

# NEWS BULLETIN

## Maine Automobile Dealers Association

180 Civic Center Drive  
DIAL 623-3882

P. O. Box 2667

e-mail:info@maineautodealers.com

Augusta, Maine 04338-2667

FAX 623-2318

### DISTRIBUTION

- General Manager
- Office Manager
- Parts Manager
- Sales Manager
- Service Manager

2009-15

### IRS REMINDS DEALERS ABOUT STATE AND LOCAL SALES AND EXCISE TAX DEDUCTION

Recently, Cash for Clunkers has garnered all of the headlines, but there is another important incentive that dealerships can highlight when a car buyer enters a showroom. The American Recovery and Reinvestment Act, which passed earlier this year, includes a deduction for state sales tax when customers purchase a new car, light truck, motor home or motorcycle through December 31, 2009. The deduction is limited to the first \$49,500 of the vehicle's purchase price. The amount of the deduction starts phasing out if a consumer makes more than \$125,000 individually, or \$250,000 if they file a joint return. Municipal excise tax is also included in this incentive, although those who itemize deductions have had this option for some time.

### DEADLINES FOR FILING PROOFS OF CLAIM AGAINST OLD CHRYSLER

On August 6, 2009, the bankruptcy court filed an order setting deadlines for filing submissions of pre-bankruptcy claims to the court ("Bar Date"). The General Bar Date (September 28 for the Chrysler case) is the last date on which anyone (with certain narrow exceptions) with a pre-petition claim can file a "Proof of Claim", which is a document filed with the bankruptcy court by a creditor to substantiate any claims it may have against the debtor. Chrysler dealerships previously received a "Proof of Claim" form and explanatory material directly from the bankruptcy court. MADA last week sent reminder emails to all Chrysler franchisees, and will continue to monitor developments on this issue.

### MADA VISITS CONGRESSIONAL DELEGATION

Annually in September, NADA hosts a Washington Conference to which it invites the dealer leadership of each state and large metropolitan area dealer association. MADA representatives at this year's mid-September meeting were Chairman Neal Shepard of Rockland, Vice-Chair Win Dodge of Westbrook, NADA Director Charlie Gaunce of Waterville, DEAC State Chair Jack Quirk, Jr. of Bangor, recent Time Quality Dealer awardee Gene Benner of South Paris, and Tom Brown. The major issues discussed at this conference were dealership floorplan availability, franchise terminations and restructuring under the Chrysler and General Motors bankruptcies, the resulting franchise restoration legislation pending before Congress, health insurance reform, the CARS incentive program, and additional proposed federal regulation of consumer credit transactions.

MADA representatives met with all of Maine's Congressional delegation in their Capitol Hill offices. Senator Collins, Representative Michaud and Representative Pingree, as well as some staff members, participated in at least half hour conversations regarding the issues listed above. Senator Snowe was involved in a "Gang of Six" health care meeting at the time of our Capitol Hill visit to her office, but MADA later had a chance, on the plane ride home, to talk with Senator Snowe about these issues. All four members of Maine's delegation have co-sponsored legislation responsive to dealer positions surrounding the bankruptcies, the franchise termination issues, and the CARS program. Maine's two senators were individually meeting with SBA Administrator Karen Mills on the issue of floorplan availability in the week following our visit. It should also be noted that, following dealer visits to Members of Congress during the NADA Washington Conference, dealerships have now been specifically excluded from the pending legislation on consumer credit regulation.

As part of the legal workshop which followed the Washington Conference, a panel of speakers addressed the problem of dealership floorplan availability. The sum of the discussion is that, due to NADA surveys of dealership experiences and SBA surveys of lending institutions, the SBA will be looking at modifications to their 7(a) program which would encourage financial institutions to participate in that program. Among the proposed changes are an increased limit to \$4-5 million, extension of the pilot program to at least three years, and a streamlined paperwork shuffle for the application and monitoring process. There is widespread recognition that something has to happen to assist businesses, including automobile dealerships, who need inventory financing. The Congressional delegation as well as the SBA seems committed to try to develop a program that will actually work.

Congressional work continues with respect to the pending legislation which addresses franchise terminations as a result of manufacturer bankruptcy filings. The House has already passed the bill, and the Senate committee which will handle the bill has a pending request for committee action. In addition, at the request of House Democratic leadership and other Congressional supporters of this legislation, there are meetings scheduled with Members of Congress, dealer organizations, and the manufacturers to discuss possible resolution of these franchise terminations. These conversations have been started, although not all of the players have been in the same room at the same time. It is MADA's understanding that this week or next will determine the future of these discussions, which in turn will dictate the future path of the pending Senate legislation to restore franchises terminated in the bankruptcies. More information will be forthcoming from both NADA and MADA as we move into October.

#### **OCTOBER 1 CHANGE IN MOTOR OIL FEE**

The 2009 Maine Legislature made a change in the products which are subject to the motor oil fee. Effective with deliveries on and after October 1, 2009, a motor oil fee of \$.35 per gallon will apply to pre-packaged containers (i.e. five gallon or smaller quantity containers). This fee will be charged to the dealership by whichever company bills you for the new motor oil. The motor oil fee will also now apply to lubricating oil used in the "transmission, gear box, hydraulic reservoir or differential". This subject will be on the regional meeting agenda.

