



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: November 2013 Regulatory Update
Date: December 3, 2013

I. Leadership Conference

The Leadership Conference in Washington, D.C. included a half day of seminars provided by key federal agencies that regulate the auto industry including: Consumer Financial Protection Bureau, Federal Trade Commission, National Highway Transportation Safety Administration, and Department of Justice administering the National Motor Vehicle Titling Information System. The purpose of the seminars was to educate the leadership on the issues and actions taken by the agencies as it related to the automotive industry.

II. Consumer Financial Protection Bureau

A. Debt Collection

The Consumer Financial Protection Bureau (CFPB) is reviewing debt collection practices to determine if and what additional rules are needed. This announcement comes several months after the CFPB began accepting consumer complaints regarding debt collection practices.

The Advance Notice of Proposed Rulemaking addresses and asks for comments regarding 9 different areas of concern: The areas addressed in the Notice are:

1. Consumer protection issues in debt collections and government authority to address concerns;
2. The information transferred process upon the sale of debts;
3. The processes of investigating and verification of disputes;
4. Collector interaction with consumers (particularly interactions governed by the Fair Debt Collection Practices Act (FDCPA));
5. Any unfair, deceptive and abusive practices concerning section 806, 807 and 808 of the FDCPA,
6. Collecting debts beyond the statute of limitations;
7. Debt collection litigation at the state level;
8. Exemptions under Federal Law for State debt collection systems under section 817 of the FDCPA; and
9. Recordkeeping and other general compliance concerns.

For a copy of the Notice, please [click here](#) or visit consumerfinance.gov

The CFPB is seeking formal comments to the Advance Notice of Proposed Rulemaking as well as through a new informal comment portal. Formal comments can be submitted online by going to www.regulations.gov, the Regulatory Identification Number is 3170-AA41. In addition, the CFPB is partnering with Cornell University to provide another way for small business and individuals to submit comments, via regulationroom.org. All comments are due February 10, 2014.

B. Auto Finance Forum

The CFPB conducted an Auto Finance Forum to discuss the issue of discrimination via disparate impact through the indirect financing model, specifically whether dealer markup compensation policies increases the risk of discrimination through disparate impact. Several federal agencies, industry representatives, and other stakeholders were invited to participate in the forum. NIADA was invited to attend the forum. Each interested party shared their position on the issue. No new announcements or resolution was reached. A more detailed report will be provided under separate cover. The video of the forum is available for viewing at <http://www.consumerfinance.gov/blog/live-from-the-cfpb/>.

III. Department of Justice

American Banker reports that 3 auto lenders have been referred to DOJ from the CFPB for violations of fair lending laws. The 3 lenders were not publicly identified.

IV. Department of Labor

No significant activity.

V. Environmental Protection Agency

No significant activity

VI. Federal Trade Commission

No significant activity.

VII. Internal Revenue Service

A. Cost of Living Adjustment to Retirement Contributions

The Internal Revenue Service today announced cost-of-living adjustments affecting dollar limitations for pension plans and other retirement-related items for tax year 2014. Some pension limitations such as those governing 401(k) plans and IRAs will remain unchanged because the increase in the Consumer Price Index did not meet the statutory thresholds for their adjustment. However, other pension plan limitations will increase for 2014. More details about the cost of living increase and its effects on retirement saving can be found at:

[http://www.irs.gov/uac/IRS-Announces-2014-Pension-Plan-Limitations;-Taxpayers-May-Contribute-up-to-\\$17,500-to-their-401\(k\)-plans-in-2014](http://www.irs.gov/uac/IRS-Announces-2014-Pension-Plan-Limitations;-Taxpayers-May-Contribute-up-to-$17,500-to-their-401(k)-plans-in-2014)

B. Fast Track Settlement Program for Small Businesses

The IRS announced a program designed to enable small businesses under audit to more quickly settle their differences with the IRS.

