

NEWS BULLETIN

Maine Automobile Dealers Association

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2014-7

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2014 ANNUAL MEETING SUMMARY

Your Association's 70th Annual Meeting and Convention was held June 19-22 in Bar Harbor with over 225 Maine dealers, managers, family members and associated industry representatives participating in all or part of the convention weekend. With only Friday evening challenged by a "chilly" wind, those who wanted to participate in the multitude of activities in and around Bar Harbor enjoyed the opportunity to do so. Given the tremendous experiences of MADA convention attendees over the past few years, your MADA Board has plans to return to the Harborside Hotel and Marina in Bar Harbor for our 2015 Annual Meeting and Convention (June 17-21).

Governor Paul LePage highlighted the educational opportunities on Friday afternoon with a presentation which focused on the then-current status of Maine's biennial budget. In addition, Governor LePage reviewed other legislation and agency activity. The Governor's remarks covered a wide variety of state government issues, and were very candid in his usual fashion. The Governor welcomed questions following his presentation, and overall the visit highlighted some important issues of Maine state government: tax levels, education funding, healthcare, hospital reimbursements, social services programs, cooperative services among Maine's municipalities as a means of reducing expense, energy issues, and economic development opportunities.

Workshops at the Convention reviewed the current status of ObamaCare's impact on health insurance in general, and specifically on future programs available to the MADA Insurance Trust. Your Trust is well positioned to handle the myriad of administrative and benefit obligations of federal healthcare, with regional meetings to be scheduled in the Fall to further the understanding of dealers and their personnel as to health insurance in 2015.

A legal, legislative and regulatory workshop was presented after Governor LePage departed, with MADA Attorney Bruce Gerrity reviewing some of the multitude of issues in which your Association has been, is, and will be representing the interests of Maine's franchised new car and truck dealers. Mr. Gerrity prepared an outline of these issues, which was distributed to those in attendance. This outline highlights provisions of 2014 amendments to Maine's franchise law, discusses a variety of manufacturer programs, reviews the topics involved in two lawsuits on appeal from Maine's Motor Vehicle Dealer-Manufacturer Franchise Board, summarizes a number of legislative proposals potentially affecting dealerships, and includes sample language of potential dealership policies on Social Media as well as Workplace Drug - Alcohol - Medical Marijuana (see following article on

Personnel Issues workshops). If anyone wishes a copy of this outline, please contact your MADA office.

Workers Compensation was another issue on which presentations were made. Much work continues to be necessary to keep workers compensation claims cost in moderation, and dealerships and their employees have been working hard to minimize workplace injury. Enclosed is a memo which was distributed to participants at the Annual Meeting. This memo touches on Trust activities over the last few years as well as on some issues which will affect future Trust claims and administrative operations.

Will Lund, Superintendent of the Maine Bureau of Consumer Credit Protection, was one of our workshop speakers on Saturday morning. In sometimes humorous fashion, Mr. Lund reviewed his "overhead" topics: credit sales and lease advertising rules; privacy issues challenged by technology in automobiles; repossessions; unacceptable sales tactics; disclosures as clear to customers as possible; optional product and services offerings; spot deliveries; concern with the length of financing (7 years and up); goals and challenges of a sustainable dealership in its relations with customers and regulators. Mr. Lund also mentioned ongoing discussions with MADA representatives on the issue of correcting "clerical" errors without the need for completely new documents - the obvious issue being how to define "clerical" error. Mr. Lund answered questions, and a very worthwhile workshop was the result.

A presentation on digital marketing in an era of significant technological advancement was made by Ali Mendiola of DealerTrack Technologies. Ms. Mendiola discussed the needs and expectations of an increasingly electronics - focused consumer, and compared that customer focus to the current methods and electronics procedures in use at many dealerships. The presentation advocated constant refinement of in-store and digital sales and customer retention systems, re-direction of product knowledge training to match customer research efforts, as well as better integration of computer F&I systems with sales presentations.

MADA conventioners welcomed both candidates for Maine's Second Congressional District seat in the U.S. House of Representatives. Republican Bruce Poliquin visited Saturday morning, and Democrat Emily Cain on Saturday evening. Both Ms. Cain and Mr. Poliquin made presentations, and visited with dealers, family members and guests for some time following those presentations.

All in all, a good mix of education, recreation and socialization was enjoyed by all. The weather was reasonable, the food and accommodations were great, with Bar Harbor, Acadia National Park, and Mt. Desert Island terrific places to experience a wide variety of activities.

PERSONNEL ISSUES WORKSHOPS

Hardly a day passes without at least one conversation with a member dealership on personnel issues. Maine and federal law, plus regulations interpreting these laws, can sometimes conflict or have a different focus. MADA will continue its educational program on personnel issues with workshops in mid-August. Among the issues to be covered are: minimum wage and overtime; allowable payroll deductions; Family Medical Leave Act; potential dealership policies for earning paid time off, smoking limitations, vehicle usage, off-premises training. Registration materials will be mailed next week.

