

Reading & Response February 2008

NIADA Legal Legislative & Regulatory Summary for October 2007

By: Keith Whann

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Federal Legislative Activity

With oil prices rising to record levels near \$90 a barrel, it is no surprise that Energy related legislation is a main topic of discussion on Capitol Hill.

Vehicle Emissions

The White House disclosed recently its position to press ahead with plans to implement tough new vehicle tailpipe emissions, given its skepticism that Congress will pass an Energy Bill this year that increases fuel efficiency requirements.

CAFÉ Legislation

Automakers and environmentalists alike cite President Bush's January 23rd State of the Union address and his call for improving the fuel efficiency of vehicles to help reduce gasoline consumption by 5 percent by 2017 as a driving force in pushing Congress to address fuel efficiency standards. The Presidents plan assumes a 4 percent average annual increase in CAFÉ Standards, but he is opposed to Congress codifying that increase into law.

The House has passed a Bill that would keep the two vehicle types separate and increase overall fuel economy to between 32 and 35 mpg by 2022. The Senate Bill, however, would eliminate the current separation between fuel economy standards for cars and light trucks, and boost their fleet average for both types of vehicles to 35 miles per gallon by 2020. The President has indicated his intent to veto any legislation that includes the merging of car and truck standards.

Total Loss Disclosure

With the 2 year anniversary of hurricane Katrina here, along with the hurricane season being in full bloom and many flood damaged vehicles returning to the road, The Passenger Vehicle Loss Disclosure Act remains in the forefront. While the dealer community and most consumer groups are in favor of the legislation, insurers remain opposed to Senate Bill 545 because they claim it does not clearly define "total loss" and that it would be expensive to maintain a database containing the required disclosures.

Federal Regulatory Developments

California Plans to Sue EPA

The State of California has indicated it plans to sue the Environmental Protection Agency for delaying a decision over whether to let the state aggressively reduce car and truck tailpipe emissions. The lawsuits outcome could affect not only the California Law aimed at cutting greenhouse gases, but also the ability of other states to take similar actions creating state-by-state standards for tailpipe emissions.

2008 Fuel Economy Guides Available

The U.S. Department of Energy and the Environmental Protection Agency will distribute the 2008 model year Fuel Economy Guide this month providing consumers with information about fuel economy and the benefits of using more fuel-efficient vehicles. This year's guide contains fuel economy estimates based on updated EPA calculation methods. Copies of the Guide will be available at the NIADA website.

Other Activity of Interest

In our Nations Capitol, the US Department of Health and Human Services said it may send its 67,000 employees detailed information about fuel-efficient American-made vehicles in the wake of a flap over a government newsletter that touted foreign-made automakers. A spokesperson for the Agency said sharing the research with employees would demonstrate the Agency's commitment to energy conservation and support of American automobile manufacturers.

Over at General Motors, GM has been working on a new product known as its OnStar Stolen Vehicle Slowdown, which will stop a stolen car in its tracks. Once notified that a vehicle has been stolen, OnStar can send a signal to the car that will reduce the engines power, slowing the vehicle gradually. GM is scheduled to make this service available on 1.7 million vehicles in the 2009 model year.

Case of the Month

Our Case of the Month focuses on the Internet. Not one of the vast number of cases growing daily talking about dealership licensing, paperwork, advertising and other issues related to what dealerships do on the Internet, but your use of the Internet.

To begin, regarding the business you conduct on the Internet, I want you to ask yourself the following questions: What am I doing? Where am I doing it? How am I doing it? Who am I doing it with? Take a moment to think about it, call a meeting if you like, but write down your answers.

Are you merely advertising vehicles, marketing the dealership, establishing a customer relationship, generating showroom traffic, qualifying a customer or are you actually trying to sell a vehicle? Is it being done at the dealership, over the Internet or somewhere else? Do you complete the paperwork entirely at the dealership, or are things done over the phone, in cyberspace and on your website? More likely your answer will be you do a combination of things or, it depends.

Are you aware that there are often three separate parties, your Dealership, an Internet Provider and the Consumer, all which have different rights, responsibilities and obligations depending upon the relationship. There is an Agreement between the dealership and the Internet provider, there may be an Agreement between the Internet provider and the consumer and there is the Agreement between your dealership and the consumer- it's called the car deal.

What is the outcome of this case involving your dealership and its use of the Internet? Problems or profitability, that is up to you. If you want some help to help make sure profitability and not problems are in store for your dealership, visit NIADA.TV and check out the program in the Compliance Section titled: Selling Over The Internet: Is It Somewhere Over The Rainbow?

