



# GCADA e-Monthly

January 2025

**Sponsored by Environmental Specialists, Inc.**

*Hazardous, Non-Hazardous, and Universal Waste Management Services*



## DEALERSHIP COMPENSATION STUDY SURVEY NOW OPEN

**YOUR RESPONSE IS REQUESTED**

Dear Member Dealer:

Your Association has once again commissioned Auto Outlook to conduct a Dealership Employee Compensation Study. This is a very important confidential survey specifically designed to provide insight into your dealership's wage structure and compensation trends. It will also provide critical information to government officials and others who need to be aware of the significant impact that automobile dealerships have on the Northern Ohio area economy.

**YOUR RESPONSE IS CRUCIAL TO THE SUCCESS OF THIS STUDY!** As an added benefit, 2 random survey participants will be selected as the winner of 4 tickets to an upcoming Guardians game (TBD).

**[Click here to complete the survey online by February 25, 2025](#)**

In order to keep information current:

- Use figures reported on your year-end 2024 statement and 2024 W-2 forms.
- Complete the survey as soon as possible, but no later than February 25, 2025.
- Survey information will be held in the strictest of confidence.

GCADA is assisting only in the distribution and follow-up of the survey questionnaire. Survey results will be available approximately March 2025. Thank you in advance for your response for this important project. Please feel free to email or call me with any questions.

Sincerely,

Lou Vitantonio Jr.  
President

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## THIS TUESDAY: DEADLINE TO FILE CLAIM IN VISA/MASTERCARD LAWSUIT

### Deadline to File Claim in Visa/Mastercard Lawsuit February 4th, 2025!

LAST CALL! The claims submission deadline has been pushed back several times and currently is **February 4th, 2025**. As a reminder, the settlement class includes all persons, businesses and other entities that accepted any Visa-Branded and/or Mastercard-Branded cards in the US at any time from January 1, 2004 to January 25, 2019. For complete information on this settlement [click here](#).

Dealers should note that the settlement notice states that Dealers do not need to sign up with a claims recovery service to participate. No-cost claims filing assistance will be available from Class Counsel and the Claims administrator once forms become available.

GCADA will continue to monitor this settlement and update members as soon as new information is available. In the meantime, if you have any questions please contact Ellen Mastrangelo or Nick Hanna. **This notification and its contents should not be construed as tax or legal advice.**

## HR UPDATE: OHIO REQUIRES EMPLOYERS TO PROVIDE EMPLOYEES WITH PAY STUBS

Earlier this month, Governor DeWine signed the [Pay Stub Protection Act](#). The law will take effect on April 8, 2025, but should require little, if any, changes for Dealers. The law requires employers to provide pay stubs to their employees which state:

- the names of both the employee and the employer,
- the employee's address,
- total gross wages during the pay period,
- total net wages during the pay period,
- the amount and purpose of each addition or deduction to wages, and the dates of the pay period.



For hourly employees, the pay stub must also include:

- total hours worked,
- hourly rate, and
- hours worked in excess of 40 hours in one workweek.

A "workweek" is the same one-week period which the employer uses for Fair Labor Standards Act (FLSA) compliance.

The law does not provide a cause of action for employees who are not issued pay stubs, or whose pay stubs do not include all the required information. Instead, employees must first request a correct pay stub. If, after 10 days, the employee has not received the correct pay stub, the employee can report a violation to the Ohio Department of Commerce. If the Department of Commerce determines that the Pay Stub Protection Act was violated, the department will issue a written notice to the employer, which must remain posted in a conspicuous place for 10 days.

Employers should check their payroll systems to ensure that their pay stubs comply with the new law's requirements. Again, practically this law will require little, if any changes for Dealers as these items are likely already included on your employee pay stubs. If you have questions on the information contained in this memo, please contact Pat Harrington or Nick Hanna. **This notification and its contents should not be construed as legal advice.**

## SLIP AND FALL ACCIDENTS: WATCH YOUR STEP!

GCADA is re-issuing the below memo as we continue to see slip and fall accidents in the inclement weather. Dealers are encouraged to review this memo with relevant personnel.

Slips, trips and falls account for about 15-20% of all workers' compensation costs and cause approximately 300,000 injuries each year. Snow and ice bring a heightened risk of slips and falls around the dealership. As winter weather rolls into Northeast Ohio, your Association wanted to remind dealers of important tips for winter safety around the dealership.