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### ADVERTISING GUIDELINES

Maine's Advertising Guidelines, which were updated a few years ago through a rulemaking proceeding by the Attorney General's office, are again brought to each dealership's attention. MADA knows of two cases currently pending before the Attorney General's department over alleged violations of the Advertising Guidelines. These two situations could result in payments by the dealership of substantial sums of money if the cases are to be concluded without court action. MADA's periodic review of weekend dealership advertising also prompts this article concerning dealership advertising.

The major issues identified in recent dealership advertising involve appropriate disclosures of financing terms as well as a dealership's use of guaranteed minimum trade-in values. The appropriate disclosure of financing terms is governed by both federal and state consumer credit laws. MADA has provided these rules to dealerships on numerous occasions, they are available on MADA's website, and will again be distributed at our upcoming Fall regional meetings. The issue of minimum trade-in allowances is specifically prohibited in Section 7 of the Attorney General's advertising regulations, and therefore dealers should avoid any mention of a minimum value associated with the trade-in of any vehicle.

Another advertising issue which surfaces from time to time involves weekend sales promotions and the brochures which are sent to potential customers encouraging their participation in these sales events. Dealers should carefully review the wording of these advertising brochures, particularly with promotions which are generated from companies outside of Maine who may not be aware of Maine's Advertising Guidelines.

### HOW ARE MEDICATIONS AFFECTING YOUR WORKERS?

No, we don't even mean substance abuse. The fact is, many workers are using prescription and over-the-counter medications that can impair their alertness, reasoning, motor skills and reaction time. Drowsiness can certainly reduce productivity and quality control. We all know from our own experience that being medicated can lead to many mistakes. Of course, you can't, and don't even want, to prohibit medication, as long as it's not abused, but there are some things to do to try to prevent mistakes than be costly in many ways. You want to avoid accidents, and in a dealership environment, mistakes on paper can ultimately be very costly.

**Educate:** Remind workers that they need to be extra careful and have others check their work more than usual if they are under the weather or taking medications that make them sleepy or woozy.

**Sick Leave:** Do not encourage sick workers to be at work, where they will not be productive and will infect others. The flu in general is a problem. Encourage seasonal flu vaccinations (Members of the MADA Insurance Trust were

recently sent this year's reimbursement program). Swine flu shots should be discussed by the employee and his/her doctor. Make sure you have a reasonable sick leave policy. Send someone home who becomes ill during the workday. Keep the restrooms clean and provide soap and hand sanitizer in many locations. Especially with the leaner staffs that most of us have, no one can afford to have a virus run through the facility. Better to be without one worker for a couple of days than without any workers for a week!

**Editing/Checking:** Have systems for checking work done before completion. We invariably make errors when we are working very fast, multi-tasking and not having anyone else look over our work. The increased use of the internet is making errors even more prevalent, since we tend to write things or send things quickly, with no one editing. Make sure your employees know that quality is as important as quantity and speed.

**Watch the Car Keys:** Do not allow anyone to drive if they seem impaired by medications.

**Watch for Substance Abuse:** Whether legal or illegal substances, if it appears that someone is abusing them to the point where impairment is very obvious, get them away from machinery, tools and vehicles, and encourage them to see a medical provider.

### **EEOC REPORT DUE BY SEPTEMBER 30 FOR DEALERS WITH 100 OR MORE EMPLOYEES**

Equal Employment Opportunity Commission (EEOC) reports (form EEO-1) are required to be submitted by employers who have 100 or more employees, and employers who employ a total of 100 or more employees from "affiliated entities". The report must be generated from data collected during any pay period between July and September 2009. The data must include all full-time and part-time employees. These reports are due to the EEOC no later than **September 30, 2009**. Entities are considered "affiliated" if they have centralized ownership, control or management. Even if each location or business operation is a separate corporation or business for tax and other purposes, they will still be considered affiliated entities if there is common ownership or control.

The information gathered in this report is primarily used for statistical purposes to measure private industry's hiring practices of women and minorities, and eliminate employment discrimination based on race, color, religion, sex or national origin. The information is also used in investigating employment discrimination allegations and the enforcement of federal anti-discrimination laws.

In the event of a complaint of discrimination or harassment, either the EEOC or a local agency considering the complaint will review the report to aid in a determination of the validity of the complaint. Detailed instructions and the forms are available at the EEOC Web site at [www.eeoc.gov](http://www.eeoc.gov). Check your answers carefully.

### **GM DEALERSHIPS RECEIVE BANKRUPTCY COURT NOTICE**

In recent days GM dealerships began to receive "Proof of Claim" notices from the bankruptcy court handling the General Motors case. These notices are similar to those received by Chrysler dealerships (see earlier article at 2009-15). MADA will be sending GM dealers additional information in the next week.