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Dateline: NH

a publication of the New Hampshire Automobile Dealers Association

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A New Look for *Dateline: NH*

Welcome to the new *Dateline: NH*. While fundamentally your monthly newsletter remains the same, we have redesigned the cover to hopefully provide a more contemporary feel. If you have any questions or concerns, please contact Communications Director Nat Stout by email at nstout@nhada.com or call 800-852-3372.

US Dept. of Labor Investigates Dealers – Focus Is On Outside Detailing Companies

Peter J. McNamara, President

If using an outside company for detailing work, dealers need to make sure the outside company is paying their employees correctly or risk opening up their own checkbook. The US Department of Labor (USDOL) forced several New England dealers to pay the employees of outside detailing companies for overtime and other wages that weren't paid by the detailer. The USDOL has examined three NH dealerships and NHADA understands that several more are next in line. This article will give you recommendations as to how to avoid such an unwelcome conclusion. Unfortunately, there is no iron-clad solution. First some background.

The problem: Outside companies that perform detailing or reconditioning work at dealerships. The USDOL has investigated several dealerships in the New England area including three in New Hampshire. Several more stores are

in the hopper. The USDOL has alleged that some of these outside detailing companies failed to properly pay wages to their employees, usually overtime.

After investigating the relationship between the detailer and the dealer, the USDOL found that, in 100 percent of the cases, there was either no independent contractor relationship or the dealer was a joint-employer. Upon reaching that conclusion, the USDOL demanded that the dealer make up for the missing wages if the detailing company wasn't able to come up with the cash.

The solution: It's neither easy nor guaranteed. Dealers should ensure (1) the outside company is paying their employees correctly; (2) the detailer is an independent contractor; (3) joint-employment is not present; and (4) they should consult with a labor attorney or just hire their own employees.

As you look at this and especially if you are contacted by the USDOL, I

recommend that you call a labor attorney for advice. NHADA partners Cook, Little, Rosenblatt & Manson, p.l.l.c. (Jen Moeckel) or Devine & Millimet (Mark Broth) are both available for this.

Also, review this article: "How To Survive A Department of Labor Wage-Hour Audit," *Dateline: NH*, page 12, December 2010, which discusses investigations. You can view the article online at <http://bit.ly/SjIOVz>.

Is the detailing company correctly paying their employees? There is no sure way to confirm this. Check their payroll records. Compare actual paystubs to cancelled checks. If you have a security log, see what hours the employees of the detailer are working, or limit the number of hours they operate to 40. These are just a few ways to ensure compliance.

Dealers shouldn't just blindly accept the detailing company's word that wages are being paid correctly. After all, they

Detailing – continued on page 4

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Toyota of Nashua Grand Opening

Toyota of Nashua recently celebrated the Grand Opening of their new, 65,000-square-foot facility. The event took place on December 4th with over 350 people in attendance. The dealership also celebrated their 45-year anniversary as a Toyota dealership, and was presented the Toyota Motor Sales coveted Katana Sword to commemorate the occasion. The night also was highlighted by the unveiling of the newly designed 2013 Toyota Avalon as well as by tours of the new facility for the guests.

Pictured at left (L-R): Rick Labrie, general manager, Toyota of Nashua; Lauren Dubois, president, Maple Leaf Construction; Donnalee Lozeau, mayor of Nashua; Marilyn Piekarski, wife of Toyota of Nashua President Wil Piekarski; Cooper Erickson, general manager, Toyota Motor Sales Boston Region; and Chris Piekarski, executive vice president, Toyota of Nashua.

Detailing – continued from page 3

have you as a financial backup if they can't pay the full wages!

You should calculate how much it would cost you to hire your own detailing employees and compare that to what you

are paying the detailing contractor. As the saying goes, "if something seems too good to be true, it probably is!"

You should also be cautious of detailing companies that hire other companies to

do the detailing work because now you are going to have to check on that second company. You should also be concerned if the detailing contractor hires people he or she claims are "independent contractors." It is a difficult test to pass at this level.

How do you ensure the independent contractor status and avoid joint employment? Again, there is no black and white answer to this as the federal standards are broad and vague.

Here are some questions you should ask yourself to try avoid joint employment and ensure the independent contractor (IC) status is present:

- Is the detailing work done at the dealership or at an off-site location?
- Do the recon workers wear recon company uniforms?
- Did the dealer put out the recon contract out for a bid?
- Is a former employee running the recon company?
- Did the recon company hire the dealership's former recon employees? and
- Does the recon company have its own employees or does it consider the workers to be independent contractors?
- Do your managers direct the work of the detailing contractors employees?

Detailing – continued on page 23

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- ✦ DEAC is one of the top-20, all-time, financial supporters of U.S. House and Senate candidates.
- ✦ DEAC is one of the top-five association political action committees in the nation in terms of both total fundraising and candidate donations.
- ✦ DEAC contributed \$2.5 million to House and Senate candidates during the 2010 congressional election cycle.
- ✦ DEAC financially supported 364 candidates that ran for Congress in 2010.
- ✦ 86 percent of DEAC-supported candidates won their races in 2010.
- ✦ In 2010, New Hampshire raised \$25,580 for DEAC, finishing seventh overall in the DEAC state rankings.
- ✦ The \$25,580 was raised by 39 contributors; of those seven were DEAC Presidents Club members.



NH Auto Show Coming This Fall

It may seem early, but we're pretty sure you're going to want to remember these dates: Fri., Sat. and Sun., Oct. 18-20, 2013.

And while we're at it, remember these numbers: 20 automotive brands, 160-170 vehicles.

Yes, it's beginning to look a lot like an auto show.

The NHADA Board of Directors decided during its December meeting that the association should host its first auto show in recent memory. Details are still emerging, but some of the basics are already available.

Produced by Motor Trend Auto

Shows, LLC, the New Hampshire Auto Show will be held at the New Hampshire Sportsplex in Bedford, which has exhibit space that can accommodate up to 170 vehicles, is centrally located in the state, and has sufficient parking for the expected crowds.

Potentially, powersports and other vehicle types could be displayed in addition to automobiles.

Possible events during the show include a charity function the evening before the general show begins, a technology exposition for high school automotive technology students throughout the state, a celebrity appearance, a kids' day, and

display of hot rods and specialty vehicles.

