed the deployment of automated vehicles, the National Highway Traffic Safety Administration wants public comments on the regulatory barriers.

NHTSA seeks ideas on any federal barriers that are hindering the testing and certification of AVs, “particularly those that are not equipped with controls for a human driver, e.g., steering wheel, brake or accelerator pedal.” The agency is also looking for comments on the research that would be required to remove such barriers.

Similar bills to ease the release of AVs on public streets have passed the House and the Senate Commerce Committee. The bills would allow up to 80,000 AVs to be deployed on public streets without meeting NHTSA safety standards for conventional cars. Both bills also are supposed to have strong state franchise protections for dealers.



NHTSA wants public comments to help speed deployment of automated vehicles.

Continuing development of automated vehicles is a topic of interest to all dealers. The 2018 Washington Auto Show will host two full days of MobilityTalks International, Jan. 23-24. For more information and to buy tickets, click [here](#).

Shoppers ready to embrace AVs, says Edmunds report

Car shoppers are more ready for automated vehicles than they may realize, according to a new report from Edmunds. Thanks to a rapid adoption of active safety features, more than 60 percent of new models today can be bought at Level 1 or 2 autonomy, as defined by the Society of Automotive Engineers. Five years ago, less than 25 percent of new models offered these features.

Levels of autonomous/automated cars range from 0 (conventional cars) to 5 (the vehicle’s driving system can do what a human driver would do, in every driving scenario).

“While some car buyers may view a fully autonomous vehicle as a novelty, a vehicle that has the ability to prevent an accident before it occurs is seen as a safety breakthrough,” said Jessica Caldwell, Edmunds executive director of industry analysis.

In a recent Edmunds survey, more than 40 percent of consumers said they would spend \$1,000 to \$2,000 more for a vehicle that had active safety features. Blind spot detection, pre-collision warning systems and lane keep assist are the top features consumers said they’re willing to pay a premium for.

Edmunds also analyzed which automakers are offering active safety features on the widest variety of vehicles in their lineups and found that Tesla, Volvo, Honda and Mercedes-Benz are leading the way.

As automakers and dealers look to build this future buyer base, courting millennials is particularly important as they are the ones most ready to be early adopters. In a recent Edmunds survey, 65 percent of millennials said they would trust a Level 4 (fully autonomous) AV, and 35 percent said they would buy one if it became available in the next five years.

Thinking Ahead...

When witches are riding and black cats are seen, the moon laughs and whispers, 'tis near Halloween.

--Author unknown

