



# THE WANADA BULLETIN

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

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## New Laws Take Effect Across the Region

A new year means that several new laws of interest to dealers are now in effect across the Washington area.

Notably, the minimum wage in Maryland is now up slightly – from \$11 an hour to either \$11.60 or \$11.75, depending on the size of the employer. Businesses with 15 or more employees are subject to the higher wage, and businesses that are smaller than that must comply with the lower amount. Montgomery County's minimum hourly wage, which is higher than the state's, has increased from \$13 to \$14.

Virginia's minimum hourly wage had been set to increase from the federal minimum of \$7.25 to \$9.50, but implementation has been delayed until May 1. On Jan. 1, 2022, the minimum hourly wage will increase further to \$11.

As we [noted previously](#), the Maryland MVA [has posted guidance](#) related to [a new law](#) mandating that all motor vehicle-related lien releases must be filed with the administration within five business days of the lien being paid off. In addition, Prince George's County [now requires](#) that drivers who have had their vehicles impounded must pay off all outstanding traffic tickets before reclaiming the vehicle.

In Montgomery County, employers of cleaning staffers in buildings of larger than 350,000 square feet (generally the building's owner) are required to provide at least 30 hours of work per week to those who provide janitorial services. You can review the text of the law [at this link](#).

Virginia employers are now [prohibited from classifying workers](#) as independent contractors, unless they can explicitly demonstrate that said employee is indeed a true contractor. Employers must adhere to the latest [IRS guidelines on contracting status](#), and can be fined or barred from receiving public contracts if they are found to be in violation.

Holding a cellphone while driving is now a primary offense in Virginia, similar to the status in Maryland and D.C. Undocumented Virginia residents are also now [eligible to receive](#) a driver's

license (though it will not be REALID-compliant), assuming they meet certain residency and driver competency requirements.

In the District of Columbia, several tax changes [have now taken effect](#). Among the changes of note is that the estate tax exemption threshold has been lowered to \$4 million, while a 5.3 cents-per-gallon gasoline tax surcharge has also been implemented.

## NHTSA Odometer Exemption Rule Change Now in Effect

A [NHTSA rule issued in 2019](#) has now taken full effect; one noteworthy part of the rule is an amendment to the definition of an “older vehicle” as it applies to exemptions from the federal odometer disclosure mandate. Over the next decade, the exemption will eventually only apply to vehicles 20 years or older, as opposed to the prior 10-year rule.

Beginning on January 1, vehicles from model year 2011 are no longer exempt from this mandate; over the next 10 years, an additional model year will lose exemption, through 2031. This means vehicles from MY2011 will not be exempt until 2031.

Our friends at NADA have updated their [helpful guide to the federal odometer law](#), which has been updated with NHTSA’s now-implemented rule. Please note that the rule also makes it much easier for states to implement electronic reporting options for dealers to comply with the odometer law.

Please direct questions on the federal odometer law to NADA’s regulatory affairs department at [regulatoryaffairs@nada.org](mailto:regulatoryaffairs@nada.org).

## ZEV-LEV Legislation, Right-to-Work Debate Likely in 2021 Va. Assembly Session

As the Virginia General Assembly prepares to gather, both in-person and virtually, for its 2021 legislative session, legislators in both chambers have proposed legislation that could impact the buying choices of car consumers in the commonwealth.

Del. David Reid (D-Ashburn) is [proposing a bill](#) that would authorize rebates of up to \$2,500 for those who purchase new electric vehicles, while allowing additional payments for low-income buyers. Under his proposal, some older EVs and hybrids could qualify as well.

Del. Lamont Bagby (D-Richmond) is also planning to introduce legislation that would compel OEMs to provide Virginia dealerships with more EVs. Advocacy groups have said that neighboring Maryland, with more than 2 million fewer residents, gets a higher level of EV inventory, despite selling fewer cars overall than Virginia.

There is also a question of whether Virginia will sign the regional [Transportation and Climate Initiative’s](#) memorandum of understanding that commits to lowering transportation emissions by 30 percent by 2032. Gov. Ralph Northam has been non-committal about signing it, but the General Assembly could force his hand by passing a bill that would force him to either sign it or veto the bill.

Virginia previously joined the 11 other TCI jurisdictions [in pledging](#) “continued collaboration and individual actions to equitably reduce air pollution, create healthier communities, and invest in cleaner transportation.” Virginia is, notably, one of the only TCI-participating states that has not fully adopted California’s state emission standards.

Also, another debate over Virginia’s future as a “right-to-work” state could be in the offing. The rule, which forbids unions from requiring membership as a condition of employment (and as such requires unions to provide representation to non-dues paying employees in a bargaining unit), has been in effect since the 1940s.

Gov. Ralph Northam has long said he opposed repeal, both in the state Senate and as governor. Senate Majority Leader Dick Saslaw (D-Springfield) has also been non-committal about repeal, having sought last year to reach a compromise that would keep Virginia’s right-to-work status. That said, there will likely be a strong push for a repeal once again, given the strong support that it has among Democratic legislators in both chambers of the Assembly.

## Trade Groups Challenge Mass.’ ‘Right to Repair’ Law, Which Could Have National Implications

Responding to a major ballot initiative that, if upheld, could potentially impact new cars’ telematics systems nationwide, major automotive trade groups have challenged a new Massachusetts law that provides independent mechanics and collision repair shops with greater access to vehicle data.

