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## VT State of Emergency Ends Tuesday!

Vermont has returned to its pre-pandemic norms, and the state of emergency will end Tuesday, June 15.

There are no limits on the number of people who can congregate in restaurants, performance spaces or other indoor venues. Previously, gatherings were capped at 300 unvaccinated people, plus any number of vaccinated individuals.

The state's "universal guidance" remains in effect, which encourages unvaccinated Vermonters to continue wearing their masks and practicing social distancing. Masking had previously been required for those who have not been inoculated. People should continue to practice good hygiene and think carefully before traveling, according to the state's guidance, though quarantining and testing are not required. (Please refer to the [VADA COVID-19 Update](#) provided last Friday.)

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## 2021 Legislative & Regulatory Updates Coming Soon

Various state agencies and departments (think DMV, DOL, Tax, ANR) are formulating regulations and policies in support of the laws that passed during this past session, and we will share the details as soon as they are available. Most new laws take effect July 1<sup>st</sup>.

As a reminder, [transportation bill](#) includes provisions to reduce greenhouse gas emissions in the transportation sector and expand the state's fleet of electric vehicles and chargers.

- \* Allows up to \$1 million for a pilot program for chargers at multi-unit affordable housing and multi-unit dwellings owned by a nonprofit.
- \* Creates a state goal to have a level 3 charging port available to the public within five miles of every interstate exit.
- \* Continues the public-private partnership between Agency of Transportation and Drive Electric Vermont to support the expansion of the PEV market in the State purchase and lease incentives.
- \* Includes \$3 million in purchase and lease incentives for plug-in electric vehicles.
- \* Up to \$1.25 million for purchase incentives under MileageSmart, which is the State's used, high fuel-efficiency vehicle incentive program.
- \* Provides \$375,000 in emissions repairs vouchers.
- \* Creates "Replace Your Ride" Program to incentivize Vermonters to remove older low-efficiency vehicles from operation and switch to modes of transportation that produce fewer greenhouse gas emissions. Authorizes up to \$1.5 million for incentives of \$3,000 for an income-qualified individual who removes a low efficiency vehicle from the fleet.
- \* Requires the State's electric distribution utilities to offer PEV rates for public and private EVSE

not later than June 30, 2024.

\* Commits to fare-free public transit in FY 2022.

The budget bill awards \$1.5 million over three years to Community Action Programs to fund five financial and clean energy coaches for low and moderate income families.

**Be sure to mark your calendar for the VADA Annual Meeting  
September 16<sup>th</sup> at the Capitol Plaza for THE FOCUS ON THE  
FRANCHISE!**

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## Mike Smith Appointed Deputy Commissioner of Vermont DMV

Michael Smith has been appointed Deputy Commissioner of DMV. Mike has worked for DMV since 1989 in numerous roles, leading to his promotion to director of operations in 2010. In that role, he has been responsible for oversight of the largest division at DMV, encompassing over two-thirds of its staff. The division is responsible for all licensing, examinations, CDL compliance, vehicle registration and titling, IFTA/IRP, oversize and overweight vehicle programs, fuel tax, driver improvement, and legislative affairs.

Mike has worked with us collaboratively for many years. His knowledge and experience will be especially important as DMV develops its core system modernization project, which just received significant funding. By golly, we just might move DMV into this Century!

Congratulations to Mike on this much deserved promotion!

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## Dealer DMV Questions & Answers

[Dealer Question #1](#)

- Dealer to dealer vehicle sale - has no sales tax - correct? We're having some issues with a vehicle that we bought from a dealer that the state wants sales tax on.

**DMV Answer** - As a general rule the only time Purchase and Use (not sales tax) is due is at the time of registration or titling. If the vehicle is in the dealer's inventory, they can obtain a title in the dealership's name without paying tax. There is always more to the story so if we can get some additional specifics, it will help me to clarify what's going on.

### **Dealer Question #2**

I am writing to you to get some guidance and/or thoughts about a unique situation I see coming up more consistently now with the micro-chip and inventory crisis occurring at our dealerships.

With the current New Car inventory crisis going on, the books and market prices on used vehicles have skyrocketed. In several instances the shortage of New Trucks has caused a \$3,000 - \$5,000 increase in the value of late model trucks. Now while we understand that market will self-correct as Inventory becomes available in the months to come, it is causing an oddity with consumers.

