

NEWS BULLETIN

Maine Automobile Dealers Association

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TITLES and ELECTRONIC LIEN RELEASE

Secretary of State Matt Dunlap announced an electronic lien release program for motor vehicle titles during his presentation at MADA's June 22 annual meeting in Bar Harbor. The Bureau of Motor Vehicles (BMV) developed an explanatory letter which BMV and MADA have been sending to a wide variety of lienholders. To date, 40 financial institutions have initiated their participation in this program, with an additional six (6) in the process of completing their connection through INFORME (the State of Maine's provider for online information and services).

Most of the financial institutions currently participating are Maine credit unions and Maine banks. Since the major purpose of this program is to help speed up the titling process, and in particular a dealership's ability to sell a trade-in quicker, it is important that the large, multi-state financial institutions participate in this program. Additional efforts will be made by MADA and BMV to encourage participation. Dealers should feel free to push this program with their lenders.

MEMBERSHIP GOLF TOURNEY IS SEPT. 5

September 5 is the date. Augusta Country Club is the place. MADA's Membership Golf Tournament will have a "shotgun" start at 12:00 noon on the manicured acres of Augusta C.C., recent host to the Maine Amateur and the Maine Open. Early registrations point to a terrific turnout. If you want to enjoy the fun, and the camaraderie of other Maine franchised dealers, call your MADA office. Putting proficiency is not a prerequisite!!!

NADA HOSTS WASHINGTON CONFERENCE

In mid-September each year, your National Automobile Dealers Association invites state and metro dealer association officers and staff to our national capitol for two days of education and Congressional visitation. The educational presentations address the major issues affecting dealerships today, and the speakers include members of Congress as well as federal agency personnel. Dealer association officers, including MADA representatives, also visit their respective Senate and House members to discuss current subjects, which this year include the federal Consumer Finance Protection Bureau (CFPB) activities around dealership F&I programs, federal tax issues such as LIFO inventory accounting, and ObamaCare obligations. Following this Conference, MADA will provide a summary.

SALES TAX SYMPOSIUMS

Maine Revenue Services has scheduled its 2013 series of symposiums, as listed on the enclosed informative announcement. These events address Maine's sales and use tax laws and regulations, and provide an opportunity to learn about changes made by the Legislature as well as to inquire about existing processes which might be creating some questions. Sessions are planned for Augusta (Sept 16), Portland (Sept.18), Caribou (Sept. 23), and Bangor (Sept. 24). Registration for the meeting can be made using the web address at the bottom of each side of the flyer, or by calling 624-9693 to obtain a registration form.

MASTER LOAN AGREEMENTS

Your MADA office has been asked by some dealers to review their master loan agreements covering floor plan arrangements. These requesting dealers are concerned about various provisions, with one example being a dealership's obligation to protect a customer's personal, non-public data. MADA attorneys are currently inching their way through a few agreements. MADA members will receive reports on any issues of concern once this process is complete, and this will be one agenda item for MADA's Fall series of regional meetings in late October and early November.

EEOC REPORT BY LARGE DEALER GROUPS

Federal law requires businesses with 100 or more employees to annually file Form EEO-1 with the Equal Employment Opportunity Commission no later than September 30. Data collected on full and part-time employees from any pay period during the months of July, August or September form the basis of the report. The total number of employees at **ALL** affiliated entities is used to determine whether the 100 employee threshold has been met. The EEO-1 is used to gather statistical information on employment of women and minorities as well as background data against which employment discrimination allegations can be evaluated. Detailed instructions and the forms are available on the EEOC website at www.eeoc.gov.

U.S. DOT RELAXES SOME HAZMAT SHIPPING RULES

A recent U.S. Department of Transportation (DOT) rule relaxes the hazardous material (HAZMAT) shipping requirements for air bags and seat belt pretensioners. Dealership parts and service departments, plus collision centers, receive and/or ship a variety of hazmat, including chemicals, batteries, solvents, oils, and waste in addition to air bags and seat belt pretensioners.

Effective August 29, 2013, the new DOT rule eliminates the need to obtain explosive (EX) numbers for use on shipping papers accompanying air bag modules, inflators and seat belt pretensioners. However, it **DOES NOT** modify the mandate that dealerships properly package and mark these items prior to shipment. It also **DOES NOT** modify the need for dealership employees who receive, ship or transport hazardous materials to be trained every three years on the DOT's hazmat packaging, labeling, and shipping rules. NADA is currently revising its management guide on HAZMAT rules. Should you have questions, please contact Steve Piper at your MADA office.

