



# OADA NEWS

AUGUST 2011

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## OADA Backed "Right To Cure" Bill Introduced In House

H.B. 275 sponsored by Rep. Ron Young (R-Leroy Twp.) and Rep. Lynn Slaby (R-Copley) - Ohio Attorney General Mike DeWine has announced his support for the Bill - All Dealers Should Contact Their State Legislators ASAP to urge Support of the Bill

Ohio's Consumer Sales Practices Act was enacted in 1972 and applies to transactions between suppliers and consum-

ers involving goods and services purchased primarily for personal, family, and household use. The idea was to create a remedial statute that would allow consumers the opportunity to seek redress when suppliers had been engaging in unfair or deceptive acts and practices. In order to compensate consumers for their damages and to act as a deterrent to suppliers, the statute provides several remedies for consumers including rescission of the transaction or recovering damages which in some cases may be trebled (3X damages).

Recognizing most consumer cases involve very low dollar amounts, the legislature ensured that consumers could still seek redress by providing for attorney fees within the statute. Unfortunately over the years many dealers have seen first-hand how this provision can be abused as we have seen cases where the attorney fees in a particular case are in the tens of thousands of dollars while the consumers damages may be as little as a few thousand dollars.

Unfortunately the current law does little to encourage swift and fair resolution of these cases once they are filed with the courts. At this stage it is often nearly impossible to negotiate a reasonable settlement, particularly if the alleged act is a violation of a substantive rule or a Public Inspection File decision. These cases slowly move forward, bogging down a judicial system that is already too crowded resulting in final decisions often coming down years after cases are filed.

The concept behind H.B. 275 is that all parties are best served by resolutions that are achieved early in the litigation process, reducing costs for the supplier and allowing the consumer to recover reasonable damages much faster. The Bill does this by allowing businesses to make a "cure offer" to the consumer within 30 days of the filing of the lawsuit alleging a violation of the Consumer Sales Practices Act. If the consumer rejects the "cure offer" and the damages award is

less than the "cure offer", the consumer would not receive treble damages or attorney fees.

The Bill does include attorney's fees up to \$1,500 that can be offered with the "cure offer" so that the consumer's counsel may be compensated for work performed to file the suit.

It is important to note that nothing in this Bill limits the Attorney General's authority to conduct an investigation of a supplier if there is reasonable cause to believe they are engaging in an act or practice that violates Chapter 1345. OADA would like to thank Attorney General Mike DeWine for his enthusiastic support of the Bill and for his recognition that this proposal is good for business and the consumers of Ohio.

Debate on House Bill 275 will take place in September when the legislature returns from its summer recess. In response, all dealers should contact both their state senator and state representative asap to urge their support of the bill. Talking points are below and legislator ID and contact information can be accessed at [www.oada.com](http://www.oada.com) under State Legislators Directory. Dealers may contact Joe Cannon at OADA at 800-686-9100 ext. 116 or at [jcannon@oada.com](mailto:jcannon@oada.com) with any questions regarding House Bill 275 or for assistance in contacting legislators.

### House Bill 275 Talking Points

- This "Right to Cure" amendment to the Ohio Consumer Sales Practices Act is intended to promote resolution of disputes early in the litigation process with court supervision.
- The Right to Cure amendment does not change any of the existing provisions of the Consumer Sales Practices Act. It complements those provisions, encouraging businesses and consumers to:

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[www.oada.com](http://www.oada.com)

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# Adverse Action Notices: Your Frequently Asked Questions

(Includes information provided from NADA's Management Series "A Dealer Guide to Adverse Action Notices" with permission from NADA)

## 1. Do I need to give an adverse action notice?

This is an unsettled and evolving area of the law in which many courts and dealer attorneys disagree as to the scope of dealers' compliance obligations. Dealers are encouraged to seek legal advice before adopting any policy. Given the unsettled nature of the law, we are providing the following information for dealers who have chosen to send adverse action notices.

Adverse action notices are governed by the Equal Credit Opportunity Act (ECOA) and the Fair Credit Reporting Act (FCRA). ECOA requires creditors who "regularly participate in a credit decision" to provide an adverse action notice. FCRA requires an adverse action notice (as defined in ECOA) be given to any person who was denied credit or turned down your counteroffer, and the decision was based on a consumer report or information from a third party.

On the subject of whether a dealer is a participating creditor, NADA's publication, "A Dealer Guide to Adverse Action Notices" provides the following information:

"Unfortunately, the ECOA and its regulations are unclear as to what it means for a dealer to "regularly participate in a credit decision." The courts have reached different conclusions in answering this question. In some cases, a dealer has been deemed to "participate in a credit decision" when the dealer merely forwards the customer's application to a bank or finance company for its determination. Dealers also have been deemed to "regularly participate in a credit decision" in a spot delivery credit sale. Under some interpretations, a dealer may "regularly participate in a credit decision" because the dealer regularly signs the retail installment sales agreement before sending it to a bank or other finance source.

Because of the uncertainty as to how this important question will be resolved by a court, if you regularly sign retail installment sales agreements with your customers, you should follow the ECOA rules for a "participating creditor," including the adverse action notice requirements."

## 2. When must an adverse action notice be given?

As mentioned above, the Equal Credit Opportunity Act (ECOA) requires creditors (including dealers) to issue an "adverse action" notice to customers when the creditor refuses to grant credit on substantially the terms requested. A related law, the Fair Credit Reporting Act (FCRA), also may require a creditor to give an adverse action notice (which may be combined with the ECOA notice) if a credit report or information from a third party other than a consumer reporting agency (CRA) is involved in an adverse credit decision. Each law requires certain information to be included in the adverse action notice. And, effective July 21st, 2011, The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Law) requires additional information to be included in adverse action notices issued under the FCRA where a creditor used a consumer's credit score in taking adverse action.

## 3. What additional information do I need to provide in my adverse action notice effective July 21st, 2011?

If a creditor uses a consumer's credit score in taking adverse action, beginning July 21, 2011, the following additional information must be provided in adverse action notices:

- the consumer's credit score;
- the date the score was created;
- the range of possible credit scores under the model used to generate the score;
- the key factors that adversely affected the consumer's credit score in the model used (you must list up to four key factors provided by the Consumer Reporting Agency or up to five key factors if one of the factors is the number of recent inquiries.

## 4. If a dealer doesn't pull credit reports directly, but relies on a lender to do so in order to decide whether to accept assignment of a retail installment contract (purchase the paper), must the dealer give an adverse action notice including the credit score disclosure?

Yes. The Federal Reserve Board

has indicated that it may consider a finance source's use of a credit report or credit score in taking an adverse action to be imputed to the dealer who sent the credit application to the finance source. As a result, dealers who do not obtain credit reports or credit scores may nevertheless be deemed to "use" a credit report or credit score if the finance source uses a credit report or score. Therefore, the conservative approach is for dealers to take steps to ensure that the new Dodd-Frank Law disclosures are included in their adverse action notices even in cases where they would not otherwise obtain a credit report or credit score.

## 5. What is the time period for sending an adverse action notice?

- If you do not provide the requested financing, you must send the adverse action notice to the customer within 30 days after receiving a completed application.
- If you make a counteroffer that the customer does not accept, you must send the adverse action notice within 90 days after notifying the customer of your counteroffer.
- If you receive an incomplete application and you neither receive the missing information nor send a "notice of incompleteness" you must send an adverse action notice to the customer within 30 days after receiving the incomplete application.

## 6. How should an adverse action notice be sent to a consumer?

Adverse action notices may be given in person, via regular mail, fax, or electronically. Electronic transmission requires that dealers comply with the E-Sign Act.

## 7. What rules apply to incomplete credit applications?

If the customer's credit application is incomplete, you have a choice of sending, in writing, within 30 days:

- An adverse action notice denying the application; or
- A "notice of incompleteness"

If you opt to send a notice of in-

## Adverse Action Notices

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# Service Managers Need To Know: Basic Hybrid Safety Requirements

First in a 3-Part Series by KPA

As the service manager, you are responsible for creating a safe work environment for the service technicians. Hybrid Electric Vehicles (HEVs) bring a set of new safety considerations and regulatory requirements. This article summarizes the basics of hybrid safety.

## Hybrid Popularity by the Numbers

Hybrid vehicles make up less than 3% of the vehicles on the road today, so many vehicle service technicians have seen few or no hybrids in the shop. But, with the fuel efficiency of hybrids, the time is coming when hybrids will be a common sight not just on the sales floor, but also in the service department. Today 6% of U.S. car and SUV sales are hybrids; that number is expected to increase to 11% of new vehicle sales by 2012.

With 353,534 hybrid cars, crossovers, and sport utility vehicles sold in the U.S. in 2007, sales increased more than 40% over 2006, when about 250,000 light hybrids were sold (no data for hybrid pickup trucks).