I have now had three consumers place factory orders for a new vehicle while electing to take advantage of increased market price for their trade ins. Two of my customers have elected to sell the trade to a wholesaler in the current climate for premium dollar. The problem will only arise if the vehicle they ordered is not able to arrive within the 90-day window to claim a tax credit on their sold vehicle. A third customer brought up today the question whether the tax credit would be extended if they could prove they ordered the truck, but the manufacturer could not deliver it in the 12-week window to receive a tax credit.

In all three cases the consumer would be getting a tax credit of over \$1800 dollars (\$30k x 6%) but as I explained to the customer today, we can in no way guarantee that the State would extend that tax credit beyond the 90- day window. I advised the customer I would approach the DMV and VADA to make them aware of the anomaly happening with the chip shortage and that I would communicate with them the response. I am hoping you can provide guidance as to whether it is even possible to get a temporary extension of the 90-day tax credit rule.

**DMV Answer** - In reviewing the situations described below I think we first need to establish that there are no extensions regarding the timeframe for tax credits under 32 V.S.A. §8902(5)(B) with the exception of military members due to activation or deployment. When looking at the situations covered by (B) and the situation at hand, it all comes down to the date of purchase and the date of sale. According to the statutory language, all buying and selling must occur within 3-months of each other.

In your examples, where the customer has opted to wholesale the current vehicle, then the date of transfer to the wholesaler would be the date of sale. Now the issue is what is the date of purchase. In our conversation you indicated that your customers are signing a purchase contract, giving you a copy of their driver's license, and leaving a deposit. The date the purchase agreement is signed, as it is a binding contract, would be considered the date of sale.

That said, all documentation submitted for registration and titling purposes would reflect the date of sale to the wholesaler for the tax credit, and the date of signing the purchase contract for the date of purchase. If those two dates are within 3-months of each other, then the tax credit would apply. The key element is when the transaction has passed the point of no return (legally), or when the contract is binding.

### Dealer Question #3

I am about to submit for a Factory warranty Labor Rate Increase for Middlebury Chevrolet. Can you please send me any Vermont Law/Statute information pertaining to manufacturer warranty rate reimbursement and parts reimbursement.

### DMV Answer -

Warranty Reimbursement Section - <https://legislature.vermont.gov/statutes/section/09/108/04086>

Total Franchise Law - <https://legislature.vermont.gov/statutes/chapter/09/108>

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## State Audits on the rise as Covid-19 Pandemic winds down.

### Are you prepared?

The Covid-19 pandemic had a significant impact on our entire way of life. The automotive retailing sector saw plunging sales, and dealers were forced to change the way they conducted business. Due to the industry slowdown, state audits and legislative changes affecting the industry saw little activity in 2020. However, this is starting to change.

Dealership audits are on an uptick in 2021. We have been contacted by dealership groups that have been hit the hardest, and the buyer's and lease orders are a major focus of these audits. Responsibility for compliance begins with the dealer.

Are you prepared? Examine your dealership policies and practices. Reevaluate your forms to determine if they are current and conform with all requirements. Partner with companies that can help you get ahead of the curve. The Reynolds and Reynolds Company is here to support you. The LAW® Vermont Library of F&I forms, which is produced and maintained by both Reynolds and legal counsel, is a comprehensive group of documents that can help your dealership. Equip your dealership with LAW, the brand you can trust!

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## NADA Energy Use Survey



### **DEADLINE EXTENDED: Complete NADA Energy Use Survey for the Opportunity to Win \$100 Gift Card**

NADA has extended the deadline for the NADA Dealership Energy Use Survey to Friday, June 25. [Complete the voluntary 20 minute survey](#). The results of the survey will build a tool to help franchised dealerships save money, promote energy efficiency and generate goodwill in their communities.

Once completed, NADA is offering the opportunity to win a \$100 Amazon gift card. Individuals that complete the survey are asked to send an email to [energysurvey@nada.org](mailto:energysurvey@nada.org) describing a success in reducing your energy use. The best 10 completed submissions will win one of ten gift cards. Good news: Dealerships are eligible to participate even if they have submitted a completed survey. Official contest rules can be found [here](#).

Please work with your office and/or facilities manager and other employees to review the survey [instructions](#) and [complete at least one survey today](#). For more information, a [how-to webinar](#) is available. Email questions to [energysurvey@nada.org](mailto:energysurvey@nada.org).

