

WVADA *News*

WEST VIRGINIA AUTOMOBILE DEALERS ASSOCIATION

WVADA 88th Annual Family Convention
Nemacolin Woodlands Resort
SAVE THE DATE
June 12 - 15
Registration Now Open

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WVADA 88TH ANNUAL
FAMILY CONVENTION
DEALER REGISTRATION
FORMS

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RICHARD STEPHENS
SPOTLIGHTS THE
WVADA AUTO SHOW



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& B*

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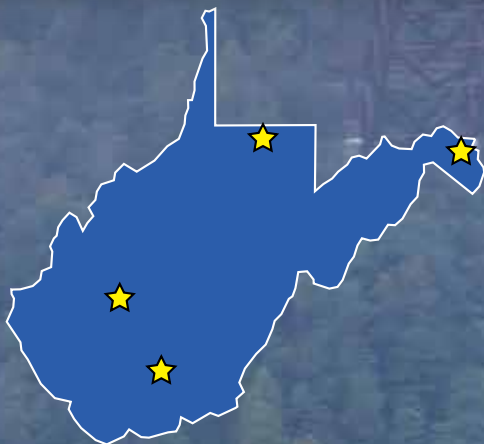
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 WVADA News

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President's Message

By Jared Wyrick

Legislative Wrap Up – 2022 Regular Session

The 60-day regular legislative session began with an extraordinary session to help secure the largest investment in the state's history. The specific intent of the package of bills addressed during the special session helped clinch the announced \$2.7 billion Nucor investment in Mason County and the Northern Panhandle. The project is expected to bring about 1,000 construction jobs and 800 full-time jobs with benefits.

The West Virginia Legislature adjourned Saturday, March 12, at midnight, having completed 293 bills, including all three WVADA priority bills, a budget bill, and an economic package to recruit new businesses and create hundreds of jobs.

WVADA Priority Bills

H.B. 4560 – Relating generally to motor vehicle dealers, distributors, wholesalers, and manufacturers, was our number one priority bill this session, and passed both chambers overwhelmingly. The bill was signed by the Governor and takes effect on June 10, 2022.

This bill updates West Virginia's current franchise law by doing the following:

- Clarifies that this article of the West Virginia Code governs all agreements addressed in the article to modernize and acknowledge that dealers now sign numerous agreements, rather than just a single Sales and Service Agreement.
- Further clarifies what it means to engage in the operation and business of a new motor vehicle dealership.
- Clarifies that a dealership is entitled to be reimbursed by a manufacturer for diagnostic time on warranty and recall work, considering the complexity of the modern motor vehicle, including any assistance with over-the-air updates.
- Allows a new motor vehicle dealer to submit a single set of repair orders for the purpose of calculating both the labor and parts mark-up, or a dealer may submit separate sets of repair orders for a labor rate and parts mark-up calculation.
- Given the increase in manufacturer sales and service audits, it sets forth a procedure clarifying the procedure to be used by the manufacturer and motor vehicle dealer.
- Provides additional protections for motor vehicle dealers for too frequent unreasonable image and facility mandates from manufacturers. Increases a dealer's rights to such mandates from 10 to 15 years.
- Prohibits a manufacturer from using motor vehicles in transit to count against a dealer's sales effective or efficiency formula. The vehicle must be in the dealer's physical possession.

It is **amazing** what can be **accomplished** when we **work together** as a **team** with one **collective voice. THANK YOU** to everyone who participated!

- Prohibits a manufacturer from threatening or taking any prejudicial action against a new motor vehicle dealer arising from the retail price at which a dealer sells a new motor vehicle.
 - Clarifies the duties and responsibilities of the Manufacturer and motor vehicle dealer for vehicles sold according to a reservation or subscription service and clarifies that the financing of motor vehicles occurs at the dealership.
 - Allows a Motor Vehicle Dealer to implement a succession plan while the dealer is still living, sets forth a procedure for any disagreements that may arise between the manufacturer and motor vehicle dealer, and allows any designated family member of the dealer to be a designated executive manager of the dealership under the existing dealer agreement.
 - Increases the protection of a consumer's data to a motor vehicle dealer when purchasing a motor vehicle. Also clarifies different duties for a manufacturer and other third parties, such as dealer management system providers. Provides a definition of what is "dealer data" and the following:
 1. Limits a manufacturer's ability to share a dealer's consumer data to a third-party to the consumer data on its same line vehicles sold by the dealer as opposed to access to all consumer data of a motor vehicle dealer.
 2. Requires a dealer management system provider to meet Standards for Technology in Automotive Retail Standards ("STAR") for the protection of consumer data.
 3. Prevents a data systems provider from limiting how a dealer shares its consumer data with other required vendors and third parties or charging an unreasonable fee to a dealer or third party for a dealer sharing its consumer data.
4. Requires a data systems provider to cooperate in transferring back the motor vehicle dealer's consumer data and use a commercially reasonable format to allow reasonable transmission back to a dealer upon the termination of the agreement. Also prohibits the charging of unreasonable fees for returning this data in a commercially usable format.
 5. Requires a data systems provider to inform a motor vehicle dealer of any third party the dealer management system provider that it is sharing a motor vehicle dealer's customer's data and requires a dealer management system to obtain permission from the dealer to share a dealer's customer data.
 6. Clarifies that the data a customer provides to a motor vehicle dealer is the dealer's data and allows the dealer to protect that information more securely.
 7. Allows a dealer to obtain information from a data systems provider or other third parties that protects the dealer's consumer data it provided to them.
 8. Gives dealers more control over their customer data by limiting what a third party can access.
 9. Provides a severability clause and continues to provide the motor vehicle dealer indemnity from any manufacturer or third party who engages in willful or negligent actions or allows an impermissible use of protected consumer data.
- H.B. 4567** — Relating to business and occupation tax, eliminates B&O tax on new cars. This bill passed both

Continued on page 8

Continued from page 7

chambers with bipartisan support. This bill was amended in the Senate Finance Committee to phase in reducing the tax. Effective July 1, 2023, the B&O tax on new cars will be reduced by 50%. Then effective July 1, 2024, the remaining B&O tax on new cars will be reduced by an additional 50% of the total amount of the tax. Then, effective July 1, 2025, the B&O tax on new cars will be completely eliminated.

The phased-out approach was a compromise with Senators Eric Nelson and Tom Takubo, who would only support the bill with a phased-out approach.

We all know that this tax is extremely regressive and unfair, but we have made a dent. This is a huge win for WVADA! We are the first industry in over 70 years to tackle the B&O tax and receive some relief!

S.B. 568 — Requiring insurance plans to provide underwriting information to insureds: this bill passed both chambers unanimously. This bill will allow employers to request their loss runs from an insurer on an annual basis regardless of the number of employees insured.

Other Bills of Interest:

S.B. 250 — The budget bill was a compromise between the Senate and House, and the Executive branch. House Finance Committee Chairman Eric Householder, R-Berkeley, explained the compromise budget surplus totals \$1 billion, and a General Revenue fund with 44% designated for public education and included another pay raise for teachers; 26% dedicated to social services including a pay raise for Child Protective Services workers; and 10% allocated for higher education.

S.B. 4 — Repealing the ban on construction of nuclear power plants: passed and has already been signed by the Governor. The bill repeals a 26-year ban the legislature had enacted on the construction of new nuclear power facilities and allowed for the possibility of nuclear energy production rounding out West Virginia's power portfolio and indicating to the global economy that the state is successfully transitioning its economy.

Last summer, a small delegation of dealers traveled to D.C. to meet with Senator Manchin to discuss several concerning issues facing the auto industry and our nation. During this meeting, Senator Manchin requested that dealers and other industry leaders in West Virginia work with the legislature to repeal the ban on nuclear power plants. I am proud to report that S.B. 4 did just that.

Bills that continue to make advances in broadband connectivity and competition completed the legislative process, as well as bills that look to pave the way for the state to capitalize on new economic investments, such as House Bill 4098, which makes it clear in state code that geothermal energy may be developed in West Virginia; House Bill 4003, which would establish a clear legal right of title to the



WVADA had an **extremely successful** legislative session. This is **due to all the dealers throughout the state** who came together, **participated in meetings**, made phone calls, and **reached out to their local representatives.**

chemical compounds, elements and substances derived from the treatment of acid mine drainage, setting definitive roles in the cleanup and extraction of rare earth elements from those coal waste piles; and House Bill 4002 which creates the certified sites and development readiness program, to help secure the state's position among site selection consultants to help land the next big economic engine.

