



WVADA *News*

WEST VIRGINIA AUTOMOBILE DEALERS ASSOCIATION

inside:

THE NEW FTC RULES:
WHAT YOU NEED TO KNOW

BY THE NUMBERS
OVERCOMING OBSTACLES
IMPACTING DEALERSHIP
PROFITS AND VALUATIONS

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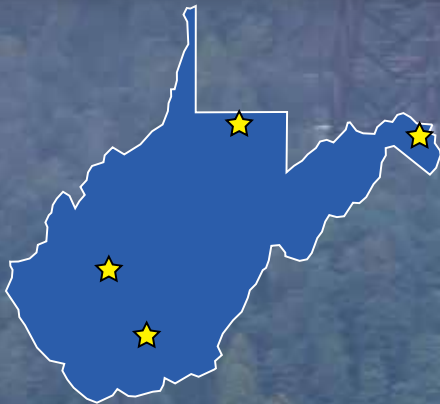
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CONTENTS

WVCAR.COM



14



18



22

6

President's Message

9

Motor Vehicle & Title
Registration Seminar

10

Counselor's Corner:
The New FTC Rules:
What You Need to Know

14

By The Numbers:
Overcoming Obstacles
Impacting Dealership Profits
and Valuations

16

WVCar Contribution & Pledge Form

17

Thank You To All Our WVCar Pac
Contributors For 2022!

18

Succession Planning for Dealers in an
Evolving Business Environment

21

Preferred Partner Programs

22

Is Your Dealership Prepared
to Deal with Cybercrime?
Identify threats and build defenses.

27

A Timeline for Implementation
New Clean Vehicle Tax Credit

28

The Secret to Controlling
Dealership Expenses

33

Save The Dates

34

In The Community

38

Executive Committee

WVADA News

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The Importance of Amendment Two

As we begin to enter fall and experience some cooler temperatures, races for the general election on Tuesday, November 8th are heating up. Half of the State Senate's 34 seats, and all 100 House of Delegates seats are up for election this year.

In addition to the Senate and House races, there are four potential amendments to the West Virginia Constitution. The amendments cover a wide variety of topics; however, the most important of these, as it relates to West Virginia businesses is **Amendment Two**.

MAKE WEST VIRGINIA FIRST

Vote **YES** on Amendment 2

West Virginians Deserve A Win!

Let's set the stage for lower taxes for working families and make West Virginia more business friendly.

In 2021, after years of trying to reform West Virginia's tax structure, the West Virginia Legislature adopted House Joint Resolution 3, also known as the Property Tax Modernization Amendment. The constitutional amendment seeks to modernize our Constitution and will give our Legislature the flexibility to cut or eliminate property taxes on personal motor vehicles, and the taxes businesses pay on their equipment, machinery, and inventory. Because personal property taxes are a constitutional provision in West Virginia, changes to the tax structure can only be made through a constitutional amendment.

If passed, Amendment Two will give legislators the authority to revisit our State Constitution and to start the process of

adjusting certain personal property taxes (i.e., machinery and equipment, inventory, and personal motor vehicles). The impetus behind Amendment Two is ultimately to create a modernized tax structure that will create more jobs, attract economic development, and cut taxes for hard-working West Virginians.

WVADA has joined forces with several other state associations in rolling out a "Make West Virginia First" campaign. We have a live website (makewvfirst.com), where you can sign up for information updates and notices. We will also be supporting the regional roundtable discussions with local community members from September 29 – October 10 in Teays Valley, Parkersburg, Clarksburg, Martinsburg, Beckley and Wheeling. We expect to have a broad representation of supporters for these discussions – business owners, legislators, and manufacturers all aimed at providing positive earned media opportunities.

Amendment two will help move West Virginia to the front of the list for economic development, spurring new jobs and career opportunities, strengthening communities, and allowing West Virginians to keep more of their hard-earned money.

It is important to note that Amendment two costs taxpayers nothing but gives the legislature the authority to address critical tax policy at a time when schools and local governments can benefit from the fruits of responsible government. With over \$1 BILLION in surplus revenues, Amendment two paves the way for tax relief with protections for local government budgets, education, and other funding.

I highly encourage each of you to visit makewvfirst.com to familiarize yourself with the benefits Amendment two can bring to our State. Please do not hesitate to contact me if you have any questions.

Support Amendment Two. Scan this QR code, like the Facebook page and share!



<https://www.facebook.com/profile.php?id=100085528047548>



Washington Conference on Capitol Hill

A special thanks to Richard Stephens, NADA Director for West Virginia, and Jack Stewart, Dealer of Country Club Chrysler, for attending the Washington Conference last month in D.C.

Richard and Jack met with Senators Capito and Machin and Representatives Miller and Mooney to discuss NADA's legislative priorities. Those priorities consist of the:

- *"Supply Chain Disruptions Relief Act"* which would allow businesses on LIFO an extended time to replace vehicle inventory as pandemic-related global disruptions and reduced auto production have made it nearly impossible to replenish new vehicle supply.
- Catalytic Converter Anti-Theft Legislation which would help to address the growing national problem of catalytic converter thefts.
- Urging changes to the FTC's new UDAP Rule that would impose a wide range of unwarranted and ill-advised new duties and restrictions on motor vehicle dealers.

Each of these issues has bipartisan support and NADA is working diligently to protect the interests of new motor vehicle dealers. I will keep everyone updated as each of these legislative initiatives develop.