MOTOR VEHICLE GLASS AND COLLISION DAMAGE REPAIR

Maine's Bureau of Insurance has this month revised its guidance bulletin regarding collision repair estimates and claimant disclosures. Please find enclosed a copy of that bulletin.

IS YOUR 2012 ECONOMIC CENSUS PAST DUE

The U.S. government thanks you if you have responded with a completed 2012 Economic Census. If you have not completed this mandatory survey, please do so at www.econhelp.census.gov.

Maine Revenue Services

[Home](#) → [Tax Divisions](#) → [Sales and Use Tax](#) → Sales Tax

2013 Sales, Use & Service Provider Tax Symposiums

MAINE REVENUE SERVICES SALES, USE AND SERVICE PROVIDER TAX SYMPOSIUMS

*A review of the sales, use and service provider tax law,
recent law and policy changes and other issues of interest*

Fall 2013 Schedule

Dates & Locations:

All locations are subject to cancellation if sufficient interest is not shown by September 9, 2013.

- | | |
|---------|--|
| Sept 16 | Augusta – Elks Lodge
397 Civic Center Drive
(http://augustaelks.org/index.php) |
| Sept 18 | Portland – Italian Heritage Center
40 Westland Avenue
(http://italianheritagecenter.com/directions) |
| Sept 23 | Caribou – Caribou Inn and Convention Center
Route 1
(http://www.caribouinn.com/our-location.html) |
| Sept 24 | Bangor - Spectacular Event Center
395 Griffin Road
(http://www.spectaculareventcenter.com/directions.htm) |

Time:

Registration and continental breakfast begins at 7:30 am with the morning session beginning promptly at 8:00 am. Lunch will be held from 12:00 to 1:00. Afternoon sessions will begin at 1:00 pm. Program will conclude at all locations no later than 5:00 p.m.

Cost:

Full day: \$40 per person, includes a specially prepared sales, use and service provider tax reference guide, lunch, and morning and afternoon refreshments. Afternoon session only: If you are only interested in attending the afternoon session described below, please pre-register with \$10 per person.

Pre-registration:

*Pre-registration is required by mail. Registrations are due no later than **September 6, 2013**. Please [complete this registration form](#) and make checks payable to: Treasurer State of Maine. Since an accurate count is necessary for the facility, no walk in registrations will be allowed. Refunds will be granted if cancellations are received no later than 1 week before the conference date. **Substitutions are acceptable.***

Certificates of attendance are available on request.

For additional information, call:

207-624-9693

AGENDA

Morning session: The symposium provides an overview of key areas of sales, use and service provider tax. The agenda will include a review of recent law changes, policies, changes to sales tax bulletins, recent issues of interest, navigating our website, common questions and issues with IFile, Q&A of the panel and common audit issues and adjustments. This symposium addresses both new attendees as well as those who have attended a symposium in the past and would like to keep informed about changes in the law and receive a refresher course on applying the law to the business they represent.

Afternoon session: After wrapping up any remaining issues from the morning session, a special industry focus session will be held for those engaged in or making sales to:

- Farmers
- Fishermen
- Wood harvesters
- Nursery and greenhouse businesses

Please be prompt in registering no later than **September 6th**. If any location is cancelled due to lack of interest, we will contact you and refund your money.

Read what others have said

"Enjoyed the question and answer part of the meeting. It made it seem like the sales tax division is not as scary as I thought. Nice to see you people are not as stuffy as we thought and was nice to laugh and know that you would laugh to."

"The personalities of the presenters left me with a good positive feeling of cooperation with the tax authorities for the first time since I arrived in this state. This positive rapport is very conducive to a cooperative relationship."

"Anyone doing...business in Maine should run; not walk, run; to the next symposium."

"Excellent seminar - this is one of the best that I have attended in a while."

Who should attend

If you are faced with making daily decisions on whether or not sales, use or service provider tax applies to certain transactions ...

-or-

If you often question why an item or organization is taxable or exempt ...

-or-

If you question whether or not you are completing the sales, use or service provider tax return correctly ...

-or-

If your exempt sales are not properly documented ...

...then this symposium is for you!

Although designed for retailers, this presentation would benefit accountants, lawyers and tax return preparers as well. Morning session participants will receive a specially prepared updated reference guide that brings the law, Bureau determinations and informative points together in one publication.