Eleven automotive brands now sell at least one hybrid vehicle, with more than 25 hybrid-electric vehicle models to choose from in 2008. And at least two manufacturers have announced that they will be building all-electric commercial trucks for service soon.

## Beware: High Voltage

Hybrid Electric Vehicles differ from conventional gasoline engine vehicles by including a high-voltage electrical power system. The voltage stored and used in some hybrid vehicles presents a new level of risk for service technicians. The manufacturers have established training, but it is the responsibility of the service manager to be sure the techs are trained and properly equipped, and follow correct procedures.

The threshold voltage at which direct current (DC) becomes dangerous can be as low as 55 to 60 volts, compared to 110 volts for AC. Service technicians are generally well trained to be cautious around electricity even on gasoline-powered vehicles. The ignition system (coil, distributor, spark plugs) generates dangerous voltage, and there is always the danger of battery acid leaks and exploding batteries even with 12-volt DC car batteries.

The hybrid, however, poses a life-

threatening risk. You can get the attention of your service technicians by telling them that the voltage from a modern-day hybrid vehicle could, in fact, be used instead of an electric chair for an execution. The electric chair issues an initial shock of about 2,000 volts to lower the resistance of the skin, and then it delivers a sustained 8 amp current of 400 to 480 volts for 20 to 30 seconds to end a person's life. Except for the initial high voltage jolt, a hybrid electric system has the same lethal potential.

Now that you have the attention of the service technicians, here's a list of some of the basics that you want to know as a service manager.

- Hybrid identification
- Training
- High voltage safety
- Run silent
- Personal Protective Equipment
- Spills
- Battery disposal
- Fire

## Hybrid identification

Hybrids are sometimes a distinctive model, such as the Prius, but more frequently the hybrid is an option of a conventional gasoline model, and has the same external appearance. Almost all hybrids share these common identifiers:

- Hybrid badging on the body of the vehicle, typically including the rear right section
- READY indicator inside the vehicle, in the ignition area
- Orange high-voltage power cables

## Training

Hybrid training for service technicians is provided by vehicle manufacturers using manuals, hands-on training, and computer-based training. It's the job of the service manager to understand the full scope of training required in the service area, and to have service protocols in place to ensure consistent compliance.

- All service department staff needs basic hybrid training, including hybrid identification.
- For franchise dealerships, manufacturers generally require Master Technician certification to work on hybrid vehicles, including being current on OBD-II, scan tools, lab scopes, and electrical analysis.
- Training for technicians requires both

hands-on training from the manufacturer, and computer-based training.

- Hybrid manufacturers are a necessary and excellent source of training and documentation for service personnel.
- There are many independent courses for teaching technicians about working on these vehicles that can be found by Internet search for "hybrid vehicle training technicians." These are especially valuable to body shops, standalone service shops, and dealerships that want to service hybrids that are not in their franchise.

## High voltage safety

The extremely high voltage of hybrids creates a concern about the dangers of working on HEVs, even though actual incidents to date have been negligible. Because hybrid vehicles are still fairly rare in many service departments, many technicians have never seen a HEV in the shop, let alone worked on one.

- Every technician needs to be aware of the high voltage danger of hybrids, no matter how remote the chance of electrocution.
- Hybrids have been designed so that the high-voltage system is insulated from the metal vehicle body, and the vehicle metal body ground is not part of the high-voltage circuit.
- While high-voltage electrical flow from the high-voltage battery pack stops when the vehicle is turned off, the current may not be dissipated from the system for up to 10 minutes. Caution and training are required.
- Battery disconnect procedures vary by vehicle and must be part of the certification training.
- Run silent
- Hybrids are silent when they are running on battery, which is to say that they are often completely quiet even though the car is on. They automatically turn themselves off and on, switching between battery and the gasoline engine, so it is easy for the technician to be unpleasantly surprised that a vehicle thought to be off, is in fact on.

Many hybrids have keyless ignition, with on/off sensitivity up to 15 feet away from the vehicle. Technicians, for their safety, need

## Basic Hybrid Safety

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# ADREVIEW corner

## The Top Ten Mistakes of Advertising Compliance

As frequent readers of this column are aware, we review print advertisements in newspapers across the state regularly and talk with dealers about compliance every day. What we've found is that the same compliance issues arise time and time again. To address these issues, we've put together our "Top Ten Mistakes of Advertising Compliance".

1. DO NOT advertise a purchase payment or monthly term without also including the down payment required and APR. For example "0% for 60 Months" requires a disclosure of the monthly payment, and a statement regarding the down payment required.
2. DO NOT abbreviate NMAC, GMAC, FMCC, HMFC, or other captive's names. The Attorney General's Office believes consumers do not understand these abbreviations.
3. DO NOT advertise a price that is reduced if the consumer finances through a captive finance source. The advertised price must be available to consumers who pay cash or obtain their own financing. Dealers may advertise both prices if both prices are equally conspicuous.
4. DO NOT advertise a purchase price for a vehicle which has been reduced by a down payment. Doing so results in a deceptively low advertised price- not everyone has a down payment.
5. DO NOT bury required disclosures, use tiny fonts for disclosures, or allow

**Ad Review Corner**

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## Youth ATVs and Lead Content Addressed in 2012 Appropriations Bill

On June 23, the U.S. House Appropriations Committee held a mark-up on the proposed fiscal year 2012 Financial Services Appropriations bill. Contained in that bill is language championed by Rep. Denny Rehberg (R-Mont.) that would block the Consumer Product Safety Commission (CPSC) from implementing the overly restrictive lead-content provisions of the Consumer Product Safety Improvement Act (CPSIA) of 2008 in regards to off-highway vehicles (OHVs). The Committee approved the bill to move to the floor of the U.S. House of Representatives for final passage.

The language, found in Section 630 of the bill, provides an opportunity for Congress to address how the CPSIA has prevented the sale of safe, age-appropriate ATVs based on unfounded fears of lead poisoning. During the mark-up, Rep. Steve LaTourette (R-OH), amended the section to include bicycles, as well.

The measure must now be voted on by the House. OADA and OMDA will continue to monitor the progress of this legislation and will update our members as events unfold. ■

## IRS Updates Form 8300, Mandates Use after 6/30/2011

by Peter Zaidel of KPA, OADA's Endorsed Provider of Safety and Environmental Compliance Services

The IRS has revised Form 8300 for reporting receipt of cash in excess of \$10,000. The revisions do not appear to affect the two pages of the form that are filled in by a dealer. The changes appear to be limited to minor editorial revisions and revisions to the instructions concerning taxpayer identification numbers.

The form does, however, mandate that it is the version to be used for transactions after June 30, 2011. If you have hard copies of IRS Form 8300 that are not the June 2011 revision, you should discard them. The IRS provides an online form at [www.irs.gov](http://www.irs.gov) that can be filled in and printed for filing. Using the online form will ensure that you have the most recent version. ■

## November 10, 2011 SPCC Rule Compliance Deadline

By R. Curtis Spence, P.E., Spence Environmental Consulting, Inc.

The compliance date for oil storage facilities to amend or develop new Spill Prevention Control and Countermeasures (SPCC) Plans is November 10, 2011. The SPCC rule applies to facilities with above-ground oil storage tanks and 55-gallon drums with a total facility storage capacity exceeding 1,320 gallons. Oil includes gasoline, diesel fuel, hydraulic fluid, motor oil and other petroleum products.

The SPCC rule is a part of the Oil Pollution Prevention regulation (40 CFR Part 112) and outlines requirements for the prevention of, preparedness for, and response to oil discharges. Regulated fa-

cilities must develop and implement SPCC Plans that establish procedures and equipment requirements to prevent oil discharges from reaching navigable waters or adjoining shorelines.

Further information will be available via the OADA Webinar on September 14, 2011. This webinar will discuss the new shortcut to compliance for small facilities.

You may register at [www.oada.com](http://www.oada.com). You can contact R. Curtis Spence, P.E. at (614) 837-4750 if you have questions or would like additional information regarding the SPCC requirements. ■

# Safety Checklist: Lot Safety

Inventory lots, parking lots, and holding lots are the backbone of your business, and need to be kept safe. Here are a few basic safety checks keep your lots up to code, and keep them safe for employees and customers.

## Physical Environment

### **Posted Speed Limit**

Post and inform employees of the “allowable” speed limit on the lot and inside facility buildings. In addition, ensure that all vendors and contract employees adhere to the posted speed limit.

### **Blind Spots on Property**

Establish driving routes on the property that do not have blind spots, blind turns, or other unsafe conditions.

## Employee Driving Practices

### **Drivers and Cell Phones**

All facility employees need to practice safe driving techniques. This included eliminating the use of cell phones while operating customer or company vehicles. All shuttle and parts truck drivers may be equipped with hand free devices.

### **Use Seatbelts**

Employees should wear seat belts whenever operating motor vehicles.