WVADA had an extremely successful legislative session. This is due to all the dealers throughout the state who came together, participated in meetings, made phone calls, and reached out to their local representatives. It is amazing what can be accomplished when we work together as a team with one collective voice. THANK YOU to everyone who participated!

I hope to see each of you soon at our upcoming Dealer Family Convention at Nemaocolin, June 12-15. Please do not hesitate to contact me if I can be of any assistance. ◀

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The True Cost of a Fire At a Dealership:

Lessons Learned and Important Insights from Jack Stewart



On Aug. 19, 2021, a fire started in the service department at Country Club Chrysler Dodge Jeep Ram at approximately 10:30 p.m. WVADA recently spoke with Jack Stewart, the owner and president, about the fire. Jack's dealership is still recovering, and full recovery probably won't happen until August 2022. He spoke about lessons learned from the fire and recommendations for other dealers.

The fire started in a Ram 2500 diesel pickup truck with two disconnected batteries. It was up on a lift because service mechanics had been working on it. They had disconnected the batteries because that was the proper procedure for their work on the truck.

A passerby saw smoke coming out of the building and dialed 911. Several fire departments responded. "They were probably there by 10:45 p.m., and they stayed until about 3 a.m.," Jack said. "It didn't take them long to put out the fire, but they had a lot of checking to do because of the heat to make sure it hadn't spread anywhere else. I live 75 miles away, and when I got to the dealership, I thought we were fine. The fire departments had done a good job and contained the fire just to the area where the fire was. The next day, the fire marshall and the insurance adjuster came to see the damage in the daylight, and we saw that smoke had destroyed the whole interior of the building. There was even smoke on the paperwork in the safe. We ended up replacing everything except the outside walls. We even replaced the metal roof and the insulation against it."

Approximately 20 investigators spent a whole day looking for clues about what happened, but the investigation's results were inconclusive. "The truck belonged to a contractor, and he had some power tools in the cab. It's possible lithium batteries might have powered them. If so, the batteries might have been responsible, but the experts could not determine the fire's origin because it was so hot that it melted everything in the truck's cab," said Jack.

Jack had adequate insurance coverage, but he doesn't know how he could have been better prepared than he was. He said, "Maybe the economy could cause a problem, but I don't know what physical disasters besides fire could affect us. We were careful, so I didn't think a fire was likely. We aren't in a flood zone either, other than from a tornado. There are no wildfires or earthquakes in West Virginia, and forest fires here don't burn buildings."

When the fire did happen, the dealership's building was vulnerable. "The original building was probably built in the 1960s, and it is almost the size of a football field," said Jack. "It didn't have a sprinkler system or firewalls because those weren't required when it was built. It still doesn't have a sprinkler system because the state doesn't require them unless you have 300 people in the building at the same time, and installing one would be too expensive. However, we've put up firewalls between different sections. We've also installed fireproof doors. Maybe it won't be as serious if it happens again. But how do you protect against smoke getting in the safe?"



Fortunately, Jack had a preowned lot with a nice-sized building about a mile away from the dealership. “My employees did a very good job,” said Jack. “We had to get new computers, hook them all up, and get cars on the lot so we could do business. We were up and running in less than a week, even though parts were everywhere. They still are. We have two service people at a desk instead of a counter. We’re making it work.”

By the middle of April 2022, the dealership was still operating out of the temporary location while employees worked hard to take care of customers. The remaining to-do list included finishing the showroom and the back rooms, replacing all the furniture and building some shelving. Jack thinks the sales department can probably move into the front of the building sometime in May. Once all the remaining tasks are done, it will probably be June, and the rest of the sales department, the parts department and the service desk can move back in. Finishing the service department will take an additional two months.

“It has been really chaotic, and we are not even close to normal,” said Jack. “It will probably be August again by the time we are back in our building and operating normally. We usually have 18 lifts, but we currently have only two mechanics working on one lift to take care of people’s warranty problems. We want to help customers, and I want to keep my employees. Still, it has been an unprofitable time for the company. Things will be more organized after we are back in the building, but we will only have one lift for a while.”

Jack dislikes layoffs, but the service department has lost money month in and month out. “Layoffs are the hardest part of my job. I am up all night when I have to let someone go, and then I have the whole 75-mile drive to think about it. I kept as many people as I could, and some quit because they didn’t want to go through the stress of the recovery process, but I had to lay off a handful.”

Recovering from the fire could cost more than the insurance coverage Jack had. (He had nothing to cover lost wages, but he had lost-income insurance.) Figuring out the money has been complicated by the pandemic; in a normal year, companies look at what happened the previous year. That isn’t possible in this case because 2020 wasn’t a normal

Dealers should be prepared and make sure they have all their bases covered.

year. “So far, my insurance company has been very good,” said Jack. “But we haven’t determined the final amount of compensation yet. My accountant will have to get together with the insurance company’s accountant and come to an agreement.”

As Jack thought about his fellow dealers, he said, “I hope that all my fellow dealers understand the risks and take the necessary precautions. Dealers should be prepared and make sure they have all their bases covered. That means having adequate insurance and preventing safety issues in the garage. There are many things you can do wrong, and you need to do your best to prevent a fire by looking at those issues first, but we didn’t do anything wrong, and we still had a fire. Make sure you have sufficient insurance coverage. You don’t want to find out you were underinsured when something happens.” He likes lost-income insurance because “disasters can cause a lot of lost income.”

Jack is especially concerned about the potential for fires from electric vehicles, particularly if they are charging inside a garage. “We could see more fires that will be caused by electric vehicles. They are new, and they are supposed to be safe, but when you have many charging systems and many cars, nobody knows what could happen. It’s not a good idea to leave things on overnight. For my own peace of mind, I walk through the garage every night now to make sure nothing is plugged in.”

Jack can’t prove what caused the fire at his dealership, but he warns other dealers to be aware of the possible danger from electric vehicles. “Safeguard as much as you can in any way you can,” he said. ◀





Nemacolin Woodlands Resort

WVADA 88th Annual Family Convention

SAVE THE DATE

June 12 - 15

Registration Now Open

www.wvcar.com



Why You Should Participate in Your Association's Convention

People really do need each other in order to succeed. Association membership can be one of the most important investments you can make professionally, and attending conventions and events is important.

Your time is valuable. So are your financial resources. That being the case, why should you invest the time and money in attending an association convention? Couldn't you have just as much impact professionally by participating in something like social media?

Social media is important, of course, and doing it well can be vital to career development. But there is just no substitute for seeing people face-to-face and talking to them. WVADA provides a valuable way to get you in a room with other people, learning from each other; the resources they provide can strengthen you professionally as well. You might be surprised at the number and variety of resources available to you through an association event.

The Pitch for Professional Development

The top reasons why convention attendance should be a must-do item on your list include the following:

- *Contacts, contacts, contacts:* Everyone talks about the importance of networking, but many people don't understand what networking really is. It's an intersecting of friendships and acquaintances, some strong, some weak, and it isn't something you lock in your desk and expect to keep fresh. If you know someone and never call them or have any regular contact with them, there's always a chance that your friendship will starve a slow and lonely death. More than likely, you will begin to slide away from each other. On the other hand, relationships that benefit from regular feeding will thrive. A cell phone call or a blog entry is better than nothing. But don't you want to raise the bar just a little? A convention is a great excuse for getting together. Share a lecture, a meal, a laugh. Done right, it will build you professionally. It might also be fun.
- *Feeding your brain:* How long can you expect to stay at the top of your field – or even just get there in the first place – if you don't ever put yourself in situations where you can get a lot of different information from a lot of different sources in a short period of time? There's a collective synergy that can only come to life when you have many competent, professional people all in the same room, ready to talk shop. Don't fool yourself: search engines can never replace personalized, expert information delivered in real-time. You'll learn about trends, legislation, and important issues by becoming a member and actively choosing to participate.

The Game Plan

To get the most out of any convention, you need to start ahead of time.

