

Helping You Drive Vermont's Economy

Vermont Vehicle and Automotive Distributors Association

HOTWIRE

The most relevant news, business, economic & legislative reports

September 10, 2021

In this Issue

- [Biden's COVID-19 Plan Includes Mandatory Vaccinations or Weekly Testing](#)
- [Potential Tax Increases and LIFO Recapture](#)
- [Telemarketer Fees to Access the FTC's National Do Not Call Registry to Increase in 2022](#)
- [COVID FDA Approval and What It Means for Employers](#)
- [Pop-Up & School-Based Vaccination Clinics This Week](#)
- [Deployed, Deactivated & Retrofit Air Bags](#)
- [Workers' Comp Safety Corner](#)
- [Movies, TV, and Radio Broadcast Licenses: What Dealers Need to Know](#)
- [Weekly Media Report](#)
- [Efficiency Vermont to offer NEW EV Dealer Program](#)

Greetings

You're in for a three hour treat next week! VADA's Virtual Annual Meeting is next Thursday, September 16th from 9 to Noon. It's the best three hours you'll spend all week! Sign yourself up if you haven't already. What's on tap?

- **Dealer Franchise Law Essentials** – *Richard Sox*; Bass Sox Mercer
- **Tools for the EV Future** – *Stephanie Valdez Streaty*; Cox Automotive
- **AOT/DMV What’s Coming for Dealers** – *Secretary Flynn*; *Commissioner Minoli*; *Deputy Commissioner Mike Smith*; *Director of Enforcement & Safety Tony Facos*
- **The Squeaky Wheel Often Does Get the Grease** - *Lieutenant Governor Molly Gray*
- **Greetings from our old friends Governor Phil Scott & Senator Dick Mazza for the Wrap-Up**

[Register Here](#)



Biden's COVID-19 Plan Includes Mandatory Vaccinations or Weekly 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 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 expeditiously 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. We will keep you informed as this information becomes available.



Potential Tax Increases and LIFO Recapture

Inform Your Federal Lawmakers of Negative Impact

Congress is about to consider one of the largest tax and spending bills in history. The House and Senate have passed the Democratic-only budget resolution that provides a broad framework for a \$3.5 trillion reconciliation tax and spending bill. A “reconciliation” bill is not subject to the filibuster and can be passed by simple majorities.

The Biden Administration has proposed major tax increases that are likely to dampen vehicle sales and hurt small-business, family dealerships. These proposals include increasing individual and pass-through business rates, from 37% to as high as 43.4%. Another proposal would raise the capital gains rates from 23.8% to 43.4% for high earners, which could almost double the rate for owners of pass-throughs who sell their businesses.

The Administration has also proposed eliminating stepped-up basis on inherited assets for gains of more than \$1 million (\$2 million for married couples), which would needlessly strip working capital from dealerships that are often second and third generation businesses.

Additionally, NADA has [petitioned](#) the Treasury Department to exercise its authority to allow temporary LIFO relief for dealerships because government actions during the pandemic triggered a “major foreign trade interruption” that makes inventory replacement extremely difficult. With historically low inventories and the chip shortage caused by the pandemic, many franchised dealers who use the Last-In, First-Out (LIFO) accounting method may face significant unexpected tax liability due to LIFO recapture and circumstances beyond the dealers’ control.

While the Treasury Department has discretion to grant this relief and allow taxpayers to make an election to replace their new-vehicle inventories over a three-year period, it has been reluctant to grant the petition. NADA met with the Treasury officials last week. The next step is to contact Democratic lawmakers, explaining the urgency of the inventory and LIFO recapture problem, and urging them to reach out to the Treasury Department to grant NADA’s petition. For more information see the [LIFO recapture issue brief](#).

Elected officials don't always understand the contribution dealerships make in federal taxes and how aggressive tax hikes hurt our businesses, employees, and communities. This is a key time to contact and meet with lawmakers, especially Congressional Democrats who are writing the Democratic-only tax reconciliation legislation. Democratic members of the [tax-writing committees](#) will have a major role.