The [Fast Track Settlement](#) (FTS) program is designed to help small businesses and self-employed individuals who are under examination by the Small Business/Self Employed (SB/SE) Division of the IRS. Modeled on a similar program long available to large and mid-size businesses (those with more than \$10 million in assets), FTS uses alternative dispute resolution techniques to help taxpayers save time and avoid a formal administrative appeal or lengthy litigation. As a result, audit issues can usually be resolved within 60 days, rather than months or years. Plus, taxpayers choosing this option lose none of their rights because they still have the right to appeal even if the FTS process is unsuccessful.

FTS is designed to expedite case resolution. Under FTS, taxpayers under examination with issues in dispute work directly with IRS representatives from SB/SE's Examination Division and Appeals to resolve those issues, with the Appeals representative typically serving as mediator.

The taxpayer or the IRS examination representative may initiate Fast Track for eligible cases, usually before a 30-day [letter](#) is issued. The goal is to complete cases within 60 days of acceptance of the application in Appeals.

VIII. National Highway Traffic Safety Administration

Along with announcing the 2014 model year vehicles selected for 5-star safety ratings, NHTSA announced updated advertising guidelines for the 5-star safety program. NHTSA stated that ratings are always whole numbers and advertisers should not use decimal points. NHTSA also reminded the advertisers that 5-star is the highest rating and any attempt to suggest a higher rating is misleading to the public. The guidelines also clarify that advanced technologies are not part of the star ratings. NHTSA warned that advertisements that do not conform to the revised guidelines may result in "Buyer Alert" warnings, removal from the ratings program or referral to other federal or state authorities for appropriate action. The guidelines can be found at: <http://www.nhtsa.gov/About+NHTSA/Press+Releases/NHTSA+Announces+Model+Year+2014+Vehicles+to+be+Rated+Under+Government+5-Star+Safety+Ratings+Program>

IX. National Motor Vehicle Title Information System

No Significant Activity

X. Significant State Law/Regulatory Updates

a. Pending Legislation/Regulation

i. Ohio

1. **2013 OH Reg Text 18308:** The proposed rule would allow motorcycle dealers to pass the actual assemble and freight cost onto customer if cost is disclosed in writing and a copy of an actual invoice is available to the customer upon request.
2. **H.B. 336:** The legislation would amend sections 5735.01, 5735.012, 5739.025, 5747.98, and 5751.98 and to enact sections 122.079, 5735.015, 5735.016, 5747.78, and 5751.55 of the Revised Code to create the Gaseous Fuel Vehicle Conversion Program, to allow a credit against the income or commercial activity tax for the purchase or conversion of an alternative fuel vehicle, to reduce the amount of sales tax due on the purchase or lease of a qualifying electric vehicle by up to \$ 500, to apply the motor fuel tax to the distribution or sale of compressed natural gas, to authorize a temporary, partial motor fuel tax exemption for sales of compressed natural gas used as motor fuel, and to make an appropriation.

b. Passed Legislation/Regulations

No Significant Activity

XI. Significant Case Law Updates

No Significant Activity



1701 Pennsylvania Avenue
Suite 300
Washington, DC 20006
Phone: (202) 351-6855
Fax: (202) 351-6855
www.federaladvocates.com, 2013

November 26, 2013

To: NIADA
From: Federal Advocates
Subject: November Monthly Report

Rental Cars Recall

No additional legislative developments. On Tuesday, July 30, the Senate Commerce Committee reported S. 921, the rental car recall bill without amendment with the understanding that the Committee would continue working with the stakeholders. To review, NIADA sent opposition letters to key Members of the Committee raising various concerns about the bill and advocating for inclusion of the NIADA/NADA amendment. In addition, NIADA surveyed its membership to get a better assessment of member rental car operations and the bills impact. Also monitoring developments for NAAA. No House bill introduced to date. Last Congress, Congresswoman Capps (D-CA) introduced a companion bill.

Auction Sales

We continue to report on this issue in recognition of its importance and the possibility of congressional action at some point. However, to date there have been no further developments either from the Hill or between the industry and law enforcement.