- *Do the research.* You want to get an idea of what the program will be so you can make the best use of your time. You should also read any available publications to figure out the important players and what people are currently involved in. Figuring out where to spend the time might be a challenge; you may have to make some difficult choices. Which speakers will teach you the most? What subjects could have the most benefit for your life? Who are the most important people to meet?
- *Focus on being more extroverted than usual.* Arrive early, stay late, and look for opportunities to meet people. If you are shy and talking to strangers is hard for you to do, focus on making it easier for other people to talk to you. Strangers don't have to stay strangers. Getting into a genuine conversation can happen with remarkable speed once you identify some common interests. At the same time, be polite, but make sure you continue to circulate. You will be in many different social situations while at the convention. Each one is an opportunity for another new conversation.
- *Pay attention to the professional information presented.* Education is a privilege in all of its forms. What you learn during a convention may significantly change or enhance your career direction.
- *Bring business cards, and exchange them with others.* It's easier to reconnect later with someone if you do.
- *Keep initial conversations light.* The first time you talk to someone is probably not the time to talk about your childhood dreams and aspirations. Instead, ask questions about subjects of interest to you, such as finding out major employers in our field, ways to get involved, and skills to focus on for improvement.
- *Take advantage of discounts and handouts.* There may be product and service exhibits that would help you, and the convention cost may be lower than it would normally be.

After the Convention

The convention should continue to benefit you after you leave:

- Your association may offer professional services to members. You may also gain access to directories and journals.
- Seasoned professionals may decide to mentor you.
- Put the knowledge you gained to work and continue to collect more insight as you progress forward.
- Most importantly, look for service and leadership opportunities where you could benefit others, then make sure you give these opportunities your best efforts. You might write and publish articles, serve and eventually lead committees, influence legislation, and become one of the must-meet attendees yourself. ◀

WVADA 88th ANNUAL FAMILY CONVENTION *DEALER* REGISTRATION FORM

Nemacolin Woodlands Resort

JUNE 12 - 15

WVADA Dealer Registration Fees

Registration received after May 19 will incur an additional 15% charge

Registration Cut-Off Date: June 1, 2022

Dealer Convention Registration

Name: _____

Dealership: _____

Contact Number: _____

Address: _____

City/State/Zip: _____

Email: _____

In the event that a person should need to cancel - cancellation must be received by WVADA 14 days prior to convention for refund of fees

For questions please contact
Haley Justice
hjustice@wvcar.com
304-343-4158

Once you complete this form, please email or mail the form to Haley Justice. An invoice will be sent via email.

Children/Guest Name	Age
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Payment Calculation

*Disclaimer: There will be a 3% charge when paying by credit card.

Payment Method: Check: Credit Card:

Dealer: _____ x \$350 = _____

Guest: _____ x \$350 = _____

Children(13-17): _____ x \$175 = _____

Children(5-12): _____ x \$125 = _____

Children(0-4): _____ x \$0 = _____

Grand Total _____



WVADA 88th ANNUAL FAMILY CONVENTION SPONSOR REGISTRATION FORM
Nemacolin Woodlands Resort
JUNE 12 - 15

WVADA Sponsor Registration Fees
 Registration received after May 19 will incur an additional 15% charge
 Registration Cut-Off Date: June 1, 2022

Dealer Convention Registration

Name: _____
 Company: _____
 Contact Number: _____
 Address: _____
 City/State/Zip: _____
 Email: _____

In the event that a person should need to cancel - cancellation must be received by WVADA 14 days prior to convention for refund of fees

For questions please contact
 Haley Justice
 hjustice@wvcar.com
 304-343-4158

Children/Guest Name	Age
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Once you complete this form, please email or mail the form to Haley Justice. An invoice will be sent via email.

Payment Calculation

*Disclaimer: There will be a 3% charge when paying by credit card.

Payment Method: Check: **Credit Card:**

Sponsor: _____ x **\$450** = _____
 Guest: _____ x **\$450** = _____
 Children(13-17): _____ x **\$175** = _____
 Children(5-12): _____ x **\$125** = _____
 Children(0-4): _____ x **\$0** = _____
 Grand Total _____



Select Agenda

WVADA Sponsored Events



Fees are per person & must be registered to participate in sponsored events

*In addition to WVADA registration fees, attendees will be responsible for Nemaocolin's fees of **\$279 for golf (this includes gratuity to the caddy)** & **\$198.90 for sporting clay**. Fees will be charged to your final payment at check out.

Sunday

Convention Registration
11:00pm - 5:00pm

Welcome Reception - No Charge 4:30-6:00
List attendees

Monday

Golf Scramble - **WVADA Reg. Fee - \$150**
12:30PM
Golf Course: Mystic Rock

Player(s)	Handicap
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Block Party - No Charge | 6:00PM - 9:00PM
List Attendees

Tuesday

Sporting Clay - **WVADA Registration**
Fee \$50 | 2:00PM

OR:

Pinot & Paint - \$85 - 2:00pm
List attendees

Chairman Dinner & Reception - No charge
6:30PM - 10:30PM
List Attendees

Once form has been submitted an invoice will be sent via email.

Payment Method: Check Credit Card

*Disclaimer - If you pay by credit card there will be a 3% charge to your total.

We look forward to seeing you there!!





KIDS ADVENTURE ZONE

Time: 8:00am - 12:00pm - During Business Sessions

Monday, June 13 and Tuesday, June 14

Children ages 5-16

The group would get split in two with one going to wildlife and the other to the peak. Next day they would switch the group.

Agenda:

8-9am Meet at the Panorama Pavilion for a walking Safari tour (approximately 1-1.5 hours)

9-10am Animal Show to meet Ambassador animals with a keeper talk

10am-12pm Critter craft with a movie at the panorama pavilion with snacks and beverages

8-9:00 Meet at the peak for climbing wall, quickjump, and target paintball

9:00-10:00 Cosmic bowling

10:00-11:00 Summer Tubing

11:00-12:00 Mini golf and carousel

Monday, June 13

Child's Name: _____

Child's Age: _____

Contact Person: _____

Contact Number _____

Email: _____

Tuesday, June 14

Child's Name: _____

Child's Age: _____

Contact Person: _____

Contact Number _____

Email: _____

\$80.00 per child per day

Once form has been submitted an invoice will be sent via email.

Payment Method: Check Credit Card

*Disclaimer - If you pay by credit card there will be a 3% charge to your total.

**For children 4 and under, Nemaocolin Woodland Resort provides 24 hour babysitting services that can be tailored to your needs. For more information contact Nemaocolin Woodland Resort: 844.873.1708*





**Registration and Release Form
Nemacolin Woodlands Resort**

PRINT NAME: _____

ADDRESS: _____ PHONE: () _____

CITY: _____ STATE: _____ ZIP: _____

ACTIVITY: _____

1. I, releaser, intending to be legally bound and in consideration for being permitted to participate in the above described activity (the "Activity") do for myself, my spouse, children, heirs, executors, administrators, insurers and assigns, do release, waive and forever discharge Nemacolin Woodlands Inc. d/b/a Nemacolin Woodlands Resort and Spa, 84 Lumber Company, L.P., their officers, employees, representatives, parent companies, affiliates, subsidiaries, insurers, successors and assigns, as well as the manufacturers and distributors of any equipment used in the Activity (the "Releasees"), from any and every claim, demand, action or right or action, of whatever kind or nature, either in law or in equity arising from or by reason of any bodily injury or personal injuries known or unknown, death or property damage resulting from, or to result from, my participation in the Activity or any activities in connection with the Activity, whether caused by the negligence, including gross negligence, of Releasees or not.
2. I agree to indemnify and hold harmless the Releasees from any injury, loss, liability, damage or cost Releasees may incur due to my participation in the Activity, whether or not caused by the negligence, including gross negligence, of Releasees or otherwise.
3. I assume full responsibility for the risk of bodily injury, death or property damage due to the negligence of Releasees or otherwise while in or upon Nemacolin Woodlands Resort and Spa and while participating in the Activity.
4. I agree that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as permitted by the laws of the Commonwealth of Pennsylvania, and that if any portion of this agreement is held invalid, it is agreed that the balance shall continue in full legal force and effect.
5. This release, waiver and indemnity agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.
6. I hereby consent and agree to the exclusive personal jurisdiction and venue of the Court of Common Pleas of Fayette County, Pennsylvania with respect to any legal action or proceeding arising out of or relating to the Activity. Each party hereby waives all rights it has or which may hereafter arise to contest such exclusive jurisdiction or venue of the Court of Common Pleas of Fayette County, Pennsylvania.
7. I am of legal age and fully competent, and I have carefully read the foregoing waiver, release and indemnity agreement and I understand the contents of the same. If I am not of legal age, my parent or legal guardian has fully read the foregoing waiver, release and indemnity agreement and understands it and understands that I am fully bound by their signature.

PLEASE READ BEFORE SIGNING.