## Make Specific Test Drive Routes Available

If employees will be driving or accompanying customers in vehicles, there should be a specific test drive route.

## Paperwork

### **Safe Driver Training Completed**

Safe Driver training should be completed by all new hires within 30 days of hire.

### **Golf Cart Safe Driving**

Post Safe Operating Rules in the cab of each golf cart. Ensure that all employees who drive golf carts adhere to the rules.

### **Check BMV Records Annually**

Use a system with the BMV or the insurance carrier to have all employee BMV records checked before hire and on an ongoing basis. Employees without a valid driver's license should never be permitted to drive company or customer vehicles.

For more information regarding safety in and around the dealership, contact Nick Hardesty or Glorianna Cooley at KPA. Nick can be reached at 262-510-7620 or Glorianna at 614-432-5044. ■



# Ohio Supreme Court Expands Retaliation Claims Against Employers for Workplace Injuries

By Nicole Farley, Esq. of Fisher & Phillips (formerly Millisor & Nobil)

Recently, the Supreme Court of Ohio issued a ruling which held that an employee may sue their employer for workers' compensation retaliation after reporting an alleged work injury, but prior to initiating a workers' compensation claim. In doing so, the Court, in *Sutton v. Tomco Machining, Inc.*, recognized a common-law tort claim for wrongful discharge in violation of public policy when an injured employee suffers a retaliatory employment action after an injury on the job, but before the employee initiates a workers' compensation claim. Pursuant to R.C. 4123.90, an employer is prohibited from discharging, demoting, re-assigning or taking any other types of punitive action against an employee when an employee is injured on the job and pursues workers' compensation benefits. However, prior the Sutton decision, an employee who was injured and suffered an adverse employment action prior to any attempt to file or otherwise initiate a workers' compensation claim were precluded from pursuing a retaliation claim under R.C. 4123.90.

In its review of R.C. 4123.90, the Supreme Court found that the statute did not

expressly prohibit retaliation against injured employees who have not yet filed, instituted or pursued a workers' compensation claim, but the Court further noted the statute expressly prohibits retaliation against injured workers who had filed, instituted or pursued a workers' compensation claim. As such, the Court found a gap existed in the language of the statute as it relates to conduct which occurs after an injury, but before the claim is filed, instituted or otherwise pursued. The Court specifically found Sutton's firing occurred in such gap, and therefore, recognized a common-law claim to protect those individuals who suffer retaliatory actions in the timeframe between an injury and filing, instituting or pursuing a claim. The Court found the general assembly did not intend for such gap, and R.C. 4123.90 expresses the clear public policy prohibiting retaliatory employment action against injured workers who had not yet filed a claim.

Although the Supreme Court expands retaliation claims for workplace injuries by recognizing a common-law cause of action, employers should find consolation in the fact that the Supreme Court limited the remedies

available to a plaintiff in such an action. An employee who pursues this common-law claim is not entitled to the full remedies under a typical tort action. On the contrary, an employee's remedies are limited to those specifically outlined in R.C. 4123.90.

Timing is everything and more often than not, the timing of an adverse employment action plays a significant role in the determination of whether such action was retaliatory in nature. Now that the Supreme Court has closed the gap under R.C. 4123.90, it is as important as ever for employers to consistently apply all policies to all employees regardless of whether or not they have initiated a workers' compensation claim.

If you have any questions or concerns regarding the application of the Sutton case and/or how to handle adverse employment actions involving an injured worker, please contact the author at [nfarley@laborlawyers.com](mailto:nfarley@laborlawyers.com).

The *Sutton v. Tomco Machining, Inc.* decision is available at: <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2011/2011-OHIO-2723.pdf> ■

# Michelle Primm of Cascade Auto Group Honored by Cleveland.com

On July 20, Michelle Primm, managing partner of the Cascade Auto Group, was honored as one of Northeast Ohio's "Women of Note" at a luncheon sponsored, in part, by Cleveland.com. When you consider Primm's leadership in the retail automotive industry in Northeast Ohio, the award is both appropriate and long overdue.

"I'm obviously very excited to be honored with this award," said Primm. "I am proud to represent the Cascade Auto Group, the Greater Cleveland Automobile Dealers' Association, and all women who work in the retail automotive industry in Northeast Ohio."

Primm, whose father Don formed Cascade Auto Group in 1969, literally grew up in the business. She started out in the early 1970s when she was really too young to be formally working.

"My first job at the dealership was to file repair orders," Primm recalled. "Later, when I got my driver's license, my first full-time summer job was to drive the parts truck."

After finishing high school, Primm worked at the dealership full time in the office, while going to college.

"I did everything from accounts payable and accounts receivable to warranty work and titles. And I did it all while going to college," Primm said. "I learned a lot about accounting and business in a real-world environment."

Primm eventually worked her way up to office manager, taking a break from college to run the office full time.

"But I realized that I wanted a lot

more, so I went back to college," Primm said.

Primm went on to get degrees in finance and economics from Kent State University. She left the business briefly before heading back to Cascade to head up the dealer group's F & I Department. In 1994, she was named general manager and then managing partner of Cascade Auto Group.

Cascade Auto Group is one of Northeast Ohio's premier auto dealers, selling Porsche, Audi, Mazda, and Subaru brands. It is one of the oldest Porsche Audi dealerships in the United States and is still family-owned and operated.

"Today, I am a partner in the business, along with my brothers Pat and Mike and my father Don," said Primm.

Since becoming managing partner, Primm has served the auto industry in Northeast Ohio and nationally in a number of other positions. She served on the State of Ohio's Dealer Licensing Board, where she went on to become vice president and eventually president of the board. In 2005, Primm was nominated to represent Northeast Ohio and the GCADA in Time Magazine's National Dealer of the Year Award.

In February of 2008, Primm was elected to the National Automobile Dealers Association's board, serving as an at-large director representing all women dealers east of the Mississippi.

"It was an honor just to be nominated for the board because I initially served with Annette Sykora, the first women chairperson of the NADA," said Primm. "But it was also a challenge because we were facing a lot of turmoil in the industry when I first started to



*Michelle Primm, Cascade Auto Group*

serve.

"I can't recall how many times we were called to Washington to lobby for auto dealers or auto manufacturer bailouts and all of the other issues that arose out of the auto industry bankruptcies."

And while the industry now appears to be back on track, there are still challenges ahead, Primm conceded.

"We've come through it, but we're not totally out of the woods yet," she said. "We're not rebounding with leaps and bounds; we are scratching and crawling our way back. My biggest wish is that we could have a common-sense comprehensive energy policy for our nation."

Still, the industry is a lot healthier today than it was in 2008, and Primm's contributions play an important part in that turnaround.

"We're proud to have one of our member dealers selected as a Woman of Note for 2011," said Louis A. Vitantonio, president of the GCADA. "Michelle's dedication, professionalism and leadership are certainly worth recognizing. Our congratulations go out to her and the Cascade Auto Group." ■

## Ad Review Corner

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your type setter to blur the disclosures. We've seen 2 point font and disclosures hidden below dealers' phone numbers and addresses! These disclosures are important; don't hide them.

6. DO NOT use "MSRP" or words of similar import in connection with a used vehicle. Dealers may not compare the cost

of a used vehicle to MSRP.

7. DO NOT omit a mileage penalty and mileage allotment disclosure in your lease advertisements.

8. DO NOT advertise a lease down payment more prominently than the amount due at lease inception. The amount due at lease inception is the total sum of all amounts owed before the consumer can take delivery of the vehicle, including bank and acquisition fees, down payments, first

month's payment and security deposits. The only exceptions are tax, title, registration and documentary service charges.

9. DO NOT use "invoice" in an ad without including, "INVOICE MAY NOT REFLECT DEALER'S ACTUAL COST", which is required by Ohio law.

10. DO NOT omit a statement like "with approved credit" if an APR or the extension of credit is contingent upon qualification. ■



# NADA News

A Message from Ohio NADA Director, Chuck Eddy

## NADA Applauds Decision to Drop Letter Grades from Window Stickers

Two regulatory agencies responsible for setting national energy policy announced last month a new fuel-economy label rule for passenger car and light-duty trucks without a controversial “letter grade” system that NADA and other auto industry groups opposed. The National Highway Traffic Safety Administration and Environmental Protection Agency unveiled the new labels for model year 2013 at a press conference in Washington. NADA applauded the move to eliminate letter grades, citing its potential to confuse consumers.

“With gasoline spiking to over \$4 a gallon and alternative fuel vehicles hitting dealer showrooms, rolling out a totally unfamiliar ‘letter grade’ label would have only served to confuse and frustrate consumers,” NADA said. “NADA applauds the Obama administration’s decision to drop the ill-advised ‘letter grade’ in favor of one that prominently displays a vehicle’s MPG. By doing so, car shoppers can make informed comparisons on dealers’ lots, allowing them to take advantage of new technologies, which will ultimately put more fuel efficient vehicles on the road.”

