



# The NATIONAL Perspective



## Communications

July 2018

"Serving Arkansas's franchised new car and truck dealers since 1932"

### NADA DIRECTOR'S COLUMN

#### NADA Applauds Measure to Preserve Auto Loan Discounts NADA President & CEO, Peter Welch

TYSONS, Va. (May 8, 2018)— National Automobile Dealers Association (NADA) President and CEO Peter Welch released the following statement in response to House passage of S.J.Res 57 to disapprove the CFPB's flawed auto financing guidance: "Today's action furthers the bipartisan effort that began more than five years ago to preserve the ability of local dealerships to offer discounted auto loans to their customers. We commend House Financial Services Committee Chairman Jeb Hensarling (R-Texas) and Rep. Lee Zeldin (R-N.Y.) for their leadership on this issue. As the measure has now cleared Congress, we look forward to the expected signature by the president.

"The joint resolution is a measured response to the CFPB's attempt to avoid congressional scrutiny by issuing 'guidance' that imposed a new policy without necessary procedural safeguards. Enactment of S.J.Res. 57 will help ensure every consumer's right to get a discounted loan in the showroom.

We continue to encourage all local dealerships to take up NADA's voluntary fair credit compliance program, which is based on a U.S. Department of Justice model. It helps eliminate fair credit risk in auto lending while ensuring a competitive marketplace."

#### Auto Tariffs Wrong Way to Address Trade Concerns NADA Chairman, Wes Lutz

Auto tariffs are the wrong way to address trade concerns. When the NADA Board of Directors met earlier this month in New York, developments in Washington, D.C., once again dominated the conversation among directors from all over the country. No surprise there. But what was surprising was the specific area of policy currently under consideration in Washington. I'm referring, of course, to the possibility of tariffs of as much as 25% on potentially all imported vehicles and automotive parts.

Our directors had a number of questions before we even got to specific concerns. How did we get here so quickly? How did we go from tariffs on imported steel and aluminum from certain countries to a potential across-the-board tariff on imported vehicles? How will the process of the Department of Commerce's "national security" investigation unfold?

Perhaps most importantly, how can a president who's done so much good for our industry and the nation's economy – through a historic tax cut and tax policies allowing dealerships to invest more in their businesses and their employees – now be proposing something that could raise new vehicle prices by thousands of dollars?

My view is that you have to look beyond the tariffs them-

selves in order to understand what is unfolding in Washington. And in that respect, I believe President Trump is rightly concerned with three things. The first is the loss of manufacturing jobs in the U.S. over the past 40 years. The second is the U.S. trade deficit, which was a staggering \$568 billion in 2017. And the third is an unlevel playing field when it comes to international trade that puts the U.S. at a significant disadvantage in many areas, even with our strongest trading partners.

The president wants to negotiate better trade deals for the U.S., American workers and American consumers. He's right to be concerned about the trade deficit. But the tactic of new and steep tariffs on auto and auto parts imports, if implemented broadly, would hurt the auto industry and our customers and have severe unintended consequences.

The first job for dealers and our partners on the manufacturing and supply side is to educate the administration on the complexity and interconnectedness of the auto industry. The notion that there are truly "domestic" and "international" brands simply isn't true any longer. Manufacturers are globally integrated, and their supply chains routinely span international boundaries. In fact, many international brand vehicles are assembled in the U.S. with mostly American-made parts, while some domestic brands have models that are manufactured abroad and imported here. Consequently, some domestic brands could get hit harder with tariffs than some international brands.

More to the point, though, it's our customers who would feel the most dramatic effect of broad import tariffs through a combination of higher prices and fewer choices, as all imported vehicles and even U.S. built vehicles get dramatically more expensive, and some imported models are no longer offered for sale in the U.S. altogether. Even from a distance, it's easy to see that broad-based tariffs on vehicles and auto parts would result in seismic unintended consequences.

So, as we have done so many times before, NADA is rolling up its sleeves and getting to work. We are hard at work educating the administration about the reality of the auto industry, and we are urging Congress to exercise oversight on this process and identify the potential economic impacts of any new tariffs. We are working on an independent economic impact study designed to measure the potential impact that tariffs would have on dealerships and their American customers, and we will present the results of that study to the Department of Commerce through our testimony at a July public hearing.

