



# ADA NEWS

JULY 2010

a publication of the Ohio Automobile Dealers Association

## OADA Educational Seminar Series Announces Summer/Fall Schedule

*In 2010, all seminars are 50% off!*

The OADA Educational Seminar Series kicks off its summer/fall schedule this month with a truly diverse array of topics that should be of interest to everyone. Remember all seminars in 2010 are 50% off. For more information on locations and times or to enroll visit [www.oada.com](http://www.oada.com).

### Privacy Notice Webinar – July 14

Did you know there is a new model Privacy Notice that will replace the current version on January 1, 2011? By using the correct form, dealers will have a “safe harbor”, meaning that the

## contents

- Ohio General Assembly Unanimously Approves OADA-Backed Franchise Legislation..... 2
- OADA Donates CPR Units ..... 2
- Ad Review Corner ..... 3
- Safety Concerns..... 4
- A Little Now Could Add Up To A Lot Later ..... 4
- NADA News ..... 5
- Prevent Employee Fraud ..... 6
- OSHA Fines Toledo Dealer..... 8
- DIG Contribution Form ..... 8
- OADA Seminar Schedule ..... 9
- DMS Seminar Registration ..... 10
- Franchise Law Seminar ..... 11
- OADA Services ..... 12

Publisher: Tim Doran  
Editor: Nikki Bragg  
All Rights Reserved

The information provided in this newsletter is intended for general knowledge purposes only and is not intended to be the furnishing of legal or other professional advice. If legal advice or other expert assistance is required, the services of appropriate advisors should be sought.

use of the form is considered compliant with the Gramm-Leach-Bliley Act’s requirement that you notify consumers about your information sharing practices and the consumer’s right to limit certain sharing practices.

This webinar will review the three versions of the form and assist dealers in customizing the form to meet the dealer’s specific needs.

### Evaluating Your DMS System – July 21 – Dublin, OH

Dealer Management Systems (DMS) are a vital aspect of any dealership operation. From hardware and software upgrades to paying the monthly bill, managing your DMS can be time consuming, not to mention expensive. At OADA, we are often asked: How do I compare DMS systems? Who are the vendors? Large dealership or small, car, truck or motorcycle dealer, how do I compare systems?

Paul Gillrie of the Gillrie Institute will provide immediate and real financial benefits to every attendee by offering negotiating strategies, and discussing current DMS technology trends. As an added bonus, attendees who submit their DMS system bill to OADA by July 14 will receive an analysis of their bill by the Gillrie Institute at no additional charge!

### Advanced Advertising Strategies for Influencing Car Shoppers in the Online Space - August 17, Akron/Canton, August 18, Perrysburg, August 19, Columbus

These seminars will be presented by Howard Polirer, Director of Industry Relations for AutoTrader.com. Since 2003, Howard has trained more than 8,000 dealers in over 200 major markets across the country on the industry’s best practices to reach automotive consumers. His presentation will cover what’s happening in the industry, today’s automotive consumer, emerging trends, and what’s new with advertising and marketing on the Internet.

Howard was one of OADA’s featured speakers at this year’s OADA Convention and his presentation was TREMENDOUSLY popular with the dealers in attendance. Do not miss this opportunity to see one of the nation’s leading Internet automotive advertising trainers!

### Risk Based Pricing Webinar – August 25

The Risk Based Pricing Rule becomes effective January 1, 2011 – just six months away. This Rule requires creditors to provide consumers with a notice when, based on the consumer’s credit report, the creditor provides credit to the consumer on less favorable terms than it provides to other consumers.

This webinar will discuss: The purpose of the Rule. What is Risk Based Pricing? Content of the Notice. The Best Alternatives for Dealers, as well as the role of Adverse Action Notices

### OADA Seminar Series

continued on Page 7

# Ohio General Assembly Unanimously Approves OADA-Backed Franchise Legislation

*Dealers Encouraged to Register for Upcoming Informational Seminars*

On June 10, 2010 Governor Strickland signed OADA-backed Senate Bill 204, which recently received unanimous approval from both the Ohio Senate and the Ohio House of Representatives. Senate Bill 204 will make much needed updates to Ohio's Motor Vehicle Dealer Franchise Law in the following key areas:

- Termination Assistance
- Facility Utilization
- Fairness & Competitiveness

For a summary of Senate Bill 204, please visit [www.oada.com](http://www.oada.com)

The effective date of Senate Bill 204 is September 10, 2010.

What will the provisions of Senate Bill 204 do for you and your dealership? Find out at upcoming OADA

conducted seminars that will take you through the bill and its impact on you as a dealer. We will also review the key rights afforded to you now under current law. Enclosed in this newsletter please find a registration form with dates and locations.

OADA is very pleased to have secured unanimous approval from the Ohio General Assembly of this important legislation, despite intense opposition from numerous groups that surfaced throughout the debate. OADA appreciates the leadership of the lead sponsors, Senator Mark Wagoner (R-Ottawa Hills) and Representative Matt Lundy (D-Elyria), as well as the efforts of the respective committee chairmen who were instrumental in navigating bill passage – Senator Steve Buehrer (R-Delta) and Representative Mark Okey (D-Carrollton).

Lastly, the strong bipartisan support we received in this effort once again highlighted the key tools available to us to promote and protect your interests at the Statehouse – your participation in our grassroots efforts with legislators and your support of the Dealers Investment Group (DIG), which is our political action committee used to support state legislators who demonstrate fairness on issues impacting our industry. We encourage you to continue interacting with your legislators and participating in DIG. Enclosed in this newsletter please find a DIG pledge form. As a reminder, personal funds must be used – corporate contributions are prohibited.

Dealers may contact OADA with any questions regarding Senate Bill 204, DIG, or how to get involved in our legislative grassroots program. ■

## OADA Donates CPR Training Units

The American Red Cross Hancock County Chapter has received a donation of CPR training mannequins from the National Automobile Dealers Charitable Foundation and the Ohio Automobile Dealers Association. LaRiche Chevrolet Cadillac, members of the OADA, made the gift request on behalf of the Hancock County Chapter. John LaRiche and Nicole Bragg of the OADA presented the mannequins to Executive Director Todd James and Health and Safety Services Director Sandy Yuenger on Monday of this week.