### Preventing Slip and Fall Injuries

- Monitor the weather and changing conditions so you aren't caught off guard.
- If an employee is assigned snow removal, make sure they follow safe practices and do not lift heavy bags of salt by themselves. Employees assigned snow removal are often the ones injured.
- Keep adequate snow and ice removal supplies in readily accessible areas.
- Shovel and apply ice melt as necessary to keep walking areas clean and dry.
- Know your trouble spots where ice tends to form. Attend to these promptly and apply additional ice melt.
- Contract with a snow removal company to keep your parking lots clear of snow and ice (make sure they have adequate WC insurance). In addition, monitor and apply additional ice melt in high traffic areas.
- Use beveled edge mats in entry ways subject to water and snow accumulation. Ensure these mats are kept dry and remain flat so they do not create a trip hazard.
- Apply a slip-resistant floor treatment in areas that tend to become wet and slippery inside the dealership.

### Train Your Employees

- Encourage shoes or boots that are designed to provide traction on wet surfaces. Slip-on footwear designed for winter weather can be worn for additional protection. Consider ordering ice cleats/grips which can be slipped over shoes. Dealers might even consider bike/safety helmets for employees clearing off vehicles.
- Use walkways that have been salted or shoveled. Discourage shortcuts through areas where snow and ice removal is not feasible.
- Take short steps to maintain your center of balance over your feet.
- Walk slowly – never run on snow- or ice-covered surfaces.
- Use the vehicle for support when entering/exiting the vehicle.
- When entering the dealership, remove snow and water from footwear so as not to create wet, slippery conditions indoors.

### Clean Up Clutter and Trip Hazards

- Hoses, uneven mats and drainage areas continue to cause unnecessary employee injuries. When hoses are not in use they should be rolled up.
- Ensure that work areas are kept clean and employees exercise caution!
- Winter gear such as shovels, salt bags and boots should be stored neatly to avoid creating additional trip hazards.

As a dealer, reminding your employees to take precaution during the winter months can save your dealership thousands of dollars. We encourage you to take a moment with your employees to discuss the importance of exercising caution when navigating the dealership lot at all times. If you have any questions regarding this or any HR or Safety issue please contact your Association. **This notification and its contents should not be construed as legal advice.**

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## BWC BOARD OF DIRECTORS CONSIDER ANOTHER WORKERS' COMPENSATION RATE REDUCTION

Ohio's private employers would pay approximately \$60 million less in premiums next fiscal year due to a 6% rate reduction proposed to the agency's Board of Directors today. If approved by the board at its Feb. 28 meeting, the rate reduction would be effective July 1, and private employers would be paying close to \$60 million less in this year's premiums.

The proposed 6% rate cut represents an average statewide premium change, including administrative costs. The actual premium paid by individual dealers depends on several factors, including the expected future claims costs in our designated industry group, the dealer's recent claims history, and their active participation in various GCADA Group and Individual savings programs and safety initiatives.

For any questions on your dealership's workers' compensation or unemployment issues, please contact Jennifer Zedella or Pat Harrington.



## WASTE OIL PRICE ADJUSTMENT CORRECTION

Your Association and ESI recently adjusted the amount paid for used oil to \$.10 per gallon. There was a mistake within the announcement regarding the charge for oil filter disposal. To clarify, ESI charges our members \$40 per drum/barrel for oil filter disposal unless you hot drain your filters and dispose of them in the trash. This charge has been in place for some time. We apologize for the misinformation and appreciate the continued support of the program.

### The following outline the current GCADA/ESI Used Oil Program Benefits:

- \$.10 per gallon of used oil paid to GCADA members
- \$40 per drum/barrel for oil filter disposal (Dealers can still "hot drain" their filters before disposing of them in their trash receptacles.)
- No-charge pick-up and disposal of anti-freeze
- Prompt Response to Market Situations
- Great Service
- Proper Handling of Used Oil
  - Your Association strongly encourages its members to continually ask their "used oil" vendor how they are disposing of and transporting your generated "used oil." Your responsibilities do not end when the waste hauler leaves your lot.
  - ESI processes oil for the final user

ESI has been a trusted and preferred vendor of the Association for over 20 years and will continue to bring GCADA members great service and the most competitive pricing.

If you are not currently using Environmental Specialists, Inc. and would like more information about the GCADA Oil Recovery Program or Windshield Washer Fluid Program, please contact Ruth Kasprzak at your Association.



# REMINDER: OSHA FORM 300A POSTING AND ELECTRONIC REPORTING DEADLINES

## OSHA Form 300A Posting Deadline is February 1, 2025

As a final reminder, by Feb. 1, 2025, and until April 30, 2025, dealerships must post their 2024 OSHA Form 300A in a common area where notices usually are posted. Form 300A summarizes the recorded job-related injuries and illnesses from the prior year. Unlike Form 300, which may list employee names and therefore should not be posted, Form 300A contains no personally identifiable information.



Dealerships with no recordable injuries or illnesses in 2024 must post Form 300A with zeros on the total line. The form must be signed/certified by a dealership executive. Failures to comply with the OSHA injury and illness recording, posting and reporting rules are subject to fines of up to \$16,550 per violation. OSHA's recordkeeping forms are [available here](#).