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## TIME Quality Dealer of the Year Nomination Due July 21st

VADA is now requesting nominations for the 2022 TIME Dealer of the Year Award. If you know a dealer who exemplifies the traits of a "quality" dealer in his or her business, civic, and charitable duties, take this opportunity to place his/her name in nomination. To nominate a dealer, simply review the requirements and complete the [2022 nomination form](#), which is included with this Hotwire, and fax it to VADA at 802-461-2659. Please submit your nomination before July 21, 2021.

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## Looking to Reduce Air Conditioning Costs?



Hot summer days mean your HVAC system needs to work harder to keep your space comfortable. Now is the time to make sure your equipment is prepared. Call Efficiency Vermont for advice on maintaining your air conditioning. They can help you reduce energy costs, extend the life of your equipment, and avoid emergency repairs this summer. [Contact Efficiency Vermont](#)

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## Top Five Most Frequently Cited OSHA Violations

Dealers should ensure that they are complying with specific OSHA regulations. Below are the ten most frequently cited OSHA violations:

**Hazard Communication:** OSHA's Hazard Communication Standard (HCS) is based on the concept that employees have both a need and a right to know the hazards and identities of the chemicals they are exposed to when working. They also need to know what protective measures are available to prevent adverse effects from occurring.

Requirements include a written program, chemical list, material safety data sheets to match each chemical listed, and employee training. For a full index of chemicals overseen by OSHA, visit [www.osha.gov/chemicaldata/](http://www.osha.gov/chemicaldata/).

Under the HCS, the following needs to be in place anywhere workers could be exposed to hazardous substances:

1. safety data sheets (SDS for short) for every chemical on the jobsite
2. a written hazard communication plan
3. comprehensive hazard communication training for all workers who may be exposed to hazardous chemicals

HCS violations usually happen because of the complexity and paperwork involved in compliance. Organizations may fail to label their chemical containers properly, leave certain substances off of their chemical inventory lists, neglect to obtain SDS from manufacturers, or some combination of the above. Many organizations get cited for not maintaining a hazard communication plan, or for failing to include necessary information in the written plan.

**Respiratory Protection:** Common airborne contaminants include particulate matter (e.g. silica dust), smoke, gases, mists, vapors, and aerosols. These and other contaminants can cause short- and long-term health problems, such as asthma, bronchitis, emphysema, impaired thinking, decreased lung capacity, loss of consciousness, and cancer. OSHA's respiratory protection standard outlines how organizations should minimize worker exposure to hazardous air. Many violations of OSHA's respiratory protection standard happen when organizations fail to establish respiratory protection programs.

**Electrical Systems:** Electrical equipment must be free from recognized hazards that are likely to cause death or serious physical harm to employees. It also states that circuit breakers or other "disconnecting devices" must be labeled/marked to identify their purpose. OSHA has a helpful eTool: <https://www.osha.gov/etools/subpart-s>.

**Personal Protective Equipment (PPE):** Dealers must provide adequate PPE for employees, including eyewear, splash shield, respiratory protection, and gloves and apron for handling battery acid. Eye and face protection violations occur because the eyes and face are often under-protected and overexposed. One of the leading reasons for PPE violations is inaccessibility-the right equipment isn't readily available when people need it. Sometimes, violations occur because the employer has failed to provide the necessary PPE. Workers need to know when and how to use PPE; how to put it on, adjust it, and take it off; and how to properly test, store, maintain, and dispose of the equipment.

**Abrasive Wheel Machinery:** Bench and pedestal grinders must be equipped with a tool rest, spindle guard and tongue guard. The tool rest and tongue guard must be adjusted close to the grinding wheel, within 1/8th of an inch. Grinders must be attached to the bench or floor to keep them from moving while in operation.

For more information on complying with OSHA standards, visit their web site at [www.osha.gov](http://www.osha.gov).



## WORKERS' COMP SAFETY CORNER

As dealerships become busier in the summer months, remember that good housekeeping is one of the best ways to enhance safety and productivity simultaneously in your dealership. Service Departments are notorious for letting poor housekeeping slide during busy time with the logic that time spent cleaning is less value-added time. Ask yourself- "How much value can my A-tech add if they are off work nursing an injury from a slip or trip caused by working in their own mess?"

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## News from Matt Cota, our Friend at Vermont Fuel Dealers Association

### Climate Change Poll

Americans are nearly evenly split when it comes to the question of whether or not the United States should phase out the production of gasoline-powered vehicles by 2035, according to the results of a new poll by the Pew Research Center.

