

THE WANADA BULLETIN

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

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2023 Washington, DC Auto Show Planning Underway

Planning has kicked off in earnest for the 2023 Washington, DC Auto Show. In the past few weeks, show producers have met with multiple exhibiting manufacturers and local dealer ad groups to begin the process of taking orders for space and other activations like indoor and outdoor ride and drives. Coming off a year where, in spite of significant headwinds fueled by the Omicron variant, the DC show experienced remarkable success, the 2023 show promises to be one of the best on record.

Known as the region's largest indoor event, the Washington, D.C. Auto Show is also the official Public Policy venue for the United States. Members of Congress, regulators, cabinet members, and staffers visit the show routinely in hopes of receiving an education on what is hitting the market as they browse the many displays of new models from the world's top manufacturers, classic cars, interactive experiences, and the latest - advanced electric vehicles.

Playing a crucial role in society's goal of a cleaner and more efficient way of life is the rise of electric vehicles. Whether hybrid-electrics (HEVs), plug-in hybrids (PHEVs) or battery electrics (BEVs), these vehicles are entering the mainstream at an accelerated rate. To address this trend, the show's management team modified their 2022 Show programming to introduce an all-new EV Pavilion sponsored by Electrify America. Accommodating all of the latest technology-driven trends: diverse mobility, autonomous driving, electrification, and connectivity, this pavilion paid tribute to the growing rise in autonomous capabilities and



A Ford Mach-E being charged in one corner of the 2022 EV Pavilion.

acknowledged the strong backing from the government with their many ongoing buying incentives.

This pavilion aimed at educating attendees on what the future of mobility looks like while allowing them to browse the many electric vehicles, charging stations, 3-wheel 'fun utility vehicles', and even electric buses. Show goers were also given the chance to take their electric experience further with Pepco's EVsmart Outdoor Ride 'N Drive where guests had the opportunity to cruise the streets of D.C. behind the wheel of an electric or gasoline-powered vehicle. Not only did the show provide its attendees with hands-on insights to the electric market, but it was also the headliner for the show's local and national media coverage.



White House Climate Advisor Gina McCarthy at the DC Auto Show's 2022 Public Policy Day

Playing a more crucial role behind the scenes is the Public Policy Show that precedes the consumer show days. Here, government officials and industry representatives come together to address the current state of the country's essential automotive sector and its future initiatives. These events, announcements, and presentations create the perfect platform to understand and adapt with the direction of the industry and the legislation that is driving it. During this one-day event, the team at WANADA call upon a handful of visionaries and thinkers within the industry to dive

deeper into topics such as advanced technologies, vehicle footprints, material and labor shortages, ICE regulations, generational usage, and much more. Fireside chats, panel discussions, and keynote presentations fill the schedules of those looking to make a difference and share their opinions as the media pencil in one-on-ones, eager to share the breaking news and updates to their broad audiences.

The show's exhibitors also use this Public Policy Day as a means to communicate. Now, more than ever, exhibitors are determined to shed light on the changes they are providing to their consumers. As corporate transparency has become an expectation of the new and educated consumer, savvy exhibitors have learned to use the auto show stage to showcase their commitment to their customers while presenting their sustainable growth strategies.



Bugatti exhibited a \$4M Chiron Sport at the 2022 DC Auto Show.

As the traditional automotive industry continues to shift, so will that of these iconic automotive shows sprinkled across the nation. Gone are the days of meandering through large halls snagging a quick glance at the latest models from a plethora of local and international manufacturers. Now, the shows look to become more dynamic, hands-on, interactive, and informative. In recent years, some manufacturers have lacked the vision to stay connected to the auto show experience, leaving guests to miss the opportunity to connect with their brand. Digital media, growing demand, and the need for more has created an argument asking if there is truly a need for these exhibitions. The answer is - YES. In fact, a survey from the 2022 Washington, D.C. Auto Show demonstrated the majority of consumers noticed when a brand was missing and resulted in a negative connotation with the missing manufacturer. As shows begin to shift gears to a more dynamic and experiential show, the opportunity to cater to a broader audience significantly increases. This unique opportunity provides exhibitors the ability to retain and grow their consumer database as new car buyers enter the market



With the Washington, D.C. Auto Show's audience (both exhibitor and consumer alike) in mind, the 2023 Show will continue leading the charge of sharing, informing, and engaging by reimagining what the DC Auto Show experience is. New layouts catering to segmented buyers will connect directly with attendees by showcasing models that serve their particular lifestyle. Educational opportunities for all levels of mobility enthusiasts will shed light on a broad range of topics from changes within the industry to everything electric and basic car maintenance to building custom rides. An increase in interactive experiences, gaming, ride-and-drives, and a designated kid zone will entice consumers to come out, have fun, and get hands-on with exhibitors.