Statewide advertising and promotions are planned. Sponsorships and partnerships will be sought as well. The show will be promoted in Motor Trend magazine and on New Hampshire media, and social media will help to get the word out. Motor Trend already handles 21 out of 65 auto shows per year nationally.

Stay tuned for updates as we get them.

If you have any questions about this exciting event, please contact Pete McNamara at pmcnamara@nhada.com or Michael Rosenblum at mrosenblum@nhada.com or call either of them at 800-852-3372. 📞

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FROM YOUR AIADA DIRECTOR

American International Automobile Dealers



Peggy Proko

Dear Friends,

It was a good year for our industry, with pent up demand, loosening credit, and an aging vehicle fleet contributing to a robust sales environment.

The year also brought a contentious election and political environment, and with it, plenty of uncertainty as we head into 2013. In fact, at the time of this writing, just before Christmas, Congress and the President

are still wrangling over how to address the fiscal cliff — an issue that has already had an impact on our economy and businesses. Michigan also recently became the 24th right-to-work state. It is a landmark decision that represents the tumultuous struggle over labor law and regulation that we've seen in recent years.

The year was a reminder that, in life and in business, we often must take the good with the bad. Dealers have become far more aware of this fact over the past few years, and we've become especially good at turning lemons into lemonade.

However, while our business acumen is always on high alert, for many of us, our political involvement falls by the wayside. As AIADA Chairman Ray Mungenast recently wrote, "There may have been a time when dealers could succeed simply by selling a quality product and treating their employees and customers with respect. Today, it takes more than that, and I'm not sure enough dealers and general managers realize it. The government is deeply involved in our industry, and we have learned the hard way that federal legislation can determine winners and losers."

As we begin a new year, my question for fellow dealers is simple: How will you ensure Washington hears your voice on the issues that matter to you? For international nameplate dealers, issues like trade, taxes, regulation, and labor all stand to be severely impacted in the coming years. Joining AIADA and getting involved in its work is one of the best things international nameplate dealers can do to make their voices heard inside the beltway on these issues, and others like them.

Start by attending AIADA's 43rd Annual Meeting and Luncheon on February 11 in Orlando. Steve Cannon, CEO and president of Mercedes-Benz USA, will provide keynote remarks and his perspective on how dealers can maintain their edge in the coming years. We will also recognize the recipient of the David F. Mungenast Sr. Lifetime Achievement Award, and our new chairwoman, Jenell Ross of Ohio. Visit AIADA.org/events to register.

As you plan for 2013, I hope you'll also consider joining AIADA in Washington, DC for its spring Auto Summit (May 21 & 22). The two-day event will educate

AIADA – continued on page 19

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The Spill Plan Law Is Now In Effect. Do You Have a Plan? NHADA Can Assist!

If you store greater than 660 gallons of gasoline or have greater than 1,320 gallons of petroleum product (oil, used oil, brake fluid, ATF) on-site, you are required to register your site with the NH Department of Environmental Services (NHDES) and have a Spill Prevention Countermeasure & Control (SPCC) plan.

This past legislative session the law was changed, with NHADA support, allowing facilities that have less than 5,000 gallons of petroleum product, and less than 660 gallons of gasoline, to self-certify their plans as opposed to having an engineer perform this service. Self-certification has long been part of the EPA's program, and the NHDES believes it is appropriate. The EPA currently provides a template,

but don't be fooled, a great deal of work and knowledge of facility operations is required nonetheless.

NHADA has many resources dedicated to SPCC plans including our Loss Prevention staff who perform field audits of your on-site storage, working closely with the NHDES, as well as our bronze-level association partner, GeoInsight. Mike Dacy of GeoInsight – at 314-0820 or mfdacey@geoinc.com – stands ready to assist you with engineer-stamped spill plans and to provide expertise in assessing environmental regulatory and operational risks. He can find cost-effective solutions that protect the value of your business.

NHADA feels that pollution prevention and being prepared is your best

course of action. Releases of regulated or hazardous substances are serious issues and ones that can be very costly and may plague your business for years to come. Many circumstances can arise requiring that an engineering firm help you in completing your SPCC plan. Still, there may be instances when self-certification of your SPCC plan is the best and most affordable course of action. Bottomline: It is not a compliance decision to be taken lightly.

If you have questions on environmental issues such as self-certification, SPCC plans, or what option is best for you, let us assist you. Contact me by email at dbennett@nhada.com or feel free to call at 800-852-3372. 📞

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Motorcycle Sound Testing Law Goes Into Effect This Month

Dan Bennett, Vice President of Government Relations

As NHADA mentioned back in June, effective January 1, 2013, the procedure for testing the permissible sound level of motorcycles in the NH Inspection laws has changed. NH will now use the SAE J-2825 method for sound testing on-road vehicles. This change came about after many repeated attempts to change the motorcycle sound law to include significantly lower sound levels and to require EPA-certified pipe labeling, which

could almost completely ban aftermarket exhaust systems.

To see how your representative (who may have been re-elected) voted, visit NHADA's Legislative Scorecard on HB 1442, Motorcycle Sound, online at <http://bit.ly/WseKbC>.

HB 1442, the bill which Governor John Lynch signed into law on May 14, 2012, was highly contested. NHADA members weighed in heavily on the matter. The

bill was sponsored by longtime NHADA friend Representative Sherman Packard (R-Londonderry). A working group studied the law for over a year that included testing motorcycles at NHADA offices. We supported Rep. Packard's bill along with the NH Motorcyclists Rights Organization (NHMRO), the American Motorcyclist Association (AMA), the NH Division of Motor Vehicles and the State Police, and many local law enforcement agencies.

The testing method (SAE-J2825) that is now law in NH was found to be easier to conduct at shops during an inspection as well as during field enforcement by law officers.

Much has been said about the cost that

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Motorcycle – continued from previous page

inspection stations must bear in order to comply. NHADA looked closely at this, and the final result is that no new tools are required. If you have the tools that comply with the old law, which you must, especially if you have recently been visited by a representative of State Police Troop G, you are already set.

A very informative and educational video on how to conduct the test that was created with the assistance of the AMA can be found at <http://bit.ly/Wsgv8N>.