The poll of nearly 14,000 adults found that while 51% oppose phasing out cars and trucks powered by internal combustion engines, 47% were in favor of the proposal, which the governors of 12 states have urged President Joe Biden to adopt.

The study, on Americans' attitudes toward confronting climate change, also found that 64% of respondents say the U.S. should continue to rely on a mix of energy sources while only 33% are in favor of moving away from fossil fuel use. The poll found that attitudes toward embracing electric vehicles splits along generational lines, with 56% of those born after 1996, known as Generation Z, and 57% of millennials -- those born between 1981 and 1996 -- favoring mandating a switch to electric vehicles, compared to 53% of those born between 1964 and 1980 and 59% of those born before 1964 who oppose such a mandate.

The poll found that more than 60% of respondents believe that businesses (69%), state governments (60%) and their fellow Americans (66%) are doing too little to combat climate change. About 62% of respondents also said the energy industry wasn't doing enough. Nearly three-quarters of respondents (74%) support Biden administration proposals to require energy companies to increase their use of renewable energy sources, while 62% support the administration's plans for construction of a national EV-charging network.

Americans seem split on the need to make major lifestyle changes to combat climate change, with 51% saying such changes will be needed in 50 years, while 46% feel new technologies developed over the next five decades will address climate problems. The study found wide support for proposals that could reduce the effects of climate change, including increasing mileage standards for automobiles and imposing a carbon tax on corporations (70% for both), tax credits for companies that develop carbon capture and storage (81%) and planting a trillion trees to absorb carbon emissions (90%). Americans overwhelmingly support expanding solar panel farms (84%) and wind turbine farms (77%) but are split on the need to increase use of nuclear power plants (50%), offshore drilling (43%) and fracking (41%). Americans are similarly split on whether Biden was right in cancelling permits for the Keystone XL

Pipeline (49% to 45%), but most oppose Trump administration efforts to allow drilling in the Arctic National Wildlife Refuge (70%-27%).

The survey found wide partisan divides on most issues, with those who identify as Democrats strongly supporting most measures aimed at combatting climate change while most Republicans favor continuing using fossil fuels in the energy mix. Similarly, 60% of Republican say Biden's efforts to combat climate change go too far, compared to 13% who say they are just right and 25% who say they don't go far enough. Among Democrats, 54% say the efforts don't go far enough, 40% say they are about right and 5% say they go too far.

### Electric Vehicles and Plug-In Hybrids

Vermont Public Power Supply Authority (VPPSA) will continue to offer customer rebates for the purchase or lease of EVs and PHEVs in 2021. The customer incentive for purchasing or leasing a new electric vehicle will be \$1000 and the customer incentive for purchasing or leasing a new plug-in hybrid electric vehicle will be \$500. Low-income customers will receive an additional \$400 towards the purchase or lease of an EV or PHEV.

VPPSA plans to continue incentives for purchasing used EVs and PHEVs. The customer incentive will be \$500 for the purchase of a used EV and \$250 for the purchase of a used PHEV.

Upfront cost has been identified as a major barrier to purchasing an electric vehicle. Beginning July 1, 2021, VPPSA will pilot a point-of-sale incentive with two auto dealerships: Burlington Cars and Lamoille Valley Chevrolet. These dealerships were chosen due to their willingness to participate in a pilot and their proximity to VPPSA members. Customers who do not purchase or lease vehicles from these dealerships will still have the option to receive a post-purchase rebate.

Based on the results of the pilot, VPPSA will consider moving electric vehicle incentives to point-of-sale in 2022.

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## U.S. Traffic Deaths Up 7% Last Year, Highest Number Since 2007

U.S. traffic deaths rose 7% last year, the biggest increase in 13 years even though people drove fewer miles due to the coronavirus pandemic, the government's road safety agency reported last week. According to the Detroit News, the National Highway Traffic Safety Administration blamed the increase on drivers taking more risks on less-congested roads by speeding, failing to wear seat belts, or driving while impaired by drugs or alcohol. An estimated 38,680 people died in traffic crashes last year, the most of any year since 2007, the agency said in releasing preliminary numbers. Final numbers normally come out in the fall. The increase came even though the number of miles traveled by vehicle fell 13% from 2019. Motorcyclist deaths rose 9% last year to 5,015, while bicyclist deaths were up 5% to 846. Pedestrian deaths remained steady at 6,205, and the number of people killed in passenger vehicles rose 5% to 23,395, according to NHTSA.