DATE: ____/____/____

SIGNATURE: _____

CO-SIGNER: _____
(if participant is a minor, signature of parent or guardian is required)



2020

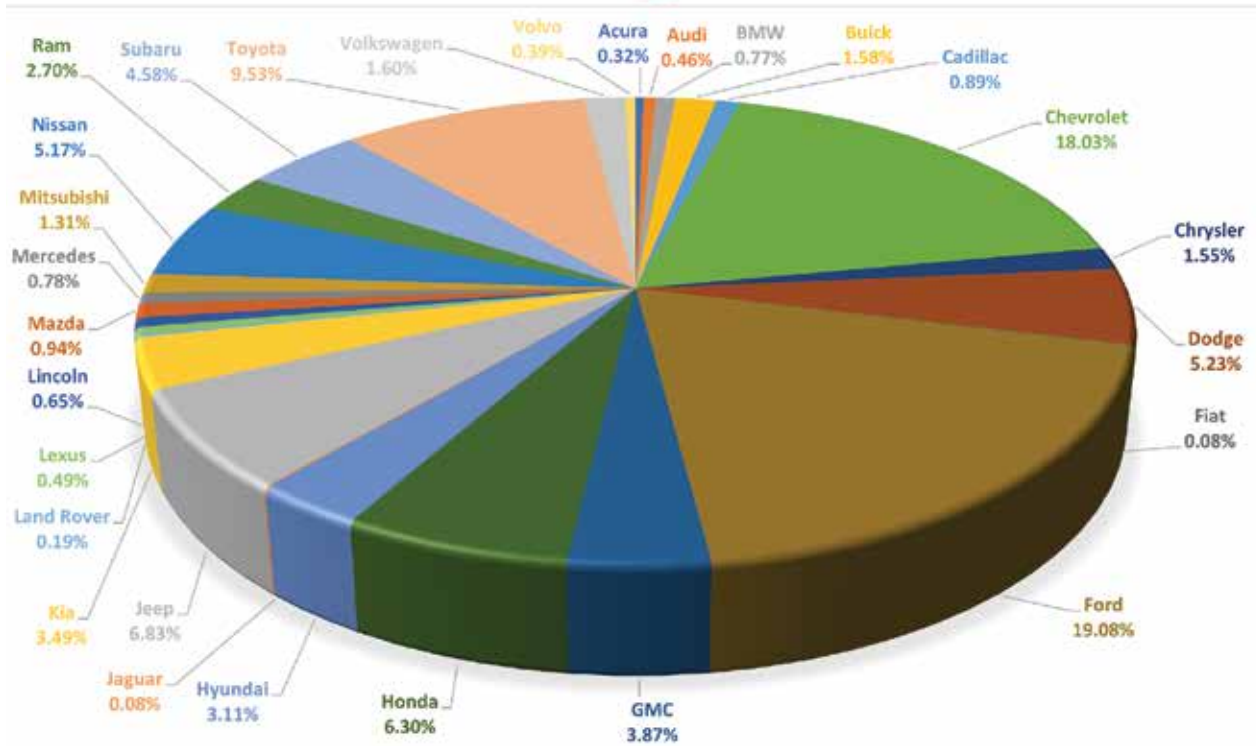
NEW VEHICLE TOTAL 76,060
USED VEHICLE TOTAL 116,390

2021

NEW VEHICLE TOTAL 77,213
USED VEHICLE TOTAL 117,353

*These numbers exclude out-of-state and individual transactions and are based on 2020 and 2021 registration data from the WV DMV.

New Makes Registered in 2021

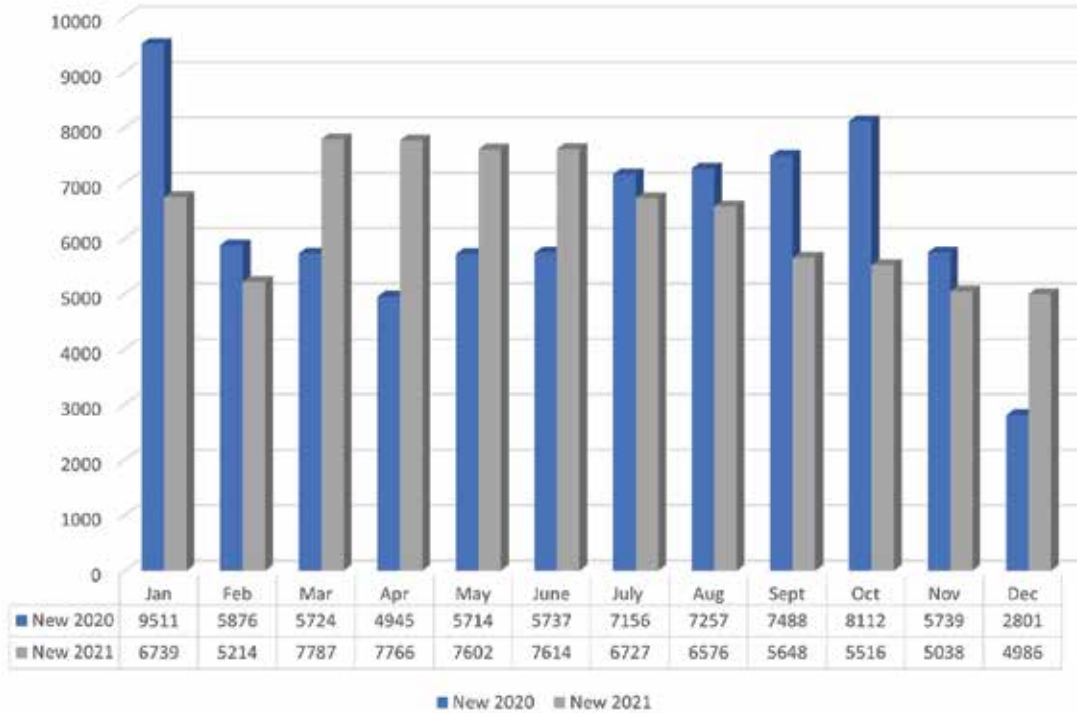


Acura 1,333	Audi 1,918	BMW 3,239	Buick 6,635	Cadillac 3,749	Chevrolet 75,867	Chrysler 6,515
Dodge 21,988	Fiat 325	Ford 80,258	GMC 16,298	Honda 26,495	Hyundai 13,092	Jaguar 341
Jeep 28,723	Kia 14,703	Land Rover 814	Lexus 2,064	Lincoln 2,739	Mazda 3,968	Mercedes 3,265
Mitsubishi 5,523	Nissan 21,732	Ram 11,373	Subaru 19,269	Toyota 40,109	Volkswagen 6,731	Volvo 1,649

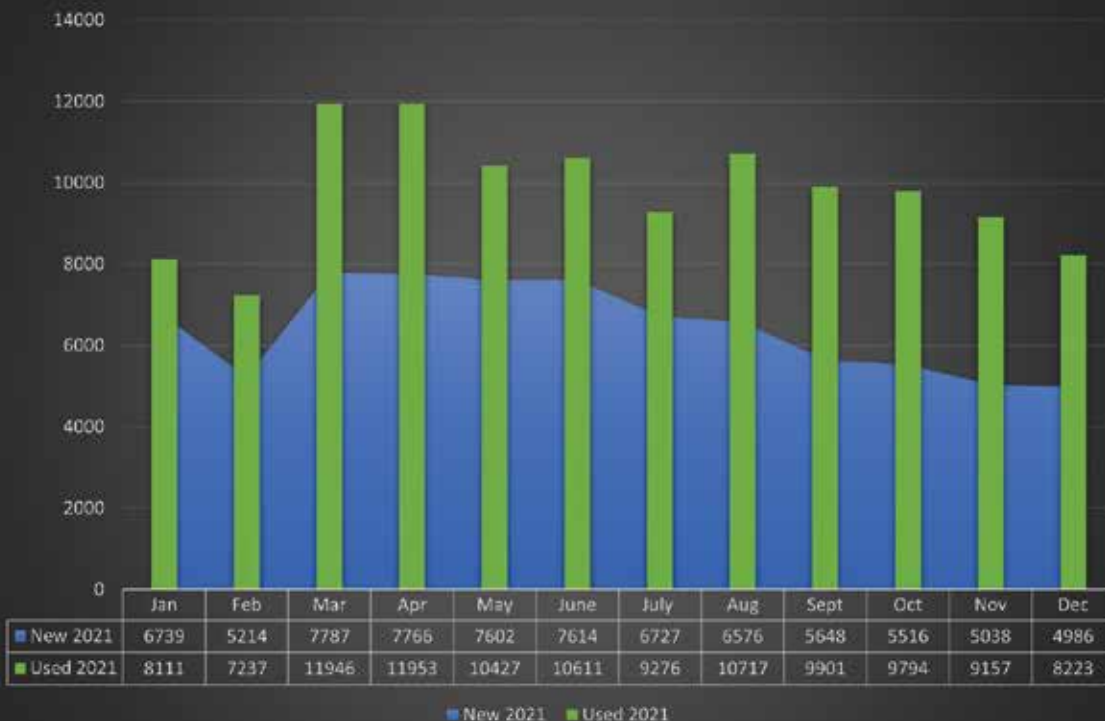
*These numbers reflect in-state and out-of-state registrations.