For the specifics on the testing method refer to the SAE manual, which can be obtained at <http://bit.ly/WsgIJd>.

Troop G of the NH State Police reminds you that the required tool list to conduct

motorcycle inspections is listed below.

Stay tuned for another all-in-one motorcycle technician inspection certification in March hosted by NHADA, State Police Troop G, NHDMV, and Heritage Harley-Davidson.

For questions on motorcycle inspections, contact Dan Bennett at dbennett@nhada.com or call 800-852-3372. 📞

Tools required to conduct motorcycle inspections

- Straight line on floor (to check tracking of wheels);
- Straight edge with pointed end, minimum three feet long, and a two foot level (to check trail);
- Adjustable protractor (capable of checking rake on front forks);
- Vernier caliper (to measure thickness of rotors);
- Tire pressure gauge;
- Tread depth gauge;
- Decibel meter (ANSI Type 1 or 2, capable of external calibration and equipped with a wind screen);
- External Field Calibrator with an accuracy of plus or minus 0.5 decibels;
- Anemometer (for measuring wind speed);
- Tachometer (for measuring engine speed of motorcycles not so equipped);
- Tape measure;
- Headlight aiming board, or machine; and
- Frame lift (to lift front or rear wheel off the floor).

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Automobile Dealers Political Action Committee Contributed to Recent Campaigns

The NHADA's Automobile Dealers Political Action Committee (ADPAC) contributed to the campaigns of a number of candidates this past election. As you can see by the chart at right, our batting average is good, with a success rate of 90 percent!

The Dealers Election Action Committee (DEAC), your federal political action committee supported incumbent Congressmen Frank Guinta (R-District 1) and Charles Bass (R-District 2), both of whom were defeated by their Democratic challengers.

Election recap: <http://bit.ly/WsmudD>.

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Maggie Hassan	D	✓	
Ovide Lamontagne	R		✓
STATE SENATE			
Boutin for State Senate 2012	R	✓	
Friends of Jeb Bradley for State Senate	R	✓	
Friends of Peter Bragdon	R	✓	
Friends of Sharon Carson	R	✓	
Committee to Elect Lou D'Allesandro	D	✓	
Friends of Jeanie Forrester	R	✓	
Martha Fuller Clark for State Senate	D	✓	
Hosmer for Senate	D	✓	
Supporters of Molly Kelly	D	✓	
Sylvia Larsen for State Senate	D	✓	
Bette Lasky for State Senate	D	✓	
Friends of Jim Luther	R		✓
Chuck Morse for State Senate	R	✓	
Bob Odell for State Senate	R	✓	
Joe Osgood	R		✓
Prescott for Senate	R	✓	
Rausch for Senate 2012	R	✓	
Friends of Andy Sanborn	R	✓	
Committee to Elect Donna Soucy	D	✓	
Friends of Nancy Stiles	R	✓	
Committee to Elect David Watters	D	✓	
Jeff Woodburn for Senate	D	✓	
STATE REPRESENTATIVES			
Patrick Abrami	R	✓	
Susan Almy	D	✓	
David Campbell	D	✓	
Committee to Elect Gene Chandler	R	✓	
John Cloutier	D	✓	
Friends of Jennifer Coffey	R		✓
Mary Cooney	D	✓	
Gary Daniels	R	✓	
Lisa DiMartino	D	✓	
Raymond Gagnon	D	✓	
Ken Gidge	D	✓	
Jeff Goley	D	✓	
Bill Hatch	D	✓	
John Hikel	R	✓	
Dick Hinch	R	✓	
John Hunt	R	✓	
David Huot	D	✓	
Will Infantine	R	✓	
Shawn Jasper	R	✓	
Gus Lerandeau	D	✓	
Patricia Lovejoy	D	✓	
Bruce Marcus	R		✓
Sean McGuinness	R		✓
Terie Norelli	D	✓	
Committee to Re-Elect Bill O'Brien	R	✓	
Bill Ohm	R		✓
Sherm Packard	R	✓	
Lee Quandt	R		✓
Matt Quandt	R		✓
Michael Reed	R		✓
Brian Rhodes	D	✓	
Laurie Sanborn	R	✓	
Donna Schlachman	D	✓	
Lisa Scontsas	R		✓
Pete Silva	R		✓
Friends of Stephen Stepanek	R		✓
John Tholl	R		✓
Pamela Tucker	R	✓	
Mary Jane Wallner	D	✓	
Ken Weyler	R	✓	
EXECUTIVE COUNCIL			
Friends of Ray Burton	R	✓	
Chris Pappas 2012	D	✓	
Chris Sununu for Executive Council	R	✓	
Van Ostern for Council	D	✓	
DEAC			
Charlie Bass	R		✓
Frank Guinta	R		✓



The Roots of Success

In December, a group of NHADA members from Manchester, Goffstown, Bedford and Hooksett gathered to discuss political action. This ambitious group of business people represented the broad range of the NHADA membership: new car and trucker retailers, independent repair and sales, and recyclers.

The goal was simple: strengthen the grassroots of NHADA in the Manchester region. These business people recognize that NHADA's voice at the Statehouse is only as strong as their voice in the home district of their elected state Senators and Representatives.

This group is committed to reaching out to the 50-some Representatives and Senators in the greater Manchester area but by doing so in a smarter way. Rather than each NHADA member attempting to get to know all 50-some officials, each member will instead meet three or four officials. Each volunteer member in this group will be NHADA's ambassador; each will be NHADA's voice and connection at the Statehouse.



Photo by Dan Bennett

Senator Lou D'Allesandro (D-Manchester) speaks to NHADA members at the first Grassroots Ambassadors meeting in Manchester on December 4. Seated to the right of the Senator are: David Hamman of Contemporary Chrysler Dodge Jeep and NHAD Services Board of Directors chairman; Michelline Dufort, advocacy director of the NH Center for Non-Profits, who spoke to attendees on the legislative and advocacy process; Bob Mariano of Bob Mariano Chrysler-Jeep-Dodge, Inc.; Dave Cushman of Holloway Motorcars of Manchester, LLC; Dave Ludwig of Prestige Auto Body; and Dick Horan of Precision Imports, Inc., a member of the NH Automotive Education Foundation Board of Directors.

