

# THE WANADA BULLETIN

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

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February 16, 2023

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## WANADA Launches New Service Manager Training Program

In a new initiative to expand the training options available through the Automobile Dealer Education Institute (ADEI), WANADA recently delivered its first Assistant Service Managers (ASM) class with a focus group of students. The attendees, who represented a number of dealership groups from around the region, were taught a number of new tools to help them build long-term relationships with customers. WANADA's Director of Education Joe Hemberger is spearheading the program.

"I'm excited that WANADA now offers training on how its members can compete with the aftermarket on profitable repair and maintenance sales," Hemberger said.

ADEI currently offers training for F&I and tag & title personnel in addition to its flagship [auto technician apprenticeship program](#).

"Our goal is to give our ASMs the knowledge and confidence they need to deliver maintenance and repair recommendations so that customers' vehicles perform at peak efficiency while the service department performs at peak profitability," Hemberger continued. "The aftermarket is targeting dealership customers, so the staff needs to understand those tactics and how to defend against them through exemplary customer service."

The initial offering was a small group of ASMs who provided detailed feedback on the content and delivery. The full class will be available soon, with pricing and additional details to follow. The class sizes will be limited due to space constraints. For more information or to pre-reserve slots for your staff, contact Joe Hemberger at 267-346-1700 or [jh@wanada.org](mailto:jh@wanada.org).



Director of Education Joe Hemberger delivers the inaugural ASM training class at WANADA's DC headquarters.

## Want Charging Stations at Your Dealership? Start Planning NOW

If you have had thoughts about installing a commercial EV charging stations at your dealership, WANADA is recommending beginning the process sooner rather than later. After recent conversations with several utilities and dealers who have done so, suffice to say that the process can be lengthy, cumbersome and expensive, particularly if the grid in the vicinity of the dealership will need any upgrading. Such a project requires coordinating numerous contractors, understanding utility company requirements, and identifying available tax credits and incentives to reduce costs.

The first step would be contacting your local utility, as each power company will have differing specifications and application processes that you must follow. Generally, however, the process will generally include a site analysis, infrastructure planning, utility assessment, and a possible environmental impact study before the installation can even begin.



If transformers must be replaced or added, there are additional hurdles. The majority of transformers are produced in China and procurement could be up to one year. And that does not include and preparatory work that could be required such as digging up the street or installing a new telephone pole. Finally, it is worth considering the future needs the dealership may have, so it's important to ensure that any infrastructure modifications could also accommodate Level 3 charging, for example.

The need for clarity and understanding in this arena is large. Recent conversations with four major area utilities and state government officials revealed that neither the utility companies nor state regulators appreciate the fact that a lack of this infrastructure will reduce EV inventory deployed to dealers, meaning the states will not be able to hit their own EV sales targets.

To see some examples of at least one utility company's processes and application, you can review some documents Pepco has available as follows:

[Construction Project Service Requests](#)

[Workplace Charger Rebate Program](#)

[Application for Electric Service](#)

## Capitol Hill & Regulatory Updates from NADA

In the last month, the National Automobile Dealers Association (NADA) has put out several updates via email on a variety of legislative and regulatory matters that affect the automobile business. They have been assembled, categorized and reprinted below for ease of reference.

###

**LIFO Relief**

The “Supply Chain Disruptions Relief Act” is expected to be reintroduced next week by Sens. Sherrod Brown (D-Ohio) and Tim Scott (R-S.C.). The legislation is identical to the LIFO relief bill from last Congress, which received overwhelming bipartisan support and passed the Senate without opposition. Reps. Jodey Arrington (R-Texas) and Dan Kildee (D-Mich.) introduced the identical House companion bill (H.R. 700).

[Here](#) is a list of Senators who cosponsored S. 4105, the identical bill last Congress and the [email](#) NADA sent to these Senators asking for their support. Please see NADA’s LIFO issue brief [here](#) and contact Ivette Rivera ([irivera@nada.org](mailto:irivera@nada.org)) if you have questions or would like to discuss LIFO grassroots strategy. Thank you for all your assistance.

**FTC Oversight**

The NADA legislative office continues to educate House and Senate committees to explain the Federal Trade Commission’s (FTC) proposed “Vehicle Shopping Rule” and its adverse consequences to consumers and dealers. NADA is urging Congress to use its oversight powers to question the agency’s lack of evidence to justify the rule and the absence of consumer testing to verify that the FTC’s proposed solution will benefit consumers.