The Ohio Automobile Dealers Association has been involved in CPR equipment donation for over ten years. The organization has donated hundreds of pieces of equipment that have been used in organizations across the state to train individuals on how to save a life. Numerous organiza-



**pictured: John LaRiche, LaRiche Chevrolet Cadillac; Nicole Bragg, Ohio Automobile Dealers Association; Sandy Yuenger, Director of Health & Safety**

tions and chapters in Ohio have received this equipment through the generosity of automobile dealers.

“These mannequins are state of the art and will help save lives and give comfort and security to those trained in CPR” says James. “We appreciate LaRiche’s support and the support of the OADA in providing this equipment.”

The National Automobile Dealers Charitable Foundation (NADCF), part of National Automobile Dealers Association, is located in McLean, Virginia. Its membership includes 20,000 U.S. franchised motor vehicle dealers. The OADA, located in Dublin, Ohio, represents over 900 franchised new-car, truck, motorcycle and RV dealers in the State of Ohio.

If you know of an organization in your community that would benefit from a CPR training unit, please contact the OADA at (800) 686-9100 for a request form. ■



# Special Ad Review Corner - Assurances of Voluntary Compliance: What Happens if Ads Don't Comply with the CSPA?

In the last year, the Ohio Attorney General has entered into Assurances of Voluntary Compliance with dealerships and at least one marketing company used by dealers. While these Assurances of Voluntary Compliance are not widely publicized, they illustrate the types of advertisements which will draw a regulator's attention, and the consequences to dealers who do not comply with the CSPA's rules relating to the advertisement and sale of motor vehicles. Over the course of the next few newsletters, we'll review these recent Assurances of Voluntary Compliance.

## What is an Assurance of Voluntary Compliance?

If the Attorney General has reason to believe that the CSPA has been violated, his office may subpoena witnesses and records. As a result of the investigation, the Attorney General may either issue a cease and desist notice to the dealer, or require an assurance of voluntary compliance be executed. An assurance of voluntary compliance, commonly referred to as an AVC, typically requires a dealer to pay a fine, pay restitution to consumers who have been damaged, and agree that the dealer will not violate the CSPA in the future. Signing the AVC does not constitute an admission by the dealer that he violated the CSPA, but if the dealer violates any term in the AVC after it has been signed, there is a presumption that the dealer violated the CSPA. AVCs are typically filed with a court and are considered consent judgments.

## Recent Assurance of Voluntary Compliance

In April 2009, a Dayton-area dealer entered into an AVC. The history of the case indicates that advertisements were being monitored over a period of time and that the dealer responded timely to cease and desist orders.

The dealership was first sent a cease and desist order in July 2005 informing the dealer that advertisements in the

Dayton Daily News did not comply with the CSPA. Alleged violations included:

- Failure to disclose amounts of down payments and APRs for all advertised vehicles
- Failure to disclose amounts due at lease inception and disclose those amounts in close proximity to the advertised lease
- Failure to disclose excess mileage charges for leases.

In July 2006, a second cease and desist order was sent to the dealer informing the dealer that the dealer misrepresented the nature of its solicitations by:

- Using a symbol like the Great Seal of the United States and the words "United States Government & Seized Vehicle Sale" which might lead consumers to believe they were receiving an official document
- Creating a false impression as to how the dealership obtained the vehicles, the types of vehicles being sold, and why the vehicles were being sold at "\$49/month"
- Failing to disclose limited quantities of vehicles in stock
- Using "Guaranteed Credit Approval Thru N.C.A.B." and other similar phrases implying credit is available to all consumers without disclosing a summary of all material terms and conditions.

In May and June 2008, the Attorney General notified the dealer that the use of ads and direct mail solicitations using the words "Credit Amnesty Event" violated the CSPA. The AG also took issue with advertising:

- A "Used Vehicle Sell Off" event where the ad created a false impression as to which vehicles were offered for sale at which prices;
- Failure to disclose material exclusions and conditions related to financing limitations when advertising "Guaranteed Credit"
- "5 Days Only" and that the dealer must sell every vehicle "regardless of loss or

profit" because consumers would think a specific price advantage exists when it does not.

As a result of these Cease and Desist Orders, the dealership and Attorney General entered into an AVC. The dealer, without admitting any wrong-doing, agreed to comply with the CSPA in the future. Specifically, the dealer agreed:

- To refrain from representing that a consumer transaction has sponsorship, approval or benefits that it does not have
- To refrain from representing that the subject of a consumer transaction is of a particular standard, quality grade, style, prescription or model if it is not
- To refrain from representing that the subject of a consumer transaction is available for a reason that does not exist
- To refrain from representing that a specific price advantage exists if it does not
- To refrain from misrepresentations that a sale is being conducted, sponsored or operated by a bank, lending institution, fleet company, liquidation company, repossession company or auction
- To clearly and conspicuously disclose all material exclusions, reservations, limitation or condition of an offer
- To refrain from using statements or illustrations which could create a false impression in the mind of a reasonable consumer;
- To refrain from representing through direct solicitations that a consumer has been specially selected to receive a bargain, discount or other advantage, if such in fact is not true
- To refrain from misrepresenting the availability of an advertised vehicle
- To clearly and conspicuously disclose in radio, TV and print ads all disclosures required by Reg. Z, Reg. M, and the CSPA.

**Ad Review Corner**

continued on Page 7

# OSHA Increases Penalties for Safety Violations



OSHA has announced the implementation of a new Severe Violator Enforcement Program and increasing civil penalty amounts. The changes are the result of a year-long OSHA study that found current assessed penalties “are too low to have an adequate deterrent effect,” according to the OSHA announcement.

“For many employers, investing in job safety happens only when they have adequate incentives to comply with OSHA’s requirements,” said Assistant Secretary of Labor for OSHA Dr. David Dr. Michaels. “Higher penalties and more aggressive, targeted enforcement will provide a greater deterrent and further encourage these employers to furnish safe and healthy workplaces for their employees.”