And we will be clear throughout: NADA is not opposed at all to the president's goals of addressing unfair trade practices and preserving American jobs. But we must find the right tools for accomplishing those goals. Overbroad tariffs on autos and auto parts are the wrong tools because they will raise prices on new cars and trucks and jeopardize affordability and choice for millions of our customers.

*Lutz is 2018 NADA chairman and president of Extreme Chrysler-Dodge-Jeep-Ram in Jackson, Mich.*

#### 2018 Tax Reform Seminar

After the sweeping tax reform measures from last year, it is now more important than ever to get prepared for your 2018 filings. AADA is incredibly fortunate to have Robert Davis with Dixon Hughes Goodman to help dealers negotiate these waters. DHG has rapidly become one of the elite firms representing dealers, and Robert's presentation is one you cannot miss. Two seminars have been scheduled:

- Springdale, Wednesday, August 15<sup>th</sup>, 1:00 p.m. Holiday Inn NWA Convention Center
- North Little Rock, Thursday, August 16<sup>th</sup>, 10:00 a.m. Arkansas Transit Association.

Please register at your earliest convenience. A registration form is enclosed.

#### AADA Convention Hamilton, Bermuda

The AADA Convention at the beautiful Fairmont Southampton in Hamilton, Bermuda will be held July 23-28. If you are interested in attending, please let us know immediately as time is running out! This picturesque island offers a unique British charm that is sure to please everyone. The Convention is open to owners, managers, and all dealership personnel. Friends and relatives are welcome too. Call 501.372.2596 if you'd like to join in.



#### AADA To Sponsor State Police Track

AADA's executive committee recently approved a \$50,000 sponsorship over the next five (5) years from Arkansas's franchise

dealers for a state of the art precision test track that will be accessible to all Arkansas law enforcement officers and emergency personnel. Law enforcement officers and emergency personnel spend a considerable amount of time in their vehicles. Regrettably, this leads to a majority of them being involved in motor vehicle accidents resulting in personal injury, lost time and even occasional fatalities. Currently Arkansas is one of only three (3) states that does not have a precision driving track for law enforcement officers and emergency personnel to train on.



The Precision Driving Track, to be located on over 200 acres at Camp Robinson in North Little Rock, Arkansas, will consist of a four-part course to include a six-lane highway section for pit maneuvering, an urban environment motorway, a high-speed track, and a skills pad. The custom design will mimic both urban and rural environments providing our law enforcement officers training opportunities applicable to all corners of the state. While the Arkansas State Police Foundation is raising funds for the track to be built, it will be made available for all city, county, and state law enforcement agencies as well as all emergency personnel from every community to utilize for training. This open state-wide availability is one of the key factors for AADA deciding to partner with this incredible project.

AADA has a long history of partnerships with and support of the Arkansas State Police. For nearly 20-years we supported the ASP Trooper of the Year Award, and sponsored public service programs such as "Show Your Love, Use Restraint", "Not Sober- Pull Over", and "Click It or Ticket". Additionally, AADA members funded the purchase of custom holsters for the ASP new Glock Pistols and we continue to sponsor the ASP Awards Banquet. Support of the Precision Driving Track serves to continue this great partnership.

Upon final design of the track and service facilities, AADA will be granted a naming right for permanent recognition of the support from Arkansas franchise dealers. Construction on the track is expected to begin later this summer with completion by the summer of 2019, and will cost approximately \$5 million which will be raised from donors across the state. AADA is very excited about this project and partnership that will serve so many of those individuals that risk their lives each day for all of us.

#### UALR Scholars Honored

Recently, several UALR students were awarded the Bill Gwatney Memorial Endowed Scholarship. This scholarship honors the memory of AADA Board member and State Senator, Bill Gwatney, and is in recognition of his dedication to the political process and his many accomplishments. The funds may be used to provide for any education related expenses for students pursuing or furthering a degree or continuing education in political science, international studies, legal studies, or community management and development at the University of Arkansas at Little Rock. The scholarship is awarded at the end of each spring term for use in the next academic year.