In November, Massachusetts voters passed a landmark [“right to repair” ballot question](#), which, beginning with model year 2022, requires OEMs who sell vehicles with telematics systems to “equip them with a standardized open data platform” that makes it easier for independent repair shops to access them.

However, manufacturers and industry trade associations, including the Alliance for Automotive Innovation, have called the ballot initiative a potential cybersecurity threat. Back in July, the [Alliance warned Congressional leaders](#) that the new law could make two-way vehicle data more easily accessible to hackers, allowing them to take control of vehicles even while in operation. NHTSA Deputy Administrator James Owens [told the leaders](#) of the Massachusetts General Court that the ballot initiative would “prohibit manufacturers from complying with both existing Federal guidance and cybersecurity hygiene best practices.”

In November, following the passing of the ballot amendment, the [Alliance filed a lawsuit](#) in federal court against Massachusetts Attorney General Maura Healey, seeking to halt implementation of the law. Attorney General Healey [filed a response last month](#), seeking an expedited bench trial on the matter in early 2021.

Given that Massachusetts’ 2012 “right to repair” law led to a national [memorandum of understanding](#) signed by major auto representatives on the matter, it is quite reasonable to think that the 2020 law could have a similar impact, with major repercussions for OEMs and dealers alike. We will keep you updated as the challenge to the new state law progresses.

## An Aggressive CFPB Likely in the Offing as Biden Prepares to Take Power

With President-elect Joe Biden formally taking power two weeks from today, businesses would be well-served to prepare for a vastly more aggressive regulatory environment than the one they have experienced under President Trump.

That includes the Consumer Financial Protection Bureau, [which was authorized](#) under the Dodd-Frank Wall Street Reform and Consumer Protection Act during President Obama's first term. While President Trump sought to cut regulations wherever possible, the Biden transition team has promised to beef up regulatory enforcement in places where it has gone nearly dormant over the past four years.

With this in mind, we encourage our members to ensure they are in compliance with the [Equal Credit Opportunity Act](#) and [Dodd-Frank](#), just as they should have been under both the Obama and Trump administrations. Our friends at NADA have provided helpful guides to ensure ongoing compliance with federal laws and regulations – one of those is their [Fair Credit Compliance Program](#), an optional benefit that provides dealers with an simplified compliance template they can put into action, and a good-faith defense to any disparate-impact inquiries.

We also encourage you to review NADA's Voluntary Protection Products Guide [at this link](#). The guide is designed to help dealerships develop a simple, yet professional, consumer-friendly menu of voluntary protection products that can be offered to customers.

The rulemaking authority of the executive branch is vast, and it is likely there will be many changes from the regulatory status quo of the past four years. WANADA will continue to make our members aware of all ongoing regulatory changes in Washington as they are proposed and developed, both in the executive branch and potentially through legislative action in Congress as well.

## Federal Paid Family and Sick Leave Mandate is Gone, But Tax Credits Remain Thru March 31

As of December 31, employers are no longer required to provide employees with paid sick and family leave for COVID-related reasons, under the terms of the [Families First Coronavirus Response Act](#), which was passed back in March. However, the federal budget that was passed late last month allows employers who wish to continue to offer that benefit to access tax credits through March 31.

On December 31, [the U.S. Department of Labor](#) issued an updated guidance that outlines the new parameters. You can also view this [one-page guide](#) that the DOL produced, which outlines how much paid leave employees are eligible for between now and March 31, should you choose to grant it.

With that said, two unanswered questions remain. First, it remains somewhat unclear at the time this Bulletin was published as to whether employees who utilized this paid leave tax credit would be eligible for the full credit amount through March 31, if they choose to offer additional paid

leave. Please contact your tax advisor for information that is specifically applicable to your business.

Secondly, it remains to be seen whether the DOL under the incoming Biden administration will handle this rule in a different way than the outgoing Trump administration.

## **Required IRS Cash Reporting Notifications Due to Customers by Jan. 31**

As in past years, the Internal Revenue Service mandates that any customer who was identified on a Form 8300 that was submitted to the government in 2020 must be notified in writing by January 31. The IRS has a list of requirements for notification compliance, which [you may view here](#).

In the notice, dealers are required to notify customers of the IRS requirement that all cash transactions of \$10,000 or more be reported. The letter must include the dealership's name and address (if that information is on a business' formal letterhead, then that suffices), and also the date the Form 8300 was submitted. It must also include the make, model year, and VIN number of the vehicle involved in the transaction.

For more information on Form 8300 rules and the process for reporting large cash transactions to the government, [please click here](#). Please also note that businesses have been able, since 2012, to file 8300s electronically, using the U.S. Treasury Department's online portal. [Please click here](#) for more information, and to access the filing platform.

We encourage you to review all notices with your legal counsel, to retain a copy of each customer notification for your records, and to also diligently review all your 2020 financial records to ensure that all large cash transactions are being reported in compliance with federal law.

## **NADA Releases Franchise Meeting Schedule at 2021 Show**

The National Automobile Dealers Association has released its [schedule of franchise meetings](#) at the [2021 NADA Show](#), which will be conducted virtually from February 9 through 11.

The NADA show will also feature more than 60 education sessions, which can be viewed both live or on-demand at a later time. You can view the full list of workshops and education sessions [at this link](#).

Please also note that dealerships can [save \\$50 per registration](#) when they sign up 10 or more people, reducing the cost for NADA members to just \$149 per person. Please note that, in order to be eligible for the discount, at least 10 registrants must be signed up in the same single transaction.

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