



Helping You Drive Vermont's Economy

Vermont Vehicle and Automotive Distributors Association

WEEKLY DRIVETRAIN

Latest regulatory reminders, state requirements & industry happenings

September 27, 2021

Greetings

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VADA Annual Meeting

We have heard from several members who thought the content of our Annual Meeting was excellent, though there were a few operational glitches in our virtual delivery. We are gathering the presentation details from the presenters and will forward them to participants as soon as they are all available. More detail to follow, but special thanks to our excellent presenters – Richard Sox of

Bass Sox Mercer; Stephanie Valdez Streaty of Cox Auto Mobility Research and Development, AOT Secretary Joe Flynn and DMV Team Wanda Minoli, Mike Smith, and Tony Facos; and Lieutenant Governor Molly Gray. And of course, none of it would be possible without our great sponsors like Zurich and Cox Automotive!

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**Important Upcoming Dealer Webinar
October 13th from 9 to 10 a.m.
Efficiency Vermont Electric Vehicle
Dealer Program Overview**

Efficiency Vermont, VADA's newest association *Partner*, will host a webinar for dealership staff on October 13th from 9 to 10 a.m. As many of you know, we have worked with Drive Electric

Vermont (think Dave Roberts) for several years and are pleased to work with Efficiency Vermont as they launch a pilot program to support the Vermont auto dealer community in accelerating adoption of plug-in electric vehicles (EVs) across the state.

This important new Electric Vehicle Dealer Program will create a network of new and used car dealers who have demonstrated a commitment to promoting

EVs, and in return receive *benefits such as funding for dealer EV improvements, dealer incentives and trainings* covering EV topics of interest to the Vermont dealer community.

Be sure to join Program Manager Tori Scarzello from Efficiency Vermont to learn more about the program, ask questions, and find out how to enroll.

Please register to attend at:

https://us06web.zoom.us/webinar/register/WN_mdRzsLTQNYVOZeadlz8NA



NADA Director Mitchell Jay Update — September 17, 2021

I recently attended an NADA Board briefing, which was held virtually on August 25, 2021, to update members of the Board on a number of significant developments related to NADA's top policy issues. It is important for all dealers to have a good grasp on the significant challenges

NADA is confronting on their behalf so they can stay engaged and help in these vital advocacy efforts when called upon to do so. For that reason, I am happy to provide a recap of our Board briefings from time to time, so you can stay appraised and informed.

The year started off with a flurry of legislative activity, not only in Washington, D.C., but also in several state capitals in the form of initiatives to allow certain EV-only OEMs to sell directly to customers. NADA was also aware that the Biden Administration and the Democratic Congress would eventually turn its attention to EVs as well.

To both protect dealers and help ATAEs combat the most significant threat to the franchise system in years, NADA launched into action with a comprehensive plan to ensure that everyone – federal policymakers, state legislatures, media, industry partners and other stakeholders – understand that dealers are critical to EV sales, not an impediment to them. Key elements of NADA's narrative on EVs were set out in two advertorials published in *Automotive News*. The first, explaining that [dealers are all-in on EVs](#), ran on March 15. The second, laying just why [dealers are essential to broad EV adoption](#), ran on July 12. I encourage you to read both advertorials if you have not already done so.

We had our own unique challenges in Vermont. Non-Franchised EV

manufacturers could apply for a dealer license and open a retail sales outlet. Vermont had prohibitions that kept a manufacturer however from operating a warranty/repair center. S.47 was passed, allowing non-franchised zero-emission vehicle manufactures the ability to service vehicles in Vermont from a factory store. The bill also added some positive changes, clarifying some of the rights granted to a franchised new motor vehicle dealer in the state. As you probably have already heard, it also allowed for proposed changes to our Motor Vehicle Manufacturers, Distributors and Dealers Franchise Practices Act. Currently, with the help of several dealers VADA is working to propose positive changes to this Act.

Fortunately, as noted above, our message on EVs could not be simpler: Franchised dealers are all-in on EVs and are absolutely essential to broadening EV adoption to mass-market car buyers. NADA is incorporating this messaging in all of its engagement with policymakers and with the media. This will continue to pay dividends for dealers on multiple fronts, including as more attention is paid to the development of EV tax incentives.