The new Severe Violator Enforcement Program is intended to focus OSHA enforcement resources on recalcitrant employers who endanger workers by demonstrating indifference to their responsibilities under the law. This supplemental enforcement tool includes increased OSHA inspections in these worksites, including mandatory OSHA follow-up inspections, and inspections of other worksites of the same employer where similar hazards and deficiencies may be present. SVEP will become effective within the next 45 days. For more information, visit <http://www.osha.gov/dep/svep-directive.pdf>.

“SVEP will help OSHA concentrate its efforts on those repeatedly recalcitrant employers who fail to meet their obligations under the Occupational Safety and Health Act. It will include a more intense examination of an employer’s practices for systemic problems that would trigger additional mandatory inspections,” said Michaels.

The current maximum penalty for a serious violation, one capable of causing death or serious physical harm, is only \$7,000 and the maximum penalty for a willful violation is \$70,000. The average penalty for a serious violation will increase from about \$1,000 to an average \$3,000 to \$4,000. Monetary penalties for violations of the OSH Act have been increased only once in 40 years despite inflation. The Protecting America’s Workers Act would raise these penalties, for the first time since 1990, to 12,000 and \$250,000, respectively. Future penalty increases would also be tied to inflation. In the meantime, OSHA will focus on outreach in preparation of implementing this new penalty policy. For more information on the penalty policy, visit <http://www.osha.gov>. ■

## A Little Now Could Add Up To A Lot Later

### Time = money.

Time is money.

That’s why now is the time to begin setting aside for the future. Contributing to an income tax-deferred retirement account is one way to put time on your side – allowing you the potential to accumulate money for retirement that is deferred from income taxation until it’s withdrawn. As you can see in the chart below, putting off planning for even one more year could significantly affect your retirement income.

	Account Balance at Age 65	Cost of Waiting
Begin at 35	\$244,814	N/A
Begin at 36	\$228,035	\$16,779
Begin at 40	\$169,895	\$74,919

*Hypothetical rate for illustrative purposes only and does not represent any specific investments or fees. Assumes \$250 monthly contribution, 6% rate of return, and no withdrawals. Periodic investing does not assure a profit or protect against loss. This chart doesn’t reflect taxes or any fees that may be assessed by the investments.*

### Could A Little = A Lot?

A little now could add up over time.

So why not consider increasing your retirement plan contributions? Besides potentially benefiting in the short term by lowering your taxable income, you gain the potential for a larger nest egg at retirement. At the very least, you may want to consider contributing up to the maximum amount your employer will match, so you are not throwing “free money” away. As you can see in the chart, even a slight increase could add up over time.

years	Additional Contribution per month			
	\$5	\$10	\$15	\$20
5	\$347	\$695	\$1,042	\$1,390
10	812	1,625	2,437	3,249
15	1,435	2,869	4,304	5,738
20	2,267	4,534	6,802	9,069
25	3,381	6,763	10,144	13,526
30	4,873	9,745	14,618	19,490
35	6,868	13,736	20,604	27,472

*Assumes 6% rate of return and contributions made at the end of the month. This illustration is hypothetical, is not guaranteed, and is not intended to reflect the performance of any specific investment. There is no assurance that increasing contributions will generate investment success. The tax-deferred investment will be subject to taxes on withdrawal. Systematic investing does not assure profit nor guarantee against loss. Investors should consider their financial ability to continue investing consistently in up as well as down markets.*

You should consider the investment objectives, risks, and charges and expenses of the mutual funds offered through a retirement plan, carefully before investing. The prospectus summaries containing this and other information can be obtained by contacting your financial consultant. Please read the information carefully before investing.

*Investments are not guaranteed and are subject to investment risk, including the possible loss of principal. The investment return and principal value of the security will fluctuate so that when redeemed, may be worth more or less than the original investment. ■*

# NADA News

*A Message from Ohio NADA Director, Chuck Eddy*

## **Dealer-Assisted Financing Provisions Still at Risk in House-Senate Conference**

### **Brownback Dealer Motion Passes Senate**

WASHINGTON –The 60-30 bipartisan Senate vote on the Brownback motion sent a clear message to Congress that Main Street auto dealerships should not be subject to additional oversight under the Wall Street reform bill, but the future of dealer-assisted financing is still in jeopardy.

The success of the motion introduced by Sen. Sam Brownback to instruct members of the House-Senate conference committee to exempt auto dealers from additional oversight comes thanks to the immense grassroots efforts by dealers and dealership employees. But efforts are even more critical now as Representatives and Senators meet in conference to complete legislation to overhaul the nation's financial regulatory system.

Conference committee and House Financial Services Chairman Barney Frank, D-Mass., has committed to delivering a final bill to the president before July 4. Conferees will have to reconcile the Senate version and its House counterpart, which – thanks to an amendment offered by Rep. John Campbell (R-Calif.) – preserves dealer-assisted financing as a competitive option for car buyers.

“While the majority of Senators and House members clearly understand that dealers are not lenders and do not underwrite, fund or service auto loans, there is immense pressure on conferees to strip out the Brownback/Campbell language,” NADA President Phil Brady said. “New, unnecessary and burdensome regulation of auto dealerships will only make it harder and more expensive for consumers to make a vehicle purchase at a dealership.”

The fight has taken on a new intensity as the White House has ratcheted up its opposition. Deputy Treasury Secretary Neal Wolin recently said the administration will “fight hard” to make sure dealers are included in the final Wall Street reform bill.

Brady stressed that dealers need to continue grassroots engagement with Congress on this issue and keep up the fight. “Remind conferees that dealers are already effectively regulated and that the sound regulatory structure has permitted millions of families to make a vehicle purchase at competitive interest rates,” Brady said. “The uncertain regulatory structure of a new agency risks jobs, threatens vehicle sales and increases the cost of credit for consumers.”

NADA is urging dealers and dealership employees to call conferees to push them to retain the auto dealer exemption in the final Wall Street reform bill. For more information, visit [www.NADA.org/KeepCreditAffordable](http://www.NADA.org/KeepCreditAffordable).