Avoiding Bank Fraud



be exposed to someone who advocates unethical practices in
s to power booking vehicles and changing customer information
on credit applications.

I am neither an attorney nor a judge, although I could be on a
jury. These words are not meant to be legal advice. Rather, they
are meant to be words of wisdom and good business practices.

Honesty really is the best policy

When anyone changes customer information on a credit
application, he is misrepresenting the customer to the lender,
and that is a violation of the dealer agreement. Some might even consider the practice of
fabrication on an application as bank fraud.

Under the dealer-lender agreement, both parties enter into the agreement in good faith.
The dealer makes certain warrants to the lender. These warrants include, but are not
limited to:

- Customers are who they say they are and all facts on applications are true representations of facts.
- The vehicles are as represented. In other words, if dealerships say vehicles are certain models with certain equipment, they are accurate statements.
- Dealers warrant all down payment funds are unencumbered: bankable funds, no additional loans, no hold checks and no credit cards.

If a lender discovers violations of these warrants, the contract assignment becomes an automatic unconditional guarantee. The lender could demand immediate payment of the balance and the dealer then becomes the collector. The lender will not lose one dime on the deal.

If this occurs, the F&I manager will lose credibility with the lender. And, when the dealer is confronted with the facts, the F&I manager will most likely be fired. Amazingly, no one admits to knowing anything about false statements or the power booking. The F&I manager will be standing alone to face whatever legal tunes the courts will be playing.

Desperate times sometimes lead to desperate deeds. When business is slow some are anxious to get something started. It is OK to think outside the box as long as it is honest, legal, ethical and moral.

Words of counsel

Play fair; be honest in your business dealings. The lenders trust you; do nothing to hinder that trust. Once the trust is gone it may be impossible to rebuild. There simply is not enough gross profit in any deal to justify lying. The lies outlive the pay vouchers.

Here is the test

If what you do and how you do it appeared on the front page of your local newspaper and everyone you love read all about your business dealings, how would you feel? If you would feel proud, then you are on the right path. If you gave the slightest shudder, you might want to re-evaluate what you are doing and make some fundamental changes.

WINTER STORM-BE PREPARED

BY: Larry Hecht, Hecht & Hecht Insurance Agency, Inc.

Hurricane season is in full swing. It always used to be something that occurs somewhere else in the country. We use to sit back and watch on TV the devastation hundreds and thousands of miles away from the Northwest. Not this year. Floods and hurricane alerts and tornado sightings surround us. All up and down the Pacific Coast and inland we are seeing terrible floods, mudslides and wind damage. Centralia, Vernonia, SE Portland, Tillamook have all flooded. Northwest beach cities have experienced winds in excess of 70 miles per hour and seas up to 48 feet high. Mudslides from over saturation have occurred throughout the Northwest. Already we are seeing business owners and homeowners filing insurance claims – a process that could become complicated by whether severe winds or flooding caused the damage.

Safety First

If you are in the path of a hurricane or other storm:

- Stay inside a building, avoid elevators; for tornadoes, move to an underground shelter or interior room or hallway on the lowest level possible.
- Stay inside and away from windows, skylights and glass doors.
- Know your community's evacuation plan and comply immediately if asked.
- Avoid washed out and wet roads that can hide downed electrical lines.

- If you are in a car in the vicinity of a tornado, get out immediately and find a safe shelter or lay face down flat in a ditch. Do not take shelter under an overpass or a bridge.
- Flying debris can cause injuries and fatalities so use your arms to protect your head and neck. Falling trees cause much damage in the Northwest.
- Drive only if absolutely necessary. If you are in an evacuation area do not return to your business or home until authorities say it is safe.

Before the storm

You can take action to reduce storm damage:

- Install storm shutters or impact resistant windows.
- Keep your roof in good shape; choose materials designed to withstand high winds.
- Make sure your employees and family know how to shut off utilities.
- Back up computer records and store them off-site as far away as possible.
- Gather important records and take them with you.
- If you are in a low area subject to possible flooding, move your vehicles to higher ground.

An Emergency kit

There are six basics every family needs in case of emergency. Keep them packed and readily available in case you must leave.

- **Water** – a three day supply (one gallon per person).
- **Food** – a three-day supply of non-perishable food that requires no refrigeration or cooking.
- **First-Aid kit**
- **Medicine** – Prescription and non-prescription
- **Tools and supplies** – Battery operated radio and extra batteries, flashlight, cash and traveler's checks, can opener.
- **Clothing and bedding** – Include at least one change of clothing and footwear per person.
- **Other items to consider** – Gas, two way radios, weather band radio, tarps, portable generator, tent, axe or saw, shovel.