To: Workers Compensation Trust Members

From: Marc Jobin

Date: 2014 MADA Convention

Re: Claim Trends and Data

The preliminary number of reported claims by Trust members for the claim year 6-1-13 through 5-31-14 is 449, **up 20%** from the 372 reported in the previous year.

As the dealership workforce ages, there is the increasing potential of exertion injuries if employees are not diligent in how they perform manual work. Among all age groups in the workforce, there seems to be situations when employees forego proper safety procedures in order to expedite work. Time spent on utilizing proper body mechanics, employer provided equipment and adhering to safe practices would reduce the potential for injury.

I. Injuries due to exertion. Trust data clearly shows that **exertion injuries** (back strains, disc injuries, shoulder strains, etc.) are the most frequent and the most costly. Many result in surgery and/or extensive physical therapy.

Exertion-related injuries can be greatly reduced by educating employees on proper lifting, monitoring to see that proper lifting techniques are used, and appropriate use of helpful equipment.

Exertion Injuries	<u>Claim year /(total # claims)</u>	<u># exertion claims</u>	<u>Total cost</u>	<u>Actuarial Est.</u>
	'11-'12 / 392	130-33%	\$ 510,577	\$1,021,154
	'12-'13 / 372	157-42%	\$ 820,915	\$1,641,830
	'13-'14 / 449	164-37%	\$ 696,655	\$1,393,310

II. Slips, Trips and Falls. Trust data shows that slips, trips and falls account for 75 claims, nearly double the prior year. Slips, trips and falls on snow or ice accounted for 29 of the 75 claims. Falling when exiting vehicles accounted for 12 claims.

Proper care of employee parking areas, proper footwear, and floor maintenance would decrease injuries. Consideration might be given to using independent outside sources to clear snow and maintain lots.

COSTS

The following are the aggregate workers compensation benefits paid for the most recent three calendar years. The medical costs include payments for which the Trust applied the workers compensation fee schedule as well as those for which the fee schedule is not applicable.

	2011	2012	2013
Total claim benefits paid	\$2,419,187.82	\$2,270,981.13	\$2,597,259.63
Medical benefits paid	\$1,301,256.00	\$1,119,336.75	\$1,237,452.17
% of medical benefits to total	54%	49%	48%

MEDICAL/PHYSICIAN FEE SCHEDULE REDUCTIONS

Period	Charges Submitted	Dollar Reduction	Amount Paid	% Reduction
6/1/13-5/31/14	\$1,615,444.13	\$470,247.71	\$1,145,196.42	29%

LARGE CLAIM SETTLEMENTS 6/1/13 THROUGH 5/31/14

During the period 6/1/13 through 5/31/14, the Trust negotiated final settlement on eight large claims. The total payment for all eight settlements was \$443,000.00. Each claim was settled within the Trust's reserves. Once a claim is settled and closed, the actuaries must take down any additional "adverse development," which they use within the formula when recommending premium rates and claim reserves. Ultimately, it is beneficial to target certain claims for final settlement within existing Trust reserves. The actuarial "worst case" reserve is generally much higher than the Trust reserve and by closing the file the actuarial reserve is reduced to the actual amount paid.

MAINE WORKERS COMPENSATION OUTLOOK

1. The Maine Workers Compensation Board (WCB) is more aggressive than ever in monitoring claim reporting and follow-up filings. The WCB is assessing penalties for failure to meet the filing timelines required by law. Late reports of injury create a domino-effect, making all required filings late. It is critical that dealership personnel in charge of reporting claims advise MADA **immediately** following a work related injury. It is equally critical that all subsequent lost time from work being claimed is reported **immediately**. All employees and management should be advised on the need for timeliness as well as the dealership protocol for reporting injury. The Trust needs your assistance to remain in high compliance, mitigate claim costs, and avoid penalty assessments.
2. The Maine Workers Compensation Board (WCB) requires that a wage statement (this form is located on the MADA website) must be filed on all lost time cases, even if the employee loses only one day of work. The WCB is also taking a very close look at these filings. They need to be completely filled out for 52 weeks, **including the week the injury took place**. The wage statements must be totaled accurately.
3. The current maximum weekly workers compensation rate for the injuries occurring prior to 1/1/13 is \$645.38. Beginning 1/1/13 through 6/30/13 the weekly maximum will be \$717.09. As of 7/1/14 the maximum weekly rate for injuries prior to 1/1/13 will be \$668.12 and for injuries occurring after 1/1/13 the weekly maximum rate will be \$742.35. These increases in the weekly maximum rate affect paid indemnity amounts, as many MADA employees are at, or will exceed , the maximum weekly rate.
4. For all claims with dates of injury beginning 1/1/13 the weekly indemnity benefit will go back to being calculated at 2/3 of the injured employee's average weekly wage, the same method that was used prior to the 1991 statutory change.