This is just a simple snapshot of the insight that the team at WANADA has come across and how they plan to change the game and help shape the future of mobility with their January Washington, D.C. Auto Show.

Stay up to date with the latest industry news and events with [WANADA](#) and check back for what is to come during the [2023 Washington, D.C. Auto Show](#) set to hit the Walter E. Washington Convention Center January 20-29, 2023.

NADA Memo on New FTC Regs for Motor Vehicle Dealers

On June 23, 2022, the Federal Trade Commission (FTC) proposed a rule that would impose a wide range of unwarranted and ill-advised new duties and restrictions on motor vehicle dealers. (A summary description of these proposed new obligations is set out below.) The FTC's proposal relies on the agency's authority in section 5 of the FTC Act to issue rules that prohibit unfair or deceptive acts or practices (UDAP). However, the FTC fails to provide sufficient support to justify its sweeping set of proposed duties and restrictions.

NADA is mounting a comprehensive and detailed response to the proposal, which will defend the highly competitive and pro-consumer benefits of the optional, dealer-assisted financing model, and show that, in fact, the FTC's proposal is likely to *harm* consumers.

In addition to proposing sweeping new obligations, the proposed rule seeks comments to justify even more expansive regulations. Specifically, in its proposal the FTC asks 49 sets of open-ended questions on issues related to the proposed duties and restrictions, including (1) whether they should be expanded (e.g., "should additional restrictions be placed on all add-ons?" and "[s]hould the Commission consider... requiring retail installment sales contracts to include a clause prohibiting financing-contingent sales, prohibiting the dealer from transferring title to a trade-in vehicle or performing any repairs or reconditioning before a sale is final or requiring dealers to return trade-in, deposit, and fees, if financing is not approved?") and (2) how the market operates (e.g., "Do dealers already calculate a figure equivalent to the Offering Price for every vehicle in their inventory?" and "[h]ow many add-ons do dealers typically offer, and how many of those are sold regularly?").

These unusually broad inquiries are more typical of an *Advanced* Notice of Proposed Rulemaking when an agency seeks information that could potentially lead it to issue a proposed rule. The FTC's omission of this preliminary and vital step casts serious doubt on whether its proposals are the result of neutral, thorough and carefully considered market research into the auto purchasing process.

The FTC has provided the public 60 days to respond to the proposed rule after it is published in the *Federal Register*. NADA will seek an extension of time to file and then submit an in-depth response to the FTC's proposal that will further educate the FTC on the array of consumer benefits provided by dealers, and explain how the many flaws in the FTC's proposed rule will threaten those benefits.

The duties and restrictions in the [proposed rule](#) generally include –

1. A prohibition against **misrepresentations** involving any of 16 different activities related to the advertising and sales process;
2. A requirement that dealers **disclose**:
 - a vehicle's "offering price" (the full cash price a dealer will sell or finance a motor vehicle to a consumer excluding only required government charges) in any

advertisement or communication with a consumer that references a specific vehicle or any monetary amount or financing term for a vehicle;

- an “Add-on List” on each website, online service, or mobile application (or, for other forms of communication, a website, online service, or mobile application where a consumer can view the Add-on List) that includes an itemized list of all of the dealer’s optional “Add-on Products or Services” and the price of each item (or, if the price varies, a price range the typical consumer will pay for the item);
 - that the purchase of “Add-ons” is not mandatory;
 - the total amount a consumer will pay to purchase or lease a vehicle when the dealer makes any representation about monthly payment amounts;
 - the amount of any consideration provided by the consumer; and
 - whenever comparing payment options and discussing a lower monthly payment, that a lower monthly payment will increase the total amount the customer will pay to purchase or lease a vehicle (if such statement is true);
3. A prohibition against **charging** for any “Add-on Product or Service” that would provide no benefit to the consumer (with certain types of products identified);
 4. A requirement that dealers **make certain disclosures and conform to other requirements**, including obtaining a newly defined and redundant form of express and informed consent, regarding such optional “Add-ons”; and
 5. A requirement that dealers **retain** for 24 months an extensive set of records that include, among many other items, all advertisements, sales scripts, training materials, and marketing materials regarding the price, financing, or lease of a motor vehicle; all “Add-on” lists and all documents describing such products and services; calculations of loan-to-value ratios in contracts including GAP Agreements; and copies of all written consumer complaints related to a wide variety of topics.

NADA Memo on Lessee Purchase Option Fees

NADA recently sent a [memo](#) to its members identifying several compliance considerations that have arisen under current market conditions. We wish to highlight and provide additional information on one of the issues that the memo addressed – namely, whether dealers may charge documentary or other fees to consumers who exercise an option to purchase at the end of their lease agreement. While this issue is not new, it surfaces more frequently when – as is occurring in the present market – a consumer is incentivized to exercise a purchase option because the actual value of the leased vehicle at the end of the lease exceeds the residual value that was calculated when the lease was entered into and disclosed in the lease agreement.

