



THE WANADA BULLETIN

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

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Dealers Win Big Federal Court Ruling Against Major DMS Systems

Late last month, Arizona auto dealers were handed a major victory in U.S. District Court, as a federal judge [refused to block a state law](#) that bars dealer data companies from preventing auto dealers from granting third-party access to their systems. The law in Arizona, now allowed to go into effect, is a big victory for allowing more competition in the dealer management system development space, and could have major implications for dealers across the country.

NADA was a major supporter of the law, and the organization's legal defense fund contributed [more than \\$500,000](#) to the Arizona Auto Dealers Association to help them fight Reynolds & Reynolds and CDK, the two major dealer management system providers who have sued in federal court to block the law.

While the law is now in effect in Arizona, the court battle, which has already lasted over 15 months, will continue in federal trial court. The state of Arizona, led by attorney general Mark Brnovich, will continue defending the law, which is similar to laws passed in Montana, Oregon, North Carolina, and Hawaii, according to [Automotive News](#).

According to an NADA summary, the Arizona law contains several pro-consumer and pro-competition provisions in it, including barring DMS vendors from charging for access to the dealer's proprietary data held in the system, and allowing dealers to terminate DMS vendor contracts at any time with 90 days' notice.

D.C. Auto Show's 2021 Season Kicks off with Virtual Space Draw

Planning for the 2021 [Washington, D.C. Auto Show](#) kicked into overdrive late last month, as representatives from than a dozen automakers gathered online for the show's first-ever virtual space draw.

While the COVID-19 pandemic required the show's annual space draw to be moved online, the transition was a largely seamless one, as automakers selected their space for the 2021 show over a Zoom video conference meeting. Members of the Auto Show staff updated participants on the show's initiatives for the upcoming year, including rigid safety and cleanliness standards, and

other plans for crowd capacity control, social distancing enforcement, and other vital health protocols.

Representatives from the Walter E. Washington Convention Center also updated show participants on their health and safety initiatives for events to be held in early 2021. WANADA would like to thank our supporters and partners in the D.C. government, Hargrove, and all participating auto manufacturers and representatives, for their support in making this virtual space draw a success.



The 2021 Washington Auto Show will be open to the public every day from January 29 through February 7. Many more details, including information on ticketing, safety, and a detailed floor plan of exhibitors, will be announced in the coming weeks and months.

Geoff Pohanka Re-Elected as Metro D.C.'s NADA Director

Geoff Pohanka, longtime WANADA board member and president of Pohanka Automotive Group, was re-elected to serve three more years as the Washington area's representative on the NADA Board of Directors.

Mr. Pohanka was re-elected without opposition, and his new term will begin at the 2021 NADA convention in New Orleans. WANADA congratulates Geoff Pohanka on his re-election, and thanks him for his years of dealer advocacy, both in the Washington region and at the national level. He has represented our region's dealers with distinction, and WANADA is grateful that he will continue doing so at NADA for another three years.

American Bar Association Promotes Adoption of NADA's Fair Credit Program

Earlier this week, the American Bar Association [agreed to a resolution](#) that asks lawmakers at all levels of government to provide a safe harbor against pricing discrimination claims for dealers who fully and faithfully implement [NADA's Fair Credit Compliance Policy and Program](#).

The resolution, which was an amendment to the ABA's Civil Rights and Social Justice platform, also includes recommendations for policymakers to enforce fair lending laws and eliminate discrimination in car sales and vehicle financing markets, while also increasing consumer protections and disclosure in auto sales.

Mike Alford, NADA's regulatory affairs committee chairman, said in a statement that the ABA's resolution is another endorsement of the dealer association's fair credit program as a thorough and robust mechanism for ensuring equal treatment of car buyers.

“Today’s action represents the latest recognition by a diverse and growing number of public and private groups of the value of the optional NADA fair credit program as an effective mechanism to address fair credit concerns while preserving competition in the marketplace,” Alford said.

You can view more information on the NADA program, and supporting documents, at www.nada.org/faircredit.

Virginia Releases State-Specific Workplace Safety Standards

Last week, Virginia's Department of Labor and Industry released its state-specific [COVID-related workplace safety and education standards](#), becoming the first state in the nation to do so.

According to a [news release](#) that accompanied the regulations, the workplace risk assessment training requirements for businesses with employees in medium-to-high risk (which begin on page 43 of the regulations) are effective as of August 26. According to the regulations, employees at public-facing retail businesses are automatically classified as, at minimum, "medium-risk" employees.

Businesses are also required to develop an infectious disease response plan, and to provide all employees at medium-risk jobs (or higher) with training on COVID-19 symptom awareness, safety education, and appropriate uses of personal protective equipment. This plan must be developed no later than September 25.

The state has created a landing page with information on the regulations [at this link](#). We encourage you to read [the full text of the published standards](#), along with the accompanying [Frequently Asked Questions page](#), as soon as you can. The *National Law Review* also published a helpful summary of the standards, which we encourage you to read.

The DOLI has also created [a helpful infographic](#) that features the steps you must take in order to comply with these workplace safety regulations, which go above and beyond the state's [phase three guidelines](#) and best practices.

WANADA is analyzing these guidelines, and our staff is working with counsel to prepare guidance for our members on the state standards. We strongly encourage all businesses in the state to continue complying with all state and CDC mandates and best-practices, and continue rigidly documenting all efforts to do so.

D.C. Council Passes FY 2021 Budget Without an Advertising Tax

D.C.-based businesses and events, including The Washington Auto Show, won a major victory late last month, as the D.C. Council passed [a 2021 budget](#) that does not include a tax on advertisements.

Seeking to fill a multi-million dollar budget gap caused by the COVID-19 pandemic and ensuing economic fallout, the council [had considered](#) making digital advertising subject to a 3 percent sales tax, as well as billboards and television commercials. Mayor Muriel Bowser was an early [opponent of the proposal](#), but for a while it looked as if it could garner the support of at least 8 of the city’s 13 council members.

Area businesses and advocacy groups mobilized against the tax, successfully arguing that it would imperil city-based businesses trying to survive during the pandemic, while also [potentially creating a system](#) in which D.C.-based businesses could be charged for advertising that was targeted outside of the city, while suburban-based businesses would not.

On July 23, the city council [voted 11 to 2](#) to pass the final FY 2021 budget, without the \$18 million or so in revenue that the advertising tax was projected to generate.

Earlier this year, the Maryland General Assembly passed a scaled digital advertising tax on businesses with more than \$100 million in annual revenue; it was [vetoed by Gov. Larry Hogan](#). The General Assembly, where Democrats have veto-proof majorities in both chambers, could still override the veto, either in a special session this fall (if one is called) or next January when the legislature is set to convene.

Reminder: Changes to Va. MVDB Background Check Process Now in Effect

Effective as of August 1, Virginia auto dealers are now responsible for conducting the mandatory background checks for initial salesperson licenses.

As of now, only these two firms are authorized to complete MVDB licensing background checks. The state MVDB has said previously that more would be added, but as of their latest update last week, the two approved firms remain as follows:

Screening One
Paul Craddock
919-533-5005
Paul.Craddock@screeningone.com

CareerBuilder
Employment Screening
866-255-1852
clientservices@careerbuilderscreening.com

According to the state, when you submit your MVDB 61 form on behalf of a new salesperson, the background check vendor will provide you with a unique identifier code to include under the "Background Check Report Number" line in Section 4 of the application. If you have any questions, please contact the MVDB at (804) 367-1100.