Continued on page 20

2020 vs 2021 WV's New Vehicle Summary Report

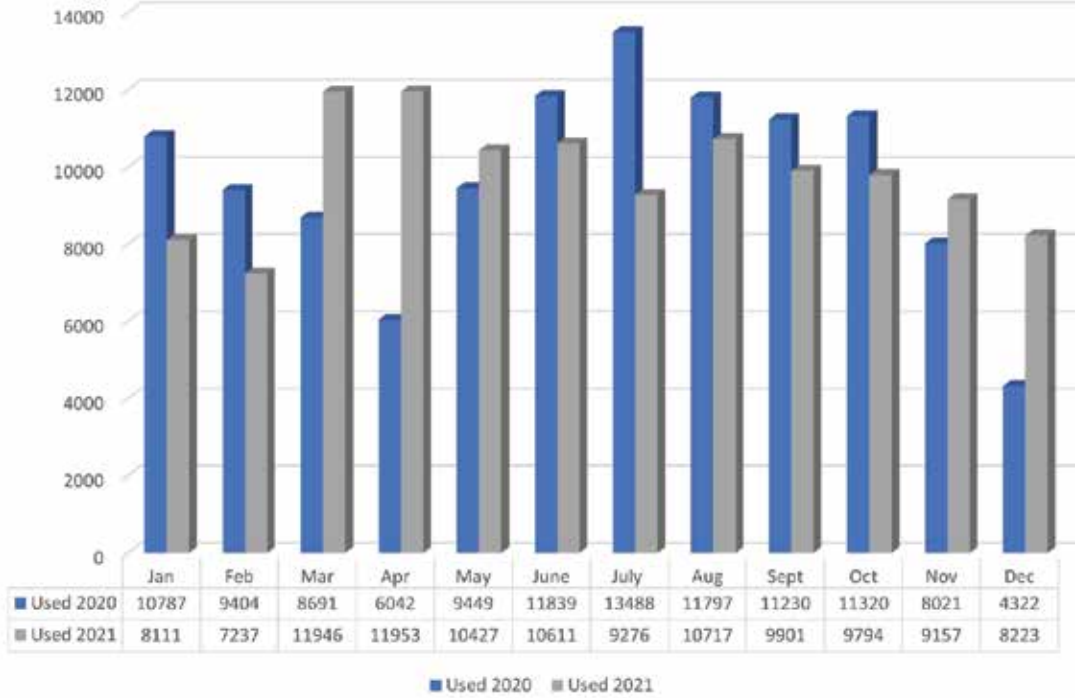


2021 WV's New vs Used Vehicle Summary

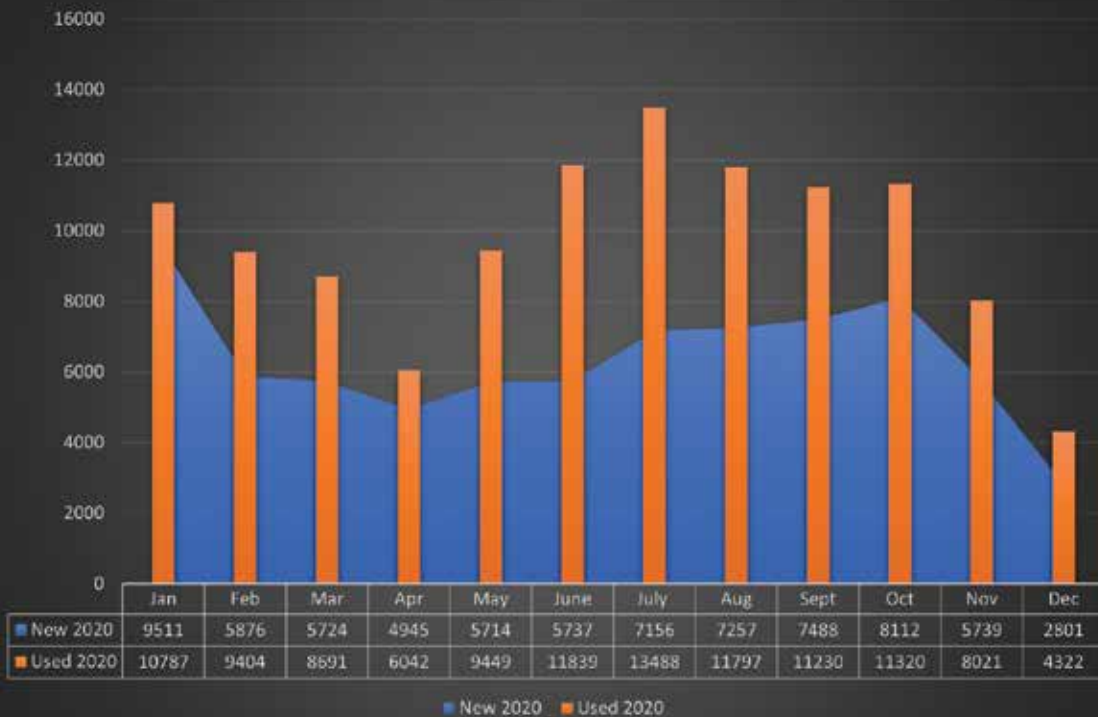


*These numbers exclude out-of-state and individual transactions and are based on 2020 and 2021 registration data from the WV DMV.

2020 vs 2021 WV's Used Vehicle Summary Report



2020 WV's New vs Used Vehicle Summary

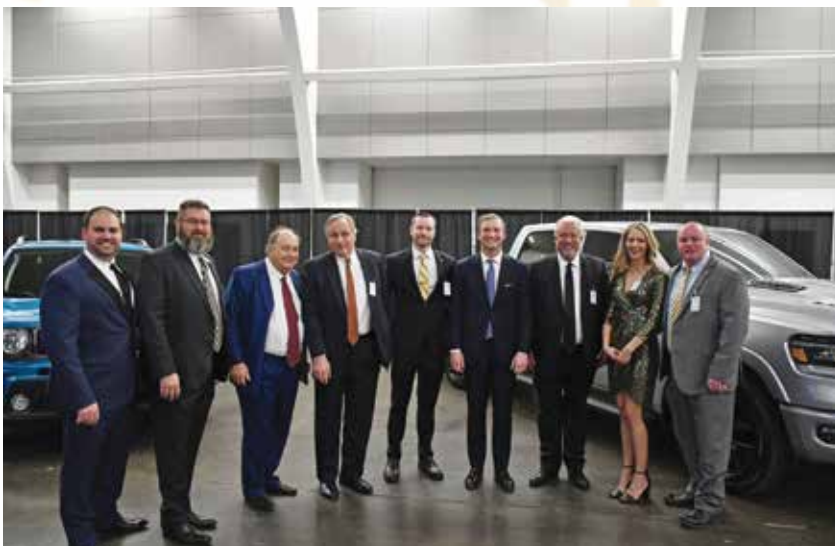


*These numbers exclude out-of-state and individual transactions and are based on 2020 and 2021 registration data from the WV DMV.

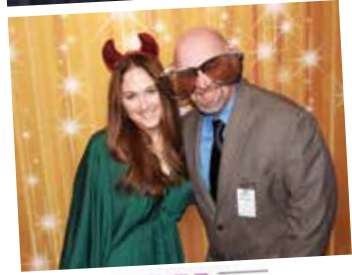
WVADA 2022 Charity Gala

Thank you to everyone who supported and attended our VIP Charity Gala on February 10, 2022. We had a great turnout for the gala and raised approximately \$13,000 for our charity, Good News Mountaineer Garage. Good News Mountaineer Garage is a non-profit organization that provides vehicles to low-income families throughout West Virginia.

A special thank you to our legislators, dealers, members, and especially our sponsors, who helped make this night possible. We greatly appreciate everyone taking the time to come join us, and we look forward to welcoming everyone back next year!







ally
do it right.





WVADA
Charity
 Gala
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February 10, 2022

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The program is being presented with financial assistance as a grant from the West Virginia Department of Health and Human Resources registered with the West Virginia Secretary of State's Office.