In addition to the miles-per-gallon (MPG) numbers consumers have relied on for decades, the new labels will include:

- Data comparing new technology or alternative-fuel vehicles to conventionally powered cars and trucks
- A fuel cost estimate over five years
- How a particular vehicle compares to all vehicles for smog and greenhouse gas emissions
- An estimate of how much fuel or electricity it will take to drive 100 miles
- Information on the driving range for electric vehicles and charging time
- A scanable code to allow smartphone users to access additional online information

Although they are better than the first proposal, the new fuel economy labels aren’t perfect, says Doug Greenhaus, director of Environment, Health and Safety for NADA’s Regulatory Affairs Group. For example, the labels compare a vehicle’s emissions performance against all vehicles, as opposed to vehicles within the same class, Greenhaus says, which could confuse some consumers. Moreover, a vehicle’s five-year estimated fuel cost is compared to a hypothetical “average new vehicle,” also a comparison of limited value, Greenhaus says.

NADA is working with NHTSA and EPA on a strategy to assist dealerships with responding to questions and concerns from consumers about the new labels. NHTSA and EPA have prepared a Q&A Fact Sheet along with example labels.

Automakers must include fuel economy information on the window labels of light-duty vehicles for model year 2013 before they are shipped. And dealers must maintain the labels until they are delivered to retail customers.

Questions about the new fuel economy labels may be directed to NADA Regulatory Affairs at [regulatoryaffairs@nada.org](mailto:regulatoryaffairs@nada.org) or (703) 821-7040.

## Texas Dealer, Former NADA President Ramsay Gillman Dies at 67

NADA mourned the loss of one of its leaders last month, when Texas dealer and former NADA president Ramsay Gillman died June 3 of natural causes at his home in Houston. Gillman was chairman of Gillman Companies, one of the largest private automobile dealerships in the country with more than a dozen dealerships in Texas.

He served on NADA’s board of directors from 1989 to 1999 and was elected as the president of NADA in 1997. At the time of his death Gillman served as a trustee of the National Automobile Dealers Charitable Foundation and the Dealers Election Action Committee. “Ramsay Gillman was one of the most influential and beloved members of the NADA family and throughout the entire automobile industry,” said NADA President Phil Brady. “He leaves behind an extraordinary legacy built over a lifetime of remarkable achievements. We will all miss his leadership, his character and his wonderful charm. Our thoughts and prayers are with his wonderful family.”

### Now Playing on NADA-TV ...

- “AutoFocus with David Hyatt” — a television interview program

Here’s a list of recent interviews:

1. NADA Foundation Chairman Bob Mallon discusses the importance of charitable giving.
2. Chief Economist Paul Taylor talks about NADA’s most recent state-of-the-industry report.

To view these videos, visit the NADA-TV channel on [NADAFrontPage.com](http://NADAFrontPage.com) by clicking on the link in the upper right corner of the home page.

### In other legislative and regulatory news ...

#### New Adverse Action Notice Disclosures Take Effect July 21

A provision in last year’s Dodd-Frank regulatory overhaul requires dealers and other creditors who use a credit score in taking adverse action — such as turning down a credit application — to include new credit score disclosures in their adverse action notices beginning July 21. (This provision also requires the disclosures to be included in risk-based pricing notices, but this does not affect dealers who issue Credit Score Disclosure Exception Notices to comply with the Risk-Based Pricing Rule.)

NADA is helping dealers comply with this new regulation in a number of ways. First, dealers can watch a short video on the changes featuring Paul Metrey, chief regulatory counsel, Financial



**Chuck Eddy,  
Ohio NADA Director**

### NADA News

continued on Page 10

# OADA Brown Bag Lunch Webinar Series In Full Swing

We recognize that your time is valuable. We also recognize that you need the information necessary to properly run the dealership. The OADA Brown Bag Lunch Webinar Series was designed with you in mind!

In this series we feature a wide variety of topics, presented by the best experts in their fields, to present the information you need in a timely and cost effective manner. This series of webinars are anywhere from 45-90 minutes in length, just enough time to efficiently cover topics that are important to you. With our upcoming schedule we have tried to cover the waterfront with various

issues. Our subject matter includes sales, F&I, waste streams, facility renovation & construction, social media issues, motor vehicle titling, health care and more! Be sure to stay tuned as more topics are being scheduled throughout the remainder of the summer and fall.

Be sure to see the schedule included in this issue of OADA News. We encourage you to review and share the schedule of our upcoming webinars with others in the dealership who may have an interest in these topics.

Missed or Unable to Attend a Webinar? DVDs for all of OADA's webinars

are available for your training purposes! Each DVD captures both the power point presentation, audio, and Q & A. Contact DeAnna Zahniser at OADA to order your copy today.

**We Want Your Ideas for Topics!**  
Do you or someone in the dealership have an idea for a seminar/webinar topic that you would be interested in attending? The idea for our recent Wage and Hour webinar came to us from one of our members. Contact DeAnna Zahniser at OADA if you have a suggestion. DeAnna Zahniser can be reached at 800-686-9100, ext. 109. ■

## Next Gen Dealers Visit the Ohio Statehouse



Pictured here are Joe and Tim Glockner with Tom Niehaus (President of the Ohio Senate) during a Senate hearing break.

On June 22, some of OADA's Next Gen dealers made the trip into Columbus for a visit to the statehouse. The visit was extremely timely as OADA is pursuing "Right to Cure" legislation. Next Gen dealers from around the state heard from the Secretary of State Jon Husted as well as State Senator Frank LaRose (R-Fairlawn) and the AG's office. Then, the group walked across the street to the statehouse for meetings with legislators. Next Gen dealers met with their legislators and discussed business issues including protecting the sales tax credit on the money difference, the need for workers

compensation reform, as well as the importance for the "Right to Cure" (HB 275) Bill to pass. Pictured here are Joe and Tim Glockner with Tom Niehaus (President of the Ohio Senate) during a Senate hearing break.

If you know of or have a Next Gen dealer who should be involved in this program, please reach out to Zach Doran at OADA (614-923-2234 or [zdoran@oada.com](mailto:zdoran@oada.com)) so we may include him or her in future correspondence and future Next Gen Dealer Meetings. ■

## Double duty? FTC Settles With Credit Reporting Agency

By Lesley Fair

Sometimes it's great to put stuff to more than one use. Think the versatile Swiss Army knife, the iconic Little Black Dress, or the typical elementary school "cafetorium" where kids can eat lunch, shoot hoops, and put on plays. But when what's at issue is information from people's credit reports, that kind of double duty can violate the Fair Credit Reporting Act — as the FTC's \$1.8 million settlement with Teletrack, Inc., makes clear.

In FCRA parlance, Teletrack is a "consumer reporting agency." Its primary line of work is selling credit reports to payday lenders, rent-to-own stores, non-prime rate auto lenders, and other companies that serve non-traditional credit customers. Companies use the reports to decide whether they'll

extend credit, and on what terms.

When prospective customers apply for credit, they give the payday lender or car lot rafts of personal information. The company, in turn, passes the data on to Teletrack when they ask for a credit report on the customer.

But Teletrack had a sideline business. In addition to using that information to provide credit reports, Teletrack put it to further use by creating a separate marketing database of people who had applied for credit with payday lenders, rent-to-own stores, etc. Teletrack then sold their names and addresses to marketers looking to pitch them other stuff. For example, Teletrack sold lists of people

who'd sought payday loans to companies that wanted to use that information to target potential customers.

As the FTC's complaint alleges, those marketing lists are "consumer reports" under FCRA because they contain info about a person's creditworthiness. But under FCRA, consumer reporting companies can't sell credit reports without a specific "permissible purpose." According to the FTC, hoping to make a buck by selling marketing lists isn't one of those "permissible purposes."

Filed in federal court in Georgia, the FTC's settlement with Teletrack requires the company to change its business practices and imposes a \$1.8 million civil penalty. ■



# An LDF Thank You Note

As we enter the last quarter of 2011, we want to thank each dealer who has recognized the importance of the Legal Defense Fund by making a contribution this year. The strength of the Fund is dependent on your generosity.

Dealers who give to the OADA Legal Defense Fund understand their contribution ensures help will be available when dealers need it most. The Fund helps defray costs of litigating issues that have a significant impact on all dealers. The issues we

support define, limit, or expand your legal rights and obligations; they go to the heart of your business.

This year we feel especially proud that LDF funds were available to prevent a potential class action which sought to include every dealer who had ever charged a documentary fee as a defendant. It took nearly eighteen months, but OADA was successful in having the case dismissed before a class could be certified. The judge unequivocally recognized that state law al-

lows dealers to legally charge a documentary fee of the lesser of \$250.00 or 10% of the contract price, excluding tax, title, registration and any negative equity adjustment.