In order to more fully explain the requirements and limitations that apply to fees that a dealer may charge a lessee who exercises an option to purchase, we have set forth below the relevant excerpt from NADA’s [A Dealer Guide to Federal Consumer Leasing Act Requirements](#). As the excerpt generally explains –

- the lessee has a contractual right to purchase the vehicle from the holder of the lease for the purchase option price and any purchase option fee that are disclosed in the lease agreement; and
- except for official fees, charging additional amounts to the lessee for exercising the purchase option exposes the dealer to potential claims for breaching the lease agreement and for violating the disclosure requirements set forth in Regulation M.[\[1\]](#)

The excerpt provides important details regarding these limitations. Dealers are encouraged to review with legal counsel their current procedures for handling options to purchase leased vehicles.

Virginia Motor Vehicle Dealer Board Reports on Temp Tag Fraud

The [most recent issue](#) of the Virginia Motor Vehicle Dealer Board's "Dealer Talk" newsletter included important information for dealers in our region specifically. The Dealer Board is reporting that Northern Virginia police are seeing an increase in fraudulent temporary license plates on cars around the D.C. region. Many of the tags seen around Northern Virginia and Maryland are from Texas. In Maryland, Officer Sean McKinney with the Montgomery County Police Department said he first noticed temporary Texas tags five years ago. By Law, a driver can only get Texas temporary tags from the licensed dealer they purchased the car from in Texas, yet police say most of the tags are being produced by questionable car dealers and other crooks and sold online.

Likewise, the Fairfax County Police Department have been focused on the issue since last year, trying to strike a balance between education and enforcement.

Why does somebody have these Texas tags? The answer can vary from convenience to criminal activity. Experts said some might turn to buying the tags, running \$50 to \$100, to avoid getting the vehicle inspected or insured. Police body cam video obtained by a local news team showed some drivers stopped in recent months telling authorities the tags were already on the vehicle when they bought it. Others told police they didn't realize they were breaking the law and still others thought it was a victimless crime. But multiple law enforcement agencies said some criminals are using them to drive without a license disguise stolen cars or even smuggle drugs making it almost impossible to track these vehicles because they can use any address they choose.

Law enforcement agencies and legislators across the U.S. have caught on and are now working together to stop the use of illegal fraudulent temp tags. The local news team referenced in the MVDB article say they spotted tags in Virginia from at least five Texas dealers that were eventually shut down. These five Texas dealers were estimated to have sold over 755,000 temp tags around the country. When officers stop a vehicle with a suspicious tag and confirm it's fraudulent, they normally seize it and cite the driver.

In 2020, Fairfax County did not charge a single person for fraudulent temp tags. But in 2021, officers issued 94 citations, including arresting one person accused of selling a Texas tag to an undercover detective. "That individual was charged with a forgery of these public documents",

said Lt. James Curry with the Fairfax County Police Department. The person was found guilty. So far in 2022 there have been more than 40 citations.

Officer Sean McKinney with the Montgomery County Maryland Police Department said he's seen the paper plates all over his area. "We've seen a rise recently in fraudulent tags from Virginia, Maryland, New Jersey, Delaware, West Virginia and Pennsylvania."

The rise in use and production of fraudulent temp tags has lawmakers across the country taking steps to crack down on those selling temp tags and the drivers who fake it to make it on the road. Training of law enforcement agencies across the country aid in the spotting fraudulent temp tags that result in confiscating vehicles as evidence and prosecution of those involved.

MADA FTC Safeguards and Cybersecurity Webinar

The Maryland Auto Dealers Association (MADA) recently partnered with ComplyAuto (who is also a member of WANADA) to host a webinar discussing the requirements of the new FTC Safeguards Rule that will be enforced in December of this year. According to [the MADA Monthly News](#), "The FTC provided dealers a year since the new rules were announced in late 2021 to become compliant. Compliance involves many layers, including but not limited to: formation of a written cyber security program, cyber threat vulnerability testing, multi-layer email security protocols, vendor data protection agreements and employee training. Dealers must begin the compliance process now if not commenced already. Fines for non-compliance can be up to \$46,517 per violation."

[Click here](#) to be directed to a download link for the webinar recording and use Access Code: Z9+ZcUA!

Happy Fourth of July!

Everyone here at WANADA would like to wish all of our members a safe and healthy Independence Day. We are grateful to live in a country defined by its numerous freedoms and the strongest, most stable middle-class in the world. Many thanks to all of you in the retail automobile business who have helped to provide opportunities for so many thousands to realize that American dream here in the metro DC region. Happy Fourth!



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