We were fortunate to have Senator Lou D'Allesandro (D-Manchester/Goffstown) speak before the group about what is going on at the Statehouse and the importance of local businesses being present in the political arena. Also joining us was Michelline Dufort from the NH Center for Nonprofits, who advised us on how to best be an advocate for the industry. 🇺🇸

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Internships Are A Win-Win If Managed Correctly

Peter Sheffer, Workers' Compensation Trust Director

Employers who offer internships are creating a great opportunity for students to explore careers in which they may have an interest. For businesses it is an opportunity to cultivate interest in positions that may need to be filled.

However, businesses may expose themselves to workers' compensation and federal Fair Labor Standards Act (FLSA) liability if the internship is set up incorrectly. To avoid workers' compensation liability, employers who are considering an unpaid internship for high school students must follow the rules for the school-to-work program established by the NH Department of Labor (NHDOL). The website can be found at <http://1.usa.gov/WtiSYU>; relevant forms can be found at <http://1.usa.gov/Wtj2PS>. It is critical that the process be followed in order to avoid workers' compensation exposure or penalties from the (NHDOL) or the federal government.

The first step is for the school to complete the "Approved For Non-Paid Work-Based Activities Under 279:22-aa." This form is used for the school to identify a programs in which they want

their students to intern. The school will outline four to six career objectives that the student will gain from the program. This form outlines the general program for the internship and numerous students may participate in the program. The form for the program only needs to be filed one time until or unless the program changes. The form is then submitted to the NHDOL for approval. If the program is approved by the NHDOL, any intern within the program who is unpaid will not be considered an employee of the business who provides the internship. Workers' compensation responsibility falls back on to the school. The goal of the form and the NHDOL approval process is to differentiate between the learning process and an employer/employee relationship.

The second step in the process involves the business. This is the "Application for Pre-Screening of School to Work Business Partner." This form may be completed by a school or a business, but it requires a partnership between the two entities.

The Application for Pre-Screening of School to Work Business Partner must be submitted to the NHDOL for their approval. The NHDOL will evaluate

the viability of the partnership based on the business' compliance with regulated safety requirements, loss history, and labor violations. The NHDOL wants to ensure that the business will provide a safe work environment and is interested in developing a bona fide internship and is not just trying to get around paying an employee to perform work. If the application is rejected, the notice will include a reason for the rejection. Businesses that have been previously approved are listed at the NHDOL website <http://1.usa.gov/WtiSYU>. The approval of the partnership is valid for one year.

Although not required, the NHDOL encourages the partners to utilize the Memo of Understanding form at <http://1.usa.gov/WtjBD5>. This form was created for the vocational cooperative education program, but is very useful in outlining the participants and their understanding of the program. The parties may create their own form or letter of understanding to memorialize the agreement.

When all of the forms are completed and approved by the NHDOL the intern may begin participating in the internship. The business must keep copies of all approved forms on file, and they must be able to provide them if a NHDOL inspector performs an inspection.

Employers considering paid internships for Youth Employment in Hazardous Occupations are required to go through the NHDOL Vocational Cooperative Education Program to waive hazardous occupation restrictions. The NHDOL takes into consideration the Youth Employment in Hazardous Occupations when approving or denying the Non-Paid Based Work Activities form.

Interns – continued on page 19

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NADA NEWS

Former Secretary of Defense Robert M. Gates, Hyundai's John Krafcik and Astronaut Mark Kelly to Headline 2013 NADA Convention

Former Secretary of Defense Robert M. Gates, who will discuss global politics and U.S. foreign policy, joins a lineup of industry and inspirational keynote speakers at the 2013 National Automobile Dealers Association Convention and Expo in Orlando, FL, next month. Gates served as the 22nd Secretary of Defense from 2006-2011 under both President Barack Obama and former President George W. Bush. He was the only Secretary of Defense in U.S. history to be asked to remain in office following the ascension to office by a newly-elected President. In total, Mr. Gates has served eight U.S. presidents.

Industry keynote speakers at the NADA convention include John Krafcik, president and CEO of Hyundai Motor America; NADA Chairman Bill Underriner, a new-car dealer in Billings, MT; and incoming NADA Chairman David Westcott, a new-car dealer in Burlington, NC. Captain Mark Kelly, former NASA astronaut, space shuttle

Impressive Lineup of Speakers Slated for NADA Convention and Expo in February

commander of Endeavour's final mission and husband of former Congresswoman Gabrielle Giffords, will deliver an inspirational address. The 96th annual NADA convention runs from Feb. 8-11, 2013, at the Orange County Convention Center. For more information or to register, visit www.nadaconventionandexpo.org. Visit online for more information at: <http://bit.ly/12nTB1U>.

NADA to Automakers: Stop Unfair Business Practices

Bill Underriner, NADA chairman, recently outlined two contentious factory issues facing new-car dealers and urged automakers to support a level playing field for dealerships of all sizes. "Two-tier pricing and mandatory facility upgrades are symptoms of a bigger overall problem — manufacturer intrusion into dealers' businesses," Underriner said Oct. 23 in remarks to the Automotive Press Association in Detroit. "NADA wants the automakers to stop unfair practices."

This summer, NADA created a special dealer task force to focus on the fairness of stair-step programs, also referred to as two-tier pricing, which is a manufacturer-

to-dealer incentive tied to sales goals. "The history of our industry is littered with automaker attempts to impose one-size-fits-all programs on dealers. These efforts at top-down control almost always fail," added Underriner, a Buick, Honda, Hyundai and Volvo dealer in Billings, MT. "We favor lawful, equal and fair treatment by a manufacturer for all its dealers. Unfortunately, history shows that, at times, manufacturers create incentive programs that favor some dealers over others."

IRS Delays Effective Date of Tangible Property Regulations

The Internal Revenue Service announced that the tangible property temporary regulations issued in 2011 will be optional for 2012 and 2013, and that it expects to issue final regulations on the topic in 2013 with a Jan. 1, 2014 effective date. These regulations address whether expenditures for tangible property are considered repairs, which may be currently expensed, or capitalized improvements, which must be depreciated. Consult your accountant for additional details.