NADA will provide more details with targeted calls to action as specific plans emerge. For more information on ways to get involved, such as hosting a congressional dealership visit or meeting in your lawmaker's district office, visit [NADA's grassroots website](#).

The power of the dealers' voice is needed now as important decisions are being made that will shape the tax landscape for our business for years to come.

For any questions, contact NADA's Legislative Affairs office at legislative@nada.org or 202.547.5500

Paul Walser
NADA Chairman



Telemarketer Fees to Access the FTC's National Do Not Call Registry to Increase in 2022

The fees for telemarketers accessing phone numbers on the National Do Not Call (DNC) Registry [will increase incrementally in FY 2022](#).

All telemarketers calling consumers in the United States are required to download the numbers on the National DNC Registry to ensure they do not call consumers who have registered their phone numbers. The first five area codes are free to download, and organizations that are exempt, such as some charitable organizations, may obtain the entire list for free. Telemarketers must subscribe each year for access to the Registry numbers.

The cost of accessing a single area code in the registry will be \$69 in FY 2022,

which is an increase of \$3 from FY 2021. The maximum charge to any single entity for accessing all area codes nationwide is now \$19,017 (up from \$18,044 in FY 2021). The fee for accessing an additional area code for a half year will increase \$2 from FY 2021, to \$35.

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COVID FDA Approval and What It Means for Employers

On August 23, the US Food & Drug Administration approved the first COVID-19 vaccine. The vaccine has been known as the Pfizer-BioNTech COVID-19 Vaccine and will now be marketed as Comirnaty for the prevention of COVID-19 disease in individuals

16 years of age and older. The vaccine also continues to be available under emergency use authorization including for individuals 12 through 15 years of age and for the administration of a third dose in certain immunocompromised individuals.

This approval comes on the heels of [updated COVID-19 for guidance employers that was issued by OSHA on August 13](#) and means that many more employers will be grappling with the decision to mandate vaccinations or not. OSHA's guidance, which preceded full FDA approval, now notably recommends the following:

- Employers should consider policies that would require workers to get vaccinated and require unvaccinated workers to undergo regular COVID-19 testing, wear masks and practice physical distancing.
- Fully vaccinated workers in areas of the country with substantial or high community transmission should wear masks to protect unvaccinated workers, vendors, and customers. See the [COVID-19 Integrated County View Data Tracker](#) for updated metrics on our region.
- Fully vaccinated workers who experience a known close contact exposure to COVID-19 should wear masks for at least 14 days or until they receive a negative result for a COVID test taken at least three days after the known exposure.

While crafting a vaccination policy should include consultations with your counsel to ensure legal compliance, the Harvard Business Review, in [an article from July](#) that was later adopted by the Society of Human Resource Management (SHRM), outlined the following seven steps of a successful vaccination policy process:

1. Establish an ethical framework and hierarchy;
2. Conduct a risk-benefit analysis compliant with professional standards;
3. Ensure that policies for religious and medical exemptions are consistent with state and local laws;
4. Provide a robust educational campaign;
5. Combat misinformation;
6. Lead by example;
7. Monitor the vaccination rates

For more information, NADA has prepared a helpful guide titled [FAQs: Dealership Health and Safety Concerns During a Pandemic](#).

Pop-Up & School-Based Vaccination Clinics This Week

Montpelier, Vt. - Governor Phil Scott announced today a series of walk-in vaccination clinics that will be open at schools and other sites across Vermont



this week for anyone age 12 or older. Just walk-in or visit www.healthvermont.gov/MyVaccine to make an appointment. You can also call 855-722-7878.

The vaccination sites listed below also offer additional doses for those currently eligible based on guidance issued by the Centers for Disease Control and Prevention. Some primary care providers and pharmacies are also offering additional doses. Check with your doctor or pharmacist for more information.