The 2011 LDF Contributors are listed below. If your name is missing from our list and you would like to contribute, please use the attached contribution form or make an online contribution at [www.oada.com](http://www.oada.com) (quick link "LDF contribution"). Remember, corporate funds may be used for LDF contributions. ■

Aber's Truck Center  
Al Baumann Chevrolet Buick  
Al Smith Chrysler Dodge Jeep Inc.  
Allan Nott Enterprises, Inc.  
Alliance Motors, Inc.  
American Coach Sales  
Anderson Ford Sales, Inc.  
Auto Choice Chevrolet Buick  
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Avalon RV Center, Inc.  
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Graff Chevrolet - Ottawa Inc.  
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Greg Smith-Smith Chevrolet Buick  
Gribble's River Valley Motors, Inc.  
Guess Motors  
Gusweiler GM Center

Gusweiler Toyota  
Hale's Sport Center, Inc.  
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Hamler Chevrolet  
Harry Humphries Auto City, Inc.  
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Holman Motors GMC Truck  
Honda East Yamaha Suzuki  
Hugh White Honda, Inc.  
Integrity Ford  
Integrity Motors Sales  
Interstate Ford, Inc.  
J & J Motors, Inc.  
J. Michael Northup-Norris Northup Dodge  
Jake Sweeney Chevrolet, Inc.  
Jake Sweeney Chevrolet, Inc.  
James Evans-Evans Motorworks  
Jay Honda  
Jeff Wyler Eastgate, Inc.  
Jenior Ford Sales, Inc.  
Jerry Haag Motors, Inc.  
Jim Kobunski-Tansky, Inc.  
Joe Carson Honda & Harley-Davidson  
Joe Fabian-Cerni Motor Sales, Inc.  
Joe Johnson Chevrolet, Inc.  
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John Yark-Yark Automotive Group, Inc.  
Joyce Buick GMC - Mansfield  
Junction Auto Sales, Inc.  
Just Saab Cincinnati  
Just Saab Dayton  
Kasper Buick GMC  
Kasper Chevrolet Buick  
Kasper Chrysler Dodge Jeep  
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Kempthorn Motors, Inc.  
Kings Ford, Inc.  
Kings Nissan  
Kistler Ford Sales, Inc.  
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## LDF Contributors

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Services, Privacy, and Tax for NADA. Second, NADA will soon release a new version of its publication "A Dealer Guide to Adverse Action Notices" explaining the new disclosure requirements and providing model adverse action notice forms that the Federal Reserve Board is developing to accommodate the new disclosures. NADA will release this publication shortly after the Federal Reserve Board finalizes its model forms.

### **Fed Proposes Lifting July 21 Compliance Date for New Small Business Data Collection and Reporting Requirement**

Following strong advocacy by NADA and its Regulatory Affairs group, the Federal Reserve Board has proposed temporarily exempting dealers engaged in indirect (three-party) vehicle financing transactions from a new, comprehensive data collection and reporting requirement that is scheduled to take effect July 21. A provision of the Dodd-Frank regulatory overhaul of 2010 requires financial institutions, including auto dealerships, to inquire into whether a credit applicant is a small business or a women-owned or minority-owned business, maintain a record of responses to the inquiry for three years, report it to the federal government on an annual basis and make it available to the public upon request. NADA met with Federal Reserve Board staff on several occasions to request that the board exempt dealers from these duties because more direction is needed from the government. NADA plans to register its support for the exemption in written comments urging the board to adopt its proposal.

### **Fed Raises Threshold for Contracts Covered by Truth in Lending Act**

A provision in the Dodd-Frank regulatory overhaul of 2010 has raised the dollar threshold for consumer credit and lease transactions that are covered by the Truth in Lending Act and Consumer Leasing Act. The threshold was raised from \$25,000 to \$50,000, effective July 21. The law also mandated that the new threshold be adjusted for inflation on an annual basis. To meet this mandate, the Federal Reserve Board has announced that this threshold will increase to \$51,800 beginning Jan. 1, 2012.

*In other NADA news...*

**Ally Partners with TIME on Prestigious**

### **Dealer of the Year Honor**

Ally Financial Inc. has been named the exclusive sponsor of TIME Dealer of the Year, one of the automobile industry's most prestigious awards for new-car dealers. "Automobile dealers have a tremendous impact on the strength and viability of communities of all sizes around the United States," said Tim Russi, executive vice president, North American Operations for Ally Financial. As part of Ally's efforts to improve local communities, the company plans to make \$60,000 in charitable contributions to local community causes. The recipient of the 2012 TIME Dealer of the Year Award will receive a \$10,000 contribution to donate to a 501(c)(3) nonprofit organization of choice. And about 50 dealers nominated for the 2012 award will each receive \$1,000 to contribute to a qualified nonprofit organization. The winner will be announced at NADA's Convention & Expo Feb. 4 in Las Vegas.

### **NADA Honors Kelleher for 45 Years of Service**

The NADA board of directors and staff recently celebrated the remarkable career of Bruce M. Kelleher, executive vice president and chief administrative officer, who retired on July 1 after 45 years with the association. Kelleher, 71, who began his NADA career in 1966, helped manage the day-to-day operations of the association, overseeing the human resources department, political action committee and the NADA Used Car Guide, and also serving as assistant treasurer of the National Automobile Dealers Charitable Foundation. Kelleher was honored at the June meeting of the NADA board of directors and a luncheon with the association's 300 staff members, during which he received a commemorative plaque and other gifts. "It's impossible to overstate Bruce's great contributions to NADA and to America's new car and truck dealers," said NADA President Phil Brady. "He has been a steady hand who has worked closely with 45 successive chairmen, helping guide the association as it faced extraordinary challenges over the years."

### **NADA DATA 2011 Shows Improved Financial Performance for Franchised Dealers**

The financial performance of new-car and -truck dealerships improved in 2010 despite a slow economic recovery, according to NADA's latest report on the state of auto retailing. New-car dealerships on average

employed 50 people with an annual payroll of about \$2.6 million in 2010, an increase from 2009, says Paul Taylor, NADA chief economist and editor of NADA DATA 2011. "New-car dealerships improved their profitability in 2010 through strict cost control, such as reducing rent and real estate costs, cutting advertising expenses and maintaining lower floorplan costs," Taylor said. "However, the difficult economic recovery and brands leaving the marketplace caused 760 dealerships to close in 2010." (To read the full report, click here.)

### **NADA Used Car Guide Launches Used Car, Truck Blogs**

As a part of the NADA Used Car Guide's redesigned Website at [www.nada.com/b2b](http://www.nada.com/b2b), the guide now features Used Car/Truck and Commercial Truck Guide blogs with commentary from NADA Used Car Guide Executive Automotive Analyst Jonathan Banks and Commercial Truck Guide Senior Analyst and Product Manager Chris Visser. The blogs are updated weekly and encourage reader comments and feedback. For more information on the used-car and commercial truck markets, connect with the guide through Facebook, Twitter and YouTube.

### **2012 NADA/ATD Convention and Expo in Las Vegas, Feb. 3-6**

The 2012 NADA and ATD Convention and Expo will be held in Las Vegas, Feb. 3-6. It will be the first time the two conventions will be held together. ATD attendees will be able to attend the NADA expo, workshops and general sessions. And they can stay at any hotel of their choice in NADA's block. Online registration for the NADA and ATD conventions will open in mid-July at [www.nadaconventionandexpo.org](http://www.nadaconventionandexpo.org).

### **NADA's Information Technology Committee Publishes Info on Mobile Apps for Dealers, Consumers**

NADA's Information Technology Committee has published several newsletters with information on the increasingly popular mobile applications and telematics features for dealerships and consumers. Information on these topics and CRM, DDM, DSP, F&I, and VIM vendors is available on NADA's Website. Also on the Web, find info about computer discounts from HP and Lenovo. ■

## LDF Contributors

continued on Page 2

Klaben Ford Lincoln, Inc.  
LaRiche Automotive Group, Inc.  
LaRiche Chevrolet Cadillac  
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Lash Chevrolet LLC  
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Lee Kinstle GM Sales & Service  
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Ohio Valley Honda  
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Whiteside Chevrolet Buick Pontiac GMC  
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# OADA Announces the 2012 Annual Convention

OADA Chairman, Bill Ferris, Ferris Cadillac, Chevrolet, Toyota Inc. of New Philadelphia is pleased to announce the 2012 OADA Convention location. Join your fellow dealers and business associates on March 23-26, 2012 at Disney's Grand Floridian Resort & Spa, Lake Buena Vista, Florida.

Disney's Grand Floridian Resort and Spa is the flagship of six Walt Disney World® Convention resorts. Attendees at the 2012 convention will experience the elegance and grandeur of the Victorian age with all of today's modern amenities. Disney's Grand Floridian Resort and Spa pays homage to Florida's golden era, this "crown Jewel" of Disney resorts features the ultimate in luxury, service and amenities.