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Paris Ford and DeQueen Auto Group present Resusci Anne Units

The Logan County Emergency Medical System and the University of Arkansas Cossatot medical education training programs were greatly enhanced with new Resusci Anne CPR units presented by the Arkansas Automobile Dealers Association, Paris Ford, and DeQueen Auto Group, Inc. in partnership with the National Automobile Dealers Charitable Foundation.



James Green, the director of Logan County’s EMS, said the new unit would be put to use to train people in CPR. There has been an increase in the number of survivors from ventricular fibrillation as a result of increased CPR training across the country.

UA Cossatot Nursing Instructor Kay Trotta said they plan to train over 200 people this year, including UA Cossatot medical education students, and to provide CPR training for community members through UA Cossatot Continuing Education courses. UA Cossatot has provided CPR training for 23 years.



New-car dealers like Paris Ford and DeQueen Auto Group have devoted much of their time and money to the development of projects that enrich the lives of people in their communities. Joe Schluterman with Paris Ford and Jay Dooley with DeQueen Auto Group serve as members of the AADA Board of Director’s. Additionally, Jay is a member of the UA Cossatot Board of Visitors.

Caution Advised in Charging Fees

Dealers are often faced with deciding what exactly is an allowable fee to charge for a particular service they are providing a customer. Fortunately, there is some information in place to help guide you through this decision.

As most of you know, a dealer in Arkansas is allowed to charge a service and handling fee. The question about charging additional fees for services provided starts with deciding whether or not the service is covered under the dealer’s service and handling fee.

According to Ark. Code Ann. 23-112-317, a motor vehicle dealer may charge a service and handling fee in connection with the sale or lease of a new or a used motor vehicle for: (A) The handling, processing, and storage of documents; and (B) Other administrative and clerical services.

Each decision on whether to charge a fee for a particular service provided to a customer should start with whether or not that fee is in connection with the sale or lease of a vehicle, and whether it falls into the two categories stat-

ed in the law. We always recommend if you have a question on a specific fee, contact your legal counsel for advice. Also, always feel free to reach out to AADA at 501.372.2596.

Service Advisor’s Overtime Ruling

As AADA previously reported, the U.S. Supreme Court issued a 5-4 decision in *Encino Motorcars, LLC v. Navarro*, concluding that dealership service advisors fall within the "salesmen, partsmen, and mechanics" overtime pay exemption under the federal Fair Labor Standards Act. In doing so, it reversed a January 2017 decision by the Ninth Circuit Court of Appeals that held - in direct conflict with several other federal and state decisions - that the exemption did not apply.

The decision upholds more than 40 years of consistent interpretation by the courts and the U.S. Department of Labor and will allow auto retailers to continue structuring employment relationships that are efficient and beneficial to dealerships, their employees and their customers. NADA provided extensive support to the dealers litigating the case and worked with the state dealer associations in the Ninth Circuit to file several "friend of the court" briefs on behalf of all dealers.

As a reminder, to be exempt from overtime, the "salesmen, partsmen, and mechanics" exemption requires only that covered employees spend over half their time working as a "salesmen, partsmen, or mechanics," regardless of how or how much they are paid (so long as they are paid minimum wage for every hour worked).

This was a big victory for all dealers.

Potential Tariffs Are Key Topic

Automobile trade policy has become a key topic in Washington, due to several recent developments: the imposition of steel and aluminum tariffs, the imposition of tariffs on Chinese goods due to intellectual property violations, the threat of imposition of auto and auto parts tariffs and contentious negotiations related to the North American Free Trade Agreement (NAFTA).

At its June board meeting, NADA board members discussed how to appropriately and effectively engage in these trade policy issues. The board mainly focused on the administration's announcement to study the national security impact of imported autos and auto parts and the possibility that a tariff of up to 25% could be imposed on those autos and auto parts. President Trump initiated a similar study of the steel and aluminum industries last year, which led to the imposition of tariffs on those commodities in early 2018. Significant tariffs or quotas on autos and auto parts could significantly increase the cost and/or decrease the availability of the autos and auto parts sold by American dealers. Also, OEMs are contacting dealers directly about these issues and will continue to do so in the coming weeks.