### **NADA Voices Concerns about Dealer Provisions in Auto Safety Bill**

NADA remains engaged in the debate on Capitol Hill over vehicle safety legislation. After several high-profile hearings which focused on the sudden unintended acceleration in Toyotas, both

House and Senate Committees drafted similar but not identical auto safety proposals that would require installation of brake-override systems and event-data recorders, or black boxes.

In addition, the Senate proposal, S. 3302, contains a recall disclosure provision added by Senate Commerce Committee Chairman Jay Rockefeller (D-W. Va.) that would require all dealers

to check a database to identify for purchasers if (1) used vehicles in inventory are subject to safety recalls, and (2) those recalled vehicles have not yet been remedied. Because this provision faces strong opposition by NADA and others, Rockefeller committed to resolving issues with this provision before the full Senate votes.

NADA supports and prefers as an alternative to the Rockefeller proposal an amendment sponsored by Sen. John Thune (R-S.D.) to allow the Department of Transportation to issue a notice to owners of vehicle subject to a safety recall that have not been remedied. This notice would be sent only after the second recall notice from a manufacturer was not acted upon. The Thune amendment was adopted by the Senate Commerce Committee on June 9 by a voice vote. S. 3302 now goes to the full Senate for consideration, and NADA will continue to work to improve the recall provisions and may call on dealers for grassroots support as negotiations continue.

The House auto safety bill, H.R.5381, adds a proposed tax of \$3-\$9 on new cars that the Secretary of Transportation would have the discretion to raise beginning in 2014 without the direct consent of Congress. NADA supported an effort by Rep. Steve Scalise (R-La.) to remove the tax, but the House Energy and Commerce Committee voted to retain the tax. H.R. 5381 passed the committee last month on a party-line 31-21 vote. An effort to strip out the proposed new vehicle tax is expected when the bill goes to the House floor later this month.

During consideration of both the House and Senate committee bills, NADA, with other allied auto industry groups, was successful in dissuading members from offering an amendment to repeal the vicarious liability law, which would allow states to impose liability on an owner of a vehicle regardless of fault. NADA Legislative Affairs remains concerned that there may be a further effort to add such language as the bill moves through the legislative process and will be closely following this important dealer issue.

*In other legislative and regulatory news ...*

### **FTC Extends Enforcement Deadline for Identity Theft ‘Red**

## **NADA News**



**Chuck Eddy,  
Ohio NADA Director**

continued on Page 7

# Prevent Employee Fraud with Internal Controls

By *Jodi L. Kippe, CPA, and Daphne A. Maingot, CPA of Crowe Horwath LLP*

With the economic recession and the struggles in the auto industry, the motivation and the opportunity for theft and fraud have increased. The cash-heavy nature of their operations makes dealerships susceptible to fraud and theft, and sometimes the most trusted managers can be the perpetrators.

The perfect storm of economic events has frightened many people. Layoffs and reductions in compensation, coupled with personal trials at home such as loss of a second income or mounting debt, can lead desperate employees to commit theft. For those with the opportunity – and mounting motivation – the dealership represents an enticing opportunity.

According to the Association of Certified Fraud Examiners in its 2008 Report to the Nation on Occupational Fraud and Abuse, approximately one-third of the reported incidents of fraud in the United States involve two or more people working in collusion – and the median loss is four times greater than when a single perpetrator is involved. Accounting department employees – who have easy access to company assets and the most opportunity to cover up their fraudulent activities – commit the highest percentage of fraud. Executives and upper management commit the second-highest percentage.

Unfortunately, it's likely that in your dealership, staff reductions have eliminated or reduced the appropriate segregation of duties – that is, the dissemination of tasks among multiple employees to provide checks and balances. The segregation of duties is the foundation of a strong system of internal controls.

Although your managers might be longtime and trusted employees, changed personal circumstances could drive them to act in ways you wouldn't anticipate. Every dealer needs to have an appropriate level of skepticism about what employees, especially those with access to

the accounting system, are doing.

## Key Accounting Control Areas

Most dealerships have in place accounting internal controls designed to prevent or detect fraud. However, if the controls are not designed properly or do not operate as intended, a dealership's exposure could be significant. Now is a good time to review your dealership's internal controls and make sure they are operating properly. Following are some of the many accounting control areas that should be examined and analyzed to help ensure that your controls are effective.

## General Journal Entries

The general journal can be a great place to hide fraud. Do you know which of your employees can post journal entries in the accounting system? In your computer system, it is best to set specific user privileges that will limit access to those employees whose job functions require them. Do you know who is authorized to prepare and review the general journal entries?

## Areas to Watch:

- Lapping of cash receipts. Journal entries that appear to be “cleaning schedules” may really be moving cash receipts from one customer to another. Is an employee concealing that he or she has used the cash payment from one customer to pay down the balance of another customer, whose cash receipt he or she has misappropriated? By reclassifying a payment from one customer to another customer, the employee prevents the receivable from the original customer from aging, thus reducing the chance of the misappropriation being discovered.
- Payments to fictitious vendors. Journal entries can be used to reclassify expenses for payments made to fictitious vendors to accounts that are less likely to be noticed.
- Some Controls:

1. Journal entry vouchers should be signed by both the preparer and the approver – two different people – and each entry should include a description of the entry, supporting documentation, and an entry-date stamp.
2. There should be an appropriate segregation of duties between individuals who prepare, review, and post journal entries and those who post transactions in the areas of accounts payable, cash receipts, payroll, accounts receivable, and bank reconciliations.
3. Management should review the general journal monthly to confirm that all journal entries are supported by approved journal vouchers.
4. Computer system access to the journal entry function should be restricted to a few individuals (based on their job functions) and be reviewed on a periodic basis.
5. Consider having respective department managers approve entries when they affect their department.
6. Management should review the general journal reports for entries posted on weekends and holidays and outside of business hours.

## Cash Receipts

Cash receipts are a vulnerable asset, so controls in this area are vital. Down payments on vehicle sales and payments for parts and service can be misappropriated.