## OSHA Form 300A Electronic Reporting Deadline is March 2, 2025

Reminder- this requirement does not apply to the majority of GCADA members.

Dealerships required to electronically file 2024 employee workplace injury and illness records with the Occupational Safety and Health Administration (OSHA) must do so by March 2, 2025. As a reminder, OSHA recently revised the rule expanding submission requirements for injury and illness data reported by employers.

Those required to electronically file electronically include:

- Commercial truck dealerships with 100 or more employees at a single "establishment" (defined as "a single location where business is conducted or where services or industrial operations are performed")
- Light-duty dealerships with 250 or more employees at a single establishment.

Under the revised rule:

- Commercial truck dealerships with 100 or more employees must electronically submit to OSHA case-specific information from their Form 300 Log, Form 301 Incident Report, and Form 300A Summary of Work-Related Injuries and Illnesses. They must also include their legal company name in electronic submissions from their injury and illness records.
- Light-duty dealerships with 250 or more employees must electronically submit to OSHA their Form 300A Summary of Work-Related Injuries and Illnesses. They must also include their legal company name in electronic submissions from their injury and illness records.

For more information, see [OSHA's website](#) and [OSHA's FAQ](#).

Dealerships required to electronically file a 2024 OSHA forms should do so using OSHA's [Injury Tracking Application \(ITA\)](#). An [FAQ on the ITA submission process](#) is available on OSHA's website. A North American Industry Classification System (NAICS) number is required for filing: commercial-truck dealerships are NAICS 42311; light-duty dealerships are NAICS 44111.

Light-duty dealerships with fewer than 250 employees at a single establishment must post their Form 300A in a common area at the dealership but are not required to electronically submit the form to OSHA.

Should you have any questions related to the information in this memo please contact Nick Hanna, Mary Nemitz, or Joel Kincannon. **This memo and its contents should not be construed as legal advice.**

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# IRS RELEASES FINAL FORMS & INSTRUCTIONS FOR 2024 ACA REPORTING



## 2024 ACA Reporting

For calendar year 2024, Forms 1094-C, 1095-C, 1094-B, and 1095-B must be filed by February 28, 2025, or March 31, 2025 if filing electronically. Statements to employees must be furnished by March 3, 2025. Please [click here](#) for a memo regarding 2024 ACA reporting.

## GCADA Group Health Plan Changes for 2024 Reporting

For dealers participating in the GCADA Group Health Plan, please note the changes for 2024 reporting. Specifically, Medical Mutual will be preparing and filing all 1094-B and 1095-B Forms. For dealers that are Applicable Large Employers, you will not need to complete Part III of the 1095-C. This will result in your employees receiving two forms for 2024: one 1095-B and one 1095-C. We suggest that you provide the information in one of the two paragraphs below, depending upon whether your dealership is an Applicable Large Employer, in a communication to your employees:

- **Dealers with under 50 Full Time Employees:**

Medical Mutual will now produce 1095-B forms for all members. The 1095-B forms will not be sent to you, but you can access them on the Medical Mutual member portal, [medmutual.com](http://medmutual.com), or call the phone number on the back of your ID card to obtain a copy. Please note that the Form 1095-B, Parts II and III, will include a reference to "GCADA" since the Greater Cleveland Automobile Dealers Association is the sponsor of your group health plan.

- **Dealers with 50 or more Full Time Employees:**

Employees that participate in the Group Health Plan will receive two ACA reporting forms this year: one 1095-B and one 1095-C. Medical Mutual will now produce 1095-B forms for all members. The 1095-B forms will not be sent to you, but you can access them on the Medical Mutual member portal, [medmutual.com](http://medmutual.com), or call the phone number on the back of your ID card to obtain a copy. Please note that the Form 1095-B, Parts II and III, will include a reference to "GCADA" since the Greater Cleveland Automobile Dealers Association is the sponsor of your group health plan. [INSERT DESCRIPTION ABOUT HOW YOUR DEALERSHIP WILL COMPLETE AND PROVIDE FORM 1095-C TO EMPLOYEES]

## Electronic Reporting Requirements Applicable to All Dealers

Under the final rules, employers filing 10 or more returns must file Forms 1094 and 1095 (and their other applicable returns) electronically. The 10-form threshold is determined based on the total number of forms the employer must file with the IRS, including Forms 1094 and 1095, as well as other information returns, such as Forms W-2 and 1099, income tax returns, excise tax returns and employment tax returns, including those that are not required to be e-filed, such as Forms 940 and 941. Previously, employers who filed fewer than 250 of the same ACA reporting forms were allowed to choose whether to file their applicable Forms 1094 and 1095 (either the B or C forms, as applicable) by paper or electronically.