Please do not hesitate to contact me if I can be of any assistance. I am honored to serve you. Please stay in touch. ◀



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Center
1500 Grand Central Ave
Vienna, WV 26105

Wednesday, Nov. 2nd
CHARLESTON

Charleston Coliseum
200 Civic Center Dr
Charleston, WV 25301

Thursday, Nov. 3rd
BECKLEY

Beckley-Raleigh County
Convention Center
200 Armory Dr
Beckley, WV 25801

Monday, Nov. 14
Martinsburg

Hilton Garden Inn
65 Priority Dr
Martinsburg, WV 25401

Wednesday, Nov. 16
WHEELING

Wheeling Country Club
906 Oglebay Dr,
Wheeling, WV 26003

Thursday, Nov. 17
Bridgeport
Bridgeport Conference Center
300 Conference Center Way
Bridgeport, WV 26330

Morning

Evening

ATTENTION

MANAGERS, TITLE CLERKS AND F&I PERSONNEL

This seminar will provide practical, applicable information about vehicle titling, registration, transfer limitations and many more dealership titling and registration issues. This seminar will mainly focus on the transition to the new E-Titling process and the roll out of West Virginia's electronic lien and title service, referred to commonly as ELT.

This information provided in this seminar is essential for Sales Managers, F&I Managers and Title Clerks. Attendees receive the Title & Registration Dealers Guide, developed and updated by WVDMV, along with the newest information and policies on DMV processing in electronic format.

WHEN: NOVEMBER 2022

9AM - 12 NOON

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The New FTC Rules: What You Need to Know

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

Let me state the obvious: things are changing fast and furious in our marketplace. The challenges come simultaneously from the Federal Trade Commission (FTC) and our manufacturers. Manufacturers are attempting to change the franchise model to an agency model used in Europe that gives substantial, if not complete, control over the retail process of selling a motor vehicle to the retail customer. Likewise, the FTC is attempting to create legal regulations to mandate precise actions by finance and insurance office employees.

The purpose of this article is to provide you with a summary of a proposed FTC rule which specifically deals with how a new motor vehicle dealer will be allowed to sell a motor vehicle and voluntary protection products to a retail customer. Currently, the proposed rule is receiving comments. The West Virginia Automobile Dealers Association (WVADA) has filed opposing comments on your behalf. Those full-length comments are available on the FTC and WVADA websites.

Amazingly, while a motor vehicle dealer is anxiously engaged in complying with the new safeguard rules – which are also implemented by the FTC if the FTC is successful in implementing these proposed regulatory changes – the FTC will dramatically change how any motor vehicle dealer operates within the finance and insurance office with the retail customer. The rule is only 13 pages long, but there are a total of 126 pages of explanation and rationale to consider.

Following is a summary of the more significant changes.

1. The proposed rule uses the broad term “add-on product(s) and service(s)” to encompass not only voluntary protection products but also those accessories which may be described as hard add-ons or accessories to a motor vehicle. After using the broad term “add-on product(s) and service(s),” the new FTC proposed rule will require an extremely detailed showing of how each “add-on product(s) and service(s)” must be disclosed to a retail customer. For example, the FTC states that the disclosure for each product or service must contain pricing for “the typical consumer” without really providing a standard or definition of what the “typical consumer” looks like.

We all can appreciate that there is no “typical consumer” and that voluntary protection products can be customized. Extended service contracts come in a variety of terms and coverage and are priced differently depending upon the make, model and age of the vehicle. Consequently, there is no “typical consumer” in our marketplace to cover any one product.

The proposed rule would require the dealer to disclose, clearly and conspicuously, a list of all “add-on product(s) and service(s)” on its website, online service, or mobile application. This requires disclosure of the pricing of these add-ons when advertising a motor vehicle.

2. One of the more significant changes is that a dealer would have to provide the motor vehicle’s cash price without any optional “add-on product(s) and service(s)” so that the customer can purchase the vehicle without considering any voluntary protection products. This would be called the “offering price.” This could certainly change the dynamic of the transaction and vehicle pricing when many dealers currently look at the transaction as a whole instead of only focusing on the price of the motor vehicle. I believe this will undoubtedly increase the price of motor vehicles for retail customers.
3. The FTC has also proposed a rule requiring that all disclosures be “clear and conspicuous” and uses a seven-part test to illustrate this standard. The proposed rule generally defines “clear and conspicuous” as “difficult to miss (i.e., easily noticeable) and easily understandable . . .”
4. This “clear and conspicuous” standard will further be complicated by the requirement that the motor vehicle dealer will have to prove that a customer gave their “express, informed consent” when purchasing any “add-on product(s) and service(s).” The proposed rule literally states that a mere signature or customer initials on a form or a “checkmark” on a pre-printed

Continued on page 12



Amazingly, while a motor vehicle dealer is anxiously **engaged** in complying with the **new safeguard rules** – which are also **implemented** by the FTC if the FTC is successful in implementing these proposed regulatory changes – the **FTC will dramatically change** how any **motor vehicle dealer** operates within the finance and insurance office with the **retail customer**.



box will not be enough to be the customer's "express, informed consent" to purchase "add-on products and services." First, this is an amazing statement to make and denies any rational and reasonable way by which business is conducted. Second, this will require additional documentation or language on all disclosure forms, which contradicts the FTC's consistent statements that the transaction to buy a motor vehicle is too complicated and confusing, which increases the likelihood of consumer confusion.

5. The new FTC rule also contains language which prohibits misrepresentations about "the cost or terms of purchasing, financing or leasing a vehicle," or "any cost, limitation, benefit or any other material aspect of an add-on product or service," and even one broader that states "the availability of any rebates or discounts that are factored into the advertised price but not available to all consumers."

Of course, these are already governed by our West Virginia Consumer Credit and Protection Act and other West Virginia common law governing misrepresentation, actual fraud and constructive fraud. In addition, there exist federal laws that govern advertising. This proposed rule can lead to inconsistent application or interpretation of existing laws and makes it very difficult to determine how to interpret and apply current relevant law.

6. One interesting attempt by the FTC is to govern what we refer to as "conditional delivery." The new proposed section would prohibit misrepresentation that a dealer would keep cash down payments or trade-in vehicles, charging fees or initiating legal process or any action if a transaction is not finalized or the consumer does not wish to engage in the transaction.