### • Some Controls:

1. Someone independent of the bank deposit process should compare the daily computer report indicating the types of funds received by category (cash, check, and credit/debit cards) to the actual posting of the cash receipt to the bank deposit and investigate any differences.
2. Management should review the

## Prevent Employee Fraud

continued on Page 6

**Flags' Rule through Dec. 31, 2010**

At the request of several members of Congress, the Federal Trade Commission (FTC) is further delaying enforcement of the "Red Flags" Rule through Dec. 31, 2010, while Congress considers legislation that would affect the scope of entities covered by the rule. Keep in mind, the FTC has indicated that if Congress passes legislation limiting the scope of the "Red Flags" Rule with an effective date earlier than Dec. 31, 2010, the FTC will begin enforcement as of that effective date. Click here for more details.

**In other NADA news...****Need Help Understanding Social Media?**

The NADA Information Technology Committee wants to help dealers learn what social media sites can do for them and recommends many publications available on [www.nada.org/technology](http://www.nada.org/technology). One, by Adam Boalt, "Social Media Best Practices for Automotive Dealers," explains how social media sites function and what they might accomplish for a dealership. Dealers could also gain insight on the topic by reading "Six Ways to Get Business Value from Social Software" from [socialtext.com](http://socialtext.com).

**Monthly Sales Recap Now Available at NADAFrontPage.com**

NADA is now publishing a short recap of monthly U.S. vehicle sales at <http://www.nadafrontpage.com>. Simply click on "Sales stats" from the home page. The recap is updated the first week of the month with data from the previous month. Here are some highlights from the current recap:

- The industry sold 1.1 million units in May, up 19 percent from a year ago and a 12.3 percent increase from April
- Through the first five months of the year, the industry sold 4.6 million units, up 17.3 percent
- The SAAR for the month was 11.8 million, beating estimates of 11.2 million
- Chrysler sales increased 33 percent in May, when it sold more than 100,000

vehicles for the first time in more than a year

**Academy Success Stories Documented in New Video**

A new video available online features Academy students telling how their "training camp for success" has paid off for them and their dealerships. A link to the video has been sent to all members so they too can hear Academy students describe the program and how the knowledge gained is immediately applied back at the dealership for improved profitability. There are only four remaining classes starting in 2010: Dealer Candidate Academy (for successors) in September and October and General Dealership Management (for Dealers and/or General Managers) also in September and October. Contact [academy@nada.org](mailto:academy@nada.org) to learn more about the department manager sit-in option for Academy participants and alumni or to submit an application today.

**Annual Membership Census to be sent this Summer**

NADA's annual membership census will be mailed to East Coast members in June, West Coast members in July and Midwest members in August. NADA's Membership department is urging dealers to review it carefully and send updated information to NADA by fax (866-783-3191) or online using the instructions on the census form. Membership is also asking dealers to pay special attention to the person listed as the Authorized Representative. This person represents, votes, and acts for the dealership in all association matters, and all NADA communications are directed to this person.

**All NADA, ATD Members to be Enrolled in NADA University**

NADA University is already working on the next phase of its launch, an enhanced enrollment process that will automatically register all NADA and ATD members and allow others in the industry to sign up as well. Enrollment is a free benefit of NADA/ATD membership, which also entitles members, at no charge, to six all-new online courses, dealership employee profile setup, and individual and dealership training activity reports, in addition to the Driven management guides, NADAPerks tips and tools, and MarketINSIGHT mini-Webinars. NADA University's Customer

Service team will follow up with phone calls to all members to acquaint them with NADA U's online learning management system.

**Annual NADA/ATD 20 Group Skills Workshop Held at McLean Headquarters**

As part of their ongoing professional development, 20 Group consultants from all over the country convened with Academy instructors at NADA headquarters on June 2 for a three-day skills-building workshop. The session focused on industry updates, proven best practices, and an in-depth review of dealership performance data and trends utilizing the new online 20 Group composite and management tools. This best-in-class financial composite is also now integrated into the Academy programs for students' use in analyzing, planning, and tracking their dealerships' performance. For more information on the resources available through Academy and 20 Group, contact NADA University customer service at 800-577-6232 or visit [www.NADAuniversity.com](http://www.NADAuniversity.com). ■

**Ad Review Corner**

continued from Page 4

The dealership was also required to pay \$10,000 to the Ohio Attorney General for distribution to a non-profit organization or the financial literacy education fund, with \$2500 of that amount suspended upon compliance with the AVC. Failure to abide by any provision in the AVC could result in a civil action, penalties of up to \$25,000 per each violation, and attorney fees.

**Lesson for All Dealers**

Dealers should not assume that they are immune from an investigation or AVC from the Attorney General. The types of advertisements used by this particular dealer circulated around the state for years, and advertisements of all types often fail to include all disclosures required by Reg. Z, Reg. M and the CSPA. Dealers should take this opportunity to discuss compliance with their marketing companies, sales managers, including internet sales managers, and others involved in marketing campaigns. ■

# OSHA Fines Toledo Dealer in Ag Tire Incident

Reprinted from Tire Review

The U.S. Occupational Safety and Health Administration has fined a Toledo, Ohio-area dealer \$177,800 as the result of an October 2009 accident in which four employees were injured.

OSHA cited Tireman Auto Service Centers Ltd. for three violations of worker safety regulations after investigating the accident. The Tireman employees suffered injuries when an agricultural tire being worked on exploded.

In a statement issued, OSHA area director Jule Hovi said, "Employees that work with agricultural tires and high-pressure air face serious injury or even death if proper OSHA safety regulations are not followed. Those who ignore these safety regulations are inviting tragedy into the lives of their workers."

OSHA spokesman Scott Allen told the Toledo Blade that the dealer did not provide a safety cage or barrier

to protect employees working on large commercial tires, failed to ensure employees worked outside the trajectory path, and that the tire's maximum inflation pressure was exceeded when the employees attempted to seat the tire's beads. In addition, citations were issued because employees failed to wear safety glasses and not having a required valve pressure gauge. ■

As a reminder, contributions must come from personal funds - corporate contributions are prohibited.