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## Regulatory Refresh: Loans vs. Retail Installment Transactions

There is a significant difference between a loan and a retail installment transaction. Generally, banks, savings and loans, and payday lenders are in the business of making loans. Those entities are highly regulated and must be licensed by the state or federal government to operate. The structure of a typical secured loan is that the lender hands money to the borrower and the borrower grants a lien on their home or car. Retailers (such as automobile dealers) engage in retail installment transactions, where instead of handing someone cash and taking a lien on the car, they are selling merchandise on credit.

There is a narrow section of Vermont Code that exempts automobile dealers from all of the licensure requirement and regulations of the banking laws, but only if the transaction is limited to what is permitted in the statute. Permitted items are limited to:

- \* The cash price of the goods or services sold
- \* The amount actually paid to discharge a lien on the trade
- \* Official fees and taxes
- \* Charges for insurance
- \* The amount actually paid for registration, certificate of title, or license fees
- \* Charges for other benefits, including insurance, conferred on the consumer, if the benefits are of value to the consumer and if the charges:
  - \* are reasonable in relation to the benefits
  - \* are of a type which is not for credit
  - \* are authorized as permissible additional charges by rule adopted by the administrator
- \* Service contracts
- \* Voluntary debt cancellation coverage (GAP)

Bottom line: If you are financing something other than what is on the list, you need a banking license. Most financing sources have contractual relationships with dealers that permit dealers to only finance things that are on the authorized list for retail installment transactions. If the dealer pads the deal and then hands the customer cash (whether it's intentional or just an error), it potentially gives the lender grounds for seeking recourse or chargeback against the dealer. That scenario most typically plays out when the customer defaults and the funding source is looking for a reason to get out of the deal.

Dealers cannot refinance car loans because in a refinance they are not selling anything, they are making a loan to pay off an installment agreement. You must be a bank or regulated lender or an agent of a bank or regulated lender in order to do that. Loans and retail installment transactions also have different APR limits.

## Valid Identification, Not Immigration Status, Needed for Sale to Non-Citizens

Dealers do not need to know a customer's citizenship or immigration status in order to title and register a vehicle and preserve a lien. Dealers do, however, need to see the documentation required to legally complete the transaction. If a customer resides in Vermont, they can provide a valid:

- \*VT driver's license
- \* VT identification card
- \* Social Security card

If a customer does not reside in VT, they can provide a valid:

- \* Driver's license
- \* Social Security card
- \* Passport number

### Driver's License Number

The driver's license number does not have to be from a VT driver's license. A driver's license from any state or country is valid for obtaining a transit title for the customer to transport the vehicle to title and register it outside of VT.

### VT Identification Card

A state-issued identification card is only valid for title and registration purposes if it was issued by the state of VT. Although other states may have non-driver identification cards, they are not listed as an acceptable document for title and registration purposes in VT law.

### Social Security Number

The fact that someone does not have a Social Security number does not indicate that they are undocumented or illegally in the country. Noncitizens can obtain Social Security numbers if they have permission to earn wages from the Department of Homeland Security. Some international students and dependents of guest workers or international students may have a valid visa but no Social Security number.

### Doc Fees

If the transaction is a cash deal, the dealer has no obligation to handle titling and registration. However, if the dealer is charging a doc fee, the dealership must do something to earn that fee, such as calculating the tax due or preparing the title application.

## OFAC List

It is illegal to do business with someone on the OFAC list. Failure to check whether a person is on the list is not a crime, but selling a car to someone on the list is. Regardless of whether the dealership is handling the titling and registration on a sale, a dealership employee should always perform an OFAC check.

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## Please Return NADA Permission Form

Each year, VADA and NADA solicit membership for contributions to NADA'S Political Action Committee (PAC) campaign. Last year, NADA's PAC generated \$2.5M in support of pro-dealer congressional candidates throughout the US. In Vermont, NADA-PAC raised \$3,750, with just 4.82% of VT's membership contributing. We can and should do better.

Due to federal election law, NADA must have signed authorization forms on file for each dealership location before requests for contributions can be made. Click [here](#) to obtain the 2021-25 Authorization Form for the dealership to sign and return. Only one form is needed per dealership location, though you may sign for multiple locations on one form.

The **form is not a commitment to contribute**; it simply allows NADA dealer members to be contacted with information about NADA PAC and should a dealer choose to contribute, allows NADA to accept the contribution.

Please complete the form and return it by email to [nadapac@nada.org](mailto:nadapac@nada.org) or fax to 202-627-6750.

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