ACA reporting forms are filed electronically through the IRS Affordable Care Act Information Returns (AIR) system. The [AIR system](#) requires a specific coding format for transmission. This process is generally not something that a typical employer could navigate and utilize on their own without the support of an ACA reporting vendor. Such vendors might include third-parties that specialize in ACA reporting, or a payroll provider or benefits administration platform that includes ACA reporting services as a component of its offering. It is highly recommended that employers engage with an experienced vendor to file Forms 1094 and 1095 for 2024. CXC Solutions is an experienced vendor to use to file ACA reporting forms. [Click here](#) to be directed to CXC Solutions. Please reach out to the CXC Solutions contact below to discuss options if assistance is needed with the electronic filing of ACA reporting forms:

Tim Moody [tim@cxcnetwork.com](mailto:tim@cxcnetwork.com) | (972) 241-0010

If you have any questions or would like a GCADA Group Health Plan insurance quote, please contact Danielle Williams at your Association. Thank you for your continued support. **This memo and its contents should not be construed as tax and/or legal advice.**

## ADVERTISING COMPLIANCE REMINDER

GCADA would like to remind dealers of the various requirements when advertising a motor vehicle lease and advertising vehicles with limited rebates. Below is a summary of each.

### Lease Advertising Under Regulation M

A lease advertisement that contains any of the following two (2) triggering terms will require additional disclosures. The triggering terms are:

- The amount of any payment.
- A statement that any or no down payment or other payment is required at the beginning of the lease.

All of the following disclosures must be clearly and conspicuously advertised upon use of any of the above trigger terms:

- The advertised transaction is a lease.
- The total amount of any payment (such as a security deposit, capitalized cost reduction, or lease acquisition fee) required at the beginning of the lease, or a statement that no such payment is required.
- The number, amounts and due dates or periods of scheduled payments.
- The fact that a lease is open-ended. Regulation M assumes all other advertised lease transactions are close-ended.
- A statement of the amount (or the method of determining the amount) of any liabilities the lease imposes upon a lessee at the end of the term, including if applicable, a statement that the lessee shall be liable for: (A) an excessive mileage charge including the rate and mileage above which that charge must be paid; (B) a disposal fee and the amount of the fee; and (C) the lessee's liability for the difference between the estimated value of the leased property and its realized value at the end of the lease term (open-ended leases).

**Disclosure Format:** Advertisements featuring a monthly lease payment must clearly and conspicuously disclose the following: (1) the fact that the transaction is a lease; (2) the amount of any total amount due at signing or lease inception; and (3) the number of payments. Items (4) and (5) from above may be disclosed in a footnote in close proximity to the advertised monthly payment.

**Total Amount Due at Inception:** The amount must include the full amount the consumer must pay out of pocket to lease the vehicle. **The total due at inception DOES NOT include tax, title, registration or documentary fees, but DOES include any Acquisition Fee or First Monthly Payment.**

**Sign and Drive Lease Advertisements:** If advertising a 'sign and/then drive' event, there should not be any amount due at inception (except tax, title, registration or documentary fees).

**No or Zero Down Payment Lease Advertising:** The AG's office has stated that if advertising a lease with any amount due at signing, you cannot advertise Zero or No Down Payment (you may advertise Zero or No Capitalized Cost Reduction, but that statement must be equal in size and prominence to the type size used to advertise the amount due at signing).

**Security Deposits:** The existence of a security deposit (or if one is not required) must be noted and the amount of the security deposit should be included in the total advertised amount due at signing.

**Example 1:** \$2000 due at signing. Amount includes refundable security deposit.

**Example 2:** \$2000 due at signing. No security deposit required.

**Deceptive Language in Lease Advertisements:** The use of language implying a purchase transaction, such as "Drive For" or "Yours For," in reference to a monthly lease payment or the sum of the lease payments is deceptive unless the offer is clearly disclosed to be a lease.

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## ADVERTISING COMPLIANCE REMINDER (continued)

### Limited Rebates

Limited rebates are another item we see frequent issues with. As a reminder limited rebates may be included in an advertised price, payment, savings or amount due at lease inception, if and only if certain guidelines are followed. These guidelines include:

- The advertisement must include two prices. The advertisement must include both the price available to all customers AND the price available to those customers who qualify for the limited rebate;
- The two prices must both be clear and conspicuous. The price including rebates should not be more prominent than the price available to the general public;
- Any rebate or incentive should be itemized. It is unfair and deceptive practice to advertise a price for a vehicle that includes any deduction for a rebate without clearly and conspicuously disclosing the rebate and listing the amount of the rebate in close proximity to the price;
- The qualifications of the limited rebate must be clearly and conspicuously disclosed. There should be a description of what it takes for the consumer to qualify for the limited rebate. Additionally, these material terms and conditions must be disclosed in close proximity to the amount of the rebate.

