

THE WANADA BULLETIN

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

WANADA Celebrating 100 Years of Service (1917-2017)

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New DOD interpretation of Military Lending Act affects dealers



Dealers should have procedures in place if they want to sell GAP and credit insurance to members of the military. Photo by Lance Cpl. Ryan B. Busse.

A new interpretation of the Military Lending Act (MLA) by the U.S. Department of Defense (DOD) should cause dealers to question whether they will sell GAP protection and credit insurance to active duty military personnel and their dependents. The December 14 interpretation of the 2015 regulations also raises the potential of liability for dealers on vehicles sold since October, 2016 to members of the military.

The MLA, written to protect members of the military from predatory lending, limited the military APR (MAPR) of credit to 36 percent. That definition of MAPR is different from the

one under Regulation Z of the Truth in Lending Act because it includes all cost elements associated with the extension of credit. But vehicle sales were exempt under the MLA.

Then the December 2017 interpretation said that financing credit-related costs disqualified the transaction from the financed vehicle exceptions. Products like GAP insurance and credit insurance are not exempt and are now regulated by the MLA.

Compliance with MLA regulations and the penalties for failing to do so are draconian. Dealers should consider methods of vehicle financing to military members that avoid MLA requirements. A dealer who decides to stop selling GAP and credit insurance products to active duty service members and dependents must have a procedure for identifying those individuals that is used in every transaction.

DOD offers two ways dealers can check whether a customer is a military member:

- Put the consumer's last name, date of birth and Social Security number into a government website at <https://mla.dmdc.osd.mil/mla/#/home>, or
- Verify whether the credit report from a consumer reporting agency contains a "statement, code, or similar indicator" describing military status.

It is not clear from DOD's interpretation whether a dealer can sell GAP and credit insurance products separately if they are not financed. The MLA applies to consumer credit, so leasing is probably *not* covered.

If a dealership wants to take action, senior management should decide whether: (1) to stop offering GAP products and credit insurance to *any* customers; or (2) to stop selling those products to active military and their dependents. Option (1) requires no further action. Option (2) requires management to put processes in place.

There is no apparent remedy at this point for deals completed since October 3, 2016.

Thanks to attorney and WANADA Kindred-line member Michael Charapp, Charapp & Weiss, LLP, for offering this information. It is intended for education only and does not constitute legal advice. For legal advice, dealers are advised to consult their attorney.

Seven-year sales streak ends in 2017, but 17.2 million isn't a problem

U.S. auto sales ended the year down from 2016 by 1.8 percent, but still strong at 17.2 million. That makes 2017 the fourth highest year on record and the third straight year of sales topping 17 million. No one disputes the strength of a seven-year sales rise.

"In 2017, we had solid GDP growth and good news on employment, wages and consumer sentiment, which helped deliver very strong retail sales for the auto industry," said GM's chief economist Mustafa Mohatarem.

Average transaction prices rose nearly 2 percent in December to set a record high, said Tim Fleming, analyst for Kelley Blue Book. "Incentive spending was a concern in 2017, averaging 10.4 percent of MSRP, but encouragingly, this figure held relatively flat over the final quarter of the year."



Compact utilities, like the Ford Escape, are now the largest market segment.

Warning signs for 2018

Industry analysts see warning signs that will lead to a sales drop in 2018, with NADA predicting sales of 16.7 million.

As they have for some time, passenger car sales continued to fall in 2017, reaching just a third of the market in December. That means two-thirds were SUVs and pickups, just before the American Automobile Association reported that 2018 started with the highest New Year's gas prices since 2014 (see article on page 4, below). Gas prices are not expected to spike, but with the new-vehicle market so dependent on them, they are always worth watching. Compact utilities are now the biggest vehicle segment, followed by pickups, according to Kelley Blue Book.

The Fed is expected to increase interest rates two or three times in 2018, though it's unclear what effect that will have. Edmunds analysts say the rate hike will be too modest to influence spending. Other trends that could affect sales this year:

- With improved quality, vehicles are lasting longer and owners don't need to replace them as often.
- Pent-up demand from the last recession may have finally reached capacity. The market is close to saturated, with a record 1.26 vehicles on the road for every licensed driver, Edmunds.com analyst Jessica Caldwell told the *New York Times*.
- Lease returns will come back in record numbers this year, and the resulting certified pre-owned cars could negatively impact new-car sales.
- Negative equity is growing.
- If the Trump administration approves changes to the North American Free Trade Agreement, there could be tariffs on vehicles built in Mexico and Canada.

On the upside, the economy should remain steady. Edmunds forecasts unemployment will reach 4.4 percent, the lowest since 2000. GDP will grow at a stable rate of 2.0 to 2.5 percent. The increase in leasing will bring consumers back to market sooner.

“This year, many consumers will see their take-home pay rise because of tax reform,” said GM economist Mohatarem. “This will keep the broad economy growing, and help keep sales at very healthy levels even as the Fed increases interest rates.”