This is an overt attempt to control conditional deliveries to customers. I would encourage our West Virginia dealers to take this opportunity to review their conditional delivery or spot delivery forms to make sure that they are very clear on how this legal contractual "condition subsequent" will operate and what remedies may be available to a dealer should a consumer either misuse or damage a motor vehicle while in their possession.

7. The FTC would make it a violation for a dealer to misrepresent "whether or when a motor vehicle will pay off some or all of the financing or lease on a customer's trade-in vehicle." This is a blatant misunderstanding of who is in control of this fact. While a dealer will promptly attempt to initiate these actions to obtain its monies and funding, it is up to third parties to determine how quickly the motor vehicle is paid off and when a new title can be given on a purchased motor vehicle. Dealers are at the mercy of

Interestingly, the FTC is attempting to promulgate more rules that control prizes and sweepstakes, how motor vehicles can be repossessed and representations about the exporting of vehicles.

various lenders and how soon the Department of Motor Vehicles (DMV) can process titles. While our own DMV is making great strides and progress with electronic titling, again, this is placing a burden on the motor vehicle dealer, which is outside their control.

8. Interestingly, the FTC is attempting to promulgate more rules that control prizes and sweepstakes, how motor vehicles can be repossessed and representations about the exporting of vehicles. This seems rather strange as already existing laws govern these scenarios.
9. The FTC is attempting to place new record-keeping rules within this proposed rule even though they have passed the comprehensive new safeguard rule with which we are all striving to comply by the deadline on Dec. 9, 2022. For example, the new record-keeping requirements would require that a motor vehicle dealer maintain, for 24 months, all records "necessary to demonstrate compliance with this proposed rule." They list things such as all advertisements, sales scripts, training materials and marketing materials, all add-on lists and all documents describing the products and services offered to customers, all purchase and lease orders, all financing documentation and communications, and all written consumer complaints related to sales, financing or leasing, and of course, the add-ons.
10. Perhaps the most blatant part of this proposed rule would strictly govern how dealers actually do business within the F&I office and how presentations of "add-ons" must be made. The dealer must disclose the "offering price" only for a vehicle referenced in advertising or the first response to an inquiry by a customer. This would prevent a dealer from offering various voluntary

protection products as a “package” to a consumer to distinguish the value it can provide to the consumer, who would be comparing it to other dealerships.

The dealership would have to “clearly and conspicuously” advise the consumer of the “cash price” as well as any discounts, rebates, trade evaluation and required government charges separately. Remember, West Virginia documentary fees are not “required government charges.” Be careful about confusing the two. Only after the dealer obtains a signed written declination from the customer stating they do not wish to buy only the car can the dealer discuss add-on products and services. That is correct: you would have to have the customer decline, in writing, purchasing the car before discussing voluntary protection products.

The rule would then require the dealer to address each add-on product or service separately and disclose each price clearly and conspicuously before moving on to the next add-on product or service. This is fraught for honest mistakes in which no one is harmed or misled.

The National Automobile Dealer Association (NADA) and most state associations have submitted opposing comments. I hope you have also taken the time to voice your opposition to these regulations, as numerous statutory and common laws prevent the actions that the FTC is attempting to control arbitrarily.

Of course, all these arbitrary steps and requirements are being mandated in a market where the brick and motor vehicle dealer is pressured to streamline the retail process and make retail transactions more efficient. I believe it is reasonable to predict that the proposed FTC rules will not only increase the cost of a motor vehicle and voluntary protection products to the consumer but will also require new forms to be created and old forms to be modified to comply with the express informed consent language within the rule. These rules counter how a consumer wishes a motor vehicle transaction to occur these days.

I also believe that the FTC rule ignores the reality that the overwhelming majority of motor vehicle purchasers have purchased many cars over their lifetimes and are familiar with the process. To place an additional burden on these sophisticated consumers who regularly engage in financing transactions is unnecessary and duplicative of existing law.

I apologize in advance for the serious tone of this article, but again, overzealous and arbitrary regulations are being imposed on our industry. The West Virginia Dealer’s Association is closely monitoring this and will keep you advised as this proposed rule proceeds. The Association stands ready to assist you in any efforts to comply with existing and future regulations. ◀

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BY THE NUMBERS

Overcoming Obstacles Impacting Dealership Profits and Valuations

By Tasha R. Sinclair, CPA/ABV, Chairperson, AutoCPA Group member of Tetrick & Bartlett, PLLC's Dealer Services Team

Leading publishers of Blue-Sky multiples agree that buyers have shifted the application of Blue-Sky multiples from historical adjusted profits from the last twelve months to a three-year average of adjusted profits as a predictor of future earnings. For 2022, this approach incorporates two out of three years of outperformance. The decreased supply of new vehicles resulting from the pandemic and other supply chain issues coupled with strong consumer demand has created the best

environment for retailing new and used vehicles that we have encountered. Year-to-date 2022, we have seen new record profit months. But is this level of net profit truly sustainable for the long term? I ask this question considering the following current conditions:

- **FTC New Safeguards Rule** – Most of the substantive provisions of the new Safeguards Rule will go into effect Dec. 9, 2022. NADA had estimated that



compliance will average \$293,000 for startup costs and another \$275,000 to maintain annually. While these estimates have proven to be high in most cases, the cost of compliance will be significant. For most dealers, this is a cost that cannot be fully offset by reductions in other areas.

- **Interest rate increases** – While most dealers are still turning their inventories at a rapid pace, the interest rate increases already seen in 2022 and those expected to come may not have a significant impact on floorplan interest expense. But what about the effect the interest rate increases have on consumers' ability to purchase vehicles? Loan terms of 72 and 84 months have become more commonplace, and monthly payments are at an all-time high. If consumers are already at the maximum length and payment, and interest rates available to the consumer rise, they will be forced to finance a lower amount. What impact will this have on dealers' ability to maintain the exceptional turn ratios keeping interest expense down? What impact will this have on dealers' gross profits and back-end profits?
- **Inflation** – The annual inflation rate in the U.S. was 8.1% in August 2022. With used cars being the component with the highest level of price inflation, car dealers have benefited from inflation. However, used car prices are declining. Experts expect used

car prices to continue to decline through the end of the year. Considering the quick turn ratio mentioned above, dealers may now feel the effects of the decline in their used inventory values. Used write-downs may be stronger in 2022 than in pre-pandemic years due to dealers having larger used car inventories to offset the shortage in new inventories. Compounding the dealers' dilemma with inflation is that expenses are sure to increase as experts expect only a gradual ease in overall inflation.