Know your Insurance policy – and your needs

Storm related expenses that insurance often covers:

- Damage to roof and walls
- Damage to cars
- Damage to personal belongs
- Additional living expense (if you cannot live in your home until repairs are made).

Costs that insurance does not usually cover unless additional optional insurance is purchased.

- Flood damage (National Flood Insurance Program is source for this coverage).
- Loss of Business Income.

If you have damage

If your home or business is damaged contact your insurance agent or your insurance company. Most insurance companies, within your insurance policy or on your ID card, have provided a claim 800-phone number. Usually you will hear back from an adjuster with 48-72hrs. If your area suffers major loss insurance companies often have disaster response teams on site. You can listen on the radio or TV for the location of these teams.

If you suffer serious damage you will probably need a contractor to handle repairs. Emergency repairs can be made to help minimize your loss. But be careful. - Scam artists posing as legitimate contractors sometimes target victims of storms when they are most vulnerable. Your claims adjuster or agent may be of help.

Hecht and Hecht Insurance Agency Inc. is here to serve all of your dealer and personal insurance needs. Give us a call for a quote. We have a staff of agents to answer your questions and provide competitive pricing. We have many admitted insurance markets from which to select the very best insurance coverage to meet our customer need. We can be reached by email at info@hechtinsur.com or in Portland 503-542-1131 or 800-609-0979.

EXTRA EXTRA

The Oregon Department of Justice today has filed the final version of amendments to the following administrative rules with the Oregon Secretary of State:

OAR 137-020-0015 Misleading Use of "Free" Offers and Rebates
OAR 137-020-0020 Motor Vehicle Price and Sales Disclosure
OAR 137-020-0040 Adoption of FTC Used Car Rule, Federal Truth-in-Lending Act, and Federal Consumer Leasing Law
OAR 137-020-0050 Motor Vehicle Advertising Rule

The rules took effect on January 2, 2008.

The final rules will be posted on the internet by the Secretary of State in their normal course of business, however, you can view and copy these final rules at the Department of Justice website at:

http://www.doj.state.or.us/hot_topics/2007_consumer_protection_rulemaking.shtml

Each final rule is with all the other materials that have been filed on our website throughout the entire rulemaking process.

OIADA would like to inform everyone of a change in our Salem office staff. Darrell Fuller, is no longer with the association. However, we do want to let you know that our presence within the legislature is in the very best hands with our Lobbyist Shawn Miller.

It's Here! Finally, OIADA brings new benefits to its members. With your membership you can now get a quality **Health Care & Employee Benefits** program for your business.

Also: OIADA has been using the new online credit card merchant "Solveras" which is one of your National membership benefits. It will truly save you money. It is all done online, and very convenient. Please call OIADA or NIADA for more information.

Oregon governor, lawmakers eye gasoline tax increase

Gov. Ted Kulongoski says a gas tax increase should be part of a transportation proposal to be considered by the Oregon Legislature. Gasoline taxes haven't been popular with voters, though. Voters crushed the most recent ballot measure -- a nickel-a-gallon increase in the year 2000.

But Kulongoski and several Democratic lawmakers say they think Oregonians might be willing to consider an increase if they can be shown that the state's aging roads and bridges need major overhauling. Kulongoski made the comment at a news conference about the inspections of Oregon bridges similar to the one that fell in Minnesota. Inspectors say the Oregon bridges have minor structural problems but no major safety issues.

AskPatty.com Launches Certified Female Friendly Dealer Web Solution Version 3.0

An online car purchasing experience designed exclusively for women.

Sarasota, FL ([PRWEB](#)) December 14, 2007 -- AskPatty.com, Inc. announced the launch of Version 3.0 Dealer Web Solution for Ask Patty Certified Female Friendly Dealers. This latest design integrates seamlessly with [automobile](#) dealer websites and allows dealers enrolled in the AskPatty Certified Female Friendly program to effectively deliver online information and services to female consumers.

The new web site design and functionality are another industry first from Ask Patty; the company, which initially developed the most comprehensive solution available to automobile dealers for engaging, selling and retaining women customers. Currently most automotive web sites are designed by men for men and do not address the needs of women. The Ask Patty web sites are the first designed specifically for women and provide the tools and resources most requested by women.