NADA is also working to limit the numerous tax increases Congress and the Administration are proposing which could harm franchised dealers. The House and Senate have passed the Democratic-only budget resolution that provides a broad framework for tax and spending provisions and includes a number of proposed tax increases. One example is the proposal to increase individual and pass-through business, also referred to as the S Corp, tax rates from 37% to as high as 43%. These proposals, if enacted, would strip dealers of working capital and significantly impact the resources dealers have to invest back in our dealerships and our local economies.

Additionally, due to historically low inventories and the chip shortage caused by the pandemic, many franchised dealers who use Last-In, First-Out (LIFO) accounting may face massive LIFO recapture amounts at the end of 2021. The impact of this unique dealer challenge is one that many members of Congress and regulators are not aware. NADA is working tirelessly and aggressively to secure favorable resolution to this critical issue, including through a formal petition to the Department of Treasury and complementary outreach to Congress.

Also on the advocacy front, NADA remains on guard for another confrontation with policymakers and consumer groups related to dealer-assisted financing, including against both dealer reserve and voluntary protection products. NADA is receiving increased media inquiries on vehicle financing. If past is prologue, the publication of slanted and negative stories in the press could foreshadow

regulatory or legislative scrutiny or action. NADA is well-prepared and equipped to mount a vibrant defense of dealer-assisted financing if the need arises.

Finally, plans for the 2022 NADA Show are in full swing, and I hope to see many of you in person in Las Vegas in March 2022.



COVID: Mandatory Vaccinations or Testing

On September 9, 2021, President Biden announced his COVID-19 Action Plan. As part of that plan, the President directed the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) to draft a rule requiring companies with 100 or more employees to either:

1. Ensure that their workforce is "fully vaccinated" or
2. Require any workers who remain unvaccinated to produce a negative test for Covid-19 at least once a week.

OSHA is developing an emergency technical standard (ETS) to implement the President's directive.

Early information from White House officials suggests that covered dealers will also be required to provide employees with paid time off to get vaccinated and/or to recover from any vaccination side-effects.

As of today, the rule has not yet been prepared and it is unclear when it will be issued and become effective.

In addition, details on issues such as how dealers will be required to determine who is and who is not vaccinated and what types of tests will be required have not been announced. These and other questions will likely be addressed in the ETS.

Governor Scott's Press Conference, Latest COVID-19 Trends and Where to get a Free COVID-19 Vaccine today

[Click here to view the full press conference](#), including additional remarks from Health Commissioner Mark Levine, MD, Education Secretary Dan French, Human Services Secretary Mike Smith, and the state's [weekly data and](#)



[modeling presentation](#) from Financial Regulation Commissioner Michael Pieciak.

To find out where to get a free, safe, and effective COVID-19 vaccine today, visit healthvermont.gov/myvaccine.

Want to advertise your products or services to our members? Click here to learn more!



No Tax Credits for Paid FFCRA Leave After September 30

The [Families First Coronavirus Response Act \(FFCRA\)](#) established a *mandatory* obligation to provide employees with paid emergency sick and family medical leave until December 31, 2020. Since then, dealerships have had access to tax credits to offset the cost of any such leave

provided to their employees *voluntarily*. Unless extended by Congress (which appears unlikely) those tax credits *will only be available for FFCRA leave provided on or before September 30, 2021*.

In anticipation of the end of these tax credits, dealerships should:

1. Determine if they will provide *voluntary* paid leave for any (or all) of the permissible [FFCRA purposes](#) through September 30, 2021;
2. Take advantage of the [tax credits available](#) for any such paid leave; and
3. Review existing leave policies and applicable family and medical leave mandates, for their potential application to leave requests for FFCRA-type purposes. *Important:* state and local law may impose leave mandates over and above those imposed by federal law.

Questions can be submitted to regulatoryaffairs@nada.org

Canadian Vehicles Must Meet U.S. Standards



Before a dealer purchases or trades a vehicle that was previously titled in Canada, certain documentation must be verified. A certification label must be on the door post indicating that either the vehicle was manufactured according to United State (U.S.) safety and emission standards or brought up to the U.S. standards by a registered importer. If the labels are present, a vehicle is permitted to be sold in the United States. If the importer/up-fitter brought the vehicle to U.S. standards, then that vehicle will be branded as a (grey market/non-conforming vehicle). Almost any vehicle that meets the safety and emission standard can be imported for personal use, legally registered, and operated within the U.S. Depending on the manufacturer, factory warranty coverage may not apply following import.