So why do I raise the red flag on predicting future profits? The reason is two-fold. If you are a dealer with excess cash looking to buy a dealership, you may want to consider these factors when projecting sustainable profits for the Blue-Sky offer. In addition, now is the time to develop your contingency plan for when and if these factors start impacting your net profits. ◀

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

Political Action Committee of the West Virginia Automobile Dealers Association

WVCAR Contribution & Pledge Form



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Yes, we need a strong voice in Government, enclosed is my personal check or credit card information payable to WVCAR.

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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 increases**, the **elimination of the B&O tax on new vehicles**, or one of the **strongest franchise laws in the country**.

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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WVCAR is the West Virginia Automobile and Truck Dealers Political Action Committee, and your support is vitally important in order for us to have a voice at our state capitol in Charleston. WVCAR is the best platform for our message to be heard by legislators and signify our value in West Virginia communities.

The WVCAR PAC contributes to West Virginia candidates who support a pro-business, pro-dealer mentality. Dealer member personal contributions are the pillar of the WVCAR PAC, and your contribution is imperative. Not only is your financial participation a crucial part of having a successful PAC but also having WVADA dealers involved to show legislators that we care about an issue. WVCAR gives our members the ability to extend their influence well beyond their own legislative districts.

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West Virginia Franchise Law 2022

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<https://wvcar.com/wp-content/uploads/2022/06/2022-Franchise-Law-Booklet.pdf>





Succession Planning for Dealers in an Evolving Business Environment

By Bank of America Corporation

While there are many considerations in running a thriving dealership, one of the most important – and often overlooked – is developing and maintaining a succession plan. A strategy that allows for the transfer of ownership to the next round of leaders – whether family members, a trusted partner or an outside buyer – will position you and your business for future success.

Why now?

Having a succession plan is important for many reasons; however, in today's environment, there are three crucial reasons that rise above the rest.

1. There's a lot of buy/sell activity in the industry and accelerated consolidation. If your long-term plan is to exit the industry, you should consider the current market valuations and buyer interest.
2. The U.S. is on the verge of material changes in tax laws that could affect your finances and the value of your business if passed on to future generations. The estate and gift tax exemption, currently at a historic high of \$12.06 million per person or \$24.12 million per married couple, will drop by half in 2026 when the current tax law lapses. It could drop even faster if Congress passes a new law before 2026.

3. The market, labor costs, supply chains and other factors influencing dealerships continue to fluctuate. As the pandemic brought home to us, every business needs a plan in place in case top leadership can't run day-to-day operations.

Consider your priorities

To begin the succession planning process, you need to identify your goals. Perhaps you'd like to sell – to family, management or a third party – to generate liquidity. You may also want to maintain some level of control of the business, particularly during a transition, if you're gifting or selling the business to family members or selling to trusted employees. Or, you may want to step away completely and allow a third party to take over.

In addition to identifying your goals, it's important to consider how your decision will affect employees and the community to assess whether your actions align with your goals.

Finally, you'll want to consider the financial implications of your decision, whether it's reducing the amount of taxes you pay or generating liquidity for future needs.

Identify key players

One of the most critical succession planning decisions is determining the organization's future leadership. While it can



be difficult and emotional to talk with family and key managers about the future, it's an essential piece of the process. An honest talk about your goals and theirs will help clarify your options and develop a more realistic succession plan.

Facilitating the process will be two crucial teams: internal and external. Your internal team will consist of key family members, senior dealership managers, your banker, lawyer and accountant. Your external team will consist of advisors who think broadly and are strategic and defensive, like a transition attorney, estate lawyer, investment bank and appraiser or auditor.

Maximize the value of your dealership

Once your team is in place, you'll want to get your documents in order. These include:

1. Financial and business information. You should pull out your business's financial statements and consider conducting an audit if you plan to sell the dealership. An audited statement is a more powerful statement to share with a prospective buyer.
2. Updated appraisal. An appraisal will compare your business to other dealerships, their gross margins and growth rate. Key metrics are important, whether you're selling or benchmarking the success of your business for future managers.
3. Strategic plan. It's an excellent time to create or update the strategic plan for your dealership. It will help you look at your dealership in the context of how the industry is changing and evolving. Opportune times to update your strategic plan include any time you experience changes in your family situation or senior management team.

Initiating a succession plan can be emotional, and the process will take time. However, once you get started, you'll find relief in clarifying your goals, understanding the intent of your family and senior managers and creating strategies that maximize the value of your business and legacy. ◀

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To begin the **succession planning process**, you need to identify **your goals**. Perhaps you'd like to sell – to **family, management** or a **third party** – to generate **liquidity**.

An aerial photograph of a river with a dam and a bridge. The water is a deep blue-green color, and the surrounding land is a mix of brown and green. The bridge is a long, straight structure crossing the river. The dam is a large concrete structure on the right side of the river.

Plan ahead for your dealership's long-term legacy

Setting up a succession plan is an important consideration for the future of your dealership. Now's the time to think about your priorities, such as maintaining control, taxes, liquidity, employees and family.

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Is Your Dealership Prepared to Deal with Cybercrime?

Identify threats and build defenses.

By Erik Nachbahr, President and Founder, Helion Technologies

Cybercrime poses a constant threat to businesses and their customers, with criminals committing fraud by stealing identities or using phishing to illegally gain access to a company's computer network.