The Federal Reserve and CFPB Announce Jan. 1 Increase in TILA and Consumer Leasing Act Thresholds

The Federal Reserve Board and the Consumer Financial Protection Bureau (CFPB) announced that the dollar thresholds in Regulation Z (Truth in Lending Act) and Regulation M (Consumer Leasing Act) for exempt consumer credit and lease transactions will increase to \$53,000 beginning Jan. 1, 2013. This means that beginning Jan. 1, 2013, consumer credit transactions and consumer leases at or below \$53,000 are subject to

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NADA – continued from previous page

the protections of the regulations. These increases are consistent with the Dodd-Frank Act amendments to the Truth in Lending Act and the Consumer Leasing Act to adjust these thresholds annually by the annual percentage increase in the Consumer Price Index.

North Carolina Auto Dealer David Westcott to Lead NADA in 2013

The NADA has elected David W. Westcott as chairman and Forrest McConnell, III, as vice chairman for 2013. Westcott, owner of David Westcott Buick GMC Suzuki in Burlington, NC, has been a new-car dealer since 1981. He currently represents North Carolina's new-car dealers on NADA's board. "To be elected chairman of NADA is the highest honor I have ever

achieved professionally," Westcott said. "I am excited about representing the new car and truck dealers in America next year." Westcott will be the sixth dealer from North Carolina to lead NADA. "All dealers face many challenges today," Westcott added. "I'm looking forward to working with all dealers, large and small, to keep our industry growing and prospering." Westcott and McConnell will take office at the 2013 NADA Convention and Expo in Orlando, FL, which runs Feb. 8-11.

Used Prices Remain Essentially Unchanged

Market prices for nearly all NADA segments in November were noticeably stronger than what is normally seen for the period as prices remained essentially

unchanged from October's levels. On a whole, market prices have fallen by a barely noticeable 0.1 percent compared to October, which is a significant improvement over the 2-3 percent average fall for the month. Prior to Hurricane Sandy, it was expected that the already taut relationship between used-vehicle supply and demand would see little change in the trend of depreciation outperforming historical levels, but the destruction left by the storm has exacerbated this relationship, and there has been a predictable reaction in used prices.

While depreciation for all segments has slowed, mid-size car and van prices have actually increased slightly, by 0.7 percent and 0.6 percent, respectively. The heavy

NADA – continued on page 16

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Urgent Reminders on Inclement Weather Hazards

The NHADA Loss Prevention Department is sponsoring a contest where employees of WCT-member businesses can win prizes for submitting completed Lot Inspection Reports, photos of well maintained parking lots or ideas aimed at preventing slip/fall injuries. Entries should be submitted within 36 hours of any accumulating snow event by faxing to 224-8126 or emailing to bduplessis@nhada.com.

The Lot Inspection Report (<http://bit.ly/UIUsp6>) can ensure grounds are kept free of slip/fall hazards. Instruct staff to complete report after weather events, then submit the completed reports to NHADA for the Weather Related Slip/Fall Prevention Contest!

All entries will receive a fabulous prize! Available prizes include gift certificates, NHADA apparel, pizza parties, personal snow rakes, or Grips-Lite traction footwear. Every entry received will be entered into the end-of-the-season Grand Prize drawing! A Grand Prize may also be awarded for the overall best entry as judged by the Loss Prevention staff! So fill out the Lot Inspection Reports, snap those photos or send in your creative ideas to WIN! Please, one entry per-person, per-storm.

Lastly, "Wrong Shoes, You Lose" buckets are available by request to NHADA WCT members. Place the buckets with sand/salt at all doors utilized at your facilities. 🏠

NADA – continued from page 15

fleet presence of these segments and the fact that price growth has been primarily concentrated in model years 2011 and 2012 suggests that rental companies are looking to the used market to satisfy the temporary transportation needs of consumers whose vehicles were either damaged or destroyed by the storm.

On the car side, compact and luxury prices fell a slight 0.6 percent and 1.0 percent, respectively. Following in similar fashion, the rate of decline for large pickups and large SUVs was 1.1 percent and 1.6 percent, respectively. Compact and luxury utilities also declined slightly at 0.2 percent and 0.7 percent, respectively.

In the coming weeks, NADA expects that price movement will deviate little from the present course. Considering the prevailing relationship between used-vehicle supply and demand along with the disruption caused by Sandy, used prices will likely remain flat through December instead of progressively softening as is typically the case. For more information, visit www.nada.com/b2b.

Nine Trucks Nominated for ATD

Commercial Truck of the Year in 2013

The American Truck Dealers (ATD) announced Oct. 3 the nine nominees for the 2013 ATD Commercial Truck of the Year, an award recognizing the top truck entries in the heavy- and medium-duty categories. The heavy-duty (Class 8) truck nominees are Freightliner Cascadia Evolution (equipped with Detroit DT12 transmission), Kenworth T680 76-inch Sleeper with PACCAR MX Engine, Peterbilt Model 579 and Western Star 4700SE. The medium-duty (Class 3-7) nominees are Ford F-650, Hino 195h, Isuzu Reach, Kenworth K370 Cabover and Peterbilt 337 Extended Day Cab.

The annual award, which will be presented Sunday, Feb. 10, during the 2013 ATD Convention and Expo in Orlando, FL, recognizes a winner in both the heavy- and medium-duty truck categories. The ATD convention will once again run concurrently with the NADA Convention and Expo in Orlando from Feb. 8-11. For more information or to register, visit www.atdconventionandexpo.com. 🏠

Executive Briefing On Union Organizing

Unionization of dealership employees has been virtually unknown in northern New England. But the recent unionization of technicians at Boch Honda (MA), together with the re-election of President Barack Obama, who enjoyed significant support from organized labor, and recent decisions by a demonstrably pro-labor National Labor Relations Board, increases the likelihood that New Hampshire dealers may face the challenge of union organizing efforts.