DC Leadership Conference

As part of its November Leadership Conference in Washington, D.C., meetings were held with key Members and staff on Capitol Hill (see attached agenda). The purposes of the meetings were threefold: to education Members and staff about the Association; to begin to build relationships with them; and, to advise/update them on regulatory and legislative issues of interest to the Association. The format of each meeting was basically as follows: brief introduction of the NIADA attendees (there were three advocacy teams consisting of an NIADA spokesperson, NIADA officers and/or members; at least one constituent from the Member's district or state, and a representative from Federal Advocates); briefing on the Association (history, membership, etc.); comments by the constituent(s); comments from others on the team; and, regulatory and legislative wrap up by Federal Advocates.

H.R. 749, Eliminate Privacy Notice Confusion Act

This was H.R. 5817 that was introduced by Congresswoman Luetkemeyer last Congress and passed the House. He reintroduced it in the new Congress on February 15 and the bill passed the House (with 73 cosponsors) on March 12 without amendment. On March 13, it was referred to the Senate Committee on Banking, Housing, and Urban Affairs. The bill amends the Gramm-Leach-Bliley Act to exempt from its annual privacy policy notice requirement any financial institution which: (1) provides nonpublic personal information only in accordance with specified requirements, and (2) has not changed its policies and practices with regard to disclosing nonpublic personal information from those disclosed in the most recent disclosure sent to consumers. On March 21, Senator Brown (D-OH) introduced companion bill S.635, the Privacy Notice Modernization Act of 2013. With 20 cosponsors (now 43), the bill was also referred to the Committee on Banking, Housing, and Urban Affairs.

Status Update: Eight additional sponsors added to S.635 since the last report.

S.1029, the Regulatory Accountability Act of 2013

Introduced on May 23 by Senator Portman with 8 cosponsors (now 9) and referred to the Committee on Homeland Security and Governmental Affairs. The bill amends the Federal regulatory process by specifying issues agency must consider in a rulemaking; various notice requirements for major and high-impact rules; public comment and hearing procedures; judicial review; and, final rulemaking. Last Congress, the Senator introduced a similar bill – S.3468, the “Independent Agency Regulatory Analysis Act of 2012.”

Status Update: No change since the last report.

H.R. 1663, Promoting Automotive Repair, Trade and Sales Act of 2013 (PARTS Act)

Introduced on April 23 by Congressman Issa (CA-49) on a bipartisan basis with 4 cosponsors and referred on June 14 to the Judiciary Subcommittee of jurisdiction. The bill makes it not an act of infringement, with respect to a design patent that claims a component part of a motor vehicle as originally manufactured, to: (1) make, test, or offer to sell within the United States, or import into the United States, any article of manufacture that is similar or the same in appearance to the component part claimed in such design patent if the purpose of such article is for the repair of a motor vehicle to restore its appearance to as originally manufactured; and (2) use or sell within the United States any such same or similar articles for such restorations more than 30 months after the claimed component part is first offered for public sale as part of a motor vehicle in any country. Defines "component part" as a component part of the exterior of a motor vehicle only (such as a hood, fender, tail light, side mirror, or quarter panel), excluding an inflatable restraint system or other component part located in the interior of a motor vehicle. Specifies that an offer to sell include any marketing of an article of manufacture to prospective purchasers or users and any pre-sale distribution. Applies this Act to any patent issued, or application filed, before, on, or after the effective date of this Act. Also on April 23 Senator Whitehouse (RI) introduced on a bipartisan basis the identical bill (S.780) with 2 cosponsors. The bill was referred the same day to the Judiciary Committee. NIADA reviewed the legislation and determined at this point not to lend its name in support. We will continue to monitor further developments.

Status Update: No change since the last report.