In recent years, cybercriminal attacks have caused major consumer information breaches at retailers, social media platforms, and credit information providers. Seventy-four percent of companies have been the targets of attempted or actual payments (check, wire, or ACH) fraud.

The pace of attack increased in 2020, with two-thirds of companies reporting an increase in fraud attempts since the COVID-19 crisis began.² And anti-fraud professionals are almost unanimous in predicting an increase in fraud in 2021.² Cybercrime attacks – from ransomware to payments fraud – show no sign of going away.

“Many dealers don’t think hackers are looking at them,” explains Erik Nachbahr, Certified Information System Security Professional (CISSP) and President and Founder of Helion Technologies, an IT/cybersecurity services provider exclusively serving the needs of auto and heavy truck dealers. “Dealerships are increasingly a target of cyber threats with their high volume of large dollar transactions and lack of digital security.” As criminals develop more sophisticated cybercrime techniques and states implement stricter consumer privacy legislation, cybersecurity and data protection should be top priorities for dealers. That means

heightened security to ensure data privacy, combat potential attacks, and mitigate losses.

According to the 2021 IBM/Ponemon “Cost of a Breach Report,” it takes an average of 287 days to identify and contain an attack. Data breaches that took longer than 200 days to identify and contain cost an average of \$4.87 million, while those that took less than that cost an average of \$3.61 million. Lost business accounted for 38% of the overall cost, including increased customer turnover, lost revenue from system downtime, and additional marketing expenses to overcome damage to the business’s reputation.³

Key dealership cybercrime threats

Dealerships generally have a complex technology architecture that makes cyberattack protection challenging. “Many dealership computer systems have hardware added in a one-off manner, are built without a complete system plan, and utilize older, outdated software. In some cases, they underpower their virus protection by using freeware software. Further, weak security protocols that allow user account sharing can undermine a dealer’s business,” Mr. Nachbahr explains.

Increasingly sophisticated ransomware attacks targeting dealerships are on the rise. “These criminals know dealerships have money and are aware of dealer vulnerabilities. That makes dealerships a lucrative target,” continues Mr. Nachbahr. “The attacks aren’t typical automated intrusions; they are enterprise-grade attacks, with live hackers combing through

Payment fraud prevention measures¹ % of organizations using these measures:



Positive pay



Daily reconciliations/
other internal processes



Payee positive pay



Segregation of accounts

a dealer's systems. Because dealers have many, disparate components and don't tend to use standard protocols, once their systems are exploited, the breach is difficult to fix."

Other cyber threats focus on personally identifiable information (PII) which can be stolen and resold to bad actors. Forty-four percent of data breaches included customer PII, making it the number one type of data stolen.³ Dealerships regularly handle vast amounts of PII, particularly financial information, so it's no wonder they're an attractive cybercrime target.

In today's environment, protecting dealership computer systems and their customer data is essential. "As cybercriminals are becoming increasingly adept, more dealers are realizing an attack could be a 'business-ender.' Forward-thinking dealers are investing in technologies that protect against these full-scale attacks. Information technology security is now being viewed as a priority, not simply an expense to be controlled," states Mr. Nachbahr.

The cost of cybercrime

The likelihood that a business will experience financial damage after a cybercrime attack is rising quickly. The average cost of downtime from a ransomware attack has doubled over the past year to \$274,200.⁴ The average downtime is now 19 days, a three-fold increase from 2019.²

Direct economic losses are compounded by lost revenues from operational disruptions, brand reputation damage, and decreased customer loyalty. A 2021 IBM/ Ponemon Institute survey found that a data breach costs U.S. businesses an average of \$180 for each accessed/stolen record containing customer PII.³ For dealerships with thousands of records, the damage can add up quickly, not to mention the impact on customer relationships. A Ping Identity consumer attitude survey reported that 25% of respondents would stop using a business after a data breach.⁶ The potential for cybercrime to inflict direct losses, reputational damage, and customer loss highlights the importance of making data security and cyberfraud defense a priority.

A salesperson responded to a phishing email, opening a malicious file with ransomware and providing cybercriminals access to that computer. The salesperson did not suspect an intrusion. Once behind the firewall, the hackers were able to access the dealership's entire system and servers. The hackers used the compromised computer to probe the network, looking for vulnerabilities to lock up the dealership's computer operations.

The criminals were able to shut down the dealership's systems for over a week – asking for payment in bitcoin to relinquish control of the systems. All of the dealership's servers and emails and one-third of their 300 computers were inoperable. They chose not to pay the ransom, but instead took the next month to rebuild their systems completely. How could this cyberattack have been prevented?

- Through employee education on the hazards of downloading unsubstantiated files or clicking on suspicious links
- With proper web filters and controls to block hazardous links
- By implementing fraud software to quickly find, mitigate, and recover information compromised by fraud and ransomware attacks

Limiting primary fraud threats

When it comes time to address criminal activity targeting payments, banking transactions, customer data, communications, and computer systems, it is important to analyze both non-cyber and cyberfraud. Equally important is identifying the sources of threats – internal and external – and dealing with each accordingly. Simple protection measures along with insurance for business crime, cybercrime, or data breaches can dampen losses. Measures to limit risks include:

Employee education is the top method for lowering the risk of fraud in general, and cyberfraud in particular. A company culture that values overall fraud prevention

Continued on page 24

Fraud by the numbers¹

% of companies experiencing fraud:



Continued from page 23

sends a powerful signal to employees. Employee education about fraud awareness is one of the best ways to get started. Fraud barriers include:

- Clearly defined fraud prevention roles and responsibilities for you and your employees
- Separation of duties, checks and balances, and multi-factor authorizations for funds transfers
- Secured computers with password protection, changed periodically
- Restricted user account access to individual owners with no shared access
- Web filters and controls that block clicks on potentially fraudulent links

Check and wire fraud are the top two payment fraud threats for any business. Sixty-six percent of companies reported that check payments were subject to fraud, and 39% were victims of wire fraud attempts.¹ Dealership payment volumes – both paper and electronic – make an attractive target for fraud. Implementing a few simple, inexpensive processes can protect your dealership.