Utilizing Certified Female Friendly web icons on a dealer's main website, the new Ask Patty sites are easily identified and accessed. The Ask Patty Female Friendly site is an extension of a dealer's main site, many of the same features are merely presented in a more appealing and inviting format for a female audience.

The sites provide a host of features to assist women through the automobile purchasing process. Often time-consuming or unpleasant for anyone purchasing a car, is the credit and financing process. So now more than ever, consumers are looking to get pre-approved for a car loan. In response to this, Ask Patty partnered with Dealer Centric and incorporated their narrated credit application and Online Pre-Approval Process, allowing consumers the opportunity to get pre-approved for a loan before visiting a dealership.

The auto industry is male dominated and currently, less than 4% of automotive sales people in the country are women, the new site provides an innovative tool where women can learn about employment opportunities with their local Certified Female Friendly Dealership. In return, the dealership is provided with a new avenue for employment candidates.

Dealers directly benefit from several new features of the website. Many of which provide new leads and generate traffic including: the Easy Quote button, capabilities to send questions to designated sales or service personnel and the ability to schedule maintenance or service online.

The new Online Chat Icon allows dynamic interaction between female consumers with questions or concerns and a representative from the dealership. In today's busy world women are looking for timely responses, and this new tool provides yet another way to address the needs of the consumer. The exchange of dialog allows instant results for women and an opportunity for the dealership to form a relationship based on honesty, respect and a sharing of expertise.

"With the ever-increasing importance of reaching and communicating effectively with women online", said Peter Martin, CEO, AskPatty.com, Inc., "AskPatty 3.0 is the perfect resource for car dealerships to obtain information, develop loyalty and support women throughout the entire car buying experience."

Visit a demo of AskPatty Web Solution Version 3.0 here:
<http://femalefriendlydealer.askpatty.com/?d=pattymotors>

AskPatty.com is the number one automotive resource for women consumers. Our advisory panel of over 50 leading women in the auto industry provides online advice to women consumers. The site is an information portal that provides content for consumers to aid them in all aspects of vehicle ownership and these sites are the first to be designed specifically to meet the needs of female consumers.

About AskPatty.com, Inc.:

The Ask Patty.com, Inc. website, blog and Second Life venue is a safe place for women to get advice on car purchases, maintenance and other automotive related topics. Women can shop for vehicles at our network of certified female friendly dealerships across the U.S.

AskPatty.com is a member and 2007 corporate sponsor of the Women's Automotive Association International based in Detroit, MI, Chair of the United Spinal Motorsports program, Member of the California Skills USA board, on the Women's Board of the Car Care Council, a SEMA member and a member of the SEMA Business Women's Networking Group.

Ask Patty Certified Dealer Program:

Properly armed with the right tools and training Ask Patty Female Friendly certified dealers can increase their share of the largest and fastest growing demographic of new vehicle buyers in the U.S. -- Women Consumers. The Ask Patty Certified Dealer program was designed specifically for car dealerships to attract, sell, retain and keep loyal women consumers.

AskPatty.com is partnered with AutoTrader.com, AutoExtra.com, Arkona, Chrome Systems, Inc., Voxant, MyCarPage.com, MyAutoLoan, AWARE, DivineCaroline, SheKnows, LLC. , Complete Auto, Dealer Centric Solutions, Inc., Chumney Advertising and Cactus Sky Communications, Inc.

READING & RESPONSE FORM
OIADA CONTINUING EDUCATION PROGRAM
Complete this test or the Certificate of Completion form for Feb. 2008

ARTICLE:	QUESTION
Extra Extra	The new Oregon Department of Justice administrative rules become effective for dealers on Jan. 2 of 2009. <p style="text-align: right;">(1) True _____ False _____</p>
AskPatty.com	AskPatty.com is an online car purchasing experience designed exclusively for women. <p style="text-align: right;">(2) True _____ False _____</p>
Kelly's Korner	It is ok for dealers to change customer information on a credit application. <p style="text-align: right;">(3) True _____ False _____</p>

NIADA LLR

When selling over the internet, are you aware that there are often three separate parties, your dealership, an Internet Provider and the Consumer, all which have different rights and responsibilities.

(4) True _____ False _____

Kelly's Korner

Some might consider the practice of fabrication on a credit application as bank fraud.

(5) True _____ False _____

AskPatty.com

Ask Patty; developed the most comprehensive solution available to automobile dealers for engaging, selling and retaining women customers.

(6) True _____ False _____

Hecht & Hecht

Flood damage and storm victims should be careful. Scam artists posing as legitimate contractors sometimes target victims of storms when they are most vulnerable.

(7) True _____ False _____