Come to Washington Auto Show Lifetime Achievement Award dinner for Keith Crain



Keith Crain

Join us as we honor automotive publishing icon Keith Crain, chairman of Crain Communications and editor-in-chief of *Automotive News*, with the 2018 Washington Auto Show's Lifetime Achievement Award. The Award Dinner, on Thursday, Jan. 25, 2018, will feature other legendary automotive figures and memorable presentations.

Here is the schedule for the evening:

6:00 p.m. Cocktail Reception

7:00 p.m. Dinner and Award Presentation

Fireside chat with Roger Penske and Keith Crain

The event will take place onsite at the Auto Show in the Walter E. Washington Convention Center. Valet parking is available. Business attire is requested.

WANADA dealers and all members are encouraged to attend the dinner because there will be no member reception at the Auto Show this year.

All proceeds of this event will benefit WANADA's Auto Dealer Education Institute (ADEI), an IRS 501(c)(3) charitable foundation. ADEI IRS Number 260257647. All but \$100 of each ticket is tax deductible.

Don't miss Washington Auto Show MobilityTalks International

MobilityTalks International at the upcoming 2018 Washington Auto Show is truly living up to its name this year, with speakers coming from all over the world.

The two-day industry session before the Auto Show, Jan. 23 – Jan. 24, starts at 3:00 p.m. Tuesday, Jan. 23, with a talk by Sen. Gary Peters (D-MI), who has a longtime interest in autonomous vehicles. A panel discussion and reception will follow.

The second day of MobilityTalks, Wednesday, Jan. 24, will feature a panel with state DOT leaders from Michigan, Pennsylvania, California and DC. Another panel will include international representatives from the United Kingdom, China, Japan, South Korea and the United Arab Emirates.

In an historic first, the U.S. Senate Commerce Committee will hold a field hearing onsite at The Washington Auto Show during MobilityTalks, albeit the hearing is not officially affiliated with the Auto Show.

Another breakout session will include remarks from media members and advocates including Jason Stein of *Automotive News* and Doug Patton from DENSO.

More automakers adding automatic emergency braking, slowly

Four of 20 automakers – three luxury makes and Toyota – report that automatic emergency braking (AEB) is now *standard* on more than half of their 2017 model year vehicles. That news came in a joint announcement by the National Highway Traffic Safety Administration and the Insurance Institute for Highway Safety.

NHTSA and IIHS are tracking progress by the 20 automakers who pledged to voluntarily equip virtually all new passenger vehicles by Sept. 1, 2022, with a low-speed AEB system that includes forward collision warning, which has been proven to help prevent and mitigate front-to-rear crashes.

“The growing number of vehicles offering automated emergency braking is good news for America’s motorists and passengers,” said Transportation Secretary Elaine Chao.

Consumer Reports supported the automakers’ commitment and agreed to help monitor their progress.

“This progress is great news for luxury car buyers and many others, but many automakers still need to do more, as Consumer Reports analysis indicates that only 19 percent of 2017 models included these lifesaving technologies as standard features,” said David Friedman of Consumers Union, a division of Consumer Reports.

Six automakers make vehicles with AEB standard: Tesla (99.8 percent), Mercedes-Benz (96 percent), Volvo (68 percent), Toyota (56 percent), Honda (30 percent) and Hyundai (9 percent). All the others make vehicles with AEB as an option, though it is a small percentage for many, including General Motors (20 percent), Fiat Chrysler (6 percent) and Ford (2 percent).



The Toyota Avalon has standard AEB.

New year starts with highest gas prices since 2014, says AAA

At \$2.49, the national gas price average was the highest at the start of a new year since 2014, when gas prices were more than \$3.00/gallon. Prices in some states and jurisdictions are even higher -- \$2.71 in DC and \$2.51 in Maryland, while Virginia prices are lower at \$2.30.

But prices likely won't stay up.

"Although prices at the pump shot up over the holidays, now that the holiday season is over, motorists can expect gas prices to trend cheaper this month as we are likely to see a significant drop in gasoline demand," said Jeanette Casselano of the American Automobile Association.

Global PEV sales top 1 million, but US market could lag

While most of the global market can expect robust growth of plug-in electric vehicle (PEV) sales in the near term, the outlook in the United States is less certain based on the potential for federal policy changes. That's the conclusion of a new report from Navigant Research.

"If US fuel efficiency policies and government subsidies are relaxed or removed, the country will find it difficult to keep pace with other markets," Navigant said.

Recent developments in the PEV market, including the rollout of long-range battery EVs at sub-\$40,000 price points, have positioned the segment for robust growth. Since PEVs were introduced in 2011, sales have experienced annual growth of 40 percent or more.

Global PEV sales surpassed 1 million in 2017, and the market is projected to see annual growth around 38 percent through 2020, the report says.

Staying Ahead...

Character cannot be developed in ease and quiet. Only through the experience of trial and suffering can the soul be strengthened, ambition inspired, and success achieved.

--Helen Keller