- Use positive pay services. You'll be able to verify the authenticity of checks by looking over the issue date, check number, amount, and payee name to catch check fraud.
- Protect check stock with dual authorization before use.
- Authentication is further enforced through online banking platforms which require additional authentication for wire transfers through assigned user ID and password logins, requestor authentication, and dual approvals.

Phishing and social engineering attacks scam employees into believing an email is from a reputable company or dealership employee. The recipient then reveals sensitive information, passwords, and credit card or account numbers. Phishing emails can appear to be from the dealership owner, ordering large sums to be wired to external accounts, which then vanish moments after the transfer. Phishing emails entice unsuspecting employees

to download innocent looking files or click on malicious links and infect computers with spyware, viruses, or ransomware.

“Phishing attacks are one of the most common and damaging ways for hackers to access your systems,” Mr. Nachbahr explains. “Your employees should be the frontline defense against attack – your ‘human firewall’. Ongoing employee training, education, and support allows them to recognize social engineering attacks and thwart costly episodes before they begin.” Preventative measures include:

- Web filters and controls that restrict access to phishing links
- Multi-factor authorizations for wire transactions
- Limits on payment amounts that a single employee can authorize
- Cloud backup for restoration following a malicious software attack
- Intrusion detection software to identify suspicious network activity

Synthetic identity fraud is another risk to dealers today. Imposters use fake information to create fictitious identities, combining stolen identity information to create new credit files. These new synthetic identities allow criminals to qualify for a loan to buy vehicles, putting dealerships at risk for losses. Background checks verifying customer identity offer the best protection.

When cyber fraud does penetrate a dealership, speed is the key to mitigating its impact – the faster an attack in progress can be detected and stopped, the less its damage. Quick detection and speedy remediation deploys an entire set of technologies, processes, and expertise – including digital forensics, threat hunting, malware reverse engineering, and technical surveillance countermeasures – that most dealers don't have. Mr. Nachbahr explains, “Dealers need a Security Operation Center (SOC) to monitor the network 24/7/365 looking for signs of malicious behavior. Tools like advanced endpoint threat protection and security information event management (SIEM) allow security professionals to sift through and correlate data and identify suspicious patterns

The cost when cyber criminals strike

Cost of a data breach:
\$180
per PII record stolen³

Loss of customer loyalty:
25%
of customers say they will leave
after a data breach⁶

Cost of ransomware attack downtime:

19
days in length⁴

\$274,200
average cost of related downtime⁵

of behavior so they can shut down the attack early and limit damage to the dealer.”

“Dealers are quickly recognizing the need for a SOC, but security professionals with the training and certification to run the centers are hard to find. Most dealers are turning to outsourcing to protect their business.”

Cyber liability insurance

Cyber liability insurance protects your dealership when cybercrime happens. “Many dealers don’t think cybercrime will happen to them and are not prepared when it does,” explains J. Travis Johnson, Auto Dealer Practice Leader at McGriff Insurance, a subsidiary of Truist Insurance Holdings, Inc. “Due to their systems and transaction levels, dealers are one of the many low-hanging fruits for cyber criminals. While some OEMs do require cyber liability insurance, dealers who aren’t required to purchase policies typically don’t think the premium money spent is worth it. Not realizing the overall benefit of a cyber liability policy is relatively inexpensive when compared to the damage a cyberattack can cause.”

Dealerships interested in cyber insurance policies undergo an extensive cyber risk review that rates them on existing cybersecurity vulnerabilities and defenses in place. Your level of cybersecurity preparation determines your premiums. Some of the coverages include the cost of identifying where the attack came from, making ransom payments, paying rewards for informants, repairing or replacing computer hardware, and potential court costs. If an attack happens, most insurance carriers offer a 24/7 on-call teams to advise you on next steps and help you get the problem resolved as quickly as possible so you can get up and running again.

Don’t think you are flying under the radar

Headline-making data breaches typically occur at large, well-known companies, but that that doesn’t mean your dealership can rest easy. Fraud criminals are constantly

looking for the easiest marks, and sizeable transaction volumes combined with disparate systems make dealerships particularly vulnerable. Take protection measures seriously to avoid being a victim.

Can I afford to ignore cybercrime?

A serious cybercrime attack can be crippling. A ransomed network, infected server, or compromised bank account can be as much of a disaster as a flood or fire. As more dealerships rely on digital customer interactions and transactions, the benefits of protecting your dealership, your data, and your finances from fraudulent activity have never been greater.

Don’t let cybercriminals steal your business

Talk to your relationship manager or treasury consultant to discuss your business plans and your dealership’s fraud defenses, including ways to mitigate damages through McGriff Automotive insurance policies. ◀