CHARLESTON | MORGANTOWN

Richard Stephens Spotlights the WVADA Auto Show



Richard Stephens is the owner of Stephens Auto Center in Danville, West Virginia. In 1975, his father bought the business and joined WVADA. Richard, a second-generation dealer for about 25 years, has been the chair of the annual WVADA Auto Show for most of that time. This year's event, held Thursday, Feb. 10, 2022, was at the Charleston Convention Center in West Virginia.

Recently, WVADA spoke with Richard about the auto show.

From your perspective as chair, how was this year's auto show different from shows of other years?

This year was much different from what it has been in the past. We thought about hosting the full-blown auto show normally produced, but when we saw the problems involved, it was decided to scale down the event instead. It was just the usual VIP Charity Gala and not the three-day Friday through Sunday portion of the event for the public.

It was necessary to scale down the show for a couple of reasons. Part of it was because of COVID-19, but the bigger reason was supply chain shortages and the lack of vehicles manufacturers could provide. We take great pride in this show, and didn't want to put together something lackluster. We were afraid that if we did the full show, the people attending wouldn't want to come back next year.

We put the show together in a way that would not disappoint those who attended. The shorter event did not cause many difficulties for me, but it was a bit of a challenge for the staff. They had to break away from the normal rhythm of putting on a show.

Tell us more details about the VIP Charity Gala.

The VIP Charity Gala was by invitation only. We timed the event so the legislature would be in session and its members would be in town. Legislators, bankers and insurance people were invited, along with others who work in our industry.

Cars provided by local dealers from their inventories were displayed, along with some classic cars from local collectors and a few specialty vehicles the manufacturers sent in. We also had refreshments and entertainment for our guests.

The gala became a legislative reception, and the dealer body throughout the state had the opportunity to meet with their local legislators in Charleston. They strengthened relationships and spoke with legislators or other guests about issues.

How did the gala turn out?

It was great. Everyone had a terrific time.

How much money did you raise, and where did the money go?

We raised approximately \$13,000 at the VIP Charity Gala for the Good News Mountaineer Garage. That's a very good charitable organization that repairs donated cars and gets them ready for people who need transportation for work or education but are struggling because they don't have the means to provide that transportation on their own. I served on their board for more than 10 years, and saw firsthand the good they do for people.

What are the plans for the auto show next year?

We would be thrilled to put on a full-blown auto show again next year if circumstances permit.

How will inventory be handled next year?

That will depend on circumstances. We hope to source vehicles from local dealers and have manufacturers ship vehicles in, too. They usually send us new products that are not available on the dealer lots yet, along with preproduction models, so the public can see them up close and sit in them.

We were sorry the general public couldn't have the full show experience this year. We missed it, and very much look forward to doing a full show next year. It's a lot of fun. ◀



Contribute to WVCAR PAC Today

Dear Members,

You all know that it's that time of the year where I will be reaching out to each of our dealers, asking for support of our WVCAR PAC. This past year was a tremendous year for us during the legislative session. We have created one of the strongest franchise laws in the nation, which has other states now wanting to follow in our footsteps. We delivered a break on our B&O Tax, and it will be eliminated completely on new car sales over the next three years, and our insurance bill that allows employers to request their health insurance loss runs passed. WVADA accomplished their entire legislative agenda! **Your contributions to our legislative representatives do not go unnoticed.**

With your contributions, WVADA has become the strongest lobbying group in Charleston, and this is only possible when each of us come together and support critical issues, not just related to our profession, but the future viability and success of our beloved state.

Dealers create an important economic impact in our state, and we are being heard. We are not just dealers in this state. We are a powerful group that has a drive and passion for not only making our businesses successful, but for also wanting to better our state for all its citizens. Our legislative representatives need to see this ambition continue so they know we are supporting them for the right reasons. We need everyone to step up this year and every year to keep our momentum alive.

Please contribute now to WVCAR PAC. Many of you made multiple donations of \$5,000 (max individual allowable) through business associates and/or family. Many more maxed out at \$5,000 and a few at a lesser amount. Unfortunately, many chose not to participate at all. I understand that we all live under different circumstances, but please consider all the

things your association is doing for you and contribute at a level you are comfortable with.

Our future is bright in West Virginia! I am proud to be associated with this wonderful group of businesspeople! To contribute, please visit our website at wvcar.com/wvcar or mail a check made out to WVCAR PAC, PO BOX 2028, Charleston WV, 25327.

Best wishes for a great 2022. ◀

Bill Cole, WVCAR PAC Chair





Political Action Committee of the West Virginia Automobile Dealers Association

What is WVCAR? WV CAR is your state political action committee. Our goal is to fund pro-business candidates for state offices. It's up to us to help those that share our values and views when making laws that we must live with...Those that do not share our views and values contribute millions of dollars to elect those that are opposed to business, tax reforms, tort reforms and many other issues that impact the way we do business. By contributing to WVCAR you are ensuring that the voice of the automotive/business community is heard and supported by our state representatives. Without the support of the pro-business candidates, we would not have achieved the **DOC Fee increase, one of the strongest franchise laws in the country, and the elimination of B&O tax on new cars.**

We must make every effort to support those candidates that seek to protect the investments that have been made by the businesses of West Virginia by supporting their candidacy through campaign contributions. Support those who support your business by making your WVCAR contribution TODAY!

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Contributions are used by WVCAR to provide financial assistance to the election campaigns of pro-business candidates to West Virginia offices. Under Federal law all contributions must be personal, and all contributors to WVCAR must be members of WVADA. Contributions must be voluntary and may be of any amount elected by the contributor. The amount of the contribution, or the refusal to contribute, will not benefit or disadvantage of solicited. Business or corporate checks cannot be accepted and will be returned by WVCAR.

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Are You Protecting Your Investment?

By Tasha R. Sinclair, CPA/ABV, Chairperson, AutoCPA Group



If you are like a sizable percentage of car dealers, a substantial portion of your financial wealth is your dealership investment. Are you protecting that investment?

It may surprise you to learn there are small, low-cost controls you can implement that can result in vast savings. For instance, consider the following in relation to the parts department.

- Are the doors to the parts department always locked and only authorized personnel granted access?
- Is there a physical inventory performed, at least annually, that is reconciled to the accounting department? Ideally, the physical inventory should be overseen by

someone other than that parts department's manager. If you have multiple dealerships, consider having a parts manager from one of your other dealerships oversee the physical inventory.

- What do the physical grounds look like outside the back door of the parts department? Keeping that area clear and not allowing vehicles to be parked around the door helps deter parts inventory from leaving out the back door.
- Are packing slips matched up with invoices to determine the parts purchased were delivered to your dealership? Does the accounts payable clerk watch for unusual purchases, such as non-stock parts without an associated repair order number, and bring those to the office manager's attention?

Speaking of purchases, are packing slips matched up with invoices for information technology equipment purchases (i.e., computers and tablets)? Just like vehicle parts, information technology equipment can easily be sold on eBay. Because of the increase in the de minimis safe harbor election, most computer and tablet purchases are expensed and not tracked on a depreciation schedule. Your IT manager should maintain an inventory of the dealership's information technology equipment. This inventory log can be an excel spreadsheet listing each item's serial number, location, manufacturer and custodian and any other information useful in physically identifying the equipment. An employee other than the IT manager should be tasked with spot-checking items to ensure they have not left the dealership.

These small controls over parts inventory and IT equipment also set the tone with employees that there are controls in place to identify theft and help deter theft and misuse of all company property. The controls mentioned are just a few ways of protecting your investment. ◀

Tasha R. Sinclair, CPA/ABV, is the current Chairperson of the AutoCPA Group, a nationwide organization made up of 25 CPA firms specializing in services to automobile dealers. In addition, she is a member of Tetrick & Bartlett, PLLCs dealer services team and has been providing accounting, tax, valuation, and consulting services to automobile dealers since 2002. Tetrick & Bartlett, PLLC currently serves approximately 50 automobile dealers in West Virginia, Virginia, and Ohio. Tasha can be reached at tsinclair@tb.cpa or 304-624-5564.



COUNSELOR'S CORNER

“HARD LESSONS LEARNED”

Johnnie E. Brown, Esq. Pullin, Fowler, Flanagan, Brown & Poe, PLLC

Two recent Federal Trade Commission (FTC) decisions drive home prior Counselor's Corner articles on the importance of advertising compliance. Motor vehicle dealers are approached by many vendors who promote their mailers and advertising programs as used in many states without complaints, but that does not translate into being legally compliant. More than likely, these advertising vendors have simply not been caught in the errors of their ways. Given advertising vendors' cavalier attitudes and an increasingly aggressive Federal Trade Commission, hard lessons can occur.

