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February 28, 2013

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

### **Auction Sales**

We will continue to report on this issue even if there are no additional monthly developments. We do so in recognition of the importance of the issue and the possibility of congressional action at some point. However, to date in the new Congress there has been no further developments from the Hill, also, no further developments between the industry and law enforcement. To review, last month we met with staff of Senator Pryor's Subcommittee on Consumer Protection, Product Safety and Insurance. They listed as their priorities for this year Amtrak reauthorization, rail safety reauthorization, and port security. They did not mention the auction sale issue at all.

### **Rental Cars Recall**

Last month we met with the senior staff of Senator Barbara Boxer (D-CA) regarding the status of the "rental car/Houck sisters" issue. This issue is being handled out of the Senator's personal office and not the Committee on Environment and Public Works which she chairs. At the meeting we learned that Boxer has been working with Senators Schumer, McCaskill, Murkowski, and others on a revised bill that reflects the compromise they reached with the rental car industry last fall. Boxer introduced a placeholder bill at the end of December (S.3706) and they plan to reintroduce again (with Schumer as the lead) in this Congress. They provided us with some background material on the issue and the proposed bill. To date, a bill has not been introduced. Subsequent to the meeting, the Association reviewed the materials provided us and sent letters to Senators Boxer and Schumer expressing two concerns with the proposed legislative approach: first, pointing out the problem with the proposed definition of "rental company" in that it is too restrictive; and second, noting the inherent flaws of the NHTSA recall notice process. No responses to the letters have been received as of yet. In addition, discussions are ongoing with NADA on this issue as both associations share mutual concerns.

## **Legislation of Interest**

As previously reported, with the end of the last Congress, all the bills of interest to the Association that were being monitored "died" - that is, the sponsors of the bills, if reelected (and some were not as asterisked below) and if still interested in the subject matter of those bills, would have to reintroduce them in the current Congress and begin the process anew. Below is a listing of the bills from the last Congress. If introduced, the bill numbers would likely change. To date, except for one bill – H.R. 5817 - none have been introduced.

BOXER S.3706 - Raechel and Jacqueline Houck Safe Rental Car Act of 2012

PRYOR S.1449 - Motor Vehicle and Highway Safety Improvement Act - "Mariah's Act"

SCHUMER S.1445 - Raechel and Jacqueline Houck Safe Rental Car Act of 2011

SNOWE\* S.474 - Small Business Regulatory Freedom Act of 2011

SCHUMER S.330 - Consumer Recall Protection Act of 2011

ENSIGN\* S.110 - Internal Revenue Code - Charitable Tax Deduction

CAPPS H.R.609 - Raechel and Jacqueline Houck Safe Rental Car Act of 2012

WHITFIELD H.R.4471 - Gasoline Regulation

BISHOP H.R.1941 - Hiring Heroes Act of 2011

TOWNS\* H.R.1449 - Motor Vehicle Owners Right to Repair Act of 2011

LARSON H.R.860 - Promoting Charitable Donations of Qualified Vehicles Act of 2011

SMITH, LAMAR H.R.527 - Regulatory Flexibility Improvements Act of 2011

LEE, SHEILA JACKSON H.R.229 - Michael Jon Newkirk Transportation Safety Enhancement Act of 2011

STEARNS\* H.R.164 - Damaged Vehicle Information Act

MICA H.R.7 - American Energy and Infrastructure Jobs Act of 2012

PORTMAN S.3468 - Independent Agency Regulatory Analysis Act of 2012

LUETKEMEYER H.R. 5817- Eliminate Privacy Notice Confusion Act (see next heading)

## **H.R. 749, To Eliminate Privacy Notice Confusion Act**

This was H.R. 5817, which was introduced by Congresswoman Luetkemeyer last Congress and passed the House. It was reintroduced in the new Congress on February 15 with 18 cosponsors. 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.

### **Key Members of Congress**

In last month's report, we noted that there are six Members of the new House- all Republicans - who own or have in the past owned automobile dealerships. They are Scott Rigell (VA-2); Mike Kelly (PA-3); John Campbell (CA-45); Vern Buchanan (FL-13); Bill Shuster (PA-9); and Jim Renaci (OH-16). No Members of the new Senate are current or former car dealers. Given the shared interest and to cultivate a relationship with these Members who could be key to the Association in terms of support, a letter of introduction (see attached) was sent to each.