## Support DIG 2010

### *Dealers Investment Group* *Please Check To Indicate Your Contribution Level*

#### DIG 2010

- |   |  |
|---|--|
| <input type="checkbox"/> <i>President's Club Gold - \$1,500 &amp; Above</i> | <input type="checkbox"/> <i>Capital Club - \$250</i> |
| <i>* Individual dealers may contribute up to \$10,670 to DIG</i>            | <input type="checkbox"/> <i>Century Club - \$100</i> |
| <input type="checkbox"/> <i>President's Club Silver - \$750</i>             |  |
| <input type="checkbox"/> <i>President's Club Bronze - \$500</i>             |  |

Please pay the indicated amount by personal VISA, Mastercard, American Express or personal check payable to: "Dealers Investment Group" (corporate contributions are not permitted by law).

**Send to: Ohio Automobile Dealers Association**  
**655 Metro Place South, Suite 270, Dublin, Ohio 43017**  
**or fax to 614-766-9600.**

VISA/Mastercard/American Express # \_\_\_\_\_ Exp. Date \_\_\_\_\_

Name \_\_\_\_\_

Signature \_\_\_\_\_

Dealership \_\_\_\_\_ County \_\_\_\_\_

*\* For more information regarding legislative issues, and/or DIG, please contact Joe Cannon at OADA, 614-766-9100 or 1-800-686-9100. You can also e-mail Joe at [jcannon@oada.com](mailto:jcannon@oada.com).*



**OADA Seminar Series**  
continued from Cover

within the Rule.

**Updates to Ohio's Motor Vehicle Franchise Law – September & October (See dates below)**

On June 10, 2010 Governor Strickland signed OADA-backed Senate Bill 204, which recently received unanimous approval from both the Ohio Senate and the Ohio House of Representatives. Senate Bill 204 will make much needed updates to Ohio's Motor Vehicle Dealer Franchise Law in the following key areas:

- Termination Assistance
- Facility Utilization
- Fairness & Competitiveness

The effective date of Senate Bill 204 will be 90 days from the date of the Governor's signature, which will fall in the early part of September. These seminars will take you through the bill and its impact on you as a dealer. We will also refresh you on the key rights afforded to you now under current law.

**Ohio Titling Seminar – October, Six Locations throughout Ohio (See dates below)**

One of our most popular seminars in our series, this program covers the nuts and bolts of the titling process. This seminar provides a great update on the titling process in Ohio. Whether you are new to the position or have been processing titles for years, attendees always learn something new. Each attendee will receive an updated title manual that

contains easy to understand text as well as samples of the various forms used in the process.

**Safety in and Around the Dealership – November – Dublin (Date TBA)**

This seminar will spend the morning focusing on safety issues found in the dealership setting. Special focus will be placed on the prevention of the most common and most costly injuries at the dealership. Reduce injuries and reduce costs! As an additional benefit, this seminar will count towards the two hours of safety training required to participate in a workers compensation group rating program.

If you have questions regarding the OADA Educational Seminar Series, contact DeAnna Zahniser at 800-686-9100, ext. 109 or 614-923-2231. ■

***MARK YOUR CALENDARS! OADA Training Schedule!***

*The OADA Educational Seminar Series is bringing you a number of valuable programs over the next three months. They are all listed below. Complete details can be found on our website, or refer to the newsletter for registration information. You can also contact DeAnna at OADA, 614-923-2231 or dzahniser@oada.com.*

**Ohio Franchise Law Overhaul**

- July 13 (a.m.) - Cincinnati
- July 13 (p.m.) - Dayton
- August 3 (a.m.) - Youngstown
- August 3 (p.m.) - Akron/Canton
- August 6 (a.m.) - Toledo
- August 30 (a.m.) - Columbus

**Privacy Notice Webinar - July 14**

**Evaluating Your DMS System**

July 21, 9am-noon - Columbus

**Advanced Advertising Strategies**

- August 17 (a.m.) - Akron/Canton
- August 18 (a.m.) - Toledo
- August 19 (a.m.) - Columbus

**Risk Based Pricing Webinar - August 25**

**Ohio Motor Vehicle Titling Seminar**

- September 16 (a.m.) - Youngstown
- September 16 (p.m.) - Akron/Canton
- September 21 (a.m.) - Toledo
- September 22 (a.m.) - Columbus
- September 28 (a.m.) - Cincinnati
- September 28 (p.m.) - Dayton

**Safety In and Around the Dealership**

November (Date TBA) - Columbus

Check out the OADA website for registration information, dates, times, and a location near you! All seminars are 50% off for 2010! The regular seminar fee for most of the OADA programming is \$95.00 per person for OADA members. For 2010, members can attend an OADA program for as little as \$48.00 (webinars are \$20). Watch your mail for promotional materials and registration information, or register directly on the website.

**Evaluating Your Current DMS System**  
*Are You Using the Right Vendor, and Are You Paying Too Much?*

**COLUMBUS**

**Wednesday, July 21, 2010**

Crowne Plaza Dublin  
600 Metro Place North  
Dublin

Registration 8:30, program **9am-noon**

registration fee for members is \$48.00.  
That's a 50% savings off of the regular price!

Dealer Management Systems (DMS) are evolving so quickly, sometimes it is hard to keep up. From hardware and software upgrades to paying that monthly bill, managing DMS can be time consuming, not to mention expensive. The OADA legal hotline receives inquiries on a regular basis regarding DMS.

To respond to the needs of our members, as part of the OADA Educational Seminar Series, OADA is bringing you *Evaluating Your Current DMS System: Are You Using the Right Vendor, and Are You Paying Too Much?* Presented by Paul Gillrie of the Gillrie Institute, this workshop is designed to provide immediate and real financial benefits to every attendee by offering negotiating strategies, current DMS and technology trends, along with a summary analysis of attending dealer's bills for computer services. The Gillrie Institute will not do a workshop presentation with computer vendors present. *This presentation is for dealers and their staff only.*

**Technology.** This seminar deals with the seemingly daily emerging technologies in Automotive Computing. Taking a look at ASP's and wireless networking, even the .net framework. It takes a comprehensive look at what technologies are worth purchasing and what technologies are costing dealers time and money with little or no return. This is a seminar for all dealers, general managers and controllers.

**Negotiating Costs.** With the advent of new solutions and technologies, the Gillrie Institute has developed new computer pricing schedules and current, effective rules and techniques to reach those prices. The price of any computer system is determined by the buyer's knowledge of the computer industry and his/her negotiating strategy. Mr. Gillrie will walk the dealer through the processes of understanding and communicating with the computer company.