Any person, who imports a vehicle for personal or for business purposes must obtain a properly completed U.S. Department of Transportation, National Highway Traffic Safety Administration (NHTSA) Form HS-7 "Declaration (Importation of Motor Vehicle and Motor Equipment Subject to Federal Motor Vehicle Safety, Bumper and Theft Prevention Standards). If the paperwork is not present, the person may contact NHTSA at www.nhtsa.gov/cars/rules/import/hs799short.pdf to obtain the HS-7 Form.

If the vehicle was imported through a registered importer, NHTSA will have a record of the VIN and can verify that the vehicle was imported legally. If neither the manufacturer nor NHTSA can verify that the vehicle meets U.S. safety standards, the vehicle cannot be sold in the U.S. When importing vehicles from Canada the purchased or traded vehicle is required to have a properly completed EPA-3520-1 form that has been supplied to the U.S. Customs at the Port of Entry.

When needed the dealership can access EPA for compliance at www.epa.gov/otag/imports/canadian.htm.

Below are frequently asked questions and answers on vehicle import procedures:

Are motor vehicles imported from Canada considered the same as vehicles imported from a foreign country? Yes. The U.S. Department of Transportation (DOT) has advised that vehicles made in Canada for the Canadian market, U.S. manufactured vehicles originally intended for the

Canadian market, or other foreign made vehicles available for the Canadian market may not meet the requirements in the National Traffic and Motor Vehicle Safety Act (and the policies and regulations adopted as a result of this Act) and EPA emission standards. The vehicle's manufacturer's label may be inspected to determine whether the vehicle was manufactured for U.S. distribution. The potential vehicle purchaser/importer should verify this information before purchasing this vehicle.

Who can import a vehicle into the U.S.? Anyone can import a vehicle into the U.S., if the vehicle is being brought into the U.S. for the personal use of the person importing the vehicle if the vehicle complies with U.S. EPA emissions and DOT safety standards. Otherwise, a U.S. Department of Transportation Registered Importer must import the vehicle. A non-U.S. resident may import a vehicle into the U.S. for up to one year, but at the end of the one-year time frame, the vehicle must be exported. There are no exceptions to this policy.

Is there a timeframe an individual must retain an imported vehicle brought into the U.S. for personal use before selling the vehicle? No.

How is the term “personal use” defined when being used in the previous question? “Personal use” means the imported vehicle is not being brought into the U.S. for resale, but for the owner's use.

Are there any special provisions provided to a member of the U.S. military importing a vehicle into the U.S.? No.

Are any imported vehicles still identified as “grey market vehicles” or is this term no longer relevant? Generally, the term now applies to European manufactured vehicles more than Canadian manufactured vehicles that are not certified for use in the U.S.

Can a vehicle being imported into the U.S. from Canada be checked for liens, brands or whether the vehicle was reported stolen? Yes. Canadian authorities strongly suggest that no vehicle be titled or registered until it is checked for liens, brands, and stolen status. To do so, visit www.autotheftcanada.com and follow the “Newsletter” link to Lienquest.com.” “Lienquest.com” will provide direct, on-line information regarding liens and brands in Canada. A fee is charged for each request.

Can a truck or truck tractor certified to the Canadian motor vehicle safety standards as an incomplete vehicle be imported into the U.S.? No.

NADA Emergency Relief Fund

Financial help is available from the NADA Foundation's Emergency Relief Fund for auto and truck dealership employees who have been impacted by natural disasters. Thanks to the generous support of dealers and our industry partners, the Emergency Relief Fund provides financial assistance to dealership employees affected by natural disasters. Apply for assistance online at: <https://www.nadafoundation.org/other-programs/emergency-relief-fund/>

Workers' Comp Safety Corner

Remind employees to keep emergency equipment clear and accessible. Fire extinguishers, eyewash stations and even circuit breaker panels need to be kept clear and accessible. Items carelessly placed underneath can block easy access. Fire extinguishers are hard enough to find when something is on fire and you're excited, let alone to be hidden by a trash can or a toolbox. Finding an eyewash station that is carelessly blocked when you already can't see... need we say more?



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