



Helping You Drive Vermont's Economy



September 16, 2022

Greetings <<First Name>>,

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Changing of the Guard at VADA's Annual Meeting on September 29th

For the first time in three years, VADA members will gather for the 2022 Annual Meeting for updates from key state officials and NADA's Chief Regulatory

Counsel Brad Miller on the latest regulatory and legislative changes affecting their businesses. We'll also be distributing our new and improved VADA Membership Directory to attendees.

Since this will be my 41st and final Annual Meeting, I hope to see you all there. Check out the [program](#) and be sure to [register](#) today.



STATE OF THE ART AUTOBODY SHOP
AUCTION
Online Closes Sept. 22 @ 10AM EST
Items Located in Williston, VT
THOMAS HIRCHAK COMPANY

Preview: Mon., Sept. 19 from 11AM-1PM - By Appt.

800-634-7653 • 802-878-9200 • THCAuction.com

WELCOME NEW MEMBERS!!!!

We are delighted to share the many dealerships we've added to our VADA member ranks!

Allegiance Trucks – Burlington

964 Hercules Drive
Colchester, VT 05446

Owner: Michael Sirignano

www.allegiancetrucks.com

Allegiance Trucks – Jericho

6 Orr Road
Jericho, VT 05465

Owner: Michael Sirignano

www.allegiancetrucks.com

Central Vermont Auto Mart

365 River Street
Montpelier, VT 05602

Owner: Mitchell Jay

www.centralvtautomart.com

McGee CDJR of Barre

1365 US Route 302

Barre, VT 05641
Owner: Robert McGee
www.cdjrbarre.com

McGee Chrysler Dodge Jeep Ram of Brattleboro

1270 Putney Road
Brattleboro, VT 05301
Owner: Robert McGee
www.cdjrbrattleboro.com

McGee Ford of Montpelier

265 River Street
Montpelier, VT 05602
Owner: Robert McGee
www.mcgeefordvt.com

McGee Hyundai of Barre

1411 US Route 302
Barre, VT 05641
Owner: Robert McGee
www.mcgeehyundai.com

Nucar Automall of Saint Albans

118 Franklin Park West
St. Albans, VT 05478
Owner: Chris Dagesse
www.nucar.vt.nucar.com

FTC Vehicle Transaction Rule to Complicate Vehicle Sales

By far the most important and potentially disruptive policy issue today is the Federal Trade Commission's (FTC) recently proposed "vehicle transaction" rule that would overwhelm car buyers and small businesses with additional paperwork and needlessly lengthen the sales process. The rule was proposed without credible data-driven analysis or the necessary time for public comment to avoid unintended consequences to consumers and small businesses.

Unfair and deceptive practices in vehicle sales or financing are already illegal and they should continue to be policed by federal regulators. However, the

FTC's proposed rule would make the auto buying experience worse, not better, for consumers. As the auto industry works to streamline the purchase process in the aftermath of the pandemic, the FTC's proposal will swamp dealers and car buyers with greater inefficiency and complexity.

The FTC's "ready-fire-aim" rule needs to go back to the drawing board. The agency has allowed only 60 days for the public to review this rule, despite its widespread impact on consumers and small businesses. Moreover, the data the FTC relies upon to support its rule is either unverified, previously rebutted, anecdotal, or non-existent. It is especially concerning that the agency denied a routine request for an extension of the public comment period. Members of Congress are urged to weigh in with the FTC to ensure that this rulemaking process is fair and based on valid research and data rather than assumptions.

Supply Chain Disruptions Relief Act to Bring LIFO Relief

Although the looming FTC vehicle transaction rule is the most ominous and important policy matter facing dealers today, another major need has to do with LIFO Relief. After vehicle assembly plants and suppliers around the globe ceased or slowed production during the pandemic, new vehicle inventories were drastically reduced. The shortfall worsened with the worldwide shortage of semiconductors, which are essential to complete vehicles manufactured today.

With no way to replenish vehicle inventory, dealers using the last-in, first-out (LIFO) method of accounting face major unanticipated tax liability due to circumstances beyond their control. The Treasury Department has existing authority to allow LIFO relief to businesses if a "major foreign trade interruption" makes inventory replacement difficult.