Dealers should also remember that they are responsible for all content on their website. Thus, dealers should not rely solely on a third-party vendor to comply with Ohio and Federal advertising regulations! Additionally, inventory and prices should be kept as current as possible. Disclaimers such as 'Dealer not responsible for typographical errors' may sound good, but are by no means an ironclad defense.

For a copy of the Ohio Attorney General's Advertising Guidelines, Dealers can [click here](#). Dealers can also access NADA's Dealer Guide to Federal Advertising Requirements by clicking [HERE](#). GCADA recommends all dealers review these guides and have their marketing companies do the same.

If you have any questions please contact Nick Hanna or Ellen Mastrangelo. This notification and its contents should not be construed as legal advice.



# GCADA ELECTRIC POWER MONTHLY UPDATE

Your Association and North Shore Energy provide you with customized, real-time pricing from multiple competitive Suppliers, assuring you the lowest market prices available for your Natural Gas and Electric procurement. Price offers change daily, but as you can see from the indicative prices and the market charts below, this is a great time to evaluate pricing for your next renewal term.



## GCADA Products, Programs & Services

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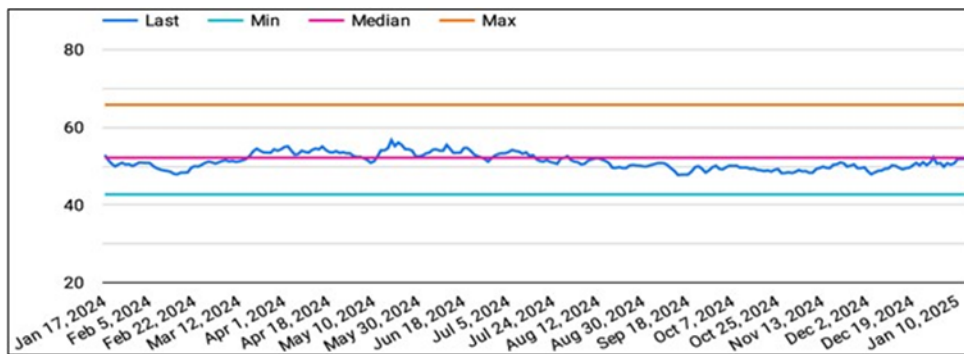
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	Fixed Price Range in cents/kWh		
	CEI	OE	TE
12 months	7.71-8.06	7.72-8.06	7.71-8.06
24 months	7.72-8.07	7.73-8.08	7.72-8.07
36 months	7.67-8.02	7.68-8.03	7.66-8.01

## Electric Commodity Wholesale Prices



### To Take Advantage of Rates:

- Sign a copy of NSE’s Letter of Authorization for [Natural Gas](#) or for [Electric Power](#) so that we may obtain pricing for you;
- Fax or Email a recent copy of your utility bill, along with your LOA, for each location to Ruth Kasprzak;
- Review customized pricing and contract terms with your NSE Consultant;
- Sign the contract with your Supplier of choice.

Please contact Ruth Kasprzak at your Association with any questions you may have about the GCADA Electric or Natural Gas Programs.

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## **BUSY DECEMBER LAME DUCK STATEHOUSE SESSION FOR DEALERS—NEW GENERAL ASSEMBLY UP NEXT**

**See below update from OADA. GCADA will provide more detailed guidance on these issues as the effective dates approach.**

### **DIG, Legislator Grassroots Remain Key to Dealer Statehouse Success**

The Statehouse was abuzz with activity during the lame duck session in December, and OADA was in the middle of a lot of it, including the following:

#### **Legislators Approve OADA-backed Legislation Reaffirming Commercial Activity Tax Exclusion for Non-Resident Transactions:**

First up was HB 315 pushed by OADA that reaffirms motor vehicle sales and leases to non-residents are not subject to Ohio's commercial activity tax (CAT). OADA pursued this legislation in response to a recent dispute questioning where non-resident transactions are 'ultimately delivered'. Absent the passage of HB 315, dealers may have faced significant CAT liability on these types of transactions, going back four years. The bill has been signed by Governor DeWine. In terms of what dealers need to do going forward, it's simply business as usual - the bill reaffirms transactions in which the title has an out-of-state address will continue to be excluded from the CAT.

*\* As a general reminder on the CAT, OADA worked with legislators during the last budget process to increase the overall CAT exclusion from the first \$1M in gross receipts to \$3M in 2024. That exclusion jumps to \$6M this year and thereafter.*

#### **Additionally, legislators approved the following key bills impacting dealers:**

**HB 403:** Allows motor vehicle dealers to sell vehicles with tampered emissions systems only to other dealers at motor vehicle dealer auctions. Dealers continue to be prohibited from selling these types of vehicles at retail. OADA pursued this change to provide motor vehicle dealers another option when taking these vehicles as trade-ins, besides scrapping or repairing them as current law requires. The bill was signed by Governor DeWine and will be effective in 90 days.