It is also important to reiterate that advertising compliance is easy to detect. An FTC attorney can simply review advertisements sitting at a desk while watching Facebook, YouTube or other internet sites in order to determine your compliance. Unfortunately, the following two examples are “what not to do” and are hard lessons learned by the parties.

By way of background, in October 2021, the Federal Trade Commission issued a summary judgment against Traffic Jam Events, LLC for contest mailers they produced. The mailer used a concocted official government status by having the Great Seal of the United States as a watermark on the envelope and referred to the mailer as a “COVID-19 Economic Automotive Stimulus Program.” The mailer also violated the Truth In Lending Act by improper use of “trigger terms” by promoting only 0% APR for 60 months and no money down. Last, the Federal Trade Commission found using a simulated check or voucher to be deceptive.

The second case was even more recent, March 31, 2022, in which Napleton Automotive Group was fined \$10 million for violations of the Federal Trade Commission's deceptive act and practices, Truth In Lending Act and the Equal Credit Opportunity Act. The FTC found that Napleton advised customers that voluntary protection products such as GAP, etching, and service contracts, were mandatory, and Napleton did not obtain the consumer's “express informed consent” when selling these products. The Federal Trade Commission further found that Napleton had charged minorities a higher interest rate and had violated Truth In Lending Act by advertising motor vehicles with the simple phrase “\$90 down.” Obviously, the mention of a down payment is a trigger term requiring the disclosure of other financing terms. Last, Napleton engaged in the deceptive use of a \$3,000 gift card in its advertisement. The Federal Trade Commission found this similar to the voucher or simulated check used in the Traffic Jam Events case.

What lessons can we learn to avoid the pitfalls of advertising motor vehicles? First, it is quite clear that training in proper disclosure is extremely important. Voluntary protection products can be very helpful and useful for a customer. It is quite proper to offer products for sale to a buying consumer. However, voluntary protection products are not mandatory, and I caution about adding any voluntary protection product to a bill of sale prior to the customer consenting to its purchase. The Napleton decision spoke of requiring “express informed consent” from the consumer. The customer had

to undertake an affirmative act to purchase, and the motor vehicle dealer had to communicate unambiguously about what the customer was going to be charged along with a description of a product or service, its fees or costs and whether it was optional or required. The Napleton decision also spoke of matters needing to be clearly and conspicuously disclosed, which they defined as difficult to miss or easily noticeable and easily understandable by the consumer.

It is extremely important to ensure that documentation such as the bill of sale and specific documentation for each voluntary protection product be clear, concise, and clearly show the price and benefits to the consumer.

Many of these problems can be overcome by using current, available NADA Driven guides on Fair Credit Compliance and their more recent Driven guide on voluntary protection products. However, I strongly caution against simply copying the policy without consulting with counsel to assist in properly drafting the policy. Generally, following the guidelines of the policies can be very helpful, but mistakes can still be made if proper training and implementation are not followed. Also, form language from a policy may work for one dealership but not another.

While mailers can be used, contest mailers are fraught with legal complexities. In the Traffic Jam Events case, the Federal Trade Commission reminded us of some principles we must apply when considering contest mailers. First, the Federal Trade Commission clearly stated that fine print disclaimers cannot overcome a “net impression” of deception created by an advertisement. Many of you have used mailers, and mailers can certainly be done properly. But please do not rely upon a vendor to provide legal opinions about its appropriateness and compliance. The mailer used by the Traffic Jam Events in the Louisiana case was one that I referred to as a two-step mailer. The mailer stated that everyone was a winner, which I have found is usually accomplished by giving everyone a \$5.00 awards card.

Consequently, that is true; everyone does win if they go to the dealership to pick up the card. However, the mailer then clearly has a number that matches a tab for a more expensive prize making the customer initially believe that they have won the expensive prize, i.e., television or a large sum of cash. However, a second step is required by the customer. The contest then requires the consumer to go to the dealership and be matched with a more unique number on the mailer, which is hard to find and is printed in fine print in an inconspicuous location. The FTC was highly critical of this practice. If you decide to use a mailer in the future, I strongly recommend a legal review.

What was interesting about the Traffic Jam case is that their practices had already been suspended in the states of Kansas and Indiana prior to the Louisiana decision, but Traffic Jam Events kept continuing their practices outside of Kansas and Indiana. The Federal Trade Commission was highly critical of the company’s actions and ruled that Traffic Jam events could

Last, **please be careful** of any **language** or **image** supporting official **governmental status**.

not use this type of mailer in the future for any products, not just motor vehicles.

Other lessons learned is the use of vouchers or simulated checks. These are highly susceptible to being illegal. In the Traffic Jam case, the disclaimers for the voucher of the simulated check were placed on the back of the simulated check, which would also be in clear violation of the West Virginia advertising laws. Also, the mailer did not clearly disclose the odds of winning the various products in a clear and conspicuous manner as is required under West Virginia law. Consequently, I strongly encourage that if a mailer is going to be used, it be reviewed by legal counsel who is experienced with advertising requirements of both the Federal and the West Virginia laws. Please do not simply rely upon the vendor’s representations.

Last, please be careful of any language or image supporting official governmental status. I believe that the best practice would simply not use such images in any manner to avoid confusion and legal exposure.

Again, it is extremely important to be cautious with advertising. The penalties can be very significant. There was a \$10 million fine in the Napleton decision and they also required Napleton to employ a fair lending compliance officer to engage in annual training, placed caps on the lending margin and required very stringent annual reporting by Napleton to the Federal Trade Commission for many years. Individuals were found to be personally liable by the Federal Trade Commission. Consequently, an individual who has approved these advertising types could find themselves personally liable for legal violations.

Advertising can certainly be done correctly, and the sale of optional, voluntary protection products to customers is very legitimate and valuable to consumers. Nevertheless, we have to be diligent so that these types of abuses and violations do not occur. The failure to make your advertising compliant can be expensive and create long-term stringent limitations and requirements.

These exposures can be significantly limited by simply taking the time to consult with qualified individuals. As always, your Association stands ready to assist you to help maintain your compliant advertising programs. ◀



The Ins & Outs of Dealership Communication

Communication within your dealership can make a world of difference for your customers, your employees, and your staff. Even if you believe your dealership is great at communicating inside and out, improvement is always possible.

Working toward more effective communication can mean:

- **Increased Revenue** — Do your service technicians spend a lot of time walking back and forth to the parts back counter to discuss and retrieve parts needed for a vehicle? Are you service advisors waiting for customer authorization on services? How long do customers need to wait at the dealership to get updates on their vehicles and pay? This time adds up to fewer cars serviced, fewer cars sold, and money left on the table.
- **Happier Employees** — Businesses that present more transparency and communication improve employee morale. This means more engaged team members. In fact, according to the McKinsey Global Institute, effective communication can improve productivity in any workplace by up to 25%. Happier employees also mean reduced turnover.
- **A Fulfilling Customer Experience** — Put yourself in the shoes of a customer for a moment. Which sounds better: spending the day in a dealership waiting room, or going about their day with the trust that they know their car is in good hands? People are known to take better care of their cars over their own health. Your customers want to take their vehicles somewhere where they will be frequently updated on services.
- **Transparency in Your Dealership** — If you communicate better and more frequently with your employees they are more likely to communicate better with you. This means problems are solved quicker, your staff is more relaxed, and your customers come back.

If one or more of these would be beneficial at your dealership, now is the time to start.



Businesses that present more **transparency** and **communication** **improve** employee morale. This means more **engaged team members**. In fact, according to the McKinsey Global Institute, **effective** communication can improve **productivity** in any workplace **by up to 25%**. **Happier employees** also mean **reduced turnover**.

Barriers to Effective Internal Communication

If communication is lacking throughout the dealership, there might be a physical or psychological barrier causing it. The cause may be deeply rooted or something easily fixable.

Do any of these sound familiar?

A Lack of Transparency

There could be any number of reasons why staff members might not be in sync. Often it's because nobody understands the goal. For example, if you expect your dealership to service 1,200 vehicles a month, does everybody in your service department focus on that? If so, are they aware of how they are performing? Not being transparent about information like expectations or even the vision of the business can get in the way of meeting goals.

Clearly defined goals set the right expectations. There should be a process or tool to help maintain an easy flow of internal communication.