We have found our member dealers to be our "best salespersons" in recruiting new convention attendees. If you have attended past conventions and found the conventions enjoyable and educational, please encourage the dealers in your area to join us in 2012. It will be time well spent and a good return on their investment of time away from the dealership.

Include your family when making plans for the convention. Children of all ages are WELCOMED!

Complete details of the 79th OADA Convention will be mailed and e-mailed to the membership and sponsors in September, 2011.

**In the meantime, please mark your calendar for:**

**Friday, March 23 through Monday, March 26, 2012. ■**



# We Need Your Help - Identifying Key Contacts In the Dealership

In this information age it is critical to get the right information to the right person as quickly as possible. Over the past few years we have seen first-hand how important it is to be able to “reach out” to our members and their employees in a moment’s notice. Whether it was the manufacturer bankruptcies, Cash for Clunkers, or passage of the franchise law, our ability to communicate directly and immediately with the correct person in the dealership allows us to do our job of keeping you informed that much better.

We Need Your Help! Our membership software enables us to tailor recipients of important email alerts. This ensures that those who need the information receive it while others, who may not have a need or interest, are not bombarded with information that is meaningless to them.

If You Have Not Done So Already, Please Complete the Accompanying Dealership Key Contact Sheet! We have included a Key Contact Sheet in this issue of OADA News for you to complete that asks for the name, title and work email address for your

key personnel at the dealership. If there are other dealership employees in other positions you would like to include please feel free to include them as well.

Thank You For Your Assistance!  
This information will play a critical role in our ability to assist you and your employees as the need to disseminate critical information arises.

If you have any questions, please feel free to contact DeAnna Zahniser at 800-686-9100, ext. 109 or 614-923-2231. ■

## Adverse Action Notices

continued from Page 2

completeness, you must include 3 items in the written notice:

- The additional information you need;
- The time within which the customer must supply the additional information (this must be a reasonable period of time); and
- A statement telling the customer that you will not further consider the application unless the customer gives you the requested information within that time.

If the customer does not respond to the notice of incompleteness, you are not required to send an adverse action notice.

If the application is missing some information, but there is enough for you to make a credit decision, you may evaluate the application, make your credit decision, and notify the customer. If you decide to deny the application, you must send an adverse action notice with the required content, including the specific reason(s) for the denial (note that, in this instance, you cannot give “missing information” or “incomplete application” as the reason for denial) or a disclosure of the customer’s right to a statement of specific reasons if requested within 60 days of your notification.

## 8. If I have joint applicants who share the same address, can I send only one adverse action notice, or send two notices in the same envelope?

No. Because FCRA protects individual consumers’ rights with regard to how information about them is obtained and used, the FCRA adverse action notice must go to each consumer whose report was used in the decision to deny.

Furthermore, if you receive a joint credit application and you use a credit score on each applicant in making an adverse action decision on the application, the Dodd Frank Law requires that you give the Dodd-Frank Law credit score disclosure notice to each applicant. Each applicant can be given only his credit score and each applicant’s adverse action notice (incorporating their credit score) must be sent to each applicant separately.

## 9. What are the penalties for failure to comply with Adverse Action requirements?

The penalties for violating ECOA: (1) Actual Damages, (2) Punitive Damages, which are up to \$10,000 in an individual action or the lesser of up to \$500,00 or 1% of the creditor’s net worth in a class action, (3) Equitable and Declaratory relief, and (4) costs and attorney fees. ■

## Right to Cure

continued from Cover

- o Evaluate the merits of a lawsuit;
- o Encourage reasonable settlement offers as soon as a lawsuit is served;
- o Encourages both sides to weigh the sufficiency of a settlement offer early in the litigation process.
- The Right to Cure amendment allows:
  - o Suppliers to file a settlement offer (“cure offer”) with the Court within 30 days of service of a lawsuit alleging violations of the CSPA. All settlement offers must include up to \$1500.00 to compensate the Plaintiff’s attorney for bringing the action;
  - o If the consumer rejects the settlement offer the case will proceed to trial.
  - o If an award of actual damages in favor of the consumer is less than the cure offer, the consumer will not be entitled to treble damages, nor attorney fees or court costs incurred after the date the cure offer was received.
- The Right to Cure amendment purposely incentivizes defendants to be realistic regarding exposure and offer a meaningful resolution. A business has only one opportunity to limit damages, attorney fees and court costs.
- The Right to Cure amendment was purposely designed so that a consumer is not burdened with pre-suit notice requirements. Moreover, every cure offer must include clear and conspicuous notice as prescribed by the statute, explaining what the cure offer is, and the effect of acceptance or rejection. ■



## Ohio Automobile Dealers Association

655 Metro Place South, Suite 270

Dublin, Ohio 43017

800-686-9100 / 614-766-9100 fax 614-766-9600 / 614-766-9616

# Dealership Contact Sheet

*Please take a moment to complete the following form. We are attempting to collect data regarding your key staff, so that we may better disseminate information to those in your dealership that need it. Please return the form by fax, to DeAnna Zahniser, or email your answers to [dzahniser@oada.com](mailto:dzahniser@oada.com). Please contact DeAnna with any questions.*

Dealership \_\_\_\_\_

Address / City \_\_\_\_\_

Dealer Principal Name /Email \_\_\_\_\_

If more than one location, where is the dealer principal's primary office? \_\_\_\_\_

General Mgr. Name /Email \_\_\_\_\_

Sales Mgr. Name /Email \_\_\_\_\_

New Car Mgr. Name /Email \_\_\_\_\_

Used Car Mgr. Name /Email \_\_\_\_\_

Internet Sales Name /Email \_\_\_\_\_

CFO Name /Email \_\_\_\_\_

Office Mgr. Name /Email \_\_\_\_\_

Controller Name /Email \_\_\_\_\_

F & I Mgr. Name /Email \_\_\_\_\_

Human Resources Mgr. Name /Email \_\_\_\_\_

Title Clerk Name /Email \_\_\_\_\_

Internet Mgr. Name /Email \_\_\_\_\_

Fixed Ops. Dir. Name /Email \_\_\_\_\_

Service Mgr. Name /Email \_\_\_\_\_

Service Advisor Name /Email \_\_\_\_\_

Body Shop Mgr. Name /Email \_\_\_\_\_

Parts Mgr. Name /Email \_\_\_\_\_

*Please use an additional sheet for anyone else that you would like to add*

# MSDS Formats Are Changing

by Peter Zaidel of KPA, OADA's endorsed provider of safety and environmental compliance services

The production and use of chemicals is fundamental to all economies. The global chemical business trades at more than \$1.7 trillion per year. In the United States, chemicals are more than a \$450 billion business, and exports are greater than \$80 billion per year.

Product sourcing is also on the rise, and product formulas are diverging as new compounds are introduced to the market daily. It is your dealership's responsibility to have a chemical inventory of all regulated compounds on premise as part of your hazard communications program. To answer this need, KPA offers a database of over 70,000 chemical Material Safety Data Sheets (MSDS) for products that are common in dealerships. Our clients can access the database online and from a customized CD.

## What if you need to find information on a Material Safety Data Sheet?

With the online MSDS database, your dealership is covered for OSHA's hazard communications requirement, but what if you actually need to find information on a data sheet? MSDS sheets are published by original manufacturers, and while they conform to

content standards and are all in English, there isn't a standard format. Without a standardized format, getting important information off the sheets is challenging, for example, somewhere on an eight paged MSDS sheet, there might be a line that recommends the use of non-latex gloves while using the product, but you have to find it. And, it will probably be in a different location on a similar product sheet from another company.

To illustrate the problem, below is a quick comparison of MSDS sheets for two window cleaning products, demonstrating the same information, similar chemicals, but very different formats:

Obviously, the current system delivers important information for employee safety, but in a critical situation, it would be more helpful to have a standardized format where a user could quickly find the same information in the same place on all forms.

## Moving to a New Classification and Labeling System

The shortcoming of the unstandardized format, combined with the global scope of chemical trade, and growing consumer demand

for more product ingredient disclosures, led the United Nations Economic Commission to guide a global standards initiative, called The Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Back in 2006, OSHA published advance notice of proposed rulemaking that it would incorporate changes per the GHS. The new standardized formats are beginning to trickle into online MSDS databases as manufacturers update their information to comply with the new standards. This is expected to be a long process, and OSHA agents are not enforcing the new standards at dealerships, yet (not for a few years).

Basically, this change won't affect your safety programs very much if you use the KPA MSDS database because the MSDS system is automatically updated as needed. At this point, the basic action item is that your staff should be aware that the MSDS format is changing, and that the goal is for important information to be easier to find.