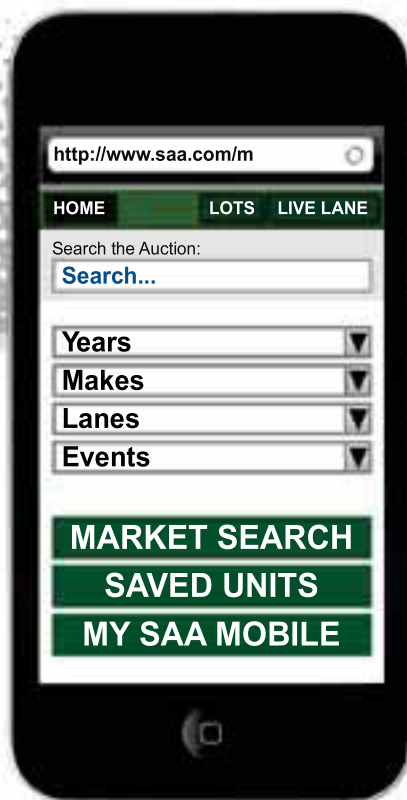
... New Hampshire dealers may face the challenge of union organizing efforts.

January 15, Mark T. Broth, Esq. of Devine, Millimet will hold an executive briefing for NHADA member dealers/owners on union organizing. At this meeting attendees will learn:

- the mechanics of union organizing – what steps a union must take to organize an employer's workforce;
- recent NLRB actions, including "quickie" elections and "micro-units" that make it easier for employees to organize;
- common reasons why employees unionize; and
- strategies for employers seeking to avoid union organization.

Mark Broth is a shareholder and chair of the firm's Labor, Employment and Employee Benefits Practice Group. He represents employers in all aspects of the employer-employee relationship, incorporating over 25 years of experience in both employment litigation and client counseling. Devine, Millimet & Branch, P.A. is an NHADA Silver Partner.

To learn more and register, log on to members.nhada.com or contact Jean Conlon at 800-852-3372 or jconlon@nhada.com.



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For information contact John at 860-654-8751



December 2012

SUBJECT: The 2013 Model Year EPA/DOE Fuel Economy Guide

Dear Automobile Dealer:

The U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA) seek your help in providing your customers with information about fuel economy and the benefits of using more fuel-efficient vehicles. Fuel economy is an important factor for consumers when shopping for a vehicle. EPA regulations require automobile dealers to prominently display the EPA/DOE Fuel Economy Guide booklets at each location where new automobiles are offered for sale and to make them available to the public at no charge (40 CFR 600.405-08 and 600.407-08). The regulations ensure that prospective customers have ready access to fuel economy information for current model year vehicles.


You have several options for obtaining the Fuel Economy Guide:

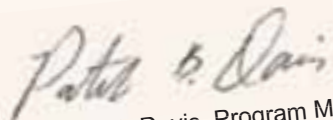
1. We will e-mail you an electronic copy of the Guide through the National Automobile Dealers Association (NADA) in December 2012. You can print the Guide from this electronic file. To ensure that you will receive a new model year Fuel Economy Guide via e-mail every year, please send your e-mail address to fueleconomy@ornl.gov if you have not previously done so.
2. You can download the Guide from the government's fuel economy Web site at www.fueleconomy.gov and print copies from the electronic file. This version of the Guide is updated periodically with newly released models and up-to-date fuel cost estimates.
3. If you would like us to send you print copies of the Guide, you can order them via the Internet at <http://www.fueleconomy.gov/feg/contacts.shtml> or via phone by calling DOE's Clean Cities Technical Response Service at 1-800-254-6735 between the hours of 9:00 a.m. and 7:00 p.m. Eastern time. Orders for the 2013 Fuel Economy Guide are currently being accepted and will be mailed, free of charge, in December 2012.

EPA and the National Highway Transportation Safety Administration (NHTSA) recently redesigned the fuel economy and environment labels for new vehicles. Starting with model year 2013, the improved labels must be affixed to all new passenger cars and trucks. For more information, please visit <http://www.epa.gov/otaq/carlabel/regulations.htm>.

We thank you for your cooperation and assistance in helping us implement this new way to provide the car-buying public with fuel economy information.

Sincerely,


Byron J. Bunker, Acting Director
Compliance Division
Office of Transportation and Air Quality
U.S. Environmental Protection Agency


Patrick B. Davis, Program Manager
Vehicles Technologies Program
Energy Efficiency and Renewable Energy
U.S. Department of Energy



FTC Proposes Limited Changes to Used Car Rule

The Federal Trade Commission (FTC) announced proposed changes (online see <http://1.usa.gov/UYgkzm>) to the FTC Used Car Rule “Buyers Guide” that dealers place on used cars they offer for sale. The FTC is proposing only limited changes to the rule, declining to include disclosures relating to vehicle history, prior use or title history, or to impose a dealer inspection requirement among the proposed changes. The FTC’s proposed rule includes:

- adding a statement to the Buyers Guide informing consumers that they can seek vehicle history information at an FTC website;
- adding a statement in Spanish to the Buyers Guide directing Spanish-speaking consumers to ask for a copy of the Buyers Guide in Spanish, if they desire;
- adding catalytic converters and airbags to the “List of Systems” on the back of the Buyers Guide; and
- placing boxes on the back of the Buyers Guide where dealers will have the option to indicate whether (1) the manufacturer’s warranty still applies, (2) the manufacturer’s used vehicle warranty – such as a manufacturer’s certified used car warranty – applies or (3) some other used vehicle warranty applies. 📌

Interns – continued from page 12


Employers considering unpaid internships for non-high school students should review Anne Scheer’s article, “Unpaid Interns and Volunteers In Your Business – Is That Legal?,” in *Dateline: NH*, May 2012, or online at <http://bit.ly/UEVdPs>. Attorney Scheer’s article outlines the pitfalls involved in unpaid internships and the potential for FLSA penalties.

Internships are an excellent opportunity for students and businesses, but the penalties and liabilities are significant if these opportunities are not properly established, monitored and supervised. Please contact the NHDOL, Inspection Department, if you have specific questions about internships or Peter Sheffer at NHADA by contacting Pete at 800-852-3372 or by email at psheffer@nhada.com. 📌

AIADA – continued from page 6

dealers on how they can make their mark on Washington, beginning by building relationships with their congressional members. Registration is limited, so make plans today to attend. For more information, visit AIADA.org/events.

I hope you’ll join me in making 2013 a watershed year for dealer engagement. 📌



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Ernest R. Tyler, CPA	Kenneth P. Goodrow, CPA
James N. Godfrey, CPA	Virginia L. McGrody, CPA



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TOWN MEETING

INDEPENDENT MEMBERS

This January NHADA will once again host its annual town meeting for our independent sales and service members. The meeting is planned for Monday, Jan. 14, 2013 from 3:00-5:00 pm. at the Daniel B. McLeod Center in Bow; light refreshments will be served.