To help dealers understand current developments related to the issue, NADA has released a summary of the advocacy it has initiated on behalf of its members. NADA intends to testify before the Department of Commerce on this matter at a hearing in July. Additionally, NADA will also continue to engage the administration and members of Congress to encourage the implementation of trade and economic policies that facilitate continued economic growth and consumer demand.

NADA Professional Series SERVICE MANAGEMENT

Four instructional modules designed for the new or high-potential department manager.

The NADA Professional Series grants certifications for new or high-potential department managers. Choose among four management disciplines:

- Sales Management
- Office Management
- Parts Management
- Service Management



Complete your certification in as few as three months. The NADA Professional Series includes two days of core competency-focused training and two days of leadership training in classroom, for a total of four days out of the dealership. Also, you get on-line HR and DMS training at no additional charge. Training is held in three different locations to meet market demands.

CENTRAL (Dallas, TX)

July 17-18	Office Manager
July 19-20	Sales
August 14-15	Service
August 16-17	Parts
October 9-10	Leadership
October 11-12	Leadership
October 23-24	Leadership
October 25-26	Leadership
December 11-12	Sales
December 13-14	Office Manager
December 18-19	Parts
December 20-21	Service

EAST (Tysons, VA)

June 5-6	Office Manager
June 7-8	Sales
June 26-27	Service
June 28-29	Parts
July 24-25	Leadership
August 7-8	Leadership
August 9-10	Leadership
August 21-22	Leadership
September 11-12	Sales
September 13-14	Office Manager
September 18-19	Parts
September 20-21	Service
November 27-28	Leadership
November 29-30	Leadership
December 4-5	Leadership
December 6-7	Leadership

WEST (Cerritos, CA)

July 10-11	Service
July 12-13	Parts
August 28-29	Leadership
September 25-26	Leadership
September 27-28	Leadership

WEST (Sacramento, CA)

October 16-17	Sales
October 18-19	Office Manager
November 6-7	Parts
November 8-9	Service
November 13-14	Leadership
December 4-5	Leadership
December 11-12	Leadership

Federated Insurance—“Claim of the Month”

A dealership provided a demo vehicle to a new salesman on his first day of work. That night, the new employee took three friends for a ride in the car, and wound up getting into a single-car accident. One passenger lost sight in both eyes. The driver was cited for driving under the influence. Had the dealership run a motor vehicle record (MVR) on the employee before giving him the car, they would have discovered multiple traffic citations over a three-year period.

CLAIM AMOUNT: \$1 million

What policies are in place to help prevent this from happening at your dealership? **Do you know who’s driving your vehicles?** Federated recommends several best practices to help protect your business and manage risks; for example,

- obtain MVRs on prospective employees who may drive company or customer vehicles
- implement a procedure for checking MVRs on a regular basis for all employees who have access to company vehicles

(Be sure to seek legal advice to make sure your use of MVRs meets your state’s employment regulations.)

These are just a few loss control recommendations you can use to help protect your dealership. To learn more, contact your local Federated representative, **Ryan Lanier**, Cell: 615-295-0554 / Email: [ralanier@fedins.com](mailto:ralanier@fedins.com) and request a copy of our “Keys to Success” risk management brochure. Federated Insurance is recommended by 17 state and national auto dealer associations just like yours for customized insurance programs and value-added risk management services, such as Federated’s Shield Network®, the Risk Management Resource Center, and the Federated Employment Practices Network®.

# Mark Your Calendar

July 23-28	AADA Convention Hamilton, Bermuda
August 15	Tax Reform Seminar Springdale
August 16	Tax Reform Seminar North Little Rock
August 16	Legislative Committee Meeting North Little Rock
September 13	AADA Board of Directors Meeting North Little Rock
September 25-26	NADA Washington Conference Washington, D.C.
November 6	General Elections
November 29	AADA Board of Directors Meeting North Little Rock & Christmas Party Governor’s Mansion