All computer companies offer flexible pricing and money saving specials for the informed and aware dealer. This seminar covers extensively how any dealer, from the single point owner to the mega-dealer, is able to dramatically reduce computer costs.

**Other Topics Include:**

- How do I compare DMS systems?
- Are some of the smaller vendors worth looking at? What are the pitfalls or advantages of smaller vendors?
- What if I am a motorcycle dealer, or heavy-duty truck dealer?
- Does the size of your dealership dictate which vendor you should use?

**Computer Billing Analysis.** Attending dealers are asked to provide OADA with their monthly computer bills pre-seminar. We will forward those bills to the Gillrie Institute for a summary analysis. Dealers can also simply bring their bills with them when they attend. Basic instruction is included in the course materials ensuring that a dealer can return home and implement the benefits immediately. Participants - analyzing their own bills - are awakened to the actual relationship they have with their vendor and the financial implications. Dealers will be surprised to discover what was left on the negotiating table.

**The Gillrie Institute.** Many Ohio dealers may remember Paul Gillrie as a featured speaker at one of the breakout sessions during the 2009 OADA Annual Convention in Orlando Florida. Acclaimed as an auto dealer advocate and seminar speaker, Paul Gillrie is a perennial favorite speaker at local and national conferences. Paul was the Director of Training for an auto industry giant for fifteen years, giving him valuable insight into DMS systems.

*Attendees can register by using the form below, or on our website at [www.oada.com](http://www.oada.com). Don't miss this program!*

**Registration Form**

**Evaluating Your Current DMS System**

Registrant Name (s) \_\_\_\_\_

Position (s) \_\_\_\_\_

\_\_\_\_\_

Dealership Name \_\_\_\_\_

Address, City, State & Zip \_\_\_\_\_

Telephone ( ) \_\_\_\_\_ Fax ( ) \_\_\_\_\_ E-mail \_\_\_\_\_

*non-members of OADA are \$225.00 per person. Members pay \$48*

Payment: Check No. \_\_\_\_\_ Credit Card: Visa/MC # \_\_\_\_\_ exp. \_\_\_\_\_

**Return to:** OADA • 655 Metro Place South, Suite 270 • Dublin • Ohio • 43017 **or fax to** 614-766-9600

You can also **register by logging onto the OADA web page** at [www.oada.com](http://www.oada.com), or by calling 800-686-9100.

cash receipts journal, looking for debits to expense accounts, cost of sales, and sales accounts. In general, these debits may be used to cover up a theft.

3. Mail should be opened and a cash receipt listing should be prepared by someone independent of the accounts receivable or billing process.

4. Bank deposits should also be made by someone independent of the accounts receivable or billing.

5. Checks should be restrictively endorsed when received. Voided cash receipts should be reviewed and approved.

6. Write-offs of receivable balances should be reviewed by management.

7. Credit card activity should be reviewed monthly to verify appropriate credits. Has a credit been issued not to a customer but rather to the credit card of an employee?

### Parts Inventory

Like cash, parts – which are essentially money sitting on a shelf – are a high-risk area for theft at any dealership. Without the proper controls, it can be too easy for parts to be taken from the shelf and used to work on vehicles outside the business or for selling online.

• Some Controls:

1. Cycle counts should be performed by someone independent of the parts department. Select high-dollar or fast-moving parts for the test. Knowing that someone is checking the parts is also a deterrent.

2. A general ledger to parts pad reconciliation should be prepared and reviewed monthly, and the identified differences should be evaluated in light of historical trends.

3. Credit memos should be approved by the parts manager or someone other than the individual issuing the memo.

4. The chief financial officer/ controller and parts manager should review parts sales journals and reports for high- and low-gross-profit transactions.

5. Regularly, management should run a plus-minus report (quantity changes) and a cost-override report (cost changes). The reports should be evaluated to determine whether the adjustments are valid or an effort to hide fraud or theft.

### Cash Disbursements

Like cash receipts, cash disbursements present a high risk to a dealership. Without strong controls in this

area, someone bent on fraud can create fictitious transactions or vendors. Also, checks to legitimate vendors can be misappropriated and cashed by employees.

• Some Controls:

1. Have a process where new vendors are approved by an individual outside the accounting department.

2. Invoices should be approved in writing prior to processing by department managers.

3. Once checks are prepared for payment and signed, they should be mailed by employees who are independent of the accounts payable function, thus reducing the risk that signed checks will be altered.

4. Checks should require dual signatures, including a signature of the general manager or owner.

5. Canceled checks should be reviewed as part of the bank reconciliation process.

6. Electronic funds transfers (EFTs) should be reviewed and approved, since EFTs can be used to misappropriate funds even to authorized payees. Someone could issue an EFT to a bank that is on the authorized payee list to pay off a personal debt with that bank.

7. A bank reconciliation should be performed daily to identify inappropriate cash disbursements and other cash transactions in a timely manner. This will also shorten the unpleasant task of reconciling the bank accounts at the end of the month.

In addition, consider using the following services available from banks:

• Block and filter. This service identifies EFT transfer requests that are coming from a vendor not on the bank's authorized payee list.

• Positive pay. The bank cross-references all checks presented for payment against the electronic cash disbursement data provided by the dealership. This excellent tool is effective for identifying fraudulent disbursements.

### Beyond an Accounting Issue

In today's economic environment, every dealership is at risk of – or has already experienced – employee theft or fraud. Especially now, every dealership needs to have a systematic approach in place for analyzing the organization's internal controls and a plan for testing that the controls are working effectively.

Testing and implementing internal controls is challenging, particularly when a dealership has cut its resources, and having strong internal controls that are operating effectively may seem like an "accounting issue." However, lacking such controls can have a significant negative impact on your bottom line. It's time to revisit your controls and tighten the reigns on your accounting processes so that you keep the dollars you earn.