Here are the vaccination sites available this week:

Friday, September 10

- Barton Fairground, 278 Roaring Brook Road, Barton
- 1311 Barre Montpelier Road, Berlin
- Newport Waterfront Plaza, Newport
- Waterbury Ambulance, 1727 Guptil Road, Waterbury Center
- Hartford Block Party, 171 Bridge Street, Hartford
- Bellows Falls Union High School, 406 High School Road, Westminster
- Mt. Abraham Union High School, 220 Airport Drive, Bristol
- Vermont Academy, 10 Long Walk, Saxtons River

Saturday, September 11

- Barton Fairground, 278 Roaring Brook Road, Barton
- Taste of Montpelier Food Festival, State Street, Montpelier (Downtown)
- Waterbury Arts Festival, 30 Foundry Street, Waterbury

Sunday, September 12

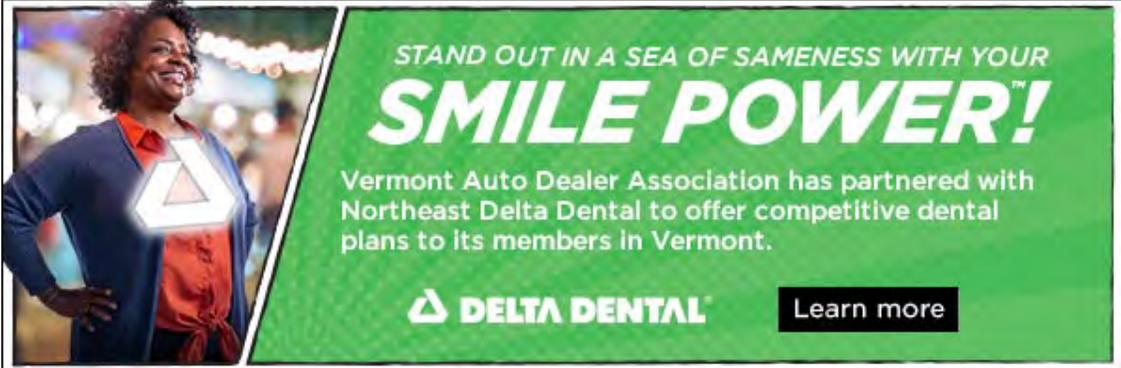
- Barton Fairground, 278 Roaring Brook Road, Barton
- Hyde Park Municipal Office, 344 Vermont Route 15, Hyde Park

More ways to get your free vaccine:

[Make an appointment for a free vaccine](#)

You can also walk-in at CVS, Hannaford Food and Drug, Walmart, Walgreens, Price Chopper/Market 32, Rite Aid, Shaw's Supermarket, or Costco or get an

appointment with [Kinney Drugs](#), [CVS](#), [Walgreens](#), [Northfield Pharmacy](#), or [UVMMC Outpatient Pharmacies](#).



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Vermont Auto Dealer Association has partnered with Northeast Delta Dental to offer competitive dental plans to its members in Vermont.

 **DELTA DENTAL** [Learn more](#)



Deployed, Deactivated & Retrofit Air Bags

Although federal law does not require body shops and service departments to replace deployed air bags, dealerships are often faced with the option of repairing a vehicle in which an air bag has been deployed.

According to the National Highway Traffic Safety Administration (NHTSA), a dealer, manufacturer, or repair business is not required to make a vehicle's air bag functional if it has been rendered inoperative.

However, NHTSA does recommend that when an inoperative air bag is discovered, it should be restored to its original condition prior to resale, or a written disclosure should be given to the purchaser of the vehicle.

Dealers should ask customers on a trade-in evaluation form if the vehicle's air bag has ever been deployed and if, to the customer's knowledge, it is functional. Dealers should document this information and disclose it in writing to the next retail customer.