Despite NADA's petition and broad bipartisan support for Treasury's use of this authority, Treasury has declined as it believes additional legislative authority is needed. The "Supply Chain Disruption Relief Act" (H.R. 7382/S. 4105) explicitly provides Treasury such legislative authority. Dealers should encourage their congressional representatives to pass this bill this year to allow businesses on LIFO extended time to replace vehicle inventories as pandemic related global disruptions and reduced auto production have made it nearly impossible to replenish new vehicle supply.

Fight Rising Catalytic Converter Theft

The third federal policy priority for car dealers to be aware of surrounds the theft of catalytic converters. Catalytic converters are being stolen at increasingly higher rates due to their valuable metals, such as rhodium, platinum and palladium. Thieves can easily steal catalytic converters from unattended vehicles, and since catalytic converters are not readily traceable, there is a lucrative market for these stolen parts. These thefts are costing millions of dollars to businesses and individual vehicle owners alike. In addition, replacing a catalytic converter is costly and often difficult due to the part's skyrocketing demand and supply chain shortages. Dealers should encourage their local congressmen to pass H.R. 6394, the "Preventing Auto Recycling Theft Act" (PART Act), which would assist law enforcement in their efforts to combat catalytic converter theft by marking catalytic converters and creating a more transparent market that deters its theft.

Longstanding FTC Rule May Have New Implications for Dealerships

Sellers who solicit buyers to order products by mail, online, or by telephone must make disclosures regarding shipment time under an FTC rule in place since 1975.

State of play: In the past, this rule hasn't been relevant to dealers. But with the current inventory shortage and evolution in the vehicle marketplace, that may change. And it's a rule that the FTC is actively enforcing, with two enforcement actions related to this rule announced on August 1st.

Under the rule, if your dealership advertises vehicles or parts that can be ordered over the phone or internet and shipped to the buyer you must state when the product will be delivered, unless you have a reasonable basis for believing you can ship within 30 days of a completed order. Dealerships that think this could describe them should discuss the implications of the [FTC rule](#) with their attorney.



Enforcement of Transparency in Coverage (TiC) Rules Began on July 1, 2022

In November 2020, the U.S. Departments of Health and Human Services, Labor and the Treasury (Departments) finalized a set of [TiC \(Transparency in Coverage\) Rules](#) requiring that non-grandfathered dealership group health plans and health insurance issuers offering non-grandfathered coverage disclose:

1. Negotiated in-network rates for covered items and services;
2. Out-of-network allowed amounts and billed charges for covered items and services; and
3. Negotiated rates and historical net prices for covered prescription drugs.
This mandate has been delayed pending further rulemaking.

For plan years beginning on or after January 1, 2022, required TiC disclosures generally must be made on public websites using three separate machine-readable files.

For most dealerships offering group plan insurance coverage, there are no direct TiC compliance obligations as they are the responsibility of their health insurance carriers. Dealerships offering self-insured health plans must link to the machine-readable files listed above on their public facing websites, in a location where login credentials aren't necessary.

NADA believes that most dealerships and their health insurance providers or administrators are complying with the TiC requirements. For those seeking additional information, please review these [FAQs](#) and/or contact your health plan administrator or insurance provider.

Employees, Employers at Risk When Ineligible Participants Kept on Health Plan

Keeping employees on a health plan when they aren't working at least 30 hours per week can be high-risk behavior for both the employer and employee. Fully insured employer-sponsored health plans typically do not

provide eligibility for terminated employees or employees whose work hours fall below 30 hours per week or who are not actively working (unless out on FMLA leave or other qualifying leave).

Ineligible participants are sometimes offered employer-provided health insurance coverage for reasons including:

1. As part of a severance or retirement package, the employer agrees to provide three additional months of health insurance.
2. Agreeing to provide health insurance for six months to an employee whose hours have been reduced from full-time to part-time.
3. Continuing to provide health insurance coverage to an employee who is not working because of injury or illness but intends to return to work when that employee has no vacation, sick leave, PTO, or FMLA leave available.

In those situations, the employee is typically eligible for COBRA or "Vermont VIPER-COBRA" continuation coverage and enrolling them in or providing notice of eligibility for that coverage is the preferred practice.