For more information regarding MSDS, contact Nick Hardesty or Glorianna Cooley at KPA. Nick can be reached at 262-510-7620 or Glorianna at 614-432-5044. ■

**PIG**

## SAFETY DATA SHEET

PIG® Pro-Moistened Hand & Surface Wipers (MSD-184) Page 1 of 2

### 1. Product And Company Identification

**Product Identifier:** PIG® Pro-Moistened Hand & Surface Wipers  
**General Use:** PIG® Pro-Moistened Hand & Surface Wipers are used to remove oil, grease, grime, tar, dirt etc. from hands when water is not available or when using a waterless.  
**Product Description:** Opaque white liquid with a fresh citrus scent, saturated onto towels.  
**COMPANY PROFILE:**  
 One Pig Corporation  
 One Pig Avenue  
 Tipton, TN 38484-0004  
 Information Number: 24 hrs, 7 days/week  
 1-800-465-4647  
**Website:** www.onepig.com **Email:** info@onepig.com

### 2. Hazards Identification

**POTENTIAL HEALTH EFFECTS:**  
**Eye Contact:** Direct eye contact may cause irritation to severe irritation.  
**Ingestion:** Not a likely exposure route. Irritation of the throat or stomach, nausea, vomiting and diarrhea, if swallowed.  
**Inhalation:** Unlikely route, as liquid is impregnated on a towel, minimizing exposure. If high concentrations of vapors or mist are formed, they cause irritation to the nose, throat and upper respiratory tract.  
**Skin Contact:** Causes skin irritation. Pre-existing skin conditions such as dermatitis may be adversely affected by this and other oil and grease effective cleaners. D-Limonene is a known skin sensitizer.  
**Chronic:** Not established.

### 3. Composition/Information on Ingredients

Components	wt. %	CAS Number(s)
Water	90-95	7732-18-5
d-Limonene	0.5	5083-27-3
Ethyl alcohol	1-5	64-17-5
Polysulfonated (4)	1-5	41827-43-7
Isobutyl alcohol		
Polysulfonated (2)	1-5	9605-64-5
Isobutyl alcohol		
Polysulfonated	100	9605-67-8

### 4. First Aid Measures

**Eye Contact:** Flush with plenty of water for at least 15 minutes. Bring eyelids to insure complete removal. Contact a physician immediately.  
**Ingestion:** If a large quantity of material is swallowed, do not induce vomiting. Call a physician or poison control center immediately.

### 5. Fire Fighting Measures

**Extinguishing Media:** Use carbon dioxide, dry chemical, foam, fog or water spray.  
**Special Fire Fighting Procedures:** Wear full protective clothing and a NIOSH approved SCBA, with a full face piece operated in positive pressure mode. Move containers from fire area if it can be done without risk. Keep containers cool and vapors down with water spray. Prevent runoff from entering sewers and public waterways.  
**Hazardous Combustion Products:** Carbon dioxide, carbon monoxide, formaldehyde and other irritating fumes and smoke.  
**Unusual Hazards:** None known.

### 6. Accidental Release Measures

**Spill or Leak Procedures:** Place towels in a container.

### 7. Handling and Storage

**Handling Precautions:** Do not allow contact with eyes. For external use only. Not for use around the mouth or eyes for an extended period of time. Do not smoke while using. Do not use if pre-existing skin conditions exist.  
**Storage Precautions:** Store at room temperature. Shelf life: One year.  
**General:** Follow label directions carefully. Keep away from heat sources. Keep out of reach of children. Keep container tightly sealed when not in use. Do not concentrate water, food, or feed by use or storage. The container can be hazardous when empty. Follow label cautions even after the container is empty. Do not re-use empty containers for food, clothing or products for human or animal consumption, or where skin contact can occur.

### 8. Exposure Controls/Personal Protection

**Engineering Controls:** Provide general ventilation to keep concentrations below PEL/TLV. Local exhaust not usually required.  
**PERSONAL PROTECTION**  
**Eyes:** Not usually necessary, but good industrial practice. Do not allow towel to directly contact eyes.  
**Respirator:** Not usually necessary. Use NIOSH/MSHA approved respirator if PELs or TLVs are exceeded.  
**Gloves:** Not normally required.  
**Other:** Additional protection not normally required.

Revised Date: 03/18/2011

Material Safety Data Sheet  
 according to ANSI Z400.1-2004 and 29 CFR 1910.1200

**Johnson**  
 A FANUC COMPANY

## BON AMI® WINDOW CLEANER

Version: 7.1  
 Revision Date: 02/20/2010  
 Print Date: 03/23/2010  
 MSDS Number: 300000014450  
 SITE FORM Number: 3000000000000011182.002  
 GEN\_SOF Number: 41292

### 1. PRODUCT AND COMPANY IDENTIFICATION

**Product Information**  
**Trade name:** BON AMI® WINDOW CLEANER  
**Use of the Substance/Mixture:** Hard Surface Cleaner  
**Company:** S.C. Johnson & Son, Inc.  
 1525 Howe Street  
 Racine, WI 53403-2236  
**Emergency telephone:** 24 Hour Transport & Medical Emergency Phone (888) 231-5406  
 24 Hour International Emergency Phone (952) 852-4847

### 2. HAZARDS IDENTIFICATION

**Emergency Overview**  
**Appearance / Color:** clear / aerosol / ammoniaal

**Immediate Concerns**  
**Caution:** Contents under pressure. Do not puncture or incinerate. Do not store at temperatures above 120 Deg. F (50 Deg. C), as container may burst. Keep away from heat, sparks and flame. Avoid contact with skin, eyes and clothing.

**Potential Health Effects**  
**Exposure routes:** Eye, Skin, Inhalation, Ingestion.  
**Eyes:** May cause Mild eye irritation.  
**Skin:** Prolonged or repeated contact may dry skin and cause irritation.  
**Inhalation:** May cause nose, throat, and lung irritation.  
**Ingestion:** None known.  
**Aggravated Medical Condition:** None known.

### 3. COMPOSITION/INFORMATION ON INGREDIENTS



## Basic Hybrid Safety

continued from Page 3

to observe the following service protocols:

- Keep vehicle keys a safe distance from the hybrid (more than 15 feet).
- Check the vehicle dashboard hybrid indicator to ensure the vehicle is truly "off."
- Train all technicians, whether they service hybrid vehicles or not, to be aware that a silent hybrid is not necessarily powered off until it is verified that the vehicle is powered down.
- Service managers should consider establishing a protocol of safety cones or caution tape around hybrid vehicles that are being worked on.
- Consideration should be given to acquiring a "hook" that allows someone to pull a technician who is being electrocuted to safety. This can be useful for situations beyond hybrid-specific considerations.

### Personal Protective Equipment

All hybrids require special personal protective equipment (PPE) that facilities must have onsite. The service manager should ensure that the equipment is available and in perfect condition.

- Special long-arm-cover gloves (also known as lineman's gloves) are required whenever a technician works with a high-voltage battery, including removal and replacement. The gloves must be at least class O and rated to 1,000 volts.
- OSHA standards require testing of gloves for leaks prior to each use; this check can be performed manually or with a glove inflator. Electricity can find its way through an opening smaller than a pinhole.

### Spills

Hybrid vehicles have two batteries: the typical battery for a gasoline-powered engine, and a second, high-voltage battery for the hybrid system. That battery is typically mounted in the rear of the vehicle.

- The alkaline electrolyte in a NiMH battery module is very toxic and corrosive. However, hybrid batteries are typically designed with self-contained reservoirs, and the electrolyte will not normally leak.
- Spills should be handled in accordance with protocols for hazardous materials.
- Battery disposal
- The high-voltage hybrid batteries are handled very differently than conventional batteries for gasoline-powered vehicles.
- The high-voltage NiMH battery pack is considered a hazardous material.

- Only trained or qualified personnel should handle the hybrid battery pack due to the high voltage potential.
- Hybrid battery packs are returned to the manufacturer for disposal. As hybrid batteries are now designed to last for the life of the vehicle, disposal will be rare for the next few years, until more vehicles reach end-of-life.
- Employees preparing the battery pack for shipment must be DOT HazMat certified.