## NATIONAL INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

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February 13, 2013

Congressman Scott Rigell  
418 Cannon HOB  
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Congressman John Campbell  
2331 Rayburn HOB  
Washington, D.C. 20515

Congressman Bill Shuster  
2209 Rayburn HOB  
Washington, D.C. 20515

Congressman Mike Kelly  
1519 Longworth HOB  
Washington, D.C. 20515

Congressman Vern Buchanan  
2104 Rayburn HOB  
Washington, D.C. 20515

Congressman Jim Renacci  
130 Cannon HOB  
Washington, D.C. 20515

Dear Congressmen:

I would like to introduce you to the National Independent Automobile Dealers Association (NIADA). As Members of Congress with backgrounds in the motor vehicle industry, you likely share with us an intimate understanding of the legislative and regulatory issues which affect automobile dealers, not only in your district, but also throughout the nation. It is my hope that this introduction will serve as a first step to building a positive and mutually supportive relationship with one another.

Founded in 1946 and headquartered in Arlington, Texas, in the 6<sup>th</sup> congressional district of Congressman Joe Barton, NIADA has represented quality independent automobile dealers for over 67 years. Today, as the only national not-for-profit organization representing the independent motor vehicle industry, it assists greater than 20,000 members in preparing for an ever-changing and ever-challenging marketplace.

Specifically, the mission of NIADA is to promote, educate and advance the independent motor vehicle dealer by:

- Accumulating, processing and disseminating information relative to the motor vehicle industry;
- Developing, compiling and providing to the consumer, information which will promote a better understanding of the independent motor vehicle dealers' place in the economy;
- Providing relevant information to regulatory and lawmaking bodies so that they may have a better understanding of the possible effects of proposed laws, rules and regulations on the consumer and the motor vehicle industry;
- Assisting in promoting and organizing local, state or regional independent motor vehicle dealer associations; and,
- Anticipating, recognizing and responding to current and future issues and needs of the independent motor vehicle industry and the consumer.

I strongly believe that your background and understanding of the motor vehicle industry forms a strong foundation on which we can work together to ensure that the voices of our members, many of which are your constituents, are heard. We look forward to that end.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael R. Linn".

Michael R. Linn,  
CEO



**To: National Independent Automobile Dealers Association**  
**From: Shaun K. Petersen**  
**Re: February 2013 Regulatory Update**  
**Date: February 28, 2013**

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I. Federal Trade Commission

A. Used Car Rule Comments

The FTC has extended the comment period on the proposed changes to the Used Car Rule. Comments are now due March 13 instead of February 11.

B. The FTC released its top ten consumer complaint categories. Auto related complaints are ranked 8<sup>th</sup> among the top ten categories with 78,062 complaints, or 4% of the total number of consumer complaints received by the FTC in 2012. In 2011, auto related complaints were the 7<sup>th</sup> largest category with 77,435 complaints.

C. President Obama announced that Commissioner Edith Ramirez will be named the Chairman of the FTC effective March 4. Commissioner Ramirez has been serving as a commissioner since April 2010.

II. Environmental Protection Agency

No significant activity this month.

III. Internal Revenue Service

The IRS has extended tax deadlines for those who were affected by Hurricane Sandy. Those living in FEMA-designated counties along with individuals and businesses who books or tax professional live in FEMA counties may qualify for the tax extension. The extension covers fourth quarter individual tax payments, payroll and excise taxes. To determine if you or your business qualify for the extension, contact the IRS at 866-5622-5227.

IV. Consumer Financial Protection Bureau

In what is widely considered the first foray into the auto finance market, the CFPB recently sent letters to four banks that they may be sued over loan and interest-rate markups by dealers that the CFPB claims are discriminatory. The CFPB has 15 days to respond to the letters with an explanation of the alleged practices. Last year, the CFPB indicated that it would consider legal theories known as “disparate impact” to consumer financial products. In essence, the theory states that a lender can be liable under the Equal Credit Opportunity Act for actions that have a discriminatory effect even if they didn’t mean to discriminate. The CFPB has claimed that fees collected by dealers can adversely impact minorities more so than Caucasians.

V. National Highway Traffic Safety Administration

No significant activity this month.

VI. National Motor Vehicle Title Information System

No significant activity this month.

VII. Department of Labor

No significant activity this month.

VIII. Department of Transportation/Department of Justice

The Office of Odometer Fraud Investigation, a unit within DOT, was able, with the help of the Department of Justice, to indict two for odometer fraud in Philadelphia. The two were indicted for making false odometer statements, securities fraud and conspiracy to commit these offenses. The two had been defrauding customer for over six year and 247 vehicles. The vehicles were purchased predominately in Florida and California and then sold, with lower mileage, at an auction in Pennsylvania. Defendants have not yet stood trial or entered into a plea agreement.

IX. Significant State Law/Regulatory updates

A. New Mexico

The Attorney General of New Mexico is proposing a rule that would require each seller of a used car to have that vehicle undergo an inspection by a qualified person (i.e. ASE certified) to determine if the vehicle has been altered or suffered wreck damage. NIADA has concerns with the proposed regulation. The Attorney General’s office conducted a public hearing in February in which NIADA counsel testified against the regulation. Written comments about this proposal are due March 13.