**HB 238:** Eliminates the motor vehicle salesperson license. Legislators continue to pursue eliminating 'regulations', which they believe include occupational licenses. Under HB 238 no new salesperson licenses will be issued after the bill's effective date, and current licenses will remain intact until they expire. Note that the bill retains current law provisions prohibiting a person from acting as a salesperson for more than one licensed dealer at a time (unless the dealerships are owned or operated by the same company) and continues to prohibit a dealer from soliciting the sale of motor vehicles through or compensating anyone other than a salesperson in connection with the sale of a motor vehicle. The bill was signed by Governor DeWine and will be effective in 90 days.

**HB 366:** Creates the crime of organized retail theft of retail property and specifies organized theft of retail property is generally a third degree felony but can escalate as high as a first degree felony depending on the value of the retail property stolen and other specified circumstances. OADA backed this bill as one way to help address vehicle thefts at dealerships. The bill was signed by Governor DeWine and will be effective in 90 days.

*(continued on next page)*

## STATEHOUSE SESSION UPDATE (continued)

**SB 237:** Allows small claims courts to have jurisdiction to hear claims by assignees of contracts. Under current law, if a motor vehicle dealer assigns a retail installment contract to a lender or related finance company, the lender cannot file in small claims court to collect the amount owed, even though the debt is owed to the lender. An Ohio court ruled that current law prohibits any assignee from filing a case in small claims court, and any judgment that may have been granted is void because jurisdiction wasn't proper. The change in SB 237 gives lenders an option to file lawsuits in small claims court to collect small balances from consumers. This is helpful to both parties since small claims court is less expensive, less formal and offers the parties an opportunity to negotiate payment plans. The bill was signed by Governor DeWine and will be effective in 90 days.

*\* OADA will provide more detail on all the aforementioned bills as well as exact effective dates after they are confirmed.*

OADA would like to express our appreciation to State Senator Bill Reineke, OADA Past Chairman from the Reineke Family Dealerships, for his efforts in educating legislators on the importance of these bills to our industry. Bill was re-elected in November to another four-year term in the Ohio Senate, where he was then elected by his caucus to Senate President Pro Tempore, which is the number two ranking position in that chamber. For more background on Bill, please visit <http://www.ohiosenate.gov/members/bill-reineke>.

### What's Next?

Legislators convened this week to start a new two-year session. State Senator Rob McColley (R-Napoleon) was elected by his caucus as Ohio Senate President, while members of the Ohio House elected Representative Matt Huffman (R-Lima) as Ohio House Speaker. Legislators will focus first on the Transportation and state operating budgets while OADA expects debate on franchise law and direct sales to occur.

As always, dealer participation in the Dealers Investment Group (DIG) & legislator grassroots efforts remain key to our success at the Statehouse. OADA would like to thank the dealers who have been engaged in our efforts, and encourages those who haven't yet had an opportunity to participate to do so in 2025.

Dealers may contact Zach Doran, Joe Cannon, or Sara Bruce with any questions on our lame duck efforts, what lies ahead, or how you can become more involved in our advocacy efforts at the Statehouse.



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# COMPLIANCE ALERT

## NADA Secures Favorable Regulations Affecting Dealer F&I Programs Related to Captive Finance Company Transactions

**What's new:** On January 14, the Internal Revenue Service (IRS) published a final rule related to the listing of captive finance company (micro-captive) transactions and micro-captive transactions of interest. The final rule incorporated several important recommendations NADA made in its comments, which Crowe LLP prepared on NADA's behalf, including: (1) clarifying that when the ultimate beneficiaries are unrelated customers, GAP and other products do not cause a dealer to be considered "insured" under the law; (2) improving the Consumer Coverage exception applicable to dealer F&I programs by removing a proposed "Commissions" requirement that would have been burdensome and confusing for dealers; and (3) clarifying that diminished value contracts could qualify as "consumer contracts" for purposes of the exception.

**What does it mean:** Expert dealer tax attorney Andrew Weill of Weill & Mazer, APC, and Past President, National Association of Dealer Counsel, summarized the success as follows: "The IRS released its final version of regulations that previously had burdensome requirements for many popular dealership F&I programs. When the regulations were first proposed, NADA submitted a detailed comment letter to the IRS, outlining the problems posed by the proposed regulations, and urging the IRS to modify them to make a clear carve-out of dealer F&I programs from the regulations. Many other industry comments expressed their support for NADA's recommendations.