Jodi Kippe is a partner with Crowe Horwath LLP in the Fort Lauderdale, Fla., office. She can be reached at 954.489.4742 or [jodi.kippe@crowehorwath.com](mailto:jodi.kippe@crowehorwath.com). Daphne Main got is with Crowe Horwath LLP in the Fort Lauderdale, Fla., office. She can be reached at 954.489.7424 or [daphne.maingot@crowehorwath.com](mailto:daphne.maingot@crowehorwath.com).

This article was originally printed in the May 2010 issue of Dealer Magazine.

*Under U.S. Treasury rules issued in 2005, we must inform you that any advice in this communication to you was not intended or written to be used, and cannot be used, to avoid any government penalties that may be imposed on a taxpayer.*

■

**Ohio Franchise Law Overhaul: Protecting Your Future**

*New Franchise Law Provisions Effective 9/10/2010*

<b>AKRON</b>	<b>CINCINNATI</b>	<b>COLUMBUS</b>	<b>DAYTON</b>	<b>TOLEDO</b>	<b>YOUNGSTOWN</b>
<b>Tuesday, August 3, 2010</b>	<b>Tuesday, July 13, 2010</b>	<b>Monday, August 30, 2010</b>	<b>Tuesday, July 13, 2010</b>	<b>Friday, August 6, 2010</b>	<b>Tuesday, August 3, 2010</b>
Hilton Akron Fairlawn	Kings Island Conferenc Ctr.	Crowne Plaza Dublin	Dayton Marriott	Holiday Inn French Quarter	Holiday Inn South Boardman
3180 W. Market Street, Akron	5691 Kings Island Dr., Mason	600 Metro Place N., Dublin	1414 S. Patterson Blvd., Dayton	10630 Fremont Pk., Perrysburg	7410 South Ave., Boardman
1:30pm-5:00pm	8:30am-noon	8:30am-noon	1:30pm-5:00pm	8:30am-noon	8:30am-noon

*\$48 registration fee for OADA Members. Non-Members pay \$225*

On June 10, 2010, Governor Strickland signed OADA backed Senate Bill 204, which recently received unanimous approval from both the Ohio Senate and Ohio House of Representatives. Senate Bill 204 updates Ohio’s Motor Vehicle Franchise Law. While the numbers of amendments to this law are too numerous to list in their entirety within this brochure, a few examples include:

- Manufacturers may not unfairly change or unilaterally amend a dealer’s sales expectancy or sales penetration without reasonable cause.
- Manufacturers may not require a dealers to renovate an existing dealership in order to receive a new model unless the renovation is necessary to sell or service the vehicle due to the technology of the vehicle.
- Manufacturers cannot require dealers to pay an additional fee or accept additional inventory in order to receive a vehicle.
- Manufacturers may not use a partially or wholly owned financial institution to accomplish what is otherwise prohibited by a manufacturer under the law.
- Creates a defined audit window (one year from the date of submission) for sales and warranty audits absence fraud.
- Creates a rebuttable presumption that the dealer did not know or should not have known that a vehicle was sold for export if the vehicle was titled in the United States.
- Manufacturers cannot establish or apply any performance standard measuring franchisee performance that is not fair, reasonable and equitable.
- Manufacturers cannot unreasonably require dealers to maintain exclusive facilities, the burden of proof being on the manufacturer to show that reasonable business considerations justify exclusivity.

- Strengthens dealer protections against discrimination with any manufacturer program including internet listings, sales leads, dealer recognition programs, etc.
- Protects dealer customer lists.

***And Much, Much More!***

The uniqueness and importance of Ohio’s Motor vehicle law cannot be over emphasized. These laws are important because they establish a more level playing field on which dealers and their manufacturers operate. They also provide assurance to financial institutions, vendors, and others that a manufacturer will not arbitrarily terminate a dealership.

State franchise laws are unique in that franchisees operating a McDonalds, or a John Deere dealership do not have these same protections. These franchisees only have the agreement written by their franchisor that establishes the rules of engagement between the parties. Like a Dealer Sales and Service Agreement written by your manufacturer, these agreements are written by the franchisor and you can be assured their interests are represented, not necessarily those of the franchisee.

Whether or not an individual dealer has actually had to exercise their rights under the law, the very existence of Ohio’s franchise law benefits *all* dealers. The reality is that most dealers do not understand their rights under the franchise law. At OADA we believe dealers need to know their rights. This seminar will focus on the recent updates created by SB204, address common questions, discuss prohibited manufacturer conduct, as well as how to exercise your rights.

This seminar will be presented by OADA and David Brown from the law firm of Stockamp & Brown. David’s practice specializes in representing dealers in the area of franchise and consumer law.

**Registration Form**

**Ohio Franchise Law Overhaul: Protecting Your Future**

**Please circle one:** *Akron*    *Cincinnati*    *Columbus*    *Dayton*    *Toledo*    *Youngstown*  
*August 3*    *July 13*    *August 30*    *July 13*    *August 6*    *August 3*

Registrant Name (s) \_\_\_\_\_

Title (s) \_\_\_\_\_

\_\_\_\_\_

Dealership Name \_\_\_\_\_

Address, City, State & Zip \_\_\_\_\_

Telephone (    ) \_\_\_\_\_ Fax (    ) \_\_\_\_\_ E-mail \_\_\_\_\_

*non-members of OADA are \$225.00 per person. Members pay \$48.*

Payment: Check No. \_\_\_\_\_ Credit Card: Visa/MC # \_\_\_\_\_ exp. \_\_\_\_\_

**Return to:** OADA • 655 Metro Place South, Suite 270 • Dublin • Ohio • 43017 **or fax to** 614-766-9600  
 You can also **register by logging onto the OADA web page** at [www.oda.com](http://www.oda.com), or by calling 800-686-9100.

# PRINTER RUNNING OUT OF INK?

- BROTHER
- HP
- EPSON
- LEXMARK
- PANASONIC
- IBM

- CANON
- OKIDATA
- SAMSUNG
- TREND
- SHARP
- SAVIN

Let OADA services try and meet or beat your current pricing on supplies for your printers. From name brand and high quality remanufactured to generic, we can find the ink, toners or printer cartridges that will keep your office equipment going strong!



**oada|services,**  
more than just forms

CALL LINDSEY TODAY  
800-686-9100 (x 117)