There are at least two significant risks in keeping an ineligible person on the enrolled employee census with the insurer and paying the premium:

1. **The insurer may be contractually entitled to refund the premium rather than pay the health insurance costs** if they determine that an ineligible participant has been enrolled. Depending on the agreement between the employer and employee, the employer may be unknowingly self-insuring those costs.
2. **The ability to secure COBRA coverage may also be compromised or lost** if it is determined that the qualifying event did not occur while the employee was an enrolled and eligible health insurance participant.

Want to advertise your products or services to our members?

Written Customer Acknowledgment Needed for Goodwill Repairs

Vermont is among the states that permit "as is" automobile sales, which means that if the proper disclaimers are made on the Used Car Buyers Guide and the motor vehicle purchase agreement, cars and trucks can be sold in Vermont without any express or implied warranties or obligation to repair.

Dealerships sometimes perform repairs at a reduced charge or without charge as a matter of good customer relations or to resolve a complaint or dispute on a goodwill basis following the sale of a vehicle that has been sold "as is."

Several legal theories and arguments have been advanced that free or reduced fee repairs in such situations somehow:

- Amend or void the original disclaimer of warranties.
- Create new warranties.
- Constitute an admission by the dealership that a defective condition was not properly disclosed and that future repairs related to it will continue to be made at the dealership's expense.

VADA encourages dealers to promptly and fairly resolve customer complaints, but when doing so with reduced or waived repair charges, dealers should secure the customer's written acknowledgement that:

1. The repairs are being made on a goodwill basis and not because of any express or implied warranty.
2. The "as is" provisions of the purchase agreement remain unchanged.
3. No new express or implied warranty is being made as a result of the repairs.
4. Dealer is not obligated to make future repairs to the vehicle.

10 Inspection Tips to Detect Flood-Damaged Vehicles

Due to the recent and extremely unfortunate flooding in Missouri and other parts of the Mid-South and Midwest, VADA wants to remind you of the following information published by NADA, regarding research on detecting flood vehicles.

Although there is no sure way to know if a vehicle has been damaged by flooding, NADA/VADA offers ten inspection tips that may be used to detect water damage. A flooded vehicle can be spotted by following these steps:

1. Check the vehicle's title history by VIN through commercially available vehicle history reports from Experian's Auto Check (www.autocheck.com), or through the National Insurance Crime Bureau's VinCheck (https://www.nicb.org/theft_and_fraud_awareness/vincheck). The report may state whether a vehicle has sustained flood damage.

2. Examine the interior and the engine compartment for evidence of water and grit from suspected submersion.
3. Check for recently shampooed carpet.
4. Look under the floorboard carpet for water residue or stain marks from evaporated water not related to air-conditioning pan leaks.
5. Inspect for rusting on the inside of the car and under interior carpeting and visually inspect all interior upholstery and door panels for any evidence of fading.
6. Check under the dashboard for dried mud and residue and note any evidence of mold or a musty odor in the upholstery, carpet or trunk.
7. Check for rust on screws in the console or other areas where the water would normally not reach unless submerged.
8. Look for mud or grit in alternator crevices, behind wiring harnesses and around the small recesses of starter motors, power steering pumps and relays.
9. Complete a detailed inspection of the electrical wiring system looking for rusted components, water residue or suspicious corrosion.
10. Inspect the undercarriage of other components for evidence of rust and flaking metal that would not normally be associated with late model vehicles.

While these inspection suggestions will not detect flood damage in every case, they do provide some information to protect the consumer from purchasing a vehicle damaged by water or flood. (Any vehicle listed in the National Insurance Crime Bureau's (NCIB) database of known flood damaged vehicles will receive a flood branded title.)

Workers' Comp Safety Corner

Did you know that the average age of an expensive, debilitating shoulder injury to a dealership employee is 52 years old? Do you have a good stretching routine to do before making a heavy or bulky lift? How about just having a good stretching plan each day to prevent injuries?

Used shop towels are a fire hazard. Yes - oily rags can spontaneously combust. Be sure your employees have enough metal containers with lids to

dispose their shop towels, and your vendor comes frequently enough to prevent spillover.



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