This week, senior NADA staff met with House Energy and Commerce Committee staff to brief them on how the “Vehicle Shopping Rule” would complicate vehicle sales and harm consumers (issue brief [here](#)). The Committee’s new oversight plan is to “conduct oversight of the Federal Trade Commission’s (FTC) management and operations, including the impact of its decisions and actions on the general public and the business community, with a particular focus on how the FTC conducts its business while not creating undue burdens for legitimate businesses, its determination of priorities, and the need, if any, for refinement of its authorities.” NADA is working to ensure that FTC’s egregious “Vehicle Shopping Rule” is a key component of any FTC oversight considered by the Committee. The committee is likely to hold a hearing with FTC Chair Lina Khan in the next few months.

**“Right to Repair” Legislation**

The so-called “Right to Equitable and Professional Auto Industry Repair (REPAIR) Act” (H.R. 906) was reintroduced yesterday evening by Reps. Neal Dunn (R-Fla.), Brendan Boyle (D-Pa.), Warren Davidson (R-Ohio), and Marie Gluesenkamp Perez (D-Wash.). The bill has little to do with repairing a vehicle. Instead, the legislation would give any third-party access to sensitive consumer data from vehicles, which raises consumer privacy, vehicle security, and automotive safety concerns. Additionally, the bill is overbroad as it regulates heavy-duty vehicles the same as light-duty vehicles. NADA will continue to advocate against this misguided bill which did not receive any traction last year.

**Pregnant Workers Fairness Act**

Effective June 27, 2023, dealerships with 15 or more employees must determine reasonable workplace accommodations for pregnant applicants and employees with pregnancy- or childbirth-related conditions and must provide such accommodations unless doing so would impose undue hardships. The PWFA makes it unlawful to:

- Fail to make reasonable accommodations for known limitations related to a qualified employee's pregnancy, childbirth, or related medical condition.
- Require qualified employees affected by pregnancy, childbirth, or related medical condition to accept accommodations not arrived at through an interactive process.
- Require qualified employees to take a paid or unpaid leave of absence if other reasonable accommodations can be provided.
- Take adverse employment actions (retaliate) against qualified employees based on their request for or use of PWFA-related reasonable accommodations.

The Equal Employment Opportunity Commission is expected to issue rules by December 2023 that include examples of reasonable accommodations.

### **Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act**

Effective December 29, 2022, dealerships must provide nursing employees with reasonable break time and private locations (other than restrooms) to pump breast milk for up to one year after the birth of a child. The break time need not be paid unless the dealership otherwise compensates employees for breaks. Dealerships with fewer than 50 employees are exempt if they can show an undue hardship. Employees must provide employers with a notice of any alleged failure to comply and wait 10 days for a remedy before initiating an action. This notice period is waived for employees terminated in retaliation for requesting a space to pump breast milk or for opposing a refusal to provide such a space.

Dealership policies and procedures should be evaluated and modified as necessary to address accommodation requests from pregnant and nursing employees and those with childbirth-related medical conditions. Training may be necessary for personnel responsible for fielding and administering such accommodation requests. Note: Many states have pregnancy, childbirth, and/or nursing accommodation laws that may be stricter than federal law. For more information on state laws, please contact your state dealership association. For questions related to the PWFA or PUMP Act, please reach out to [regulatoryaffairs@nada.org](mailto:regulatoryaffairs@nada.org).

### **Section 30D Clean Vehicle Credit Eligibility**

The Internal Revenue Service has revised how it classifies vehicles potentially eligible for a Section 30D Clean Vehicle Credit. As a result, more new battery electric (BEV), plug-in hybrid electric (PHEV), and fuel cell electric vehicle (FCEV) models/trim levels are now considered "SUVs, vans, and pick-ups" for purposes of the credit's \$80,000 MSRP cap. All other BEV, PHEV, and FCEV make/models (e.g., sedans, coupes, station wagons, etc.) are subject to a \$55,000 MSRP cap.