In the announcement of the final regulations, the IRS stated that it had been persuaded by the comments spearheaded by NADA and was clarifying the regulations to make it clear that typical dealership F&I arrangements would not be subject to the new regulations. Essentially, the IRS gave dealers everything NADA had asked for. **Most dealers using F&I programs will no longer have to file burdensome, intrusive, and unnecessary disclosure statements that had previously been necessary on business and personal tax returns.**"

### Court Overturns FCC One-to-One Consent Marketing Consent Rule

The ruling is good news for Dealers as the closing of the lead generator loophole would have required individual consent for all consumers contacted. Regardless of this ruling, GCADA recommends Dealers continue to exercise caution when contacting consumers. For further guidance, please consult the NADA Guide linked below, GCADA's [Communications Compliance Refresher](#) or contact Nick Hanna or Ellen Mastrangelo.

**What's new:** On January 24, the U.S. Court of Appeals for the Eleventh Circuit Court [overturned](#) the Federal Communications Commission ("FCC") [Rule](#) regarding one-to-one-consent (otherwise known as "closing the lead generator loophole") that was set to go into effect on Monday, January 27. The opinion vacates the rule in its entirety and nationwide.

The rule would have required dealers to obtain individual consent for every consumer contacted. The court ruled that the rule exceeded the FCC's statutory authority because the new consent requirements "impermissibly conflict" with the Telephone Consumer Protection Act's ("TCPA") meaning of "prior express consent."

**Why it matters:** The rule would have required dealers to ensure that any contact information used to text or call customers received from third parties (including leads from OEM management systems) meet the new requirements. The FCC made clear that liability for the rule is on the caller or texter and cannot rely on the lead generator to retain proof of consent.

**Go deeper:** When the rule was finalized, NADA issued a [Compliance Alert](#) and [memo](#) to assist dealers with compliance. NADA also included the rule in the recently updated [Dealer Guide to Federal Email and Telemarketing Restrictions](#). Dealers should consult this guide for all other issues regarding compliance with the Telephone Consumer Protection Act and other regulations related to calling and texting.

## RECENT FTC ENFORCEMENT ACTIONS WARRANT DEALERS' ATTENTION

See below update from NADA. NADA will be hosting a webinar in February (see highlighted below) to discuss how Dealers can protect themselves.

**What's new:** In December, the Federal Trade Commission (FTC) in conjunction with Attorneys General in Illinois and Maryland announced two enforcement actions against dealerships. The allegations, summarized below, include various federal and state laws regarding the advertising, selling and financing of vehicles and voluntary protection products.

**Why it matters:** These enforcement actions re-affirm the need for robust training, oversight and compliance in all aspects of dealership advertising, sales and finance operations.

**Tell me more:** In both complaints, the FTC continues holding dealer leadership—as well as the dealership entities themselves—responsible for alleged unlawful behavior. Each enforcement action involves a unique combination of circumstances, but the FTC and state Attorneys General allegations include:

- Advertising\*
  - Misrepresenting vehicle prices in advertisements by advertising a low vehicle price and later adding previously undisclosed fees related to vehicle certification, reconditioning, inspection costs, or doc fees.
  - Misrepresenting vehicle prices in advertisements by advertising a low vehicle price and later stating it only applies to vehicles financed through the dealership.
  - Advertising vehicles that are no longer available.
- Sales and Financing\*
  - Deceptively charging for voluntary protection products and “add-ons” including charging for products the customer did not agree to, falsely claiming that products were required, or “packing” sales contracts with products to achieve an artificially inflated monthly payment.
- Consumer Reviews\*
  - Inducing employees to post fake, positive online reviews, either by threatening to withhold compensation or by paying employees for each review.
  - Pressuring customers to post reviews that do not represent their actual experiences. For example, by making refunds contingent on the customer’s willingness to sign a release and remove a negative online review.
- Buyers Guide\*\*
  - Failing to prepare, fill in as applicable, and prominently and conspicuously display a Buyers Guide on used vehicles being offered for sale.\*\*\*

**What's next:** NADA is presenting a webinar, *FTC Enforcement and Your Dealership*, on February 20, 2025, at 1:00 EST. [Register here](#) to learn more about these enforcement actions and how to protect your dealership.

\*Section 5(a) of the FTC Act, 15 U.S.C. § 45(a)

\*\*Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 et seq.)

\*\*\*The Illinois [stipulated order](#) seeks to prevent the dealer from: “Before offering a Used Vehicle for sale to a consumer via the internet, failing to display a properly completed Buyers Guide through a hyperlink that is prominently and conspicuously displayed with each Used Vehicle offered for sale.” The text of the law does not require the display of the Buyers Guide for online advertising. Dealers, particularly those engaged in online used vehicle sales, should work with an attorney to review their Buyers Order and other relevant disclosure processes considering this enforcement action.