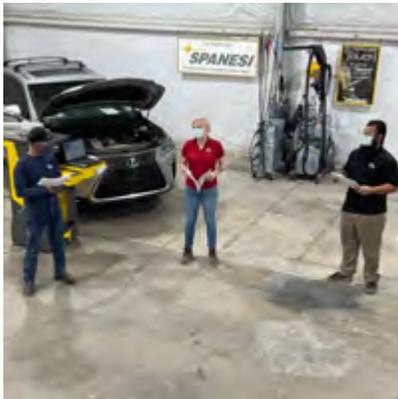
When repairing inoperative air bags, the original manufacturer's repair and replacement instructions must be followed precisely.

Deactivated and Retrofit Air Bags

Federal law does not restrict the ability of dealers to resell used vehicles that

have an air bag retrofit with on and off switches or a vehicle with an air bag that has been deactivated. Retrofit switches allow air bags to be turned on and off by the vehicle's operator, deactivated air bags are turned off indefinitely. In both instances, the customer should be made aware of the deactivated or retrofit air bag in writing prior to purchase.

When delivering a switch-equipped vehicle, a signed statement acknowledging that the switch is in the on or off position should be obtained.



Workers' Comp Safety Corner

Safety meetings are a critical piece to any safety program. They don't always need to be a big production with coffee and donuts to be effective (though that helps). Sometimes just a quick word or standing in the middle of the shop or showroom to remind employees of a pertinent safety hazard is effective.



Movies, TV, and Radio Broadcast Licenses: What Dealers Need to Know

VADA has received inquiries regarding letters received from the Motion Picture Licensing Corporation (MPLC) regarding violations of Federal Copyright Law. Below is some information that should help clarify the legitimacy of these letters.

If your dealership is showing entertainment in your showroom, waiting areas or employee break areas, you are most likely required to have a license to do so. Film, television programs, and music are copyrighted material. Displaying or showing copyrighted material in a commercial establishment is considered a public performance, which requires a public performance license. This applies to anything from showing DVDs, streaming, using a cable or satellite service to playing the radio.

There are very limited exceptions to the necessity of obtaining a public

performance license. These exemptions generally will NOT apply to most dealerships. For more detailed information about exemptions, [CLICK HERE](#).

If a dealership has a commercial account with a cable provider or satellite provider, some of the content may be licensed for public performances (particularly some news and sports programs), and the fee for such license may be included as part of the commercial package's cost. Dealers should check with their cable or satellite provider as to whether a license is included in their package. However, most movie and television content that would be displayed in a dealership will require an additional public performance license from a licensing organization.

Licenses typically are moderately priced and can be obtained from the following sources:

Audiovisual

- Motion Picture Licensing Corporation (MPLC): [MPLC.org](#) or 800.462.8855

Music

- Broadcast Music, Inc.: [BMI.com](#)
 - American Society of Composers, Authors and Publishers: [ASCAP.com](#)
 - Society of European Stage Authors and Composers (SESAC): [SESAC.com](#)
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Weekly Media Report

August 27 - September 3, 2021

EV Direct Sales News

9/3/21 - **Time to modernize state of Wisconsin dealership law** ([Milwaukee Business Journal](#))

Unfortunately, while EV makers sell their cars directly to consumers, Wisconsin remains one of about 16 states that prohibits consumers from buying directly from manufacturers, instead requiring the involvement of a dealership.

Originally meant to protect dealerships, this law has become obsolete. That's why we recently introduced a proposal in the state Legislature (Senate Bill 462

and Assembly Bill 439) that would allow consumers to purchase electric vehicles directly from the manufacturer. Under this bipartisan bill, any manufacturer that produces an all-electric-powered vehicle could sell those vehicles directly to the consumer, both online and at manufacturer-owned dealerships.

9/3/21 - Car insurance must evolve in line with new ownership concepts ([Automotive World](#))

Additionally, the word 'dealership' assumes you go there to strike a deal, i.e., haggle for the best price. Increasingly, however, car companies are moving to direct sales. In this model, rolled out initially for electric cars by brands such as Volkswagen, the car companies themselves are doing the selling, either via their 'agents', what we used to know as dealers, or online. The idea is that it gives the customer a much wider range of options to get into a car, none of which require haggling skills.