The revised vehicle classifications are based on those in [www.fueleconomy.gov](http://www.fueleconomy.gov), a shopping resource commonly used by both dealers and prospective purchasers, and apply retroactively to January 1, 2023. A listing of which make/models fall under which MSRP cap is available here. Note: Some BEVs, PHEVs, and FCEVs sold since January 1, 2023, may now be potentially eligible for a Section 30D Credit where they weren't before. Consequently, selling dealers should be prepared to provide purchaser-taxpayers with a Section 30D Clean Vehicle Credit report form as necessary. See IRS FAQs, Topic B, Questions 7 and 9. A sample Section 30D report form is found on the NADA Regulatory Affairs Alternative Fuel Vehicle and Refueling Incentive EV Incentive Webpage along with materials addressing the Section 30D and other the Inflation Reduction Act EV incentives. Questions may be directed to [regulatoryaffairs@nada.org](mailto:regulatoryaffairs@nada.org).

## Using Standardized Vehicle Protection Products Policy Encouraged

Due to increased attention on state and federal regulators on how dealers derive pricing for financing and particularly voluntary protection products, it is imperative that all dealers utilize a standardized policy for each of those transactions. To wit, please review the article below, which has been reprinted in full from [Automotive News](#), which demonstrates the importance of implementing these policies for your own protection.

###

The Jan. 17 settlement between Hometown Auto Framingham and the Massachusetts attorney general's office appears to be a regulatory vote in favor of a model F&I product pricing policy NADA and other trade groups offered for industry use in 2019.

"To the best of our knowledge, this is the first time that our relatively recent [2019] Model Dealership Voluntary Protection Products Policy has been incorporated into a settlement between a state government and a dealership," National Automobile Dealers Association regulatory affairs Senior Vice President Paul Metrey said in a statement Wednesday. "This demonstrates the broad recognition of the policy as an effective compliance template for dealers. And the policy's effectiveness as a compliance template is the reason NADA identified it as a workable alternative for the FTC to adopt in place of the voluntary protection product provisions that are contained in the agency's Proposed Vehicle Shopping Rule."

NADA created the 2019 Vehicle Protection Products Policy template in conjunction with the American International Automobile Dealers and National Association of Minority Automobile Dealers.

The document offers a similar game plan to a Fair Credit Compliance Policy & Program the three trade groups provided as an industry resource in 2014. That 2014 policy is based off the language in 2007 federal consent decrees. Both NADA templates encourage dealerships to avoid risk of discrimination by adopting standardized revenue margins.

The Massachusetts attorney general's office alleged Hometown's North Shore Mazda in Danvers, Mass., and Wellesley Mazda in Wellesley, Mass., stores charged Black and Latino customers more for finance-and-insurance products than white customers.

The agency said an analysis of sales records between Jan. 1, 2016, and March 31, 2018, found Black customers of the two Mazda dealerships paid an average of \$280 more than white customers for the same products. Latino customers paid an average of \$197 more than white customers at the two locations, it said.

Hometown said it has "vehemently denied" for years any impropriety, and its law firm disputed the agency's methodology in concluding discrimination had occurred. The dealership group says

it agreed to the \$350,000 settlement announced Tuesday by the agency to quit spending time on the case.

Dealerships adopting NADA's 2019 F&I product pricing template would charge an identical product margin to every customer and reduce it only when confronted with one of five predefined business reasons. Any alterations and their rationale would be documented.

The Massachusetts attorney general's office agreed Hometown could adopt the NADA policy to meet the settlement's three-year requirement for fixed margins on F&I products.

The settlement permits Hometown to offer individual customers lower margins only "in instances where Hometown can substantiate the good faith basis for the deviation," the settlement said.

The settlement states Hometown's dealerships can only lower their margins for the reasons listed in the NADA policy: A cap imposed by a law or a finance company; a customer's budget constraints; a better competing offer; and promotional pricing or employee pricing. As in the NADA policy, these individual price cuts must be documented, according to the settlement.

## Complete NADA Data Survey by March 1

Are you a dealer principal, owner or general manager? NADA needs your help. Your participation helps to support NADA Data, an annual report examining 2022 dealership sales, financial trends and more. Your feedback will be used anonymously. The deadline to complete the survey is Wednesday, March 1. Take the survey now! We appreciate your input and continued support of NADA. If you have any questions, please contact [economics@nada.org](mailto:economics@nada.org).

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