NHADA Chair Donna Gaudet Hosmer of AutoServ Dealer Group, NHADA Treasurer Holly Carlson of Carlsons Motor Sales, and Directors Mike Cooney of Concord Motorsport, and Bill Gurney of Gurneys Automotive Repair, have all invited you to attend and will be present to discuss with you issues of importance to your business and industry.

A NH Department of Safety representative from Troop G will be our guest speaker near the end of the meeting to talk about issues relevant to independent members.

We will provide to you the most current news on:

- the state Legislature and its budget work;
- floor plan financing;
- indirect lending opportunities;
- after-market warranty companies;
- garage keepers policies;
- a timeline on recent health care changes;
- new details about the Division of Motor Vehicles title bureau;
- information about our valuable NHADA-endorsed programs; and much more.

You might also be the lucky winner of a \$50 cash card; but you'll have to be present to win. Please let us know if there are any topics you would like us to add to the agenda. The tentative meeting agenda is provided at the right.

We hope you will attend what is always an educational and informative meeting. Please RSVP to Kathy Mercer by email at kmercerc@nhada.com or call 800-852-3372 if you plan on attending or if you have any questions.

**2013 NHADA
Independent Member Town Meeting Agenda**

Priority Discussion: Floor Plan Financing and Indirect Lending Opportunities

- NHADA Survey
- NHADA Resources
- After Market Warranty Companies
- Understanding Garage Keepers Policies
- Healthcare: A Timeline
- NHADA Educational Opportunities
- NADA U
- Dealer Track
- Wholesale and Bonded Dealer: Impact on the Industry
- DMV Title Bureau
- Troop G, Department of Safety
- Troop G Civilian Employees (AEI's: Automotive Equipment Inspectors)
- Trooper Realignments
- Dealership Audits: Process (Teach, Mentor, Coach) and Schedule
- Curbstoning Dealers: What can be done?
- Inspection Technician Certification Programs
- NHOST Unit Inspection Sticker Printing

Wrap-up

- Action Items
- Independent Member and NHADA Relationship Importance



TOWN MEETING

FRANCHISED MEMBERS

Your NHADA is reaching out to you, our franchised association members, in January, seeking input on matters important to the association. We will hold our traditional town meetings to hear from you and update you on matters in Concord.

These NHADA town meetings are open to NHADA franchised dealers, owners, key managers, and association partners only.

We will provide to you the most current news on the state Legislature and its budget work; ADPAC and DEAC, our political action committees; our valuable NHADA-endorsed programs; and much more.

You might also be the lucky winner of a \$50 cash card; one will

be given at each of our town meetings, but you'll have to be there to win. A light breakfast or lunch will be served. Please let us know if there are any topics you would like us to add to the agenda. The tentative meeting agenda is provided below.

In order for us to reserve the appropriate space, we ask that you let us know if, and where you plan to attend. Only limited seating is available. Register for a town meeting by filling out the pdf at <http://bit.ly/WtKoH> and returning it, attention to Kathy Mercer, 225-4895. Kathy also can be reached at 800-852-3372. The meeting schedule is included on the form.

We look forward to seeing you in January!

If you have any questions, please don't hesitate to contact Peter McNamara, president, at 800-852-3372 or send him an email at pmcnamara@nhada.com.

DATE	TOWN	TIME	PLACE
Monday, January 14	Portsmouth	8:30-10:30	Great Bay Community College
	Concord	12:30-2:30	NHADA Headquarters in Bow
Friday, January 18	Nashua	8:30-10:30	Nashua Community College
	Keene	12:30-2:30	Marriott Courtyard
Friday, January 25	Littleton	9:00-11:00	Oasis Restaurant & Brewery

Tentative January Town Meeting Agenda

- Introduction
- Endorsed Programs
 - F&I Resources
- Changes in Concord and Washington D.C.
 - ADPAC/DEAC Batting Average
 - Legislative Contacts – “Who Knows Who?”
- Legislative Update
 - Dealer Bill of Rights
 - Inspections
 - Other bills of concern
 - Budget Matters
 - Motorcycle/OHRV
 - EVR Update
- Q&A – “What Can We Do For You?”
- Closing Remarks

One Community Helping Another

Jean Conlon, NHAEF Programs Administrator

Manchester Community College (MCC) put the word out that they needed funds to pay for automotive lifts for their new education facility. They asked the New Hampshire Automotive Education Foundation (NHAEF) for assistance in raising \$5,000.

The NHAEF board of directors made a commitment to raise the \$5,000 from NHADA members to pay for one of the lifts. Larry Foss of Foss Motors and Peggy Proko of Peters of Nashua spearheaded the project.

Between our shout-out and MCC's, the following NHADA members have contributed \$18,250!

Allen Mello Chrysler Jeep Dodge	Grappone Automotive Group	Peters of Nashua
AutoServ Dealerships	Hillsboro CDJR, LLC	Port City Chrysler Dodge
Bonneville & Son, Inc.	Hillsboro Ford Inc.	Precision Imports
Contemporary Chrysler Dodge Jeep	Hurlbert Toyota	Seacoast Volkswagen, Inc.
Crest Auto World	Ira Lexus of Manchester	Team Kia
Crosstown Chrysler Dodge Jeep	Ira Toyota of Manchester	Team Nissan
Dick Poulin Chrysler Jeep	Keene Chrysler, Inc.	Toyota of Portsmouth
Dover Auto World	Lambert Auto Sales, Inc.	Tri-City Dodge
Foss Motors Inc.	Littleton Chevrolet	Tulley Automotive Group
Granite Ford		

Matt Foster Joins NHADA as a Loss Prevention Representative

Matt Foster graduated from Keene State College in May 2012 with a bachelors degree in Safety & Occupational Health Applied Sciences and a minor in Criminal



Justice Studies. He graduated Keene State College Cum Laude and was a member of Rho Sigma Kappa national Safety and Occupational Health honor society. At

Keene State College he was named as the 2012 Student Employee of the Year as well as being the Northeast Association of Student Employment Administrators Award