### Fire

At last, something simple about the hybrid:

- Water is a suitable extinguishing agent for hybrid fires

### Service Department Protocols

The key to a safe and regulatory

compliant workplace is to develop, train and enforce service department protocols for hybrid vehicles. Fortunately, there are resources to assist the service manager in developing such protocols. Environmental health and safety consultants, such as KPA, can assist in establishing standard operating procedures and related activities, such as DOT HazMat training. Hybrid vehicles differ from conventional gasoline-powered vehicles in many ways that impact the service technician, and they bring new, potentially highly dangerous risks to the service area. Hybrids also represent new and interesting professional development opportunities for your technicians. With your active involvement as the service manager, your dealership will gain a new set of satisfied customers and your technicians will gain a new set of skills. ■

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

*The OADA Brown Bag Lunch Webinar Series is bringing you a number of valuable programs over the next several 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*

**See How Your Credit Application and Credit Policies Score! Adverse Action, Risk Based Pricing, Red Flags and More**

**July 19, 1-2pm**

*brought to you by OADA, Stockamp & Brown LLC, and Chari Fogel Associates*

**Facility Renovation & Construction: How to Get the Most Value for the Investment**

**August 10, 10-11am**

*brought to you by Renier Construction*

**Fraud - Who Does It, Why They Do It, and What You Can Do About It!**

**August 23, 1-2pm**

*brought to you by Schneider Downs Co.*

**Finding the Best Health Care Options for Your Dealership**

**September 13, 2011, 11am-noon**

*brought to you by Benefit Administrators*

**The Amended Oil Spill Prevention, Control and Countermeasure (SPCC Rule)**

**September 14, 11am-12:30pm**

*brought to you by Spence Environmental Consulting*

**Social Media in the Workplace: Are You Protected?**

**September 21, 11am-noon**

*brought to you by Fisher & Phillips, LPA*

**DOT Hazmat Shipping Rules Explained in Plain English**

**October 12, 1-2pm**

*brought to you by KPA*

**Your Out of State Titling Questions Answered!**

**October 20, 1-2pm**

*brought to you by OADA*



To register, visit the OADA website at [www.oada.com](http://www.oada.com), or email your request to DeAnna Zahniser at [dzahniser@oada.com](mailto:dzahniser@oada.com). You can also contact DeAnna directly at 614-923-2231.



## Brown Bag Lunch Webinar Series

presented by  
The Ohio Automobile Dealers Association

OADA

### Facility Renovation & Construction *How to Get the Most Value for the Investment*

This Webinar is being hosted and moderated by OADA. Registration fee for members is \$20.00 per connection. Non-member fee is \$40.00.

**The Webinar is scheduled for Wednesday, August 10, 2011, from 10:00am - 11:00am**

Construction transactions are more complicated than ever and the impact on your dealership is significant. Knowing the difference between price and value, and how to get the best return on your dealership investment will dramatically affect the construction choices you make.

Join OADA and William Heifner, President of Renier Construction, and a construction expert who specializes in the automotive industry, for this informational webinar, which will include a candid look into a dealership case study that provides information and insights most general contractors won't tell you, and much more!

#### Dealership leaders will learn how to:

- Streamline the dealership design and construction timeline so you can turn your construction costs into sales figures and profit faster
- Incorporate cost-saving, energy saving elements into your dealership facility design
- Understand the differences in contracting methods and the impact they have on the final project

This webinar will provide you with a unique view of the construction process and better prepare you for facility image and service center upgrades, consolidations, renovations or new building projects.

As President of Renier Construction, Bill Heifner has built a reputation for exceeding customer expectations and providing service with integrity. Bill oversees general management and customer relations for Renier. He founded Renier in 1980 as a one-man operation specializing in industrial and commercial construction. Renier's list of clients today includes such companies as Germain Motor Company, Abbott Laboratories and Dayton Freight Lines. Renier's reputation for high standards and the Design-Build Partnering approach has led to its expansion into the retail, automotive, commercial, health services, transportation and office/warehouse markets.

#### Webinar Details

The webinar is being moderated by OADA, and registrations are set up through the Go to Webinar service. Webinar fee is \$20.00 per connection (member rate), and \$40 per connection for non-member dealers. Once dealers officially register, they will receive a confirmation email which contains the log-in and dial-in information to access the webinar.

Don't miss this opportunity, register today by using the form below, or through the OADA website at [www.oada.com](http://www.oada.com). You can also call DeAnna Zahniser directly at 614-923-2231. We hope you will join us!

#### Registration Form

##### Facility Renovation & Construction: How to Get the Most Value for the Investment

Registrant

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

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

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

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

Telephone (\_\_\_\_) \_\_\_\_\_

Fax (\_\_\_\_) \_\_\_\_\_

E-mail \_\_\_\_\_

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

*non-members of OADA are \$40.00 per connection. **Members pay \$20.00.***

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**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 x109.



## Brown Bag Lunch Webinar Series

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The Ohio Automobile Dealers Association

OADA

### Right to Cure - What Does OADA Backed House Bill 275 Mean for Your Business? FREE WEBINAR FOR OADA MEMBERS!

This Webinar is being hosted and moderated by OADA. There is no registration fee for OADA members. Non-member fee is \$50.00.

**The Webinar is scheduled for Thursday, August 18, 2011, from 11:00am to 12:00pm**

Consumer disputes happen all the time in the auto retail industry. So what happens when your customer files a lawsuit against you? What remedies do you have?

Ohio's Consumer Sales Practices Act (CSPA) was enacted in 1972 and applies to transactions between suppliers and consumers involving goods and services purchased primarily for personal, family, and household use. The idea was to create a remedial statute that would allow consumers the opportunity to seek redress when suppliers had been engaging in unfair or deceptive acts and practices. In order to compensate consumers for their damages and to act as a deterrent to suppliers, the statute provides several remedies for consumers including attorney fees, rescission of the transaction or recovering damages which in some cases may be trebled (3X damages).

Unfortunately the current law does little to encourage swift and fair resolution of these cases once they are filed with the courts. At this stage it is often nearly impossible to negotiate a reasonable settlement, particularly if the alleged act is a violation of a substantive rule or a Public Inspection File decision. These cases slowly move forward, bogging down a judicial system that is already too crowded resulting in final decisions often coming down years after cases are filed.

The concept behind HB 275 is that all parties are best served by resolutions that are achieved early in the litigation process, reducing costs for the supplier and allowing the consumer to recover reasonable damages much faster. Learn more about this OADA backed legislation, and what it really means to your dealership.

Debate on HB 275 will take place in September when the legislature returns from its summer recess. This webinar is designed to educate dealers on what the Bill does and why it is important to your business! There is no charge for members to attend this webinar. Register today, and educate yourself on this key piece of OADA backed legislation!

For more information, please visit our website at [www.oada.com](http://www.oada.com), or contact DeAnna Zahniser at 614-923-2231 or [dzahniser@oada.com](mailto:dzahniser@oada.com). There is no registration fee for OADA members. There is a \$50.00 registration fee for non-member dealers, per connection.

#### Registration Form

##### Right to Cure: What Does OADA Backed House Bill 275 Mean for Your Business?

Registrant

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

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

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

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

Telephone ( ) \_\_\_\_\_

Fax ( ) \_\_\_\_\_

E-mail \_\_\_\_\_

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

**There is no fee for OADA members. Non-member dealers pay \$50.00 per connection.**

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## Brown Bag Lunch Webinar Series

presented by  
The Ohio Automobile Dealers Association

OADA

# Fraud - Who Does It, Why They Do It, and What You Can Do About It!

This Webinar is being hosted and moderated by OADA. Registration fee for members is \$25.00 per connection. Non-member dealer fee is \$50.00. **The Webinar is scheduled for Tuesday, August 23, 2011, from 1:00pm to 2:00pm**

Fraud happens. When it does, it leaves a mark on an organization that may take years to overcome. Learn about how you may actually be encouraging fraud at your dealership. Develop an understanding of the triggers that turn trusted employees into fraudsters.

Fraud typically starts out relatively small, increasing as a perpetrator gains confidence that he can get away with it, and can last several years from the time it begins until it is discovered. In many instances, when it is discovered that an employee has stolen thousands of dollars from his employer, members of management are often shocked, and they struggle to comprehend how it could have happened in their organization.

Often, management eventually realizes that there were several basic things that it could have done from both an organizational culture and an internal control standpoint to either detect the fraud earlier or to stop it from occurring altogether.

We'll be discussing some basic ways to help to prevent fraud and recognize the early warning signs of the fraud environment and what you can do to help avoid a costly mishap at your dealership.

Our speaker, Frank Wisehart, is the Director of Schneider Downs' business advisory services practice in Columbus, Ohio. Frank brings more than 20 years of business advisory experience to Schneider Downs. Prior to joining Schneider Downs, he was President of Wisehart & Wisehart, Inc., a certified public accounting firm specializing in business valuations, litigation support and forensic accounting. Before that, he held an IT auditor position with an international accounting firm. Mr. Wisehart is a member of the American Institute of Certified Public Accountants and Ohio Society of Certified Public Accountants. He has also served as a featured lecturer for the Ohio State, Columbus and Toledo Bar Associations.

For more information, please visit our website at [www.oada.com](http://www.oada.com), or contact DeAnna Zahniser at 614-923-2231 or [dzahniser@oada.com](mailto:dzahniser@oada.com). Registration fee is \$25 per connection for members, and \$50 for non-member dealers. Register today!

### Registration Form

#### Fraud - Who Does It, Why They Do It, and What You Can Do About It!

Registrant

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

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

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

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

Telephone ( ) \_\_\_\_\_

Fax ( ) \_\_\_\_\_

E-mail \_\_\_\_\_

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

*non-member dealers of OADA are \$50.00 per connection. **Members pay \$25.00.***

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