9/2/21 - Ford customers clamor for new F-150s - but forced to wait amid shortage ([Detroit Free Press](#))

So now Ford and its competitors find themselves building vehicles to fill orders rather than fill dealer lots. It's more efficient for companies compared to having vehicles sitting on dealer lots waiting for customers. And this situation, while not ideal, allows Ford to put chips in F-Series trucks that have been built and held waiting for chips and ship them directly to customers. "These are customers who are waiting for vehicles rather than vehicles on lots waiting for customers," Erich Merkle, U.S. sales analyst for Ford, told the Free Press.

8/27/21 - EV Company Rivian Files Confidently for Public Listing ([The Wall Street Journal](#))

It is one of a number of upstart car manufacturers vying with more traditional auto makers to dominate in electric vehicles, a technology that the Biden administration is promoting as a way to help combat climate change. Many of them are trying to emulate Tesla Inc.'s success both on Wall Street and in challenging the conventional car business. Like Tesla, Rivian plans to sell its cars directly to consumers, bypassing the longstanding dealership model.

8/27/21 - Electric Vehicle Legislation Sparks Battle Between Republicans and Wisconsin Auto Dealers ([WUWM](#))

A dispute has broken out between Republicans and some business groups over state legislation that sponsors say would make it easier to sell electric vehicles (EV) in Wisconsin. The bill would apply to vehicles that run exclusively

on a rechargeable battery and would allow Wisconsin residents to purchase directly from an EV manufacturer. Currently, new car buyers here have to purchase from a dealership owned by a third party. A co-sponsor of the bill, state Sen. Dale Kooyenga (R-Brookfield), says the California firm Fisker, which is reportedly looking at making electric cars at the huge Foxconn facility in Racine County, has said direct sales are needed for it to locate here.

<https://www.cnbc.com/2021/08/31/ram-dodge-lexus-get-top-scores-for-new-vehicle-quality-in-jd-power-study.html>

Efficiency Vermont to offer NEW EV Dealer Program

This fall, Efficiency Vermont is launching a pilot program that seeks to support the adoption of plug-in electric vehicles (EVs) across the state through engagement with the Vermont auto dealer community. The program



will feature a network of new and used car dealers who have demonstrated a commitment to promoting EVs, and in return receive benefits such as incentives and trainings designed to help prepare for growth in the EV market.

The EV Dealer Program will be offered through Efficiency Vermont's [Efficiency Excellence Network](#) (EEN). The EEN is comprised of professionals across various industries who are committed to providing their customers with the highest-quality energy efficiency products and services, in partnership with Efficiency Vermont. Dealers who join the program will become members of the EEN as EV Dealers.

Program benefits:

- Financial incentives to support dealership investments in equipment, certifications, and trainings needed to stock, sell, and service EVs
- Available dealership/salesperson EV sales incentives for dealers opting in
- Trainings on the latest information on EV market trends, customer benefits, and Vermont customer incentive programs
- Promotion of EEN EV Dealers through a statewide EV consumer awareness campaign developed and launched in partnership by Efficiency Vermont, Drive Electric Vermont, electric utilities, and others
- Co-op advertising funding to support EV advertising

Efficiency Vermont will offer a one-hour webinar on the EV Dealer Program to VADA members next month. The webinar will cover details on program

benefits, requirements, and how to enroll, and will provide the opportunity for Q&A. More details and webinar registration information coming soon.

The EV Dealer Program will launch in October 2021, in conjunction with a statewide EV education campaign, and run through 2023. [Learn more about Efficiency Vermont's transportation pilot programs.](#)

Contact Tori Scarzello, Program Manager, at tscarzello@efficiencyvermont.com with any questions.



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