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Sources

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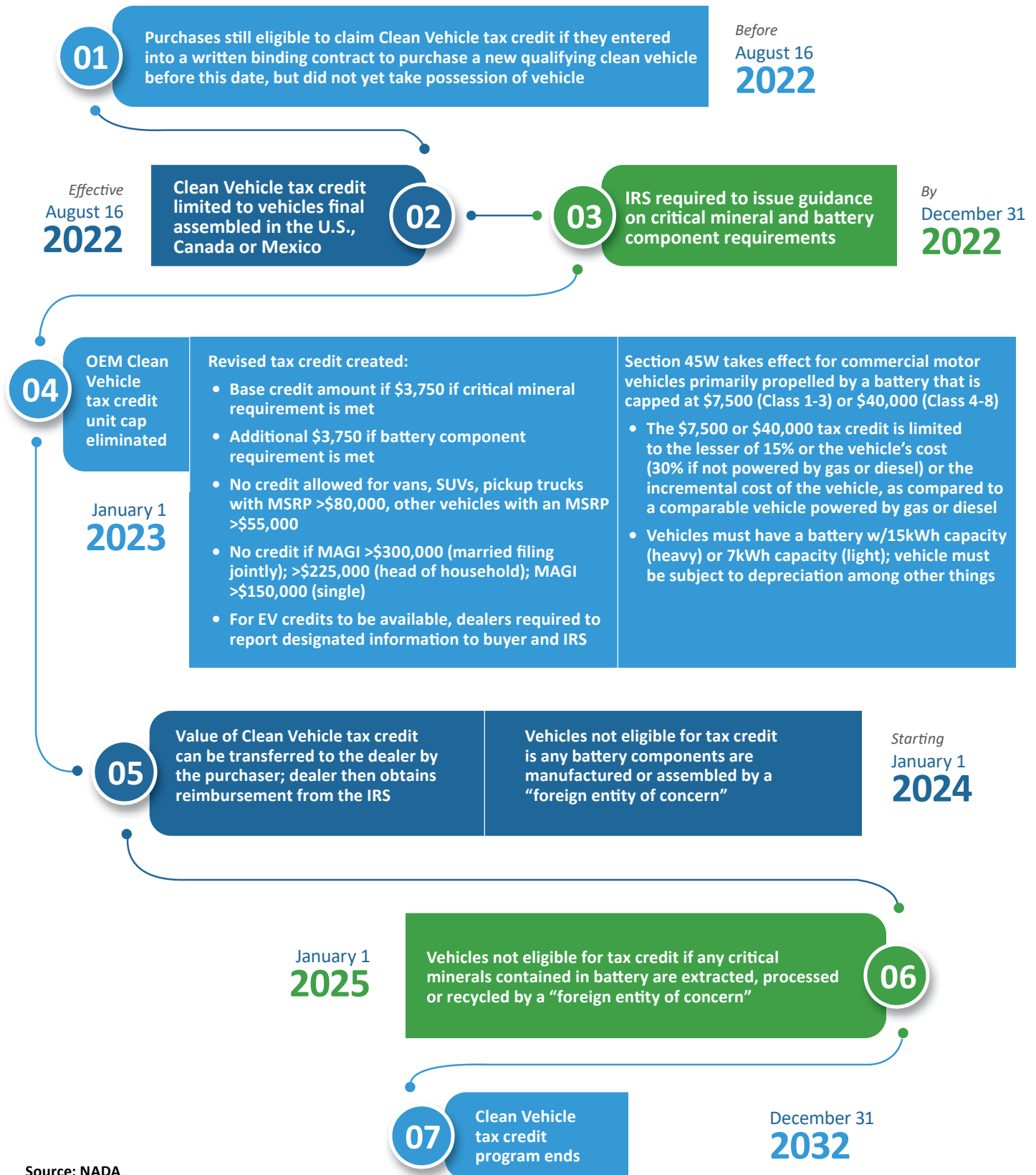
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A Timeline for Implementation

NEW CLEAN VEHICLE TAX CREDIT



Source: NADA

The Secret to Controlling Dealership Expenses

By Sharon Kitzman, Dominion



One of the significant challenges of running any automotive dealership is moderating expenses. General managers and dealer principals are responsible for controlling many costs, including payroll, vehicle inventory, floorplan, and parts inventory. Monthly bills add up, and there is less revenue to put toward necessary resources. A major opportunity for expense control may be the dealership's software stack.

According to the 2022 DMS Market Report by the Dealer Tech Nerd, the average franchise dealership spends \$30,000 a month on software. With a mindset shift and careful evaluation, those costs can be reduced.

A Breakdown of Dealership Software Costs

Dealership software can be broken down into 29 categories. Here is an outline of the most expensive and necessary solutions for a typical franchise dealership.

- The Dealer Management System or DMS is the core hub that connects all dealership data between departments and even multiple stores within a dealership group. The average monthly spend is \$6,300.
- Many areas of a business use Customer Relationship Management (CRM) tools to execute, track and analyze communications with customers and prospects, and maintain a historical profile of these interactions to help grow relationships. This software costs \$2,000 per month.
- Equity Mining software helps a dealer use customer information from a CRM and evaluate the revenue potential of a customer, considering trade-ins, future potential services, and more. This tool costs \$2,000 per month.
- Vehicle Inventory Management is software that holds the details for each vehicle on the lot, including owner history, the going market value, photos, and more. This software averages \$1,700 per month.

Amounts vary by category, but all tools contribute to this significant monthly cost. Knowing the value of each tool

Some **software** in your **dealership** may play a significant role in the **success** of your **business**, and others may have less of an impact. If you **find some tools** fall into the latter category, you may want to consider **eliminating** them.

will allow you to evaluate your needs and consider how you might reduce costs.

How to Evaluate Your Software Integrations

Take stock of the software vendors you use. Gather your contracts, invoices, and any other information. The tools are likely integrated with your DMS. Here are some suggestions on how to evaluate them.

- **Take Note of Redundant Services**

As tools evolve and update, the features between some of them can become similar. After several enhancements, the CRM you originally purchased to manage communications with your contacts may now be able to manage your website. This may no longer be necessary if you are also paying for a website maintenance tool.

Do not immediately cut out every duplicative resource. Make sure any tool you decide to remove from your stack can be sufficiently replaced. Consider how much longer you have on individual product contracts. It may be financially beneficial to wait before ending your relationship with one or more of them.

- **Tie The Value of Each Vendor to Historical Revenue**

Some software in your dealership may play a significant role in the success of your business, and others may have less of an impact. If you find some tools fall into the latter category, you may want to consider eliminating them.

Beyond expense control at your dealership, consider why a particular tool is not benefitting your business. Is it not doing its intended job, or has your business changed in ways that make the tool no longer a good fit? This is a great opportunity to involve your staff by discussing their usage of the software and how well they like it.

If the general purpose of the software is valuable, but the current product does not provide a good experience for your staff, consider replacing the software with another vendor rather than removing it altogether. Replacing a key tool that the staff does not value with a better one could increase your revenue.