Recipient for 2012. Matt will be providing environmental health and safety consultation to NHADAWCT members throughout the New Hampshire. 🇺🇸

Safety/OBD II Inspections Statistics

Safety Inspection Results	Nov '12	% of Total	YTD '12	% of Total
Total *	114,572	100.00%	1,353,449	100.00%
Passed	90,718	79.20%	1,064,555	78.70%
Corrected	13,471	11.80%	162,674	12.00%
Rejected	6,313	5.50%	76,971	5.70%
Untested	4,070	3.60%	49,249	3.60%
OBD II Inspection Results (1996 and newer)				
Total	101,745	100.00%	1,179,691	100.00%
Passed	88,205	86.70%	1,017,738	86.30%
Rejected	9,367	9.20%	111,424	9.40%
Untested	4,173	4.10%	50,529	4.30%

* Total numbers include OBD II Inspections

Statistics provided by Gordon-Darby

2012 Unemployment Rates by Area

	Aug	Sep	Oct
United States	8.2%	7.6%	7.5%
New England	7.3%	7.0%	6.9%
Connecticut	9.2%	8.2%	8.6%
Maine	6.7%	6.7%	6.7%
Massachusetts	6.4%	6.4%	6.2%
New Hampshire	5.7%	5.2%	5.2%
Rhode Island	10.6%	9.8%	9.9%
Vermont	5.0%	4.9%	4.6%

Detailers – continued from page 4

- Do the same detailing contractor employees work at your dealership nearly every day or are the employees constantly rotated around?
- If the detailer is at the dealership, does it rent space from the dealer at fair market rates?
- Does the recon company do work at other dealerships (not affiliated with your operations) or have other business operations?
- Does the recon company only do work for your dealership?
- Does the detailer advertise its services to the public or other dealerships?
- Is the recon company open more hours than the dealership? fewer hours? identical hours?
- Are the hours of operation dictated solely by the dealership?
- Can the recon company accept off-the-street customers? If so, does the recon set the rates for outside servicing or does the dealership?

- Do they advertise for off-the-street customers?
- Is the detailing service included in the dealerships' advertising or marketing materials; if so, is the recon clearly identified as an independent operation in the advertising?
- Does the recon company provide its own tools and supplies?
- Does the detailer use any dealership supplies or tools (i.e. special wax, vacuum, hoses, brushes, soap, etc.)?

Dealers also need to answer these questions (A "no" is something you should correct.):

- Does the recon company have their own P&C and WC insurances?
- Is the recon company incorporated or an LLC?
- Is the recon company paying the appropriate taxes (employer and employee)?
- Will the recon company indemnify the dealership?
- Does the recon company warranty the recon work?

- Will the recon company protect confidential information?
- Have you limited the assignment of the recon contract?
- Is there a clear termination clause?

Use the USDOL as a resource. If you have questions, please do call the NHADA, your attorneys (see the two partners above), or even, the USDOL itself. The call to the USDOL is anonymous. The local office can be reached at 666-7716. The USDOL has assured me that a call from a dealer triggers no investigation.

The USDOL also recommends three fact sheets for further information:

- #13 – Employment Relationships under the Fair Labor Standards, online at <http://1.usa.gov/UWgNSF>;
- #44 – Visits to Employers, online at <http://1.usa.gov/SjUgQP>; and
- #76 – Car Wash and Auto Detailing Establishments under the FLSA, <http://1.usa.gov/SjUFmk>. 📌

Title Statistics Report Ending November 30, 2012

New Hampshire Department of Safety, Division of Motor Vehicles

	Nov '12	Nov '11	'12 YTD	'11 YTD
Titles Issued for New and Demo Vehicles:	8,477	6,933	98,910	88,973
Titles Issued for Used Vehicles:	18,550	15,671	200,701	197,082
TOTAL TITLES ISSUED:	27,027	22,604	299,611	286,055
Titles Issued with a Lien:	12,287	10,139	133,607	122,553
Titles Issued with no Lien:	14,740	12,465	137,449	163,502
Salvage Titles Issued:	932	815	9,443	9,478
Salvage Tags Issued:	135	162	1,998	2,123
Titles Issued for Heavy Trucks More than 15 Years Old:	29	32	358	337
Titles Issued for Heavy Trucks 15 Years Old or Less:	101	132	1,238	1,274
Titles Issued for Trailers:	651	542	8,866	8,317
Titles Issued for Motorcycles:	620	445	14,942	14,086
Titles Issued for Motor Homes:	57	48	650	605

2013 NHADA Association Partners

(as of December 20, 2012)

PLATINUM

F & I Resources

NHAD Services, Inc. - Insurance

NHAD Services, Inc. - Products Division

NHADA Workers' Compensation Trust

WMUR-TV/WMUR.com New Hampshire

GOLD

Gordon-Darby NHOST Services, Inc.

SILVER

Albin, Randall & Bennett

American Fidelity Assurance Company

Anthem Blue Cross and Blue Shield in New Hampshire

AutoTrader.com

Devine Millimet

Enterprise Rent-A-Car

Northeast Delta Dental

Southern Auto Auction

St. Mary's Bank

Tyler, Simms & St. Sauveur, CPAs, P.C.

BRONZE

Aftermarket Specialists

American Financial & Automotive Services, Inc.

Amy Martineau – Motorists Commercial Mutual

Auto Auction of New England

Auto Use

Bellwether Community Credit Union

Carousal Industries

CompPartners (BOAC, MVOH, SOAC, St. Joseph's B & H)

Cook, Little, Rosenblatt & Manson, p.l.l.c.

DealerTrack Inc.

G&K Services

Holmes Law Offices PLLC

Jewett Automotive Design & Construction

JP Moran Chase Bank

Macdonald Page & Co LLC

Manheim New England

MiCorp Dealer Services

Mike's Equipment Repair

Nancy Phillips Associates, Inc.

National Drug Test Services

Rath, Young and Pignatelli, P.C.

Resources Management Group

Sanel Auto Parts Co.

STAPLES® Advantage

Strategic Benefits Advisors, Inc.

Tri State Fire Protection

Warehouse Distributors of New England/BG Products

Wells Fargo Dealer Services

Windward Petroleum/ExxonMobil

To become a 2012 NHADA Partner, please call Jean Conlon at 800-852-3372.