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## RECENT FTC ENFORCEMENT ACTIONS (continued)

**Go deeper:** Dealers should carefully review the recent enforcement actions with an attorney familiar with federal, state and local laws governing vehicle advertising, sales and financing, as well as their dealership operations personnel to determine appropriate compliance measures:

- [FTC and State of Illinois Action](#) – This proposed settlement requires, among other provisions, that the dealership pay \$20 million and make disclosures similar to those required in the final Vehicle Shopping Rule—which NADA and the Texas Automobile Dealers Association are challenging in federal court. NADA is also supporting federal legislation to stop or delay the rule from taking effect. The disclosures required by the FTC and the VSR include those related to the offering price, monthly payments, and monthly payment comparisons. More information on those disclosures can be found in [NADA's Dealer Guide to the Vehicle Shopping Rule](#).
- [FTC and State of Maryland Action](#) – This complaint was filed in the Eastern District of Virginia and is being challenged by the dealership.

Both enforcement actions were approved by the FTC commissioners in a 5-0 vote. Even with an incoming Republican administration, enforcement actions will continue, and robust compliance remains vital. NADA offers a variety of optional resources to assist dealers with compliance, including:

- [Dealer Guide to Federal Advertising Requirements](#)
- [Dealer Guide to the Used Car Rule](#)
- [NADA/NAMAD/AIADA Fair Credit Compliance Policy and Program](#)
- [NADA/NAMAD/AIADA Model Dealership Voluntary Protection Products Policy](#)
- [What Dealers Need to Know About the New FTC Rule on Consumer Reviews and Testimonials](#)

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## DEVELOPMENTS AFFECTING THE AVAILABILITY OF TAX-BASED INCENTIVES FOR EVS IN 2025

See below from NADA. GCADA will monitor this issue and provide updates.

**What's new:** Dealers with EVs in their current inventories should be aware of recent developments that could have an impact on the availability of federal tax-based EV lease and sales incentives in 2025.

**How it works:** The changes in incentive availability could show up in a number of ways:

- On the positive side, the IRS [recently renewed](#) for 2025 a safe harbor that lessors rely on in offering lease promotions based on EV tax incentives. This should permit lessors to continue offering those promotions.
- On the negative side, some tax-based EV incentives may become less available this year.
  - First, “30D” tax incentives for consumer purchases are only available if the vehicle contains a certain percentage of components and battery materials from domestic sources, and those percentages go up each year on January 1. As a result, the number of vehicles offered by NADA members that qualify for these tax incentives went down on January 1, 2025, and currently stands at [eleven](#).
  - In addition, since 30D incentive qualification is measured on the day the dealer sells the vehicle to the consumer (rather than on the day the vehicle is sold to the dealer by the OEM), some vehicles that qualified for the tax credits in 2024 do not qualify as of January 1st.
  - President-elect Trump and the Republican Congress have indicated that they would like to undo the EV tax incentives. This is especially true for the tax credit that auto lessors have been using to support EV lease promotions. As a result, dealers could see a reduction or elimination of clean vehicle tax credits, including the lease programs that have been supporting upwards of 80% of EV deliveries vanish at some point.

**Why it matters:** Dealers carrying EVs in their current inventories may consider taking advantage of the EV tax credits, and the lease programs based on them, before the potential foregoing changes occur. Please watch for future guidance from NADA on this issue.

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## NADA AND TADA WIN COURT CHALLENGE TO FTC VEHICLE SHOPPING RULE

**What's new:** Recently, in a 2-1 vote, the U.S. Circuit Court of Appeals for the Fifth Circuit [granted a petition](#) filed by NADA and the Texas Automobile Dealers Association (TADA) to vacate the FTC Vehicle Shopping Rule (“CARS” Rule) for violating the FTC’s own procedural requirements for issuing trade regulation rules. More specifically, the court held that the FTC skipped an essential step to inform the rulemaking process requiring it to begin with an Advanced Notice of Proposed Rulemaking. As a consequence, the FTC Vehicle Shopping Rule has no force or effect.

**Why it matters:** This decision by the 5th Circuit Court of Appeals on NADA’s and TADA’s legal challenge is a victory for the rule of law and a great outcome for consumers. As we have been saying since this rushed, poorly researched and unnecessary rule was announced, the FTC’s Vehicle Shopping Rule would have added massive amounts of time, complexity, paperwork and cost to the car-buying and car-shopping experience for virtually every customer. That truly would have been a nightmare for consumers and dealers alike. Thanks to the success of this legal challenge, dealers can get back to what they do best, which is creating the best-possible customer experience and reducing transaction times wherever possible.

**What you should do:** NADA reminds dealers that many provisions that were in the Vehicle Shopping rule have been subject to FTC enforcement under Section 5, and dealers should continue to ensure compliance with all existing rules related to advertising, sales and financing.

**What's next:** NADA will continue to fight for dealer interests at the FTC and all federal agencies, as well as on the Hill and in the courts whenever necessary.