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January 31, 2013

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

Auction Sales

No further developments from the Hill. No further developments between the industry and law enforcement. 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. That is not to say that it won't come up in some context. Never any guarantees but we will continue to monitor the process.

Rental Cars Recall

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 bill. Subsequent to the meeting, the Association is in the process of reviewing the draft for comments.

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) and if still interested in the subject matter of those bills, would have to reintroduce them in the 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, 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

Key Members of Congress

Noting a few. Congressman Joe Barton (TX-6) is the House Member who represents the district in which the Association's headquarters is located. Barton is the ranking/senior Republican on the House Energy and Commerce Committee. He also is a member of its Subcommittee on Commerce, Manufacturing, and Trade which has jurisdiction over all consumer affairs and consumer protection issues including motor vehicle safety. Also, of interest, 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.



To: National Independent Automobile Dealers Association
From: Shaun K. Petersen
Re: January 2013 Regulatory Update
Date: February 1, 2013

I. Federal Trade Commission

A. Enforcement letters for Used Car Rule violations

This past month the FTC inspected 21 different car dealers in the Jonesboro, Arkansas area for compliance with the Used Car Rule. Eleven of the dealerships inspected failed to display the buyer's guide on either all or a substantial portion of their inventory. As a result of the inspections, the FTC sent warning letters to each of the dealerships deemed to be non-compliant.

B. Privacy settlement

The FTC settled a lawsuit with Cord Blood Bank relating to their failure to protect the privacy of customers, specifically to comply with the company's own privacy policy. The FTC focused on the lack of precautions when transporting back up data in a way that left the information vulnerable to theft. Additionally, the FTC highlighted the absence of any meaningful safeguards for unauthorized access to the computer and network. The settlement agreement did not impose any monetary penalty on Cord Blood Bank, but rather required Cord to increase data safety and security measures. This settlement emphasizes the need for dealerships to have their privacy and safeguards policies in place and follow them.

II. Environmental Protection Agency

No significant activity last month.

III. Internal Revenue Service

A. Inflation

The IRS announced the new inflation adjustments in 2013. The adjustments can be found at: <http://www.irs.gov/pub/irs-drop/rp-13-15.pdf>

B. Withholding

The IRS has announced the withholding tables for 2013. Employers have until the end of March to implement the new withholding amounts. <http://www.irs.gov/pub/irs-pdf/n1036.pdf>

IV. Consumer Financial Protection Bureau

A. Constitutionality of Director's Appointment

In late January, President Obama renominated Director Cordray to serve a full term as the Director of the CFPB. Director Cordray was originally appointed to the position by the President during a time in which the President argued the Senate was in recess. His recess appointment expires at the end of 2013.

However, there is a question as to whether his original appointment was constitutional at all. At the same time Director Cordray was appointed, the President also filled three positions on the National Labor Relations Board (NLRB). A lawsuit was filed challenging the appointments as unconstitutional. (A similar lawsuit has been filed challenging Director Cordray's appointment). In a decision issued by the United States Court of Appeals for the District of Columbia Circuit, the Court ruled that the President's appointments to the NLRB were unconstitutional because the Senate was not in recess.

Although this recent Court decision does not specifically involve Director Cordray, the prevailing thought is that that Director Cordray's appointment will also be found to be unconstitutional. If that is the case, then there is significant question as to whether the actions the CFPB has taken since Director Cordray's appointment are valid.

V. National Highway Traffic Safety Administration

No significant activity last month.

VI. National Motor Vehicle Title Information System

No significant activity last month.

VII. Department of Labor

A. Earlier this month the DOL investigated a car detailing company for violations of the Wage and Hour laws. The company was rounding worker's hours down in favor of the employer. This practice was done repeatedly and kept the employees from being eligible for overtime pay as well as effectively pay the employee below the minimum wage, per hour. The company was required, as part of the settlement, to pay all back wages of \$229,475 to affected employees.