- **Consider How Efficiently the Software Works Together**

Dealership software should be integrated in a way that can share data efficiently. Data typically flows through the DMS, so consider this during your evaluation. If your tools are not communicating with each other, that means some of your staff may need to log into different interfaces and move data manually. It could also mean you are not getting the complete picture of what is happening in your dealership.

Your staff may spend more time dealing with the tools and less time bringing in revenue. Putting a focus on the integration of your software with your DMS can increase the efficiency of your dealership and offset costs.

- **Reduce Your Software Costs but Not the Value**

Now that you have evaluated your software stack, chosen what software can be removed, and have a better picture of how your tools tie to overall revenue, it is time to take action. Talk to selected software vendors about finishing but not renewing contracts. Make sure your chosen tools integrate well with your DMS. This should not only reduce costs but make the combination of your chosen tools more valuable to the dealership.

Consider what you can do with these savings to benefit your dealership even further. Can you upgrade any software that would increase productivity? Perhaps somewhere else in the dealership needs an increase in budget. Can these savings go towards increasing customer satisfaction? These are all possibilities that may not have been an option before. Good luck reducing your costs and increasing your profits! ◀



Sharon Kitzman leads the launch and long-term growth of VUE DMS. Her expertise in DMS technology is key to helping VUE clients to optimize their operations with innovative solutions. Previously, Sharon managed the strategic direction and product development for Reynolds & Reynolds and Dealertrack. Her experience spans every area of dealership software development including sales, marketing, product lifecycle management, process re-engineering, OEM management, professional services and customer service.

Sharon is a recognized leader in the automotive industry and has received many accolades including Automotive News Top 100 Leading Women 2015 and 2020, Auto Remarketing Women in Retail 2021, and AutoSuccess Women at the Wheel 2021. She has a Bachelor of Business Administration from Ohio State University.



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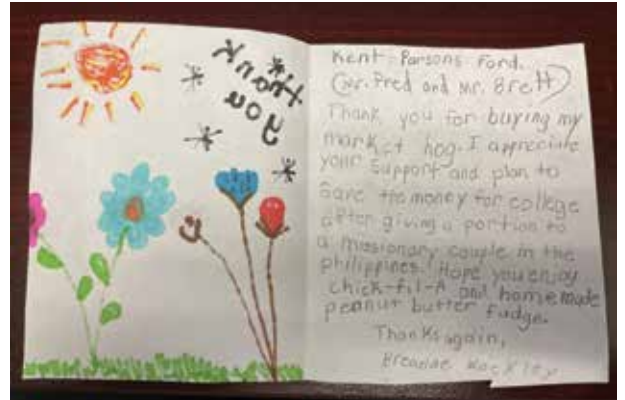


PARSONS

Every year, Parsons Ford supports future truck owners by purchasing animals the local youth fairs.

Breanne Kackley (center back row in photo) stopped in with her family to thank Brett for purchasing her pig, Chase.

Breanne and her family presented Brett with a framed photo from the Berkeley County Youth Fair and a beautiful handmade card by Breanne, who plans to donate a portion of her earnings to a missionary couple in the Philippines and save the remaining funds for college.



Dutch Miller

In late August, employees from Dutch Miller Subaru stopped by Dupont Middle School to distribute 15 boxes of school supplies two employees, Brent Marshall and Jason Jarrett, put together for the school. These boxes contained much-needed school supplies for the classroom and the boxes can even be repurposed as flower planters. Dutch Miller Subaru is proud they assisted Dupont Middle School with these school supplies.



Continued on page 36

Charging West Virginia's Energy Future

It was an honor to be able to supply some of our latest electric vehicle models for demonstration at "Charging West Virginia's Energy Future" event. A special thank you to our dealers who helped make this possible such as Stephens

Auto Center, Moses Auto Group, Matheny Motors and Astorg Auto. WVADA would like to thank everyone for their involvement and for the opportunity to participate in this landmark event. #diversifywvenergy



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THANK YOU

To all those who made our Electric Vehicle Show and legislative discussion a huge success!

"The demands for electric power keep growing and growing, and the inclusion of electric vehicles in our transportation portfolio is placing greater demands on our electricity utilization. As such, West Virginians look to the future, and they are willing to progress."

-Delegate Bill Anderson (R-Wood)
WV House Energy Chair





Moses Toyota

Representatives from Moses Toyota, Toyota Motor North America, and the Kids in Need Foundation (KINF) distributed more than 450 backpacks to students at Weimer and Anne Baily Elementary Schools in September. The inaugural Big Summer Giveback program joined hundreds of Toyota dealerships nationwide to support local schools. In August, Moses Toyota donated \$10,000 to KINF for the program. In the schools served by Kids In Need Foundation, nearly two out of three students arrive on the first day of school without the supplies they need to learn.

“We believe that every child deserves to have the tools and supplies they need to be successful in school, and we love to provide support to our local community. We’re proud of this partnership and thrilled to give back and help give our local kids the best opportunity to learn and grow,” said Suzanne Moses Persinger, Partner at Moses Auto Group. Moses Toyota and the Moses Auto Group family is proud of a longstanding commitment to serving and responding to the needs of non-profit and civic organizations throughout the Kanawha Valley.

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Advertiser Index

Accounting Services	
Tetrick & Bartlett	Page 2
Attorneys	
Pullin, Fowler	Page 3
Automobile Auction/Reconditioning	
Mountain State Auto Auction	OBC
Automobile Charity	
Good News Mountaineer Garage	Page 31
Banking/Dealer Financial Services	
Bank of America.....	Page 5
Bank of America.....	Page 20
Truist	Page 26
M&T Bank.....	Page 30
Cloud-Native Solution	
Dominion DMS	Page 8
Commercial Real Estate	
Realcorp	Page 13
Finance and Insurance Development	
United Bankers Bank	Page 32
Capital Automotive.....	IBC
Insurance and Insurance Professionals	
Garlow.....	Page 32
Marketing	
Carsignment.....	Page 31

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