Unclear Direction from Managers

An easy mistake a manager can make is to point out an issue without involving employees in finding a solution.

Let's say a service manager received complaints from customers about paint scratches on serviced vehicles. Relaying this to the service staff without a prevention plan going forward may not help. Reminding employees to be careful with vehicles is reasonable, but what if the vehicles were damaged prior to arriving at the dealership? Your team may suggest implementing a more consistent check-in inspection of the vehicle's condition upon arrival. This inspection could actually lead to higher service revenue in repairs to these damages along with more trust from the customer.

Employees Can't Ask Questions

Do you remember the old saying, "There are no stupid questions"? Is that what your employees actually believe? Fostering an environment where your team feels comfortable

Continued on page 36

... effective internal communication is important for a **successful dealership**, and it **starts with you** as the manager.

Continued from page 35

speaking up will strengthen your dealership. Creating a habit where experienced employees are encouraged to mentor others will improve their morale and allow new employees to get up to speed more quickly.

Not Recognizing and Celebrating Good Work

Staffing issues can mean that teams are stretched more thinly than before. With everyone so busy, it is easy to forget to show appreciation. The perception of being unappreciated can lower morale and lead to burnout. When employees feel recognized and seen by managers, they feel more open to voicing their ideas. Satisfied employees are far more likely to provide superior customer service and productivity.

Stressful Training

The more difficulty new employees have with their training, the less likely they will be comfortable asking questions or communicating well with others. According to a 2016 study by the National Auto Dealers Association, 28% of dealership terminations occur within an employee's first 90 days. Starting a new job often demands learning a lot of information. Investing in effective training programs can pay dividends in quicker new hire productivity while reducing turnover.

How to Improve Dealership Communication

There are several ways a dealership can implement to increase and improve communication between departments. These tips can break down many of the barriers listed earlier that prevent good communication within the dealership.

Start with Yourself

You are in charge. This means you influence a lot of what happens at your dealership for better and for worse. Create a culture of good communication. Set up ways to promote transparency in your dealership. Spend more time with your staff to create a comfort level for employees to ask questions, understand expectations, and feel more recognized. This should result in better goal attainment, a happier workforce, and more satisfied customers.

Communicate Digitally

It is hard to beat a face-to-face conversation, but that is not always possible or efficient. Digital communication is better than none at all. There are paid and even free options

available for sending messages between departments. It may even be functionality that is already available. Using an internal chat tool can provide quick answers to keep your business running at its peak.

Create One Source of Truth for Information

A dealership typically invests in many different types of software, with different and sometimes redundant sources of information. Between your DMS, your CRM, and other tools in use at dealerships today, it can be confusing and inconsistent. A best practice is to choose one system to be the source of truth that all employees rely on. This will make transparency easier, and provide the foundation to communicate across departments.

Between all of the benefits, barriers, and tips discussed, there is one overarching theme: effective internal communication is important for a successful dealership, and it starts with you as the manager. It offers many benefits and prevents a lot of potential problems. Overall, it can improve productivity, boost profitability, and create a positive employee and customer experience.

If you are unsure where to start, take a look at your dealer management system. See what features are available that may make following the tips provided easier. As a DMS provider ourselves, we strive to make important processes like internal communication easier for you with dashboards, chat features, and collaboration tools. ◀

Dominion DMS is a pioneer in Microsoft-based dealer management systems with decades of experience partnering with franchise dealerships to deliver a superior experience, reduce costs and protect their business. Our cloud-native VUE DMS offers digital security, flexibility and efficiency to help dealers meet today's rapidly-changing market. Explore more of our resources at VUEDMS.com.



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IN THE COMMUNITY



A huge THANK YOU to Bill Cole and the folks at Bill Cole Auto Mall for providing this 2012 Jeep Patriot to Good News Mountaineer Garage. Thanks to their partnership, Lauren is on the road to work and building her credit through the Keys to Success Program. Congratulations on purchasing your new ride, Lauren!

A huge THANK YOU to Dutch Miller- Chrysler/Dodge/Jeep/Ram of Charleston for providing this 2014 Hyundai Tucson to Good News Mountaineer Garage. Thanks to this partnership and coordination with their Manager TJ Henson, Keys to Success client — Lucinda has purchased a safe and reliable vehicle to keep her on the road to work! Congratulations on purchasing your new ride, Lucinda!



Louis Thomas Subaru

We want to congratulate Kim McClain on 30 years and Brian Farley on 15 years at Harry Green Chevrolet Nissan. Thanks for all you do!

Louis Thomas Subaru donated \$29,560 to the local Salvation Army. This generous donation was made possible with their loyal customers' continued love and support. Thank you for helping make a difference in our community.

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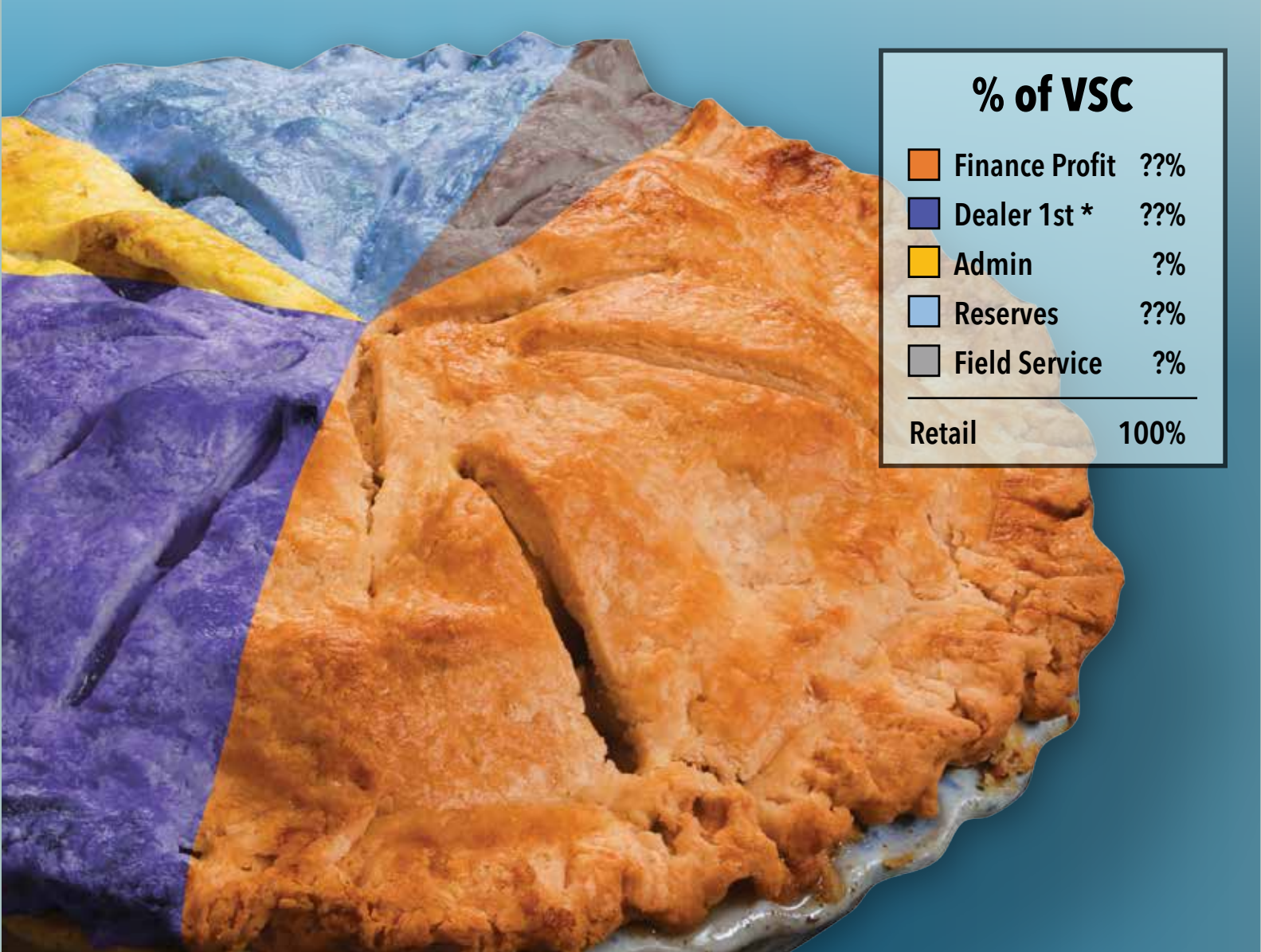
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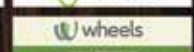
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