H.R.2414, the Black Box Privacy Protection Act

On June 18, Congressman Capuano (MA-7) introduced H.R.2414, the Black Box Privacy protection Act with 10 (13) cosponsors. On July 15, the bill was referred to the Homeland Security Committee Subcommittee. The bill amends the Automobile Information Disclosure Act to require manufacturers of new automobiles to disclose on the information label affixed to the window of the automobile: (1) the presence and location of an event data recorder (commonly referred to as a "black box"), (2) the type of information recorded and how such information is recorded, and (3) that the recording may be used in a law enforcement proceeding. Sets forth similar requirements for motorcycle manufacturers. Defines "event data recorder" as any device or means of technology installed in an automobile that records information such as automobile or motorcycle speed, seatbelt use, application of brakes, or other information pertinent to the operation of the automobile or motorcycle. Prohibits the manufacture, sale, offering for sale, or import into the United States of an automobile manufactured after 2015 (bearing a model year of 2016 or later) that is equipped with an event data recorder, unless the consumer can control the recording of information. Requires the event data recorder in an automobile or motorcycle, and any data recorded, be considered the property of the owner of the automobile or motorcycle. Makes the retrieval or downloading of recorded data by any other person unlawful, except: (1) with the owner's consent, (2) in response to a court order, or (3) by a dealer or automotive technician to service the vehicle. Requires certain violations to be treated as unfair or deceptive acts or practices under the Federal Trade Commission Act.

Status Update: No change since the last report.

Team Sante: NIADA Day on the Hill (Nov. 13)

10:00AM Daniel Tidwell, LA
Cong. Robert Aderholt
2369 RHOB
202-225-4876
(Ken McFarland)

10:30AM Megan Beveridge, LA
Cong. Adrian Smith
2241 RHOB
202-225-6453
(Arlan Kuehn)

11:00AM Cong. David Price and
Kate Roetzer, LA
Cong. David Price
2162 RHOB
202-225-1784
(Chris Martin)

2:00PM Landon Hairgrove, LA
Sen. John Cornyn
517 HSOB
202-224-2934
(Keith Hagler)

2:30PM Adam Travis, LA
Sen. Elizabeth Warren
317 HSOB
202-224-4543
(Lou Tedeschi)

3:00PM Danny Carlson, LA
Sen. Amy Klobuchar
302 HSOB
202-224-3244
(Harry Eiss et al)

Team Michael: NIADA Day on the Hill (Nov. 13)

10:00AM John Miceli, LD
Cong. David Joyce
1535 LHOB
202-225-5731
(Dan Reel)

10:30AM Spencer Freebairn, LA
Cong. Roger Williams
1122 LHOB
202-225-9896
(Michael Thomasson)

11:00AM Cong. Mike Rogers
Cameron Bishop, LA
324 CHOB
202-225-3261
(Randy Jones and Henry Mullinax)

2:00PM Dan Murray, LA
Sen. James Risch
483 RSOB
202-224-2752
(James White)

2:30PM Ken Johnson, LA
Sen. Mark Warner
475 RSOB
202-224-2023
(Don Boucher)

3:00PM Jack Groarke, LA
Sen. Robert Casey
393 RSOB
202-224-6324
(Andy Gabler)

Team Bryan: NIADA Day on the Hill (Nov. 13)

10:00AM Stephen Beck, LA
Cong. Mike Coffman
2443 RHOB
202-225-7882
(Dave Cardella)

10:30AM Christian Sy, LA
Cong. Alcee Hastings
2353 RHOB
202-225-1313
(Frank Fuzy)

11:00AM Jim Gordon, LA
Cong. Stephen Lynch
2133 RHOB
202-225-8273
(Lou Tedeschi)

2:00PM Emily Sullivan, LC
Sen. Richard Durbin
711 HSOB
202-224-2152
(Gordon Tormohlen)

2:30PM Zach Aronow, LA
Sen. Martin Heinrich
702 HSOB
202-224-5521
(Thomas Pennington)

3:00PM Liz Cooney, LA
Sen. Jeff Merkley
313 HSOB
202-224-3755
(Gary Sargent)