Presenters:

Peter B. Beaulieu

Director - Sales, Fuel and Special Tax Division

Judy A. Methot

Deputy Director, Audit Division

Jason W. Pinkham,

District Manager, Audit Division

Credits

[DAFS Home](#)

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Bulletin 387

Motor Vehicle Glass and Collision Damage Repair

(Replaces Bulletin 336)

The Superintendent of Insurance issues this Bulletin to remind motor vehicle insurers of Maine's laws requiring claimants to be offered the opportunity to choose their motor vehicle glass and collision appraisal and repair providers, and to explain how those requirements apply to the practice of having appraisals done at preferred repair facilities.

The Maine Insurance Code prohibits insurers, and their agents or employees, from requiring, directly or indirectly, that glass or collision damage appraisals or repairs be made or not made in a specified place of business.¹ The statute also prohibits any insurer from entering into an agreement to manage, handle, or arrange for appraisals or repairs if the compensation is based on the difference between the list price of the repair services and the amount paid to the repair shop. Section 2164-C also prohibits any insurer- from recommending that a claimant use a particular motor vehicle repair service or network of repair services without informing the claimant that there is no obligation to use the recommended facility.

The Bureau has received complaints of insurers referring claimants to specific repair shops or networks of repair shops without clearly disclosing that the claimants may use any facility for their repairs. Section 2164-C prohibits this practice. It applies to both glass repairs and collision repairs, and to both insureds and third-party claimants.

The Bureau remains concerned about the practice of basing claims payments, regardless of where repairs are made, on amounts which have been agreed to between an insurer and one or more repair shops, if those agreed charges are less than the reasonable cost of the repair absent the agreement. Section 2164-C does allow insurers to:

- contract with repair shops for repairs to claimants' motor vehicles on a discounted basis, if the interests of those claimants who elect to have repairs made elsewhere are not adversely affected and if such agreements do not violate other applicable laws, such as antitrust, laws; and
- limit the allowable charge for motor vehicle repairs to the amount for which the claimant can reasonably cause the repair to be performed absent a special arrangement between the insurer and repair shop or network of repair shops.

The Bureau has concerns about two issues related to the practice of insurers that retain third parties to administer or manage repair claims. Some of these firms have, or are affiliated with firms or networks of firms that have, vehicle repair or glass replacement services of their own. The Bureau has received complaints that:

- claimants, including those who have already selected repair facilities, are either encouraged or recommended to take their vehicles to the claims administrator's repair facilities without being clearly notified of the right to use a facility of the claimant's choice; and
- some claim administrators may be refusing to respond to communications from facilities that claimants have selected to do the repairs in accordance with their insurance policies.

These practices violate Section 2164-C. Insurers are ultimately responsible for the appropriate settlement and payment of claims arising under their policies, whether they process those claims directly or through contracts with third-party administrators.

The Bureau is also aware that some insurers have arrangements with networks in which the shops dedicate bays and other facilities for the insurer's use in appraising collision damage. Section 2164-C does not prohibit these arrangements. However, the statute does prohibit an insurer from requiring that a claimant go to a specified place of business for an appraisal. When the insurer makes the appraisal appointment, it must tell the claimant that he or she may take the vehicle elsewhere for an appraisal. If the insurer wants to have its own appraiser look at the vehicle, the claimant must be given the opportunity to have the appraisal done elsewhere than the location chosen by the insurer. Insurers may not limit the exercise of that right through policy language or policy interpretation. The Bureau understands that convenience is an important part of delivering services. However, insurers should be mindful of the appearance of coercion that attends these arrangements.

A claimant is vulnerable to this pressure at two important points in the claim. The first is when he or she reports the claim. This contact usually occurs by telephone, in circumstances that can be confusing and upsetting. The second is when the claimant is at the designated appraisal facility. Here, he or she might feel reluctant to take the motor vehicle elsewhere for another appraisal or the actual repair. The purpose of Section 2164-C is that, throughout the appraisal and repair process,

the insurer should convey to the claimant his or her right to choose without penalty where to have the appraisal or repairs done. The claimant should also have meaningful opportunities to act on that right.

Insurers should closely monitor the vehicle repair settlement practices of their employees, agents, and administrators. Monitoring might include, for example, informing their employees, agents and administrators as to section 2164-C's requirements and requiring their employees, agents and administrators to use telephone scripts that contain language conforming to those requirements.

August 15, 2013

Eric A. Cioppa
Superintendent of Insurance

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.

¹24-A M.R.S. § 2164-C.

Return to [Bulletins by Number](#)